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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 Iii
March 23, 1989

Pursuant to Notice taken on behalf of Defendant at
1700 Lincoln Street, Suite 4000, Denver, Colorado
80203, at 9:15 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.

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1 whereupon, the following proceedings
2 were taken pursuant to the Federal Rules of Civil
3 Procedure:
4 Peter M. Whiteley, Ph. D. - Volume Iii,
5 having been previously duly sworn to state the whole
6 truth, testified as follows:
7 Examination
8 By Mr. Rogers:
9 Q Dr. Whiteley, if you would, please,
10 retrieve Exhibit No. 1, which is your Hopitutskwa
11 report, and Exhibit No. 14. Yesterday, before we
12 adjourned for the day, we left off discussing some of
13 the sites/places that are described on page 5 of
14 Exhibit No. 1, and I believe we left off with the
15 Apache descent trail.
16 On page 5, you mention that after the
17 boundary reaches the Apache descent trail it goes
18 thence in a northeast direction to a place that you
19 describe as Tsimontukwi, or Woodruff Butte, spelled
20 T-s-i-m-o-n-t-u-k-w-i. Dr. Whiteley, you translate
21 this Hopi word as "jimsonweed bluff." Is that a
22 literal translation?
23 A Yes, it is. "Tsimon" is from jimsonweed,
24 and "tukwi" is a bluff or cliff.
25 Q I take it that's not an archaic Hopi

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1 word?
2 A No, not to my knowledge.
3 Q Do you know of what religious significance
4 this place is to the Hopis?
5 A I really don't. I think that this is an
6 area, however, that some eagle gathering takes place
7 in. I don't know which clan gathers eagles there, or
8 which clans.
9 Q Do you know which clans are associated
10 with this place?
11 A No, I don't know that either. Again, if
12 we knew which clans gathered eagles there, that would
13 be a reasonable route to ascertaining that.

14 Again, since it's in this general southern
15 area in relation to the mesas, it's possible that those
16 clans which migrated from the south, those that we
17 mentioned yesterday, may have some particular interest
18 in the area.

19 Q Is this place associated with particular
20 Hopi villages?

21 A I don't know.

22 Q Do you know if any of the Hopi societies
23 regard this place with special significance?

24 A I don't know; but, again, there may be
25 ways to figure that out or to begin to ask questions

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1 about it. In other words, why is it named after
2 jimsonweed? Maybe this indicates that it has some
3 special relationship to some religious sodality
4 practices.

5 There are stories about Tsimonmamant,
6 T-s-i-m-o-n-m-a-m-a-n-t, jimsonweed girls, who are, I
7 guess, mythological figures. Whether these stories
8 pertain to any ritual sodalities, I'm not sure, but
9 it's conceivable that they do.

10 I think there is some kind of practice
11 which Hopi medicine men engage in in which jimsonweed
12 is used. Nowadays, most Hopi medicine men are
13 individual practitioners called Tuutuhikt,
14 T-u-u-t-u-h-i-k-t.

15 In the past, there was a society of
16 medicine men called the Popovort, which, I guess, is
17 P-o-p-o-v-o-r-t, or otherwise known as the
18 Porswiwimkyam,, P-o-r-s-w-i-w-i-m-k-y-a-m. It's
19 conceivable that such a society would have a special
20 use for jimsonweed.

21 Q Would the use be for curing purposes?

22 A Yes, if we -- if we say that curing purposes
23 are broadly defined and include a variety of somanic
24 practices which are known by the Americans for curing.

25 Q Were there other Hopi curing societies,

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1 other than the one you mentioned?

2 A Well, in a general sense, all of the
3 societies have specific curing functions, so one
4 society would cure a particular kind of disease.

5 And if somebody gets sick nowadays with a
6 particular disease, they are very likely to go to an
7 older member of that society, maybe the chief priest of
8 that society, to try to get cured.

9 Q Have any of the medical societies at
10 Hopi -- did any of them survive into the 20th Century?

11 A Well, if by "medical societies" we're
12 excluding the societies which have indeed survived to
13 the present, some of which -- as I have just
14 indicated -- which have, in part, some medical functions,
15 not really.

16 There were -- there were two or three
17 members alive in the 1890s who were still initiated
18 into that society. A couple of them may have survived
19 past the year 1900.

20 Q Are there any places between Woodruff
21 Butte and the Apache descent trail which were of
22 particular religious significance to the Hopis?

23 A Not that I know of.

24 Q After mentioning Woodruff Butte, you

25 indicate, on page 5, that the boundary follows along a

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1 northeast direction, following the Puerco River,
2 P-u-e-r-c-o. Is the Puerco River of religious
3 significance to the Hopis?

4 A I don't know specifically; but in general
5 terms, of course, all water sources are of significance
6 to the Hopi, and rivers, as major bodies of water, are,
7 I'm sure, especially significant.

8 Q Do you know how the Hopis refer to the
9 Puerco?

10 A I don't know, no. It's, again, also
11 interesting to wonder whether Hopis trace the same
12 headwaters in identifying the Little Colorado that we
13 do.

14 So in general terms that I've heard, Hopis
15 refer to the Little Colorado as Paayu, P-a-a-y-u, which
16 just -- it truly means "river." According to, I think
17 it's Stephen or Fewkes, its more diagnostic name is
18 Balabayu, B-a-l-a-b-a-y-u, which means "red river."

19 If Hopis emphasize the upper sections of
20 the Little Colorado -- I'm sorry. If they emphasize the
21 Puerco as coming into the Little Colorado, more than
22 what we emphasize as the upper headwaters of the Little
23 Colorado per se, then maybe Bayu or Balabayu is also a
24 term that applies to the Puerco, Puerco of the West. I
25 do not know that, however. I'm speculating.

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1 Q Dr. Whiteley, I note that the boundary
2 line that you depicted on Exhibit No. 14 does go
3 through the Petrified Forest National Park; is that
4 correct?

5 A Yes.

6 Q At that place there are a series of ruins,
7 Anasazi ruins, in the park. Do you know if any clans
8 claim affiliation with those ruins?

9 A I can't recall very well. I have
10 certainly seen the Petrified Forest as one of the
11 significant outlying boundary markers. If it was
12 referred to as such, it's likely that Hopis had such
13 ruins in mind when they referred to it.

14 Given that, I think it's very likely that
15 there are indeed some special sources of clan
16 associations with those ruins, but I can't recall what
17 they are, or I don't really know what they are.

18 Q On page 5, you describe the boundaries in
19 the northeast direction following the Puerco River to a
20 place referred to as Namituyqa, N-a-m-i-t-u-y-q-a,
21 which you translate in parentheses as "(bluffs facing
22 each other)," and you identify the location as being
23 near Lupton.

24 Dr. Whiteley, is that the same place which
25 is depicted on Exhibit No. 14 as a circle near Lupton?

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1 A That's correct.

2 Q I note the spelling is a little
3 different.

4 A Yes, that's correct.

5 Q Is this Hopi word a -- well, does it
6 literally translate into "bluffs facing each other"?

7 A This was one of the questions I asked
8 Walter Hamana and Abbott Sekaquaptewa last August, and
9 this translation came from Abbott.

10 Nami -- I'm not sure I have the derivation
 11 of this correct, but Nami sort of means two things in
 12 relation, or those two things in some sort of
 13 relation. Maybe two isn't the only way that -- sorry.
 14 Maybe two isn't the only numerical value that can be
 15 assigned to that concept.

16 Tuyqa is the way I ordinarily understand
 17 that is -- or I've translated it as a "point" or a
 18 "promontory." But here, where they're sort of facing
 19 each other, if you look at an Usgs map, you can see
 20 what's going on, I think.

21 This sounds like "bluffs facing each
 22 other" seem to be the most appropriate translation for
 23 that. It doesn't seem like it's an archaic rendition,
 24 however.

25 Both of those morphemes, Nami and Tuyqa,

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1 occur commonly in other Hopi terms, place names.

2 Q Do you know what religious significance
 3 this place has to the Hopis?

4 A No, I really don't. I -- without -- without
 5 going over some of my past notes, I can only guess; but
 6 it seems to me I may have heard a story at one point
 7 that the Piikyas clan, P-i-i-k-y-a-s, took a route
 8 which passed through Namituyqa on their way to Hopi,
 9 but I -- I feel very uncomfortable with committing myself
 10 to that. I may be completely wrong about that.

11 It's also -- just to get this on the
 12 record -- it's not too far away from Wenima, which is the
 13 site of a shrine to a particular kind of kachina.
 14 That's a little bit to the northwest.

15 Q Dr. Whiteley, could you spell that --

16 A Well, the way I would spell it is -- well,
 17 no. I'll spell it the way I've seen it spelled:
 18 w-e-n-i-m-a.

19 Q And of what religious significance is the
 20 shrine?

21 A I think it's associated with a particular
 22 kachina.

23 Q Do you know which one?

24 A I have forgotten.

25 Q Dr. Whiteley, correct me if I'm wrong:

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1 It's my understanding that certain clans or societies
 2 consider that they have proprietary rights or -- strike
 3 that -- that certain kachinas belong to particular clans
 4 or societies?

5 A That's correct.

6 Q Is it both -- do clans consider that certain
 7 kachinas belong to the clan?

8 A Yes, that's true.

9 Q And is the same true for societies?

10 A For some societies, yes; not for all
 11 societies by any means.

12 Q Do you know which clans at Hopi claim
 13 to -- or claim an affiliation with this kachina, in a
 14 sense that they consider this kachina belonging to the
 15 clan?

16 A Well, since I can't remember which
 17 kachina, I can't remember which clan.

18 Q Fair enough. And is the same true for the
 19 societies, in other words, what society that this
 20 particular kachina is affiliated with?

21 A Oh, not all kachinas are affiliated with
22 societies. Not all kachinas are affiliated with
23 clans.

24 The example I was thinking of, when I said
25 that there are certain kachinas which are associated

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1 with some societies, is that, for example, there is a
2 Soyalkatsina, S-o-y-a-l-k-a-t-s-i-n-a; there are
3 Powamuy, P-o-w-a-m-u-y, kachinas; there are a number of
4 kachinas which appear in specific association with
5 society performances, like those which appear at the
6 Powamuy ceremony, of which there are many; like some
7 others, which, as well as the Soyalkatsina, appear in
8 connection with the Soyalangw, S-o-y-a-l-a-n-g-w,
9 ceremony.

10 But, again, without knowing which specific
11 kachina we're talking about here, or which group of
12 kachinas even -- there could be a group of them -- I
13 can't -- I can't guess which society, if any, they might
14 be associated with.

15 Q And I take it that the kachina to which --
16 or group of kachinas to which this shrine is associated
17 with, you don't know if it's affiliated with any
18 particular societies or clans?

19 A No, I don't.

20 Q Dr. Whiteley, is my understanding correct
21 that the number of kachinas numbers into the hundreds?

22 A Yes, that's correct. The more we talk
23 about this, however, the more I'm thinking that this
24 may be something to do with the Sa'lako ceremony, which
25 is S-a -'- l-a-k-o. If I'm right there, then there are a

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1 whole series of kachinas associated with that
2 ceremony. The two most prominent ones are just called
3 Sa'lako kachinas.

4 The way that Sa'lako is performed differs
5 from mesa to mesa, but in the -- in the performances that
6 I have seen, the Grand Sa'lako at Shongopavi, which is
7 performed after the Niman ceremony, N-i-m-a-n -- I mean,
8 in a sense there is a -- there are Niman priests or
9 special priests for Niman. I'm not sure that they
10 really constitute a society, but there is that
11 association.

12 There are other practices at Third Mesa
13 which are associated in Hopi thought with Sa'lako,
14 although they may not feature Sa'lako kachina
15 impersonations, namely Sa'lakmanawyat,
16 S-a -'- l-a-k-m-a-n-a-w-y-a-t, or Sa'lako puppets, who
17 appear in connection with the Powamuy ceremony.

18 And there are a number of other kachinas
19 who are associated in Hopi thought with the Sa'lakos.
20 I think they may be generally referred to in Bacavi as
21 Solawitsim, S-o-l-a-w-i-t-s-i-m. Again, these would
22 probably appear in connection with Powamuy.

23 Q At Hopi, which clans own the Sa'lako
24 ceremony? I suppose I should say clan or clans.

25 A Yeah. I don't really know the answer to

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1 that as First or Second Mesa, but at Third Mesa it was
2 the Bow clan especially, and the Greasewood clan also
3 had a specific role in that ownership. Greasewood and
4 Bow are in the same phratry.

5 So the Greasewood clan owned a specific

6 kachina, which, I think, is Tangaktsima,
7 T-a-n-g-a-k-t-s-i-m-a, which is part of the overall
8 Sa'lako ceremony; but the Bow clan owned the whole
9 thing, I think.

10 Q I take it you're not sure if the Bow clan
11 owns the ceremony at other mesas?

12 A Well, again, in historic times, to my
13 knowledge, there have been no Bow clan rep -- I mean, in
14 recent historic times there have been no Bow clan
15 members at Second or First Mesa.

16 Q But I believe you testified that the
17 ceremony is still performed at Second Mesa?

18 A The Grand Sa'lako is still performed at
19 Shongopavi, yes. But there are these other sort of
20 associated things which are performed at Third Mesa,
21 and then there are some things which are also performed
22 at First Mesa too, at Walpi.

23 Q And I want to make sure I understood your
24 answer. Is it your understanding that this ceremony is
25 still performed at First Mesa?

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1 A Well, there are -- there are -- I mean, in
2 some ways ceremonies are kind of complexes of ideas, so
3 that you might get the -- sort of the major focus of this
4 complex of ideas, consisting of the Sa'lako ceremony at
5 Shongopavi.

6 But there are other ideas associated with
7 this grand ceremony, including these puppets, for
8 example; including these other kachinas which would
9 appear without the Sa'lakos, for example; including
10 some other kinds of puppets; other kinds of puppets
11 appear at First Mesa.

12 I don't know whether First Mesa continues
13 to perform what they call a Siosa'lako,
14 S-i-o-s-a -'- l-a-k-o, but certainly they have performed
15 that ceremony in recent times, and that it's possible
16 that they perform aspects of it still, or they may even
17 perform the whole thing and I just don't know.

18 Q Fair enough. The reason for the question
19 is, I know that some of the ceremonies are no longer
20 performed at some of the mesas. I take it you don't
21 know which clans have responsibilities in connection
22 with the Sa'lako ceremony at Second Mesa or First
23 Mesa?

24 A I guess I probably don't know, in that
25 Fred Kaboutie was the sponsor of the Sa'lako ceremonies

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1 at Shongopavi from the 1930s to the 1980s until he
2 died.

3 It may be reasonable to hypothesize that
4 the Blue Bird clan had a special role in them at Second
5 Mesa, since he was Blue Bird clan.

6 Q But I take it Blue Bird clan is not part
7 of the same phratry as Bow clan?

8 A That's correct. But, then, ceremonial
9 relationships with clans differ from mesa to mesa, as I
10 have written and as Fred Egan has written most about.

11 Q Do you know which Hopi societies are
12 affiliated with a ceremony?

13 A I'm sorry?

14 Q Do you know which Hopi societies are
15 associated with the Sa'lako ceremony, if any?

16 A well, I have just indicated that there

17 were some association with Niman, although, as I said,
18 I didn't think Niman -- the Niman priests necessarily can
19 be thought of as constituting a society.

20 At Third Mesa, these -- these Sa'lako
21 puppets are -- as well as occurring in the context of the
22 Powamuy, or Powamuya, P-o-w-a-m-u-y-a -- are also
23 associated with the Kwan society, with the One-horn
24 society.

25 whether this idea extends -- well, those
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1 puppets stayed for a while in walpi. It's very
2 possible that they also had a kwan affiliation at walpi
3 too.

4 Q Dr. whiteley, getting back to the shrine
5 you identified, wenima, in your opinion -- well, if I
6 understand you correctly, to the extent that it is
7 associated with a particular clan, it may be associated
8 with the Bow clan?

9 A No, I wouldn't go that far. Sa'lako, at
10 Third Mesa, is associated with the Bow clan. If I'm
11 even right that wenima is a Sa'lako site -- and I may not
12 be right about that; as I say, I'm just sort of
13 scratching the back of my head about this -- then I think
14 that's the line of association that one could make, I
15 guess.

16 Indeed, the logical extension for that
17 would be that there would be some sort of Bow
18 association from Third Mesa, but that's -- it doesn't
19 really work that way. I think, at least in this case,
20 it works more with the concentration on the kachinas
21 themselves.

22 Q So I take it you're not sure?

23 A Yes.

24 Q And I take it you're also not sure which
25 societies, if any, associate themselves with this

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1 particular shrine?

2 A I'm not sure.

3 Q Do you know which clans are associated
4 with the place Woodruff Butte?

5 A Well --

6 Q Oh, I'm sorry. I'm referring to the place
7 near Lupton.

8 A Well, except for my remarks just now about
9 the Piikyas clan, no, I don't.

10 Q Do you know which societies are associated
11 with this place near Lupton?

12 A No, I don't.

13 Q Dr. whiteley, on page 5 of your report,
14 after discussing or making a reference to this location
15 near Lupton, you indicate that the boundary line
16 follows in a northwest direction to a place called
17 Nuyavawalsa, N-u-y-a-v-a-w-a-l-s-a, which you translate
18 as "adobe gap" or "Lolomai Point." Is that a literal
19 translation of that word, "adobe gap"?

20 A It is.

21 Q Is that Hopi word an archaic Hopi word?

22 A No.

23 Q Dr. whiteley, I note that on the Exhibit
24 No. 14, the Pages' map, they have not so identified a
25 location for this location; is that correct?

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1 A That's correct.

2 Q If you would, Dr. Whiteley, can you
3 indicate with an X on Exhibit No. 14 the approximate
4 location of this place.

5 A I'll do it with a star. Okay.

6 Mr. Rogers: Just so the record's clear,
7 the witness has indicated with a star on the map the --
8 or what he believes to be the approximate location of
9 the place identified on page 5 of his report as the
10 place Lolomai Point.

11 Q (By Mr. Rogers) Do you have any
12 understanding as to why, in the pilgrimage that was
13 described by the Pages in their articles -- why this
14 place was not visited?

15 A No, I don't.

16 Q Do all Hopis consider this place to be of
17 special religious or cultural significance?

18 A I don't know.

19 Q Is there any debate among the Hopi as to
20 whether this is a boundary marker, this location?

21 A I don't know.

22 Q Do you know of what religious significance
23 this place has to the Hopi?

24 A I don't really know. It's possible that
25 it was associated -- it is associated with a migration

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1 route, clan migration route.

2 Q Do you know which clan or clans claim to
3 have settled --

4 A I don't know.

5 Q -- or passed through this place?

6 A I don't know. My guess would be either
7 Snake and/or Horn-flute or possibly Badger.

8 Q I take it you're not sure if any of those
9 clans were associated with this site?

10 A Not sure at all, no.

11 Q Do you know if any Hopi societies are
12 associated with this site?

13 A I don't know.

14 Q I note, Dr. Whiteley, that in between this
15 point and the location near Lupton you've included on
16 the boundary description at least part of Canyon de
17 Chelly?

18 A That's correct.

19 Q Is Canyon de Chelly of religious
20 significance to the Hopi?

21 A Yes, I think it is, but I think knowledge
22 about that is somewhat obscure. I think the traditions
23 associated with it haven't really been explored as
24 fully as they might be.

25 I cite somewhere in this report an account

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1 by Fewkes of certain ritual artifacts, certain Hopi
2 ritual artifacts, found at Canyon de Chelly. This
3 would certainly indicate an association with the area.

4 I think that there are certain clans which
5 claim to have migrated in from this area.

6 Of course, Canyon de Chelly is also
7 associated with Zuni, but there are definitely some
8 Hopis -- Hopi associations with the area.

9 There are indications, if I recall -- and I
10 think this may even be in Dr. Adams' report -- of Hopi
11 occupation, maybe just temporary, of Canyon de Chelly
12 in the 1700s.

13 Q So is that following the destruction of
14 Awatovi?

15 A Well, if it was in the 1700s, it would be
16 following the destruction of Awatovi, but I don't know
17 if there is any specific connection, or at least I
18 don't remember if there is.

19 Q Dr. Whiteley, do you know of what
20 religious significance Canyon de Chelly is to the
21 Hopis? You mentioned that it's obscure.

22 A It's obscure to me; maybe I should say
23 that. As an ancestral site, it's going to have that
24 significance. How that specifically works in Hopi
25 thought, I don't know, though. In other words, I don't

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1 know which clans it's associated with.

2 Q Do you know which societies are associated
3 with this place?

4 A I don't know. Again, I don't remember
5 the -- what these ritual artifacts are that Fewkes
6 identified, but maybe he identifies in his article the
7 fact that those religious artifacts are associated with
8 a particular society. Perhaps we can look through the
9 report.

10 Q Certainly, if you want to take a moment to
11 do that.

12 A Maybe this is in the other report. Maybe
13 it's not in either report. It is, however, in my
14 notes. I think there are some handwritten notes which
15 should be in materials that were produced of this
16 article, Fewkes 1906. It's called something like a
17 Hopi Ceremonial Frame from the Canyon de Chelly.

18 Q I would like to mark as Exhibit No. 15 an
19 article by J. Walter Fewkes entitled Hopi Ceremonial
20 Frames from Canon de Chelly, Arizona. It has a
21 production number on the first page of E24560.

22 (Whiteley Deposition Exhibit 15 was
23 marked.)

24 Q And, Dr. Whiteley, I can represent to you
25 that the only notes that were produced to us with

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1 respect to this source, I think, was just a --

2 A Two or three lines.

3 Q Well, it's just a listing of a
4 bibliographic source.

5 A Okay. Then that may be all that there
6 is.

7 Okay. These frames he seems to associate
8 with the Yaya society, Y-a-y-a, and also with what he
9 entitles The Lesser New Fire Ceremony at Walpi, which
10 would be associated with the wuwtsim society.

11 He also indicates, on page 665, an
12 association with masked figures called Sumaikoli and
13 Kawikoli. Sumaikoli is S-u-m-a-i-k-o-l-i; Kawikoli,
14 K-a-w-i-k-o-l-i. These are -- or at least Sumaikoli; I
15 don't know anything about Kawikoli -- Sumaikoli is a
16 masked figure associated with the Y-a-a-y-a-t,
17 Y-a-a-y-a-t, or the Yaya society, which is still
18 performed at Second Mesa and at First Mesa.

19 Again, given that my knowledge is much
20 better for Third Mesa, I know that this society there
21 was owned by the Greasewood clan, and that although
22 there may have been no performances in this century,
23 much of the paraphernalia belonging to the ceremony was

24 curated by a Greasewood clan family until very recent
25 times, perhaps until the last 10 or 15 years. I

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1 understand that sometime in that period some of the
2 ritual figures were stolen, and I don't think they have
3 been recovered.

4 So without rereading this whole
5 ceremony -- this whole article, we could say that there
6 is an association between Canyon de Chelly and
7 Sumaikoli ritual images, and that there is an
8 association between those and the Yaya society, which
9 is associated at different mesas with different clans.

10 At Third Mesa it's associated with the
11 Greasewood clan. At First Mesa, I seem to recall that
12 it's principally a ceremony of Hano, and it's been
13 performed at Hano in very recent times. There are
14 photographs of the performance in a book of Kate Coor's
15 photographs, edited by Barton-wright, by two people
16 called Gaede, G-a-e-d-e.

17 Again, just glancing through this article,
18 I also notice that Fewkes indicates the Asa clan, Tansy
19 Mustard clan, is associated with Canyon de Chelly.
20 They claim that their ancestors lived there. That's on
21 page 668. He also indicates there may be some Badger
22 clan association.

23 Q Dr. Whiteley, does the Asa clan go by any
24 other name?

25 A well, if I recall, Asa is usually

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1 translated as "Tansy Mustard," but I'm not sure about
2 that. Again, this is a First Mesa clan. I don't think
3 it exists on Second or Third Mesa. And I would have to
4 double-check that.

5 Q And you mention that the ceremonies at
6 Hano occurred in recent times. Approximately how long
7 ago?

8 A I think within the last ten years. And
9 there has certainly been a ceremony at Mishongnovi on
10 Second Mesa of the Yaya Sumaikoli. I believe there was
11 one in 1980, and I think there's been one since.

12 Q Are initiations in the Yaya society still
13 taking place?

14 A I think they probably are at Mishongnovi,
15 but I really don't know.

16 Q Is the society sometimes referred to as
17 the Fire Doctors society?

18 A I assume you've heard that somewhere or
19 read it somewhere, in which case you're probably
20 right. I've generally heard it referred to as a
21 conjurers society or a magicians society.

22 Q Does it have an association with fire or
23 burns?

24 A I don't know that. There is this
25 association, of course, with blindness, because the

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1 Sumaikoli are regarded as blind figures.

2 There is some debate about whether these
3 are really kachinas or not. They can -- they can be
4 performed outside of the ordinary kachina season, which
5 indicates that they have a different status than
6 kachinas.

7 But there is an association there with
8 blindness, and I think there may be some curing

9 associations for blindness afflictions.

10 Q Dr. Whiteley, you noted from Mr. Fewkes'
11 article he refers to the Asa clan as being affiliated
12 with Canyon de Chelly. Aside from Mr. Fewkes' article,
13 do you recall any other information that you've read
14 that associates a clan with the Canyon de Chelly area,
15 or based upon what your consultants have told you?

16 A I have a feeling that there is a Hopi term
17 for the village which is referred to in English as
18 "white house" or "where the white house is," which is a
19 quite literal translation from Hopi. I can't quite
20 remember what it is. It might be Qotsaki,
21 Q-o-t-s-a-k-i, or Qotski, Q-o-t-s-k-i, but that's
22 really about all I can recall. Certainly it would be
23 fairly easy to find more material on this. Indeed,
24 some of what you have produced may contain this.

25 There is another article by Fewkes on

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1 migration legends. If we looked at that, perhaps there
2 is an area -- or there is a section of that devoted to
3 the Canyon de Chelly. I actually seem to think there
4 might be. That would be Fewkes 1900 or 1900b. I can't
5 remember which.

6 Q Well, Dr. Whiteley, the Asa clan is now
7 extinct on Second and Third Mesa?

8 A I don't know if "extinct" is the right
9 word. I'm not sure it actually ever existed on those
10 mesas.

11 Q Do you know if there are any Second or
12 Third Mesa clans which claim affiliation --

13 A I don't know.

14 Q -- with the Canyon de Chelly area?

15 A I don't know. Again, though, if we are to
16 take some of these associations between societies and
17 clans, and we know that the Yaya society at Third Mesa
18 was controlled by the Greasewood clan, perhaps there is
19 a Greasewood clan interest in the Canyon de Chelly.

20 I don't know who owns the Yaya at
21 Mishongnovi, but which clan -- whichever clan does -- I
22 assume there is some clan association -- perhaps they
23 have a special association with Canyon de Chelly.

24 Q But I take it that you're not sure?

25 A But I'm not sure.

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1 Q Are there any Hopi villages which consider
2 themselves to be especially affiliated with Canyon de
3 Chelly, to have clan affiliation with Canyon de
4 Chelly?

5 A I don't know. I think there's greater
6 likelihood that First Mesa villages would have such an
7 affiliation, possibly also Mishongnovi.

8 Q But I take it you're not sure?

9 A But I'm not sure.

10 Q Now, aside from Canyon de Chelly, are
11 there any other locations along the boundary that you
12 depicted on Exhibit 14 between Lolomai Point and the
13 place near Lupton which are of special religious
14 significance to the Hopi?

15 A Well, with the -- given the fact that we've
16 discussed Wenima, which is in that general area --

17 Q Yes.

18 A -- not too far from this boundary line, not
19 too far from the place by Lolomai Point, a little

20 further south is a place called Lohali Point, which is
 21 cited in a number of accounts of the Tutskwa boundaries
 22 as an important -- of a Tutskwa as an important -- as an
 23 important area.

24 Q Dr. whiteley, could you spell that --
 25 A L-o-h-a-l-i.

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1 Q I'm sorry. L-o --
 2 A L-o-h-a-l-i. I think it's on Balakai
 3 Mesa, B-a-l-a-k-a-i.

4 Q Is Lohali a Hopi word?
 5 A I don't think it is, no.
 6 Q Do you know how the Hopis refer to it?
 7 A If I do know, I can't recall.

8 Q Fair enough. Do you know of what
 9 religious significance this place is to the Hopis?
 10 A No, although I think there are certainly
 11 eagle-gathering associations with it.

12 Q Do you know which clans are associated
 13 with this place?

14 A No.
 15 Q Do you know if any of the Hopi societies
 16 are associated with this place?

17 A I don't know.
 18 Q Do you know if any of the Hopi villages
 19 claim particular affiliation with this place?

20 A I don't know.
 21 Q From Lolomai Point, in your description on
 22 page 5, you indicate the boundary line goes in a
 23 northwest direction to Kawestima, which you describe as
 24 the "Tsegi Canyon area including both Betatakin and
 25 Keet Seel cliff-dwelling ruins," and then you cite your

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1 informants. And I realize we've covered some of this
 2 before, but which informants are you referring to?

3 A I'm sorry. Could you repeat the
 4 question?

5 Q Oh, certainly. You indicate in
 6 parentheses, following the reference to Kawestima,
 7 that -- in trying to provide locational information, you
 8 identify it as "Tsegi Canyon area including both
 9 Betatakin and Keet Seel cliff-dwelling ruins," and then
 10 you say that that's according to your informants.

11 A Okay.
 12 Q Who told you that, I guess, or who were
 13 you referring to when you referred to "informants"?

14 A Okay. Let me first just have a caveat,
 15 and that is that this use of informants clearly is
 16 inconsistent with what I was protesting about two days
 17 ago in terms of the use of the term "consultants."

18 I think the reason I chose that word in
 19 this context was to try to give a language which I
 20 thought would be more familiar with those who would be
 21 reading this document.

22 Q For the benefit of the poor lawyers?
 23 A Quite so.

24 Let me see. Harry Kewanimptewa, Alfred
 25 Lomahoma, Victor Masayesva, Junior. That is

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1 M-a-s-a-y-e-s-v-a. I think possibly Franklin Suhu,
 2 S-u-h-u, was present at a Spider clan discussion in
 3 which some of this may have been discussed.

4 I think Harry Kewanimptewa also identified

5 a source of his information about this as George
 6 Nasiwisiwma, N-a-s-i-w-i-s-i-w-m-a, from Hotevilla, and
 7 also a man who is long since deceased by the name of
 8 Lomayestewa, L-o-m-a-y-e-s-t-e-w-a, who was one of the
 9 major Spider clan protagonists of the Oraibi Split.

10 The reason that I mention Harry's cited
 11 informants for this is that very often Hopis, older
 12 Hopis especially, will say, "well, I heard this from
 13 so-and-so," indicating that this source might have a
 14 special knowledge about it, or just characterizing the
 15 information by reference to a definite source.

16 All of those people -- George Nasiwisiwma,
 17 Lomayestewa -- it's possible also that Harry heard about
 18 this from Lomahongyiwma, who was his uncle -- were of the
 19 Spider clan.

20 Q Dr. whiteley, can you spell that last
 21 name.

22 A L-o-m-a-h-o-n-g-y-i-w-m-a.

23 Q Dr. whiteley, did you obtain this
 24 information during the time that you were working on
 25 your Ph. D. thesis and later resulting in your book,

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1 Deliberate Acts?

2 A Yes.

3 Q And I take it these were not among the
 4 people that you talked to in August of 1988?

5 A That's correct.

6 Q There were -- you were referred before to
 7 Harry Kewanimptewa and Alfred Lomahoma, but there were
 8 two names which I don't believe you mentioned before, a
 9 Victor --

10 A Masayesva, Junior?

11 Q Yes. Was he from Third Mesa?

12 A Yes. He's from Hotevilla.

13 Q And is -- you also mentioned Franklin Suhu?

14 A Who is also from Hotevilla.

15 Q Did you obtain any information regarding
 16 this site from Second Mesa or First Mesa people?

17 A I honestly can't remember. It's quite
 18 possible that I talked to a number of people from
 19 Second Mesa -- especially Shongopavi -- about this, but I
 20 really can't remember.

21 Q Fair enough. Now, you did mention four
 22 people which you can recall talking to about this
 23 site. Did they all agree as to the location of
 24 Kawestima?

25 A well, I think they all agreed that it was

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1 in the general Tsegi Canyon area. I think it -- I don't
 2 know if this is doing violence to the actuality of
 3 those conversations, but I seem to think that there may
 4 have been -- and maybe I'm putting some of this together
 5 through my own inferences -- there may have been more of
 6 a movement towards the idea of Keet Seel being the most
 7 significant site in that area.

8 Q Dr. whiteley, the reason for my confusion,
 9 I guess -- in your report, you identify Kawestima as
 10 being in the Tsegi Canyon area, including both
 11 Betatakin and Keet Seel.

12 A Um-hum.

13 Q And I note in your book Deliberate Acts,
 14 at 257, which is Exhibit No. 6, toward the bottom of
 15 the page, in the last three lines, you state, quote,

16 "According to these versions, those who left Oraibi
 17 were supposed to go to Kawestima," and then you have a
 18 notation in parentheses, "(generally thought to be Keet
 19 Seel in Tsegi Canyon, although this is debated.)"

20 A Um-hum.

21 Q Is the location of Kawestima a subject of
 22 debate among the Hopis?

23 A I think it is, yes.

24 Q I take it it's also a subject of debate
 25 among anthropologists?

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1 A I think what I meant there was that it's
 2 debated among Hopis.

3 Q And I take it that that debate would also
 4 be reflected among anthropologists?

5 A I don't know how many anthropologists have
 6 actually considered this question. I think most
 7 anthropologists aren't terribly concerned with what
 8 Hopis say about former ruins these days.

9 Q Well, I don't want to make a mystery of
 10 this. The reason I asked is, in Dr. Eggan's report, he
 11 identifies the location of Kawestima as Betatakin.

12 A Um-hum. I think he's following the Pages
 13 again.

14 Q And I guess, just for identification on
 15 the record -- I don't know if we need to mark this as an
 16 exhibit -- we're referring to Dr. Eggan's January 1986
 17 report that was published -- or it was prepared in
 18 connection with this litigation, and on page 18 of that
 19 report Dr. Eggan writes, "On the way to Navajo Mountain
 20 the party had stopped at Betatakin, an ancestral home
 21 through the mid-13th century and known to the Hopi as
 22 Kawestima." I don't know if we need to mark this as an
 23 exhibit, but if you would like to take a look at that.

24 A It may be worth putting on the record that
 25 counsel just indicated to me that it's a lot easier to

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1 get to Betatakin than it is to get to Keet Seel.

2 In connection with that, when Harry
 3 Kewanimptewa took me up there, we only looked at
 4 Betatakin. We certainly didn't go to Keet Seel. We
 5 went in the middle of winter. And Keet Seel, of
 6 course, is an eight-mile hike across arroyos and
 7 running creeks. I have been there myself since, by
 8 myself.

9 It's -- it is also, I think, worth putting
 10 on the record that -- as I just indicated to you,
 11 Mr. Rogers -- Eggan is describing that particular
 12 pilgrimage that the Pages attended, as I suspected.

13 I would also like to register, again, that
 14 this is precisely the reason for my indicating that
 15 Kawestima -- in the report, anyway -- is the "Tsegi Canyon
 16 area including both Betatakin and Keet Seel cliff -
 17 dwelling ruins."

18 I think in my book, Deliberate Acts, my
 19 intention there was to try to get a little bit more
 20 focused, to give a more precise indication of what I
 21 felt was the most consensual result of discussions with
 22 consultants. So I think that's why these two accounts
 23 differ a little bit.

24 Q Dr. Whiteley, I want to be fair to you.
 25 It at least appears to me that the descriptions you

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1 have afforded the locations for Kawestima in your
2 report and your book appear to me to be a little
3 different. Which, in your opinion, more accurately
4 describes your opinion as to where this place is
5 located?

6 A Well, given that both opinions do
7 describe, I think, what is the -- what is in the
8 framework of Hopi considerations of this question, I
9 think the opinion that Keet Seel is more likely to be
10 the specific spot is probably a more precise
11 reflection.

12 But yet again we have this situation where
13 an area is referred to by a term for a specific spot,
14 or vice versa; this process of synecdoche, which I
15 referred to with respect to Tokoonavi yesterday.

16 Q If I understand your answer correctly, is
17 it fair to say that some Hopis who refer to Kawestima
18 would be referring specifically to Keet Seel; others
19 would be referring to a larger area of Tsegi Canyon?

20 A That may be true. And even those who
21 refer -- who may be referring to Keet Seel may not be
22 absolutely certain that this site meets all of the
23 specifications of mythological narratives which
24 describe the site in rather precise detail.

25 Q Dr. Whiteley, I note in Footnote 4 of your

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1 report on page 5 you state, "In recent years, Hopis
2 have expressed different positions as to whether
3 Kawestima is a boundary shrine, or an important clan
4 ruin within the boundaries of the Hopitutskwa."

5 Do Hopis disagree as to what significance
6 Kawestima has to the Hopi people?

7 A I don't know that they disagree as to its
8 significance. My point here is that I have seen
9 outlines of the Tutskwa which do not expressly go
10 through Kawestima but simply go from Lolomai Point back
11 up to Navajo Mountain, thereby including Kawestima
12 within the Tutskwa, but not making it a boundary
13 shrine.

14 Now, given my possible alternative
15 northeast boundary for the Tutskwa that's marked on
16 this Exhibit 14 by a dotted line, again -- and given my
17 expressed questions about this northeastern part of the
18 boundary in general in which I indicate that there may
19 be historical reasons for its shrinkage further in,
20 those historical reasons being Navajo incursions and
21 preventions of Hopi access to this area, this is why
22 there may be some differences in interpretation of
23 whether the Kawestima is a boundary shrine or whether
24 it's an important shrine within the Tutskwa.

25 In terms of its specific significances, I

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1 don't think there are very many differences. It's
2 important especially to the Spider clan. I think it's
3 important especially also to the Fire clan or the
4 Kookop clan, K-o-o-k-o-p.

5 I believe it's important especially to a
6 particular society, though I don't know which one, but
7 there are songs in this religious society's performance
8 which refer to Kawestima, which refer to people packing
9 their altars on their backs as they finish up the
10 ceremony, and heading off back towards Kawestima. I
11 think these societies are associated particularly with

12 the Spider and Fire clans.

13 Maybe we would be entitled to infer that
14 given those associations, it's possible that the area
15 is specifically associated with the Momtsit,
16 M-o-m-t-s-i-t, or possibly the Nasotanwiwimkyam,
17 N-a-s-o-t-a-n-w-i-w-i-m-k-y-a-m, both of which
18 societies were controlled by -- jointly at Third Mesa -- by
19 the Spider and Fire clans, and which had some
20 associations with each other.

21 I think there are traditions about
22 Kawestima from other mesas too, but I'm much less
23 familiar with them. It's possible that they don't
24 always focus on the exact same issues.

25 Q Now, you mentioned two societies, the

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1 Momtsit and another society that began with an N, and
2 I'm not going to try to pronounce it. The Momtsit I
3 think you've already talked about. Does the other
4 society go by another name?

5 A Yes. Titiev -- well, in Hopi, Titiev
6 describes it as Nakya. I think he spells it
7 N-a-k-y-a. And I think that's -- that also appears in
8 the writings of some others, although Nasotan also
9 appears in the writings, I believe, of Stephen.
10 Nasotanwiwimkyam is -- or Nasotanwiwimkyam is directly
11 from Harry Kewanimptewa, who was a Spider clan man, and
12 this was part of his Spider clan tradition.

13 In English, it's generally referred to as
14 the Stick Swallowers society, sometimes as the Sword
15 Swallowers society.

16 Q Have any ceremonies taken place that have
17 been sponsored by the society during this century?

18 A I don't know. Given its association with
19 Momtsit, and that there are no records of any Momtsit
20 performances in this century, my guess would probably
21 be no.

22 But as I indicated yesterday, one of my
23 oldest informants -- consultants -- I give up -- indicated
24 that she had attended a public Momtsit performance,
25 which would be in the late 1890s. So if there haven't

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1 been any performances in the present century, then
2 there were until the very final years of the last
3 century.

4 Q If I understood your answer correctly a
5 few answers ago --

6 A May I just also add to that, that, of
7 course, again, in conjunction with my remark yesterday,
8 which wasn't -- which was uttered casually, but which
9 was -- really had significance -- the Hopis have very long
10 memories. This doesn't mean that the practices
11 associated with the Nasotan ceremony aren't indeed very
12 well remembered and are discussed in clan traditions
13 down to exact fine points.

14 And, given that, there is always the
15 possibility that they may be reconstituted at some
16 point, just as Sa'lako was at Shongopavi in the 1930s,
17 this ceremony that we were talking about a little while
18 ago.

19 Q But I take it that there are no members of
20 the society that are now living?

21 A No initiated members that I know of, no,
22 although it's conceivable that if George Nasiwisiwma is

23 still alive -- and he may have died within the last two
 24 or three years; I haven't heard; he's a very old
 25 man -- it's conceivable that he might be an initiate.

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1 Q I think you're going to have to spell his
 2 name.

3 A N-a-s-i-w-i-s-i-w-m-a.

4 Q Earlier on you mentioned that this place,
 5 I believe, may be associated with the Spider clan and
 6 the Fire clan. Do you know of any other clans that are
 7 associated with this place?

8 A I seem to have heard something about a
 9 snake clan affiliation there too, but I have far less
 10 control over that idea.

11 Q Do you know if any village has a
 12 particular affiliation with Kawestima?

13 A Clearly the clearest tales/accounts of
 14 Kawestima that I know all pertain to Third Mesa. And
 15 the fact that Kawestima was supposed to be the place
 16 that those who left Oraibi after the split should have
 17 gone back to, caused me to focus all of my inquiries
 18 within this Third Mesa perspective.

19 But I do think that there are other
 20 villages on other mesas, on both other mesas, which
 21 have special interests in Kawestima also, but that's
 22 more of an opinion. I can't really substantiate that
 23 with -- at least off the top of my head; I probably could
 24 if I looked at some sources -- with details.

25 Q Dr. Whiteley, you mentioned the two clans,

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1 the Spider clan and Fire clan. I take it that
 2 Kawestima figures into their clan migration myths too?

3 A That's correct.

4 Q According to the legends of these two
 5 clans, what reason -- well, did they have, according to
 6 their legend, a prophecy that they would return to
 7 Kawestima?

8 A The spider clan certainly did, yes, and
 9 the Fire clan may have.

10 Q And according to those legends, why were
 11 they to return to Kawestima?

12 A Actually, I should indicate that I think
 13 the Fire clan certainly had that idea.

14 when the world reached a certain stage in
 15 its epochal transformations -- particularly at Oraibi --
 16 when things reached a point of decadence or corruption,
 17 as this is conceived of within a Hopi framework of
 18 ritual values, then the only way of resuming a pure
 19 life, an uncontaminated life, would be to return to
 20 Kawestima.

21 Q why don't we take a break at this point.

22 A Okay.

23 (A break was taken.)

24 A Mr. Rogers, may I point something out
 25 which I didn't point out during our discussion of

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1 Kawestima? This reiterates a point that I made
 2 yesterday, that some of these important areas,
 3 religious areas, shrine areas, are subject to the
 4 provisions of ritual secrecy that we have already
 5 discussed. This is an important part of the background
 6 for understanding why there may be some differing
 7 accounts about the specific location of a site such as

8 Kawestima.

9 In other words, if you were able to
10 contact people who were initiated into the right ritual
11 sodality or were chief priests of that sodality or were
12 members of the primary lineage segment of clans which
13 were associated with this particular place, and they
14 were willing to discuss it, you could, hypothetically,
15 come up with a much more precise designation of
16 important sites for which there are, in the record,
17 differing interpretations at present. Again, this
18 refers back to the distinction between Pavansinom and
19 Sukavungsinom. P-a-v-a-n-s-i-n-o-m,
20 S-u-k-a-v-u-n-g-s-i-n-o-m.

21 Q Dr. Whiteley, I appreciate that caveat,
22 and it occurs to me that I may not have made it clear
23 at the beginning of the deposition. If during the
24 course of the deposition you feel it is appropriate to
25 clarify or add a qualification to what you've testified

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1 earlier, I invite you to do so.

2 A Thank you.

3 Q Do not wait for my prompting if you feel
4 that's important. It is -- you are the only person in
5 this room who is under oath, and I understand that
6 there may be times when you feel it is necessary to
7 qualify an answer or to ask for further clarification.

8 A Thank you. On that line, may I also
9 mention that in addition to that list of individuals I
10 gave you yesterday from whom I may have learned things
11 about Moencopi history, I should add the name Nora
12 Bahnimptewa, B-a-h-n-i-m-p-t-e-w-a, who is the wife of
13 the Kikmongwi of Old Oraibi, Stanley. I was present in
14 her house in Lower Moencopi in 1980. And there may be
15 some other individuals who I will remember over the
16 next few days too.

17 Q When you spoke to her, was her husband
18 still alive?

19 A Isn't her husband still alive? Did
20 Stanley die?

21 Q Well, that's what I'm asking.

22 A Yes, he certainly was then.

23 Q And at that time, he was a Kikmongwi of
24 Oraibi?

25 A Yeah. He still is, to my knowledge,

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1 unless he died very recently.

2 Q And I don't know that -- I have no
3 information as to whether he's still alive.

4 A Oh, okay.

5 Q Is there some controversy as to who is the
6 Kikmongwi of Oraibi?

7 A There has been some controversy in the
8 past. I think it's pretty well accepted that Stanley
9 is the only candidate at present, and lives in Old
10 Oraibi all the time, to my knowledge, and serves as a
11 formal intermediary between Old Oraibi and the outside
12 world.

13 I don't know if this is true at present,
14 but certainly three or four years ago or five or six
15 years ago, any outsider who went into Old Oraibi had to
16 call at his house.

17 Now, if there was a great deal of
18 controversy about his incumbency of the position, I

19 can't imagine other people from Old Oraibi would have
 20 actually put up with that. But since there seemed to
 21 be no disagreement about his prerogative to do that, I
 22 assumed that his holding of that position is currently
 23 without much controversy.

24 Q Can you recall what this woman was able to
 25 tell you regarding the history of Oraibi -- I'm sorry --

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1 the history of Moencopi?

2 A No, I can't recall.

3 Q I guess that's --

4 A Well -- sorry. I can recall that at one
 5 point part of the conversation discussed the location
 6 of her house and other houses in the row that her house
 7 is associated with, and something about the time of
 8 their building. And there was also some discussion
 9 about the irrigation system, I think, but I can't
 10 remember the details of that either.

11 Q Fair enough. And as long as we're on this
 12 general subject, are there any other areas that you
 13 testified about so far which you feel requires further
 14 clarification or a qualification?

15 A Not that I can call to mind at present.

16 Q Fair enough. I would like to pick up
 17 again with your description of the boundary line that
 18 you describe on pages 5 and 6 of your report. From
 19 Kawestima, you indicate on page 6 that the boundary
 20 line turns -- or goes in a northerly direction back to
 21 Navajo Mountain. Are there any sites along this
 22 boundary area which are of religious significance to
 23 the Hopis?

24 A I'm pretty sure that there are some
 25 eagle-gathering sites in this area as well, coming

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1 down -- well, depends how you look at it -- coming down
 2 from Navajo Mountain, back towards Kawestima.

3 I think some of those areas are associated
 4 with the Fire clan, maybe some of them are associated
 5 with the Eagle clan, and possibly some other clans.

6 Q Do you know if this area has any
 7 affiliation with any of the Hopi societies?

8 A I don't know specifically; but given our
 9 conversation just now about societies at Kawestima, and
 10 given our conversation yesterday about the Snake
 11 society at Tokoonavi, it's possible that there are
 12 other associations on points between these two sites
 13 with these societies.

14 Q Dr. Whiteley, turn back to page 5 of your
 15 report, No. 4. We touched on this briefly yesterday.
 16 You indicate in the footnote that there may be an
 17 alternative boundary on the northeastern portion of the
 18 Tutskwa; and I think, as you explained this morning,
 19 that there may be some different interpretations of the
 20 northeastern boundary that may have resulted from, I
 21 think, what you described as Navajo incursion over
 22 time. Is that a fair summary?

23 A I think so, yes.

24 Q Well, is it your opinion that that
 25 boundary line may have changed over time? And, again,

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1 I'm referring to the northeastern boundary that you
 2 have depicted on Exhibit 14.

3 A I think so, yes.

4 Q Are there other portions of the Tutskwa
5 boundary that you depicted on Exhibit No. 14 that may
6 have changed over time, for historical reasons or other
7 reasons?

8 A Not that I know of.

9 Q Now, earlier this morning and yesterday
10 you indicated that some of your consultants, during the
11 time you were conducting research at Bacavi and later,
12 described different parts of the boundary that you
13 depicted on Exhibit No. 14. Did any of your
14 consultants describe the area which is referenced in
15 Footnote No. 4, or is that purely from archival
16 sources?

17 A Yes. My consultants, especially Harry
18 Kewanimptewa, possibly Alfred Lomahoma, indicated that
19 there were other ruins closer to Kayenta, I think
20 northeast of Kayenta, possibly north of Kayenta, which
21 were also part of their clan claim -- I mean part of the
22 Spider clan claim, not -- Alfred Lomahoma is a Desert Fox
23 clan man.

24 And we did -- Harry and I did drive up to
25 that area, and we tried to walk across to some of those

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1 ruins -- they're fairly close to the highway -- but we
2 didn't actually reach them. So that would put that in
3 that area which is included in the dotted line
4 extension on my drawing on Exhibit 14.

5 Q For the court reporter, Kayenta is
6 K-a-y-e-n-t-a.

7 Did Mr. Kewanimptewa consider these ruins
8 as being part of the Tutskwa, or did he give you any
9 indication that they were?

10 A That wasn't the framework of his
11 discourse, that they were part of the Tutskwa. We
12 weren't specifically talking in those terms; but given
13 that we were talking about the importance of Kawestima,
14 he seemed to be referring to this area too as of
15 considerable significance, so I think that would mean
16 that there may have been the idea that this was part of
17 the Tutskwa, yeah.

18 Q Do you recall if Alfred Lomahoma -- well, do
19 you recall that he provided any corroboration for this
20 alternative -- alternate boundary that you described in
21 Footnote 4?

22 A I really don't recall.

23 Q I wanted to go through some of the
24 locations that are identified in your footnote. You
25 indicate, about halfway through the footnote, that the

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1 alternative boundary line departs from the boundary
2 line which is described in the text at the place which
3 you describe as being Namituyqa, and you say it goes
4 from that place to Black Creek, and then you follow the
5 Black Creek Valley north.

6 Do you know of what religious significance
7 this area has to the Hopi?

8 A No, I don't. But, again, given its
9 proximity to Wenima, perhaps that's -- the significance
10 of that site is related to this area too.
11 w-e-n-i-m-a.

12 Q But I take it you're not sure?

13 A But I'm not sure.

14 Q Do you know if this area is associated

15 with any Hopi societies?

16 A I don't know.

17 Q Is it associated with any of the Hopi
18 villages?

19 A You mean as villages, as individual
20 villages, different from each other?

21 Q Yes.

22 A Not that I know of. Although, again, the
23 more that we think about this area, I seem to recall a
24 spring somewhere near Aya, somewhere near Wenima, which
25 is of religious importance. I think it's further west

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1 than the Black Creek Valley. And I can't remember
2 which spring it is, but I seem to recall something
3 about that.

4 Q I take it you can't recall the name of the
5 spring?

6 A No.

7 Q Can you recall what religious significance
8 the spring has?

9 A Not specifically, although, of course, all
10 springs have importance, as I have noted, in the sense
11 that all water has importance.

12 In one sense, all springs are inhabited by
13 Paaloloqang, P-a-a-l-o-l-o-q-a-n-g, which is perhaps
14 most recognizably translated as a feathered serpent.
15 It literally means a water snake.

16 Q Do you know which clans are associated
17 with this spring?

18 A No, I don't.

19 Q Do you know which, if any, of the
20 societies are associated with this spring?

21 A No, I don't.

22 Q Now, you indicate in the Footnote 4 that
23 the alternative boundary line follows up "the Black
24 Creek Valley north along the modern Arizona-new Mexico
25 border towards Canyon de Chelly, past west through the

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1 Canyon de Chelly." Now, we've already covered, I
2 believe, the Canyon de Chelly this morning. Then you
3 indicate that it follows up the Chinle wash. I'm
4 sorry. Is there --

5 A We seem to have found another typo. I
6 think that should be "pass" west, rather than "past"
7 west.

8 Q So it should be p-a-s-s instead of
9 p-a-s-t?

10 A Right.

11 Q You indicate in Footnote 4 that after
12 Canyon de Chelly the alternative boundary line follows
13 up the Chinle wash, becoming the Chinle Creek. Of what
14 religious significance is the Chinle wash in the Chinle
15 Creek to the Hopi?

16 A If it does have religious significance,
17 which I don't -- which I do not know, I think it would
18 pertain to migration traditions of the Snake and
19 Horn-flute clans, especially at First Mesa. The
20 citation that I have here to Fewkes 1900a indicates
21 some of those migration-patterns traditions.

22 Q Do you know if any other clans are
23 associated with this area?

24 A I don't know, although, again, there is a
25 tradition that certain clans, notably the Badger clan,

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1 came from the Mesa Verde area at one point, and in
2 order to get to the current Hopi mesas, they would have
3 probably had to cross Chinle wash, unless they went
4 straight to the Canyon de Chelly. I don't know.

5 So it's possible that there are parts of
6 the Chinle wash which have significance -- or the Chinle
7 wash in the Chinle Creek area -- which have significance
8 to the Badger clan and clans which are associated with
9 the Badger clan.

10 Q When when you refer to "clans which are
11 associated with the Badger clan," are you referring to
12 the clans within the same phratry?

13 A Yes.

14 Q Are --

15 A Which would include Butterfly historically
16 and some others.

17 Q Are there any Hopi societies that are
18 associated with this area?

19 A Not that I know of.

20 Q Is --

21 A Or I guess I should -- it's probably a
22 little more accurate to answer that question: I don't
23 know.

24 Q Your description continues on in Footnote
25 No. 4 in which you indicate the -- from Chinle Creek, the

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1 alternative boundary goes up to the creek's confluence
2 with the San Juan River. Is the confluence of the
3 Chinle and San Juan River a place of religious
4 significance to the Hopis?

5 A I don't know. Again, I think that one or
6 more of those migration legends of the Snake and
7 Horn-flute clans may indicate travel up the San Juan
8 River and turning south down the Chinle Creek -- Chinle
9 wash, Chinle Creek -- but I don't know if the confluence
10 has any special significance.

11 Q Do you know if the confluence is of any
12 special significance to any of the Hopi societies?

13 Ms. Sprague: Mr. Rogers, I think
14 Dr. Whiteley has answered that he doesn't know of any
15 special significance that would cover clan villages and
16 societies.

17 Q (By Mr. Rogers) Is that a fair
18 characterization, Dr. Whiteley?

19 A It is.

20 Q Dr. Whiteley, are you familiar with the
21 ruins that are referred to as Montezuma's Castle?

22 A I am familiar with them, yes.

23 Q There are some ruins nearby Montezuma
24 well -- or referred to as Montezuma's well?

25 A I don't think I've ever been to

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1 Montezuma's well, but I know the name.

2 Q Are you familiar with some ruins that are
3 referred to as Tuzigoot?

4 A Tuzigoot. Yes, I am. T-u-z-i-g-o-o-t.

5 Q It's true, isn't it, that various Hopi
6 clans claimed those sites as being places where their
7 clan ancestors settled along their migration to Hopi?

8 A I think that is true, yes.

9 Q And it's also true that these places are
10 outside the boundaries of the Tutskwa, as you have

11 depicted them on Exhibit 14?

12 A That's true.

13 Q Do you have any understanding as to why
14 the Hopis do not consider these sites as being within
15 the Tutskwa?

16 A I don't have any specific understanding,
17 except to indicate that the Tutskwa, as I have tried to
18 demonstrate in my report, is a significant use area for
19 the Hopis and has been historically.

20 I think Dr. Eggan's phrase regarding ruins
21 associated with the Tutskwa boundaries is that they may
22 have been the last staging areas in patterns of
23 migration.

24 I referred just now to the fact that the
25 Badger clan claims its origins as located -- or some

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1 origins -- as located at Mesa Verde. The Bow clan. Some
2 clans like the water clan and the Snow clan and the
3 Frog clan from Second Mesa claim origins at Palakwopi,
4 which is far to the south -- if we know exactly where it
5 is, and I'm not sure that I do -- far to the south of
6 Montezuma's Castle and Tuzigoot and so forth. They
7 certainly aren't included within this boundary of the
8 Tutskwa.

9 So I think, again, my point's -- perhaps
10 this doesn't really need to be made here, but the point
11 of my report is that the Tutskwa is a quite reasonable
12 depiction of thoroughly utilized area.

13 Q Well, Dr. Whiteley, have you ever asked
14 any of your consultants why some of these ruins are
15 outside the Tutskwa or asked why they are excluded from
16 the Tutskwa?

17 A I haven't asked.

18 Q Dr. Whiteley, I would like to turn to the
19 portion of your report which, I believe, is Section Ii
20 of Exhibit 1, which discusses the history of the
21 Tutskwa claim. I believe it runs from pages 7 through
22 19 of your report.

23 At page 7 of your report you describe a
24 visit to Santa Fe that took place in 1819 by some Hopis
25 to request what you describe here as "military aid

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1 against Navajo depredations," and you refer to your
2 book Deliberate Acts, which, I believe, is Exhibit
3 No. 6, page 29.

4 Is your reference on page 7 of your
5 report -- back to your book -- referring to the quotation
6 that you have on page 29 from Montgomery, Smith and
7 Brew?

8 A Yes.

9 Q I take it that there is no -- in the
10 quotation it's not known what was said at the meeting?

11 Ms. Sprague: What meeting, Mr. Rogers?
12 I'm lost.

13 Mr. Rogers: Well, Dr. Whiteley refers, on
14 page 7 of his report, to a visit to Santa Fe by Hopis;
15 and the quotation from Montgomery, Smith and Brew
16 refers to, quote, "The Moquis sent five of them over to
17 ask aid from the Spaniards."

18 Ms. Sprague: The meeting between the
19 Moquis and the Spaniards in Santa Fe in 1819?

20 Mr. Rogers: Yes.

21 Q (By Mr. Rogers) And I take it,

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22 Dr. whiteley, that it's your inference that they were
 23 meeting in Santa Fe. It certainly isn't in the
 24 quotation.

25 A I think it's -- unless I'm completely wrong,
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1 I think it's pretty well established that there was
 2 that meeting in Santa Fe. Although I only cite
 3 Montgomery, Smith and Brew, Montgomery, Smith and Brew
 4 are citing an archival record. And I think this event
 5 is probably recorded in Bancroft also.

6 So I don't know if it's fair to say that
 7 we don't know exactly what transpired at that meeting.
 8 I think that would require a more thorough
 9 investigation of the documentary record than my
 10 reference provides.

11 Q You describe in your report that at the
 12 meeting, at least from what we know about the meeting,
 13 the Hopis that met with the Spaniards made no land
 14 claim per se; is that correct?

15 A Well, I -- I mean, I think I can say that
 16 that's correct, but I -- I think, for the record, it's
 17 worth repeating that what I say in my report is "A 1819
 18 visit to Santa Fe to request military aid against
 19 Navajo depredations (see, e. g., whiteley 1988: 29),
 20 makes no land claim per se."

21 In that light, all I'm referring to is
 22 this particular quote, which indeed does not make any
 23 land claim per se.

24 Q Dr. whiteley, I guess what I'm trying to
 25 drive at, Given what you know about this meeting that

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 1 occurred in 1819, based not just on the quotation that
 2 you provide in your book, do you know or have you come
 3 across any information that indicates that the Hopis
 4 who attended the meeting described a boundary area that
 5 they were asserting?

6 A I don't know.

7 Q Dr. whiteley, in Deliberate Acts, on pages
 8 13 through 30, you describe a number of different
 9 contacts that Hopi peoples had with the Spanish. I
 10 believe at page 13 you discuss contacts with Coronado
 11 in 1540. Page 14, you describe contacts with
 12 Castaneda. Later --

13 A Castaneda was the journalist. Coronado
 14 wasn't there himself. Certainly Castaneda may have
 15 been on that trip with Tovar and Padilla. I don't
 16 remember that with certainty either way. Coronado
 17 himself, to my recollection, did not visit Hopi.

18 Q Dr. whiteley, I stand corrected.

19 A I assume -- actually, just going over this
 20 again, Castaneda indeed was part of this party. But
 21 I'm not absolutely sure of that. He may have simply
 22 been reporting formally in his chronicle what was told
 23 to him by Tovar and Padilla.

24 Q Dr. whiteley, thank you for that
 25 clarification. I -- well, Dr. whiteley, will you agree

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 1 with me that from pages 13 through 30 you do describe
 2 various contacts the Hopi had with the Spaniards and
 3 then later with the Mexican government?

4 A Yes.

5 Q During the course of your archival
 6 research, either in preparing this book or elsewhere,

7 have you ever come across an account of a meeting
8 between the Spanish or the Mexican governments that
9 describes the boundaries for a Hopi land claim? And if
10 it will help you to take a look at those pages in
11 Deliberate Acts, if that will refresh your
12 recollection, you're welcome to do so. I can represent
13 to you, I didn't find anything in there.

14 A No, I don't recall there being anything in
15 those pages, but I'm just trying to think of elsewhere
16 too. I mean, there are certainly references to the
17 Provincia de Moqui -- P-r-o-v-i-n-c-i-a, d-e,
18 M-o-q-u-i -- and there are some maps which depict
19 boundaries between this Provincia de Moqui and other
20 provinces or other people's.

21 whether these are held to be
22 representations of formally granted or formally
23 recognized territorial boundaries is a different
24 question, however.

25 Q Fair enough. And is there enough known
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1 about the preparation of these maps to be able to tell
2 if boundaries which are depicted on these maps derives
3 from information that the Spanish or Mexicans obtained
4 from the Hopis, or if it was just the best judgment of
5 the map maker as to where people were residing?

6 A I don't know. But the reason that I
7 mentioned the term Provincia is that it does have some
8 significance which goes beyond the recognition of the
9 presence of a people in a particular area.

10 So, for example, in this map that I think
11 we will want to include that's reproduced in
12 Underhill's book, who is a Navajo, you see certain
13 areas referred to as Provincia de Moqui, Provincia de
14 Navajo, while other areas are -- I can't remember the
15 exact wording, but they're just associated with the
16 presence of a people in a particular area.

17 Now, again, I'm not a -- not technically a
18 historian of the Spanish period or Spanish civil law in
19 historic New Mexico, so I don't really know what
20 "provincia" means, but it seems to have a significance
21 surpassing the mere presence of a group of people in an
22 area, and the fact that throughout the Spanish period
23 there are many documents, I think, which refer to the
24 Provincia de Moqui as an interior province of Nuevo
25 Mexico; N-u-e-v-o, Mexico.

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1 with regard to a particular boundary that
2 the Spanish may have accepted at the behest of the
3 Hopi, if such a thing was ever agreed upon, it's very
4 likely it would be in the 17th century. And, as we
5 know, most of the records from the 17th century were
6 destroyed at the Pueblo revolt of 1680.

7 There still may be some records in
8 archives in Mexico City, possibly even more likely in
9 Seville, or in, I think -- I think it's Naples; anyway,
10 whatever the head of the Franciscan -- or the
11 headquarters of the Franciscan branch of the Roman
12 Catholic Church is. I think Naples has a Franciscan
13 archive.

14 But those -- especially Seville, and if
15 Naples is correct -- have not, to my knowledge, been
16 systematically researched by scholars of the
17 Southwest.

18 Some -- there are certainly some
 19 Southwestern historians who have visited certainly
 20 Seville, but reports that I hear are that the archives
 21 are enormous and very difficult to use, and certainly
 22 there has been no systematic culling of those documents
 23 for references to Hopi land claims or to Hopi in
 24 general.

25 Q Dr. Whiteley, on page 7 of your report you
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1 also refer to a communique that was initiated by the
 2 Hopi to President Fillmore in 1852, and you cite in
 3 your report -- back again to Deliberate Acts, to
 4 page 31. I take it that in this communique from the
 5 Hopis there was no description of the boundary area
 6 with the Hopi word --

7 A Well, on the contrary. If I may quote
 8 from page 31: "The Hopi message was a 'unique
 9 diplomatic packet'"-- packet spelled p-a-c-q-u-e-t --
 10 "containing ritually valuable objects including
 11 prayer-sticks, honey, tobacco, and a pipe for the
 12 president to smoke - a basic sacramental act." And the
 13 source cited is Schoolcraft 1853.

14 Prayer-sticks, with attachments of pouches
 15 that include honey and cornmeal -- and I note that
 16 cornmeal isn't specifically mentioned here, but I seem
 17 to recall that Schoolcraft's drawings of those
 18 prayer-sticks does include "pacquet," which probably
 19 include cornmeal -- are actually a reference to land
 20 areas.

21 Q How so?
 22 A Well, a prayer-stick actually stands for
 23 the Hopi world in part, or at least some prayer-sticks
 24 do; and since this was such an important one, I think
 25 it's very likely that that -- that that may indeed have

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 1 been their intent.

2 Q Well, Dr. Whiteley, is it your
 3 understanding that the -- from a prayer-stick, such as
 4 you're describing -- that a Hopi could -- well, is a
 5 prayer-stick somehow encoded with a description of what
 6 the boundary area would be --

7 A Well, I think --
 8 Q -- or is it more symbolic of just a general
 9 land area?

10 A Well, I think if you raise the question in
 11 that way, it becomes a very complicated issue. Of
 12 course, Hopis at this time did not have a "written
 13 language," and the way that important ideas are encoded
 14 in societies which do not have written languages are
 15 complex.

16 Very often you have symbols, such as
 17 prayer-sticks, which incorporate an awful lot of
 18 significance, an awful lot of meaning. But I -- I am
 19 rather doubtful, for example, that President Fillmore
 20 could have unpacked all of those meanings, or perhaps
 21 any other non-Hopi at the time. But that doesn't mean
 22 that from a Hopi perspective, from the perspective of
 23 those people who actually send these objects, that
 24 their intent was really quite specific.

25 I'm not saying that this is absolutely a
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 1 fact for certain, but it certainly seems to be a very
 2 logical inference, from what they included in this

3 message, and the fact that I know from other sources
4 that prayer-sticks do have this significance.

5 Q Well, based upon your investigation of
6 this incident, sending the packet to President
7 Fillmore, have you been able to determine what area was
8 being claimed by the Hopis in this communique?

9 A I have not.

10 Q Do you know if any other anthropologist or
11 investigator has been able to determine that?

12 A I know that none has. But I think you're
13 asking too much from the record of this event.

14 Again, what would constitute evidence that
15 you could come up with the absolute depiction of land
16 boundaries that you seem to be requiring? What could
17 possibly constitute any evidence that this was
18 definitely what this meant? I can't think of any
19 evidence which would be absolutely incontrovertible.

20 Q Well, in part, what this lawsuit is
21 about -- and I agree with you that historical inquiry
22 leaves you on a frail reed, trying to investigate the
23 significance of events that occurred 100, 200 years
24 ago --

25 A Well, that's not quite what I'm saying.

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1 Q -- but the purpose is to determine exactly
2 how much information was provided in this incident.

3 A No. That -- just to reiterate, that's not
4 quite what I'm saying about historical sources. I'm
5 saying that with respect to this historical source, if
6 you asked me, as you have, "well, do you think that
7 there was any connection between this diplomatic packet
8 and the land claim?" I'm saying that my inference from
9 my understandings of the meaning of prayer-sticks and
10 so forth is that it is indeed highly likely that there
11 was some such idea in the intent of those Hopi leaders
12 who provided this diplomatic packet.

13 But at that time, I have no doubt that no
14 Hopi spoke any English; that this would have been a
15 packet that was transferred from Hopi to Tuqui, which
16 is a Tewa-speaking pueblo; that bilingual Tewa in
17 Spanish from Tuqui went to Washington, D. C., where they
18 undoubtedly had a translator who worked between English
19 and Spanish.

20 I don't know how well they spoke Spanish.
21 I mean, the possibilities of getting an absolutely
22 specific message between those language and cultural
23 barriers are frightening.

24 Q Dr. Whiteley, on page 8 of your report you
25 describe a meeting that occurred with James S. Calhoun

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1 in 1850, and I believe that you also refer to this
2 meeting in your book as well on page 31.

3 Based upon what you know of this meeting,
4 do you know if the Hopis who attended this meeting
5 described a traditional land claim or the area of land
6 that they were asserting rights to?

7 A Based upon what I remember, in rereading
8 this quotation on page 31 of my book, I don't know.
9 It's possible, again, that there may be more
10 information available in archives which would enable a
11 more precise conclusion.

12 Q But I take it you do not recall any
13 account of the meeting in which the Hopis described the

14 boundaries of the land claim?

15 A I personally do not recall any such
16 account.

17 Q On pages 8 and 9 of your report you
18 discuss various contacts that the Mormons had with the
19 Hopis during the 1850s, 1860s, and I think all the way
20 through the early 1870s. And I realize that there are
21 a number of different accounts.

22 The Mormon diaries that have been left
23 behind, Gibbons and Hamblin and others -- in the
24 different Mormon accounts that you have read, have you
25 ever found an account in which the author related a

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1 conversation or a meeting with Hopis in which the Hopis
2 described the boundaries of the traditional claim?

3 A well, what I say on page 8 is -- just to
4 read from it -- "In 1858, during the first Mormon
5 expedition to Hopi, the Hopi informed Jacob Hamblin of
6 a tradition prohibiting them from crossing the Colorado
7 River." I would, again, infer that this was associated
8 with an idea of the Tuts kwa boundaries.

9 There is, in addition, a very curious
10 document, which I have a copy of in my files, which may
11 or may not be indicative of any interest in land, but
12 it was recorded from a -- apparently a wooden -- I think it
13 was actually described as a stick, but it's something
14 which one of these Mormon pioneers wrote down,
15 reproduced it on a piece of paper, with a whole series
16 of symbolic devices on it, that apparently was obtained
17 from the Kikmongwi of Oraibi.

18 Given Hopi traditions about the return of
19 Pahaana, P-a-h-a-a-n-a, who is referred to in English
20 usually as the elder white brother, and the fact that
21 this white brother would help the Hopis in some ways
22 to -- to regain -- regain control of some things which were
23 no longer in their control -- I realize that's very
24 vague, and it's intentionally so, because it's to cover
25 a whole series of ideas in the Pahaana legends -- that

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1 there would be some presentation to this Pahaana person
2 by which Pahaana might recognize the Hopi and help
3 them.

4 Later on, in the 1880s and 1890s, this
5 consisted -- or what I'm interpreting may be the same
6 process -- consisted in the presentation of the stone
7 tablets that I cite below. And there was an explicit
8 intention, I think, in those, or at least inferring
9 from explicit intentions which were recorded as such
10 later in the 1930s, and possibly even in the 1890s, I
11 forget, that this was stating a land claim.

12 If this was the same kind of activity as
13 occurred in 1858 or '59 or '60, whenever it was, this
14 presentation of this device with all these symbols on
15 it, then it may indeed have been the presentation of a
16 land claim.

17 Q Do you recall who the author of the
18 document was?

19 A I don't recall, no.

20 Q Do you recall if it was -- I think you said
21 it was a Mormon, one of the Mormon explorers?

22 A Yes, it was a Mormon.

23 Q Do you recall approximately when the
24 document purports to have been written?

25 A I seem to remember the year 1859 as a

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1 significant year, but, you know, I -- I don't claim that
2 that's accurate. I think it's -- if we say five years
3 either side of 1863, we'll be right.

4 Q And all I'm looking for is an approximate
5 time frame.

6 A Okay.

7 Q Do you recall where you found the
8 document?

9 A I think it was in the church historian's
10 office archives in Salt Lake City. But I should
11 underline that there is no explicit notation that
12 this -- at least that I can recall -- that this is part of
13 a land claim. If it was so noted, I think I would
14 definitely have included it in this report, because it
15 would have been very important.

16 Q Certainly.

17 A If I didn't, it may indeed have been a
18 grave oversight, but I don't think it was.

19 Q Dr. Whiteley, do you have any objection to
20 making that document available?

21 A I --

22 Ms. Sprague: You can direct that request
23 to me --

24 Mr. Rogers: Oh, certainly, Counsel.

25 Ms. Sprague: -- and we will take that

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1 request under advisement.

2 Q (By Mr. Rogers) Dr. Whiteley, has anyone
3 deciphered the sketch?

4 A To tell you the truth, I think I may be
5 the only person who's ever sort of been interested to
6 even make a copy of it. I might be wrong about that,
7 so forgive my arrogance if I am, but it's -- I don't know
8 that anybody else knows about it, any other Hopi
9 anthropologists.

10 Q Well, Dr. Whiteley, during the period of
11 the 1850s, early 1870s, and the various contacts the
12 Mormons had with the Hopis, do you recall ever seeing
13 an account written by a Mormon describing a Hopi
14 telling him or her as to what the boundaries were for
15 the Tutska for a traditional claim? And with that, I
16 realize that you are making an inference about the
17 Colorado River.

18 A Um-hum.

19 Q But aside from that account.

20 A I don't recall that. And, again, if I
21 did, I think it would be in the report.

22 I think that there is a lot of work that
23 still remains to be done in the Mormon archives, which
24 I haven't done, a great deal more than I have done.
25 whether that would disclose any such document remains

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1 to be seen.

2 Part of the disappointing fact about quite
3 a few Mormon records is that they contain very little
4 information. I have a theory about why they contain
5 very little information, but probably here isn't the
6 place to go into that, unless you would like me to do
7 so.

8 Q Certainly. Do you have a theory as to --

9 A Well, I think that a lot of the Mormons

10 who were in Utah in the late 1850s and early 1860s were
 11 only barely literate. Many of them, according to what
 12 little knowledge I have of Mormon history, came from
 13 the slums of industrial areas in northern England and
 14 other European cities. They sailed to New Orleans,
 15 went up the river, and then went cross-country to
 16 Utah. Many, many of them died along the way. But it's
 17 clear that they came from impoverished backgrounds.

18 And if you look at, for instance, Lee's
 19 journal -- and Lee is relatively literate and
 20 articulate -- it's full of all sorts of nonstandard
 21 spellings, which was not the case, for example, with
 22 many Army officers' reports at the time.

23 If you look at any of the state records,
 24 the Tuba City state records, or those which include
 25 Woodruff and Sunset and -- I forget the -- or St. Joe,

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1 St. Joseph, which is modern Joseph City -- very often the
 2 amount of information that's recorded in written text
 3 is very thin, and it's -- it's not expressed in an
 4 articulate way at all.

5 Mr. Rogers: Want to go ahead and break
 6 for lunch at this point?

7 Ms. Sprague: That's good.
 8 (A break was taken.)

9 Mr. Rogers: Back on the record.

10 Q (By Mr. Rogers) Dr. Whiteley, on page 8
 11 of your report you refer to the account of Jacob
 12 Hamblin, which was contained in a publication by
 13 Little.

14 I would like to mark as Exhibit No. 16 an
 15 excerpt from a book entitled Jacob Hamblin, A Narrative
 16 of His Personal Experience, as a Frontiersman,
 17 Missionary to the Indians and Explorer. It has a
 18 publication date of 1909. The publisher is shown as
 19 being the Deseret News.

20 (Whiteley Deposition Exhibit 16 was
 21 marked.)

22 Mr. Rogers: And for the record,
 23 Exhibit No. 16 attaches pages 60 through 121.

24 Q (By Mr. Rogers) Dr. Whiteley, making a
 25 comparison of the bibliographic information which

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1 appears in the title page, Exhibit No. 16, comparing
 2 that against what is in your bibliography, I believe
 3 this may be a different edition from the version that
 4 you used in your bibliography; because of that, some of
 5 the page notations -- or the page citations contained in
 6 your report will not correspond with the pages
 7 contained in Exhibit 16.

8 If it's of assistance to you, I can tell
 9 you that -- at least what I think -- the page references --
 10 there are references in Exhibit 16 that are similar to
 11 the references that you are making in your report.

12 The first reference that you have is to
 13 page 63, and I think there is a similar entry on
 14 page 68 of Exhibit 16. Your second reference is to
 15 page 79. I believe in Exhibit No. 16 that appears on
 16 page 84. And the last reference to page 105, I
 17 believe, appears on page 113. If you would just take a
 18 look at those pages.

19 A To the best of my recollection, this
 20 passage on page 68 of Exhibit 16 is indeed the same as

21 indicated in the report on page 63. I'm sorry. Did
 22 you say page 84 was page 79?

23 Q Yes.

24 A Oh, yes. Okay. Yeah, that looks right.

25 Yes, I believe that's correct.

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1 Q Dr. Whiteley, on page 8 of your report you
 2 refer to Jacob Hamblin's memoirs and state that he was
 3 told by the Hopi of a tradition prohibiting the Hopi
 4 from crossing Colorado River.

5 On page 68 of Exhibit 16 there is a
 6 passage that reads, "The Indians said that they did not
 7 want to cross the Colorado River to live with the
 8 Mormons, for they had a tradition from their fathers
 9 that they must not cross that river until the three
 10 prophets who took them into the country they now
 11 occupy, should visit them again."

12 Is that the passage you were referring
 13 to?

14 A That's correct.

15 Q During the course of your research, have
 16 you come across any accounts, aside from Hamblin's
 17 memoirs, that speak of a prohibition recognized by the
 18 Hopi about going outside the boundaries of the
 19 Tutskwa?

20 A No.

21 Q Have you, during the course of your
 22 research, heard other references to three prophets that
 23 are recognized by the Hopi in this kind of context in
 24 terms of Tutskwa boundaries or crossing the Colorado?

25 A I think Peterson records this in his

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1 article, his 1971 article; and I'm not sure if this is
 2 the only source that he uses or if he uses other
 3 sources too.

4 I believe that some of this information is
 5 deeply indicated in the church historian's office
 6 records. Some of this may have actually appeared in
 7 newspapers like the Deseret Evening News or other
 8 Mormon publications, so it's possible that some of that
 9 exists there too.

10 Q Well, based upon your understanding of
 11 Hopi mythology and the mythology of various Hopi clans,
 12 have you come across references to three prophets which
 13 were significant to the Hopi?

14 A No, I haven't.

15 Q Dr. Whiteley, over on page 71, turning
 16 over to page 72 of Exhibit 16, Mr. Hamblin, Jacob
 17 Hamblin, describes what happened when he reached the
 18 Colorado River. Will you take a look at those pages.

19 A How far do you want me to read?

20 Q Well, on those pages Jacob Hamblin
 21 describes, does he not, that after crossing the
 22 Colorado River he encountered Navajo?

23 A Isn't this -- which side of the river are we
 24 on here? I thought this was the trip back.

25 Q I believe you're correct, Dr. Whiteley.

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1 Ms. Sprague: I think the confusion might
 2 be that we have been addressing page 68, which, I
 3 believe, talks about crossing the river from the south
 4 to the north; and then pages 71 and 72, it would be
 5 crossing from the north to the south. So I think there

6 was some confusion about what you meant by that
7 crossing.

8 Mr. Rogers: well, Counsel, I think the
9 interpretation accords with mine, that's right. I
10 didn't mean to suggest otherwise.

11 A Oh. I just was unclear about, when you
12 asked the question, you were asking about north of the
13 river or south of the river. Can you repeat the
14 question?

15 Q (By Mr. Rogers) Certainly. Is it a fair
16 interpretation of Hamblin's account on pages 70 and 72
17 that in the vicinity of the crossing he encountered
18 Navajo?

19 A That's true, yes.

20 Q Do you think it's possible that the Hopis'
21 reluctance to go to the crossing on the Colorado River
22 in the previous year had anything to do with the
23 presence of Navajo in that area?

24 A May I consult with counsel?

25 Q Certainly.

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1 (Discussion off the record between
2 deponent and his counsel.)

3 A I -- I don't know. I would be speculating
4 if I answered that question.

5 Q So then I take it you think it is
6 possible?

7 A I reiterate my answer: I would be
8 speculating. It's possible; it's possible not.

9 Q Further down on page 8 of your report you
10 refer to a ceremony the Tuuvi performed at the Colorado
11 River; and, again, you refer to Hamblin's account, and
12 I believe that's at page 113. On that page, Hamblin
13 describes Tuuvi taking his medicine bag and performing
14 a ceremony at the river, Colorado River.

15 Based upon your knowledge of the Hopi, or
16 tribal reading and other work you've done with
17 consultants, have you ever heard of such a ritual
18 performed at the Colorado?

19 A I -- I don't really understand your
20 question. In other words, I had read this passage for
21 the first time probably about seven years ago, so
22 certainly I had heard of it from this passage.

23 Q Apart from the passage, have you obtained
24 any information during the course of your work that
25 corroborates the existence of a ritual, such as

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1 described here, that's performed at the Colorado
2 River? No?

3 A No, I haven't.

4 Q Is it your interpretation of this passage
5 that the ritual that was performed was specific to the
6 place of the Colorado, or was it in the nature of a
7 ritual that is performed without a reference to a
8 particular place, looking for good fortune or good
9 luck?

10 A Again, I think you're asking me to
11 speculate further than I can. This is not a precise
12 ethnological description that Hamblin or Little or
13 whoever these words are coming from offers. I -- I
14 really can't say.

15 Q Dr. Whiteley, a little earlier you
16 mentioned that there was, you believe, a reference in

17 Peterson's account or his article regarding a boundary
 18 between the -- well, for the Hopi. Is that a fair
 19 summary?

20 A What the report says is -- refers to a
 21 treaty between the Hopis and the Paiutes. Is that what
 22 you meant?

23 Q Well, without being able to recall your
 24 exact words a few moments ago, I believe you testified
 25 that you recalled that Peterson's article helped

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1 corroborate the passage in Hamblin regarding the
 2 significance that the Hopis attributed to the Colorado
 3 River. Am I misunderstanding what you said?

4 A I don't remember exactly what I said, but
 5 I thought it was something along the lines of the fact
 6 that there may have been a reference in Peterson to a
 7 tradition regarding relationships between Mormons and
 8 Hopis and maybe prophets.

9 Q I would like to mark as Exhibit No. 17 an
 10 article entitled The Hopis and the Mormons, 1858-1873,
 11 by Charles S. Peterson, which apparently appeared in
 12 the Utah Historical Quarterly, Spring 1971.

13 (Whiteley Deposition Exhibit 17 was
 14 marked.)

15 Q Dr. Whiteley, I note in your report that
 16 you refer to page 183 of Exhibit No. 17; is that
 17 correct?

18 A That's correct.

19 Q I note on that page that there is a
 20 quotation from Jacob Hamblin. Is this what you had in
 21 mind earlier when you were referring to there might be
 22 some reference of Peterson's article to three
 23 prophets?

24 A It looks as if I may have had this in
 25 mind. Without rereading the entire article, it's

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1 possible that there are other indications too.

2 Q Does Exhibit No. 17 help refresh your
 3 recollection as to whether -- in your experience in
 4 dealing with your Hopi consultants or any other
 5 archival reading you may have done -- to a Hopi tradition
 6 referring to three prophets?

7 A No, it doesn't.
 8 Ms. Sprague: Do you want Dr. Whiteley to
 9 read the entire article?

10 Mr. Rogers: Oh, certainly not.

11 Q (By Mr. Rogers) I note that on page 182,
 12 toward the bottom of the page, there is a sentence that
 13 says, "Hopi tradition, it seems, looked to the time
 14 when bearded prophets, usually said to be three in
 15 number, would lead the Hopis back across the Colorado
 16 River whence they had come as the result of an ancient
 17 treaty with the Paiutes."

18 That, and what follows from the quotation
 19 from my reading, is all that I could find in the
 20 article that refers to this tradition. I was just
 21 trying to find out if you had come across any other
 22 accounts of that.

23 A Again, with the exception of what I said
 24 before about accounts which may appear in the journal
 25 history of the church, which is located at the church

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1 historian's office in Salt Lake, my -- I'm not aware of

2 any other source which describes such traditions in
3 these precise terms.

4 Indeed, this sort of source, and the
5 Little source, I think are the only ones, to my
6 knowledge, which refer to bearded prophets or possibly
7 even the number three.

8 Q Dr. Whiteley, Peterson also refers -- and
9 I -- maybe here he's relying upon Mormon accounts -- he
10 refers to the Hopis having an ancient treaty with the
11 Paiutes.

12 During the course of your archival work,
13 and given your familiarity with Hopi through that
14 research and through your conversations with
15 consultants, have you heard other references or come
16 across other accounts describing a treaty with the
17 Paiutes?

18 A No. I think this is it.

19 Q Dr. Whiteley, on page 9 of your report you
20 briefly describe an account by Charles Posten, and
21 briefly describe the roundup of Navajo by Kit Carson,
22 and offer a brief description of the campaign.

23 During that time period of about 18 -- well,
24 during the 1860s, have you come across any written
25 accounts that describe the boundaries of a Hopi

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1 traditional claim?

2 A No.

3 Q Dr. Whiteley, you say on page 9 the "Hopi
4 sources confirm involvement in the roundup as designed
5 to guarantee land rights." Then you say, "e. g." Then
6 you have a reference to a person who I couldn't
7 pronounce his name if my life counted on it, spelled
8 N-a-q-u-a-y-o-u-m-a.

9 Is it your understanding that Hopis
10 participated in the military campaign to round up the
11 Navajo and relocate them to Fort Sumner?

12 A Based on the source of a site there, the
13 source that includes Jacob Hamblin's account and Oliver
14 La Farge's account, I think the view is that those
15 Hopis who participated were hoping that Navajos,
16 through this process, would no longer bother them.

17 Q Well, Dr. Whiteley, I think I understand
18 the intent -- or that intent that you just mentioned. My
19 question, though, was, Is it your understanding that
20 the Hopis did participate in hunting down the Navajo
21 and relocating them to Fort Sumner?

22 A Some Hopis did indeed participate in
23 rounding up the Navajo.

24 Q And what role did they play? Did they act
25 as scouts or soldiers?

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1 A I don't recall.

2 Q When you refer to "Hopi sources," are you
3 referring to archival sources?

4 A Meaning, for example, this petition by
5 Naquayouma.

6 Q Yes. And I think the question was put
7 awkwardly. Did you ever talk to any of your
8 consultants about Hopi involvement in the roundup of
9 the Navajo?

10 A I talked with Harry Kewanimpewa about the
11 presence of Carlson at Keam's Canyon. He took me to
12 show me this carving in the rock of the New Mexico

13 volunteers who were with Carlson, and I'm sure he told
 14 me that they had come to round up the Navajos. I don't
 15 really remember anything more.

16 Q You do refer to the source Naquayouma; is
 17 that --

18 A Um-hum.

19 Q I would like to mark as Exhibit No. 18 the
 20 source -- a two-page document that has a production
 21 number on the first page: E25, I believe, O77.

22 (Whiteley Deposition Exhibit 18 was
 23 marked.)

24 Q Dr. Whiteley, is Exhibit No. 18 the source
 25 that you were relying upon at the end of the first

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1 sentence in the second full paragraph of page 9 of your
 2 report?

3 A Yes.

4 Q Are those the passages you were relying
 5 upon, the second full paragraph on the first page of
 6 Exhibit 18?

7 A I think I need to read the whole
 8 document. May I make a request to see another copy of
 9 this document, because this is considerably reduced in
 10 size. I'm finding it very difficult to read. I note
 11 from some notations on the second page, which are in my
 12 writing, that this must be from my file. Do we have a
 13 larger copy?

14 Q Dr. Whiteley, I can represent to you that
 15 it was produced to us, I believe, in this form; and the
 16 reason I say that is, the size of the production number
 17 at the bottom of the page corresponds to the normal
 18 size we would see it. I know we do from time to time
 19 reduce some of the copies.

20 Ms. Sprague: I'll go check our box. I
 21 think Mr. Rogers is right, but let me go see.

22 A This is my writing, and my writing is
 23 usually a little bit bigger.

24 Mr. Rogers: Want to go off the record?

25 Ms. Sprague: Sure.

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1 (Discussion off the record.)

2 Q (By Mr. Rogers) Dr. Whiteley, is there
 3 something about Exhibit No. 18 about which you're
 4 concerned?

5 A Well, the size of the print gives me a
 6 little bit of concern. I think if I compare Exhibit 18
 7 and the paragraph you have identified with my exact
 8 statement on page 9, there is no direct link between
 9 what I am suggesting in my statement and that
 10 paragraph.

11 Trying to reconstruct my intentions here,
 12 I think my idea was that this document, in connection
 13 with La Farge's document and with Hamblin's document, I
 14 found to be mutually suggestive of the statement that
 15 I -- where I say, "Hopi sources confirm involvement in
 16 the roundup as designed to guarantee land rights."

17 But rereading that paragraph now, I -- I can
 18 see that that is perhaps subject to an interpretation
 19 which would not directly confirm my statement.

20 Q Dr. Whiteley, just to -- well, just for the
 21 purposes of clarification, if you would turn to the
 22 second page of Exhibit No. 18, and I believe you said
 23 before that some of the handwriting which appears

24 toward the bottom of the page is yours?

25 A Yes.

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1 Q In the history of this case, given the
2 archives or records that we have, a number of people
3 have written on archival records over the years; and
4 just to avoid that kind of confusion, can you identify
5 what words or symbols appear that's your handwriting?

6 A Again, with the provision that this is a
7 copy, rather than the original, and it might be easier,
8 for example, if this was written in blue pen. It would
9 be certainly easier to spot.

10 After "Chief Kolchavtewah,"
11 K-o-l-c-h-a-v-t-e-w-a-h, I have written,
12 "- Shongopavi (?)."

13 Q I take it you're not sure if he's from
14 Shongopavi?

15 A At the time that I wrote this, I think I
16 wasn't sure.

17 Q Are you now?

18 A I think I might be able to ascertain that
19 from looking at another place in this report or perhaps
20 in other records of mine that there are that this
21 fellow Kolchavtewah and Salaftewa are indeed from
22 Shongopavi or are not from Shongopavi, since I quote
23 them specifically at a point later on. If you want me
24 to find that, I can try and find it.

25 Q Well, certainly, if it will take -- I'll

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1 help you look further in the report.

2 A It might be in the other report too.
3 (A pause occurred in the proceedings.)

4 Q Dr. Whiteley, if it's of assistance to
5 you, I note at page 18 of your report, in the first
6 full paragraph, there is a reference to a source or of
7 a gentleman. The spelling of his name is very similar
8 to the spelling of the second individual that appears
9 in Exhibit No. 18. I don't know if it's the same
10 person.

11 A Yes, I'm sure it is the same person.
12 Well, from the evidence I've found so far -- the
13 reference I was thinking of is on page 79, which is a
14 quotation that also appears in one of Godfrey's
15 reports.

16 I'm not sure whether it's worth trying to
17 track this down, but we could look at this petition,
18 the 5-15-1926, or we could look at this boundary
19 hearings from 1932 to see if we can identify their
20 villages for sure.

21 I seem to recall that -- it depends -- the
22 problem is that whether I assert that Kolchavtewah is
23 from Solwopiv, it depends on when exactly I wrote
24 this, in the order of going through these different
25 documents.

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1 Clearly, by the time that I read this, I
2 wasn't sure where he was from. It's possible that
3 after reading a number of other documents I did become
4 sure, but I can't recollect that right now.

5 Q Well, Dr. Whiteley, I do anticipate that
6 we will be going through some of these other sources;
7 and if additional information comes to light, perhaps
8 we can cover it then.

9 In Exhibit No. 18 there is a reference to
10 a chief.

11 A Um-hum.

12 Q Was there a Kikmongwi by the name of
13 Kol -- whatever that name is, the name that appears
14 above --

15 A I don't remember whether he was a
16 Kikmongwi or if he was another kind of mongwi.

17 Q There is also a reference to a person,
18 "Naquayouma," and there is a word that appears below
19 that. I take it "Bacavi" is in your handwriting?

20 A That's correct.

21 Q There is also, to the lower left of
22 "Naquayouma," words that say, "Hotevilla leader." Is
23 that your handwriting?

24 A Um-hum.

25 Q And directly to the top there are two

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1 circles, and I take it that's your handwriting?

2 A Yes. Polipquoima is spelled here
3 P-o-l-i-p-q-u-o-i-m-a, and Kashwazra is spelled
4 K-a-s-h-w-a-z-r-a. That's the name that appears by
5 "Oo."

6 Q What does the "Oo" signify?

7 A Old Oraibi.

8 Q Were you able to determine whether
9 Kashwazra held any official position at Old Oraibi?

10 A I didn't attempt to determine that, and my
11 notation was really to myself; so it was not, I think,
12 a definite -- an absolute recognition that this was the
13 case.

14 (At this time, Mr. Scarboro entered the
15 deposition room.)

16 Q And the person below that name, which is
17 identified as "Hotevilla leader," is that a person -- a
18 society official, or what kind of leadership position
19 did he have?

20 A I believe that in the 1920s, if my memory
21 serves me correctly, according to Mischa Titiev,
22 Polipquoima was a possible candidate for the position
23 of Kikmongwi in Hotevilla.

24 (At this time, Ms. Sprague left the
25 deposition room.)

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1 Q Is --

2 A I seem to recall that he was Spider clan.

3 Q Is Naquayouma -- did Naquayouma hold any
4 leadership position in Bacavi?

5 A Well, the way that I discuss Naquayouma
6 in, I think, especially the book Bacavi, is that he did
7 have a prominent leadership role. He was -- he has
8 another name, which is Pongyaquaptewa, which is maybe
9 the name that appears in there,

10 P-o-n-g-y-a-q-u-a-p-t-e-w-a. He was a prominent
11 advisor to the Hotevilla leader Yukiwma, Y-u-k-i-w-m-a,
12 and I think he had some sort of leading role in
13 Bacavi's Niman ceremony. I don't recall if he held any
14 offices in other societies; but, again, if you want to,
15 we can perhaps find that out from this book or
16 Deliberate Acts.

17 Q No. I think you've clarified some of my
18 confusion, I think, because he did have a different
19 name.

20 Mr. Scarboro: Let the record reflect that
 21 when the witness said "this book," he was pointing to
 22 the book entitled Bacavi.

23 Q (By Mr. Rogers) Dr. Whiteley, on page 9
 24 of your report, in the last paragraph you refer to a
 25 trip some Hopis made to Santa Fe for some discussions

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1 with John Ward; and you also describe a second trip
 2 being made, this time to Prescott, in 1866. I believe
 3 you also describe these two trips in your book
 4 Deliberate Acts, Exhibit No. 6, pages 37 and 38. And
 5 if it will help you to reacquaint yourself with that
 6 source, just take your time to do that.

7 A I think I recall it well enough.

8 Q Based upon your archival research or other
 9 research you have conducted concerning these trips and
 10 these meetings, do you recall coming across any
 11 accounts in which Hopis described the boundaries of a
 12 traditional land area? And my question is focused on
 13 these two meetings.

14 A I don't recall.

15 Q On page 10 of your report, Dr. Whiteley,
 16 at the top of the page you refer to a letter written by
 17 Mr. Defrees. I take it he was a government agent. He
 18 proposed a Hopi reservation.

19 I would like to mark as Exhibit No. 19 a
 20 letter that has a production number, on the first page,
 21 310468. It appears to be a letter from Mr. Defrees,
 22 dated April 8, 1874. And, Dr. Whiteley, this letter
 23 may be or is difficult to read, given the difficulties
 24 of xeroxing and also the penmanship of the author.

25 Mr. Scarboro: Is that a question or a

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1 comment?

2 Mr. Rogers: It's a gratuitous comment.

3 Mr. Scarboro: Boy, I concur.

4 A Okay.

5 Q (By Mr. Rogers) Dr. Whiteley, is Exhibit
 6 No. 19 the source you were referencing at the top of
 7 page 10?

8 A Yes.

9 Q On the first page of Exhibit No. 19,
 10 toward the bottom of the page, Mr. Defrees refers to a
 11 proposal to move Hopis to Moencopi. Do you see where
 12 that is, toward the --

13 A Yes.

14 Q Have you come across any other accounts
 15 referring to such a proposal?

16 A To Defrees's proposal?

17 Q Yes.

18 A I don't think so.

19 Q Further up the page, Mr. Defrees -- it
 20 states, "These operations on the part of the Mormons
 21 and the late trouble between them and the Navajo . . ."
 22 It continues on.

23 Based upon your research of -- not only in
 24 this report but in your other report, did you come
 25 across accounts that in or about 1874 there were

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1 troubles between the Navajo and Mormons in the Moencopi
 2 area?

3 A I don't recall that they refer to the
 4 Moencopi area. My recollection is that some Navajos

5 were killed by whites maybe in southeastern Utah, maybe
6 in northwestern New Mexico, and evidently Navajo
7 interpretations were that Mormons were the culprits, so
8 Jacob Hamblin went to consult with Agent Arnie, if I
9 recall, at Fort Defiance, perhaps, and met with a
10 number of Navajo leaders. But I do not recall that the
11 trouble was at Moencopi.

12 Q Is it your understanding of Defrees's
13 proposal of a Hopi reservation that his proposal was
14 being made at the behest of the Hopis?

15 A For that, I must reread the proposal.
16 (A pause occurred in the proceedings.)

17 A I'm having difficulty reading this letter,
18 and my mind is skipping from one paragraph to the
19 next.

20 I am prepared to stand by my statement on
21 page 10 that, quote, "Defrees was concerned about
22 Mormon expansionism," which would indicate that that
23 was one of his major motives in suggesting this
24 reservation.

25 Without absolutely going through every

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1 single sentence of this, I am not prepared to say that
2 that was the only motivation in suggesting this
3 reservation boundary. If you want me to do that, I
4 will, but it really will take some time.

5 Q And, again, I think because of the
6 difficulty in trying to decipher what Mr. Defrees is
7 saying, it may not be worth the investment to do that.

8 Dr. Whiteley, over on page 11 of your
9 report, Exhibit No. 1, you quote an account by Stephens
10 of a myth related to Maasaw's land. Do you see where
11 that is on page 11?

12 A I do.

13 Q I take it that this account is a First
14 Mesa account?

15 A Yes, so far as I know. What he says is
16 "conversations held in various kivas." I assume that
17 those kivas are on First Mesa, but they may indeed have
18 included participants from other mesas.

19 Q Is it your understanding that this account
20 probably dates to about 1883?

21 A I think that Parsons indicates the date it
22 was recorded or roughly the time of its recording in
23 their introduction to these tales.

24 I think my reference on that page to 1883
25 is actually to Ten Kate, who appears on the following

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1 page -- or not the following page -- two pages hence, 13.

2 Q Dr. Whiteley, I don't know whether we need
3 to mark this as an exhibit. If you would like to take
4 a look at the preface, it may give you some
5 assistance.

6 Mr. Rogers: I have provided the witness
7 with a copy of an excerpt from the Journal of American
8 Folklore, Volume 42, dated 1964.

9 A What I see here in the first sentence by
10 Parsons is a statement which indicates that the tale
11 referred to was recorded ten years earlier than 1893.
12 Unfortunately, Parsons is not always reliable on exact
13 year dates. So I think when I say I was definitely
14 referring to Ten Kate when I used 1883 there, that's
15 quite true.

16 From this account, it appears indeed that
 17 this tale would have been reported in 1883; but without
 18 looking at the originals and Parsons' records at the
 19 American Philosophical Society library or in Columbia
 20 University special Collections, I wouldn't care to
 21 stand on this date.

22 Q (By Mr. Rogers) Well, do you feel
 23 confident that it was reported sometime during the
 24 1880s or 1890s?

25 A The 1880s, yes.

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1 Q Dr. Whiteley, the portion of the account
 2 of Maasaw's land that you have here does describe a
 3 land area. During the course of your research have you
 4 come across any earlier account which quotes or
 5 paraphrases a Hopi describing the boundaries of a
 6 traditional land claim?

7 A No.

8 Q Now, in terms of -- again looking at page
 9 11, the portion that you're quoting -- the description
 10 that's given starts at Fort Mojave; is that correct?

11 A Yes.

12 Q And is that located in western Arizona?

13 A Yes.

14 Q And then it goes south as far as the
 15 Isthmus of Panama?

16 A Yes.

17 Q And then eastward along the Gulf of
 18 Mexico?

19 A Yes.

20 Q Northward by the line of the Rio Grande
 21 into the Colorado?

22 A Yes.

23 Q And thence westerly along the 36th
 24 Parallel or thereabouts to the Rio Colorado?

25 A Yes.

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1 Q Below the quotation, you describe the
 2 interpretation as being clearly exaggerated. Who, in
 3 your opinion, is exaggerating? Is it Stephens or his
 4 consultant?

5 A Stephen.

6 Q Do you have reason to believe that Stephen
 7 misinterpreted the account?

8 A Well, for one thing, I don't know that
 9 Hopis have a concept of the Isthmus of Panama. It
 10 seems to me to be a concept of western geography.

11 Q During the course of your research, have
 12 you encountered other accounts by Hopis that make a
 13 claim to land extending from ocean to ocean, from the
 14 Pacific to the Atlantic?

15 A Yes, I'm aware of some of those accounts.
 16 I think, actually, one could extend those accounts
 17 further.

18 One of the records which I believe may be
 19 in my files is of a -- the carriage of a Hopi
 20 prayer-stick or two prayer-sticks or prayer feathers to
 21 the South Pole, which would indicate an interest
 22 extending that far. I'm sure Hopis have probably tried
 23 to get such things to the North Pole too.

24 Q Are those kinds of claims that are
 25 recounted in those accounts distinguishable from the

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1 Hopi perspective from the Tutskwa?

2 A I think so, yes.

3 Q So they're not merely different
4 interpretations of the Tutskwa?

5 A I don't think so, no.

6 Q What do they represent?

7 Mr. Scarboro: What do what represent?

8 Mr. Rogers: The accounts of --

9 Mr. Scarboro: The broader accounts?

10 Mr. Rogers: Yes.

11 A I think they represent an interest in
12 extending Hopi ability to increase environmental
13 harmony to the world as it is known. I think they
14 would be probably interested in getting prayer feathers
15 into the shuttle if they could do so.

16 Q (By Mr. Rogers) So in your view, they
17 should not be interpreted as a claim of land ownership
18 by the tribe?

19 A In my view, that's correct.

20 Q On the next page, page 12 of your report,
21 you recount or describe -- or quote another account by
22 Stephens. I take it that this one, in your opinion,
23 took place sometime around 1893?

24 A That's correct.

25 Q Is this another First Mesa account?

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1 A Yes.

2 Mr. Scarboro: Well, just a minute.
3 You're asking -- lacks foundation. I mean, he testified
4 before that he wasn't positive it was necessarily -- that
5 the other one was necessarily a First Mesa account. It
6 may have included accounts from people from other than
7 First Mesa. So your question improperly assumes
8 something not in evidence.

9 Q (By Mr. Rogers) Well, Dr. Whiteley, do
10 you know which mesa this account comes from?

11 A This account, I think, comes from First
12 Mesa.

13 Q And looking into the quotation, it refers
14 to an area encompassing what's interpreted as being the
15 San Francisco Peaks on the west?

16 A Um-hum.

17 Q And then the Red River, Colorado Chiquito
18 on the south?

19 A Yes.

20 Q Is that referring to the Little Colorado?

21 A Yes.

22 Q And then the Great River, Rio Grande on
23 the east?

24 A Yes.

25 Q And then the San Juan River on the

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1 northeast; is that correct?

2 A Yes.

3 Q Dr. Whiteley, do you interpret this
4 description of the boundary as referring to the
5 Tutskwa, or is it -- as within your interpretation of the
6 Maasaw myth?

7 A I think this is a reference to parts of
8 the Tutskwa, certainly. But what I say at the bottom
9 of page 12 about the eastern extension to the Rio
10 Grande perhaps being a reflection of the interests of
11 Tewas at First Mesa would explain why this easterly

12 projection is not included in the Tutskwa as it's
 13 described subsequently and in places with greater
 14 accuracy.

15 Q Just so I understand your answer, is it
 16 your interpretation of this description that the area
 17 described goes much further to the east than the area
 18 that you describe on pages 4 through 6?

19 A That's correct.

20 Q Dr. Whiteley, do you interpret this
 21 description as including any areas south of the San
 22 Francisco Peaks?

23 A It says it encompasses Nu-vat '- ikyau-obi.
 24 So -- well, actually, the question that you asked -- the
 25 Little Colorado is further south than the San Francisco

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1 Peaks, isn't it?

2 Q In places.

3 A But if you mean south of the San Francisco
 4 Peaks at the site of the San Francisco Peaks --
 5 Mr. Scarboro: Do you mean directly
 6 south?

7 Mr. Rogers: Well, let's start from there,
 8 yes.

9 Q (By Mr. Rogers) would you interpret this
 10 as including areas which are directly south of the San
 11 Francisco peaks?

12 A It could certainly do that, yes, in view
 13 of the fact that he uses the term "encompassing."

14 Q Is it clear from the description how far
 15 south the --

16 A No, it isn't.

17 Q Is it clear from the description how far
 18 west of the San Francisco Peaks it would extend?

19 A No, it isn't.

20 Q Is it clear to you from this description
 21 whether or not this area includes Navajo Mountain?

22 A It's -- it's not entirely clear; but in his
 23 inclusion of the San Juan, perhaps he might mean too
 24 its confluence with the Colorado, which might be
 25 interpretable as including there Navajo Mountain, but

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1 it's not clear.

2 Q Further down on page 12 you refer or you
 3 attribute the easterly emphasis as perhaps being
 4 connected to interpretations of the ancestral territory
 5 of the Tewas at First Mesa.

6 A The Tewa, T-e-w-a. I specify that because
 7 there are other people called Tewa who are not Tewas.

8 Q I stand corrected. Are you referring to
 9 the people of Hano?

10 A That's correct.

11 Q That might be easier to keep me out of
 12 trouble. Do the people of Hano have an ancestral
 13 territory that is distinct from the Tutskwa?

14 A I don't know. Well, actually, as you
 15 state that question, "an ancestral territory," as I
 16 recall, they came from probably the Galistello Basin in
 17 the Rio Grande valley. So if that's what you mean by
 18 "an ancestral territory," then, yes, they do have a
 19 distinct ancestral territory.

20 Q Well, would the people from Hano, because
 21 of their different lineage and different cultural
 22 connections to other Pueblo people, have the same

23 interpretation of the Tutskwa as people from other
24 villages?

25 Mr. Scarboro: I'm just going to object to
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1 the question as compound or contains clauses in it that
2 make it at least three questions.

3 A The answer is, I really don't know.

4 Q (By Mr. Rogers) During the course of your
5 research leading up to your Ph. D. thesis, later to
6 Deliberate Acts or your work on this report, did you
7 ever ask any consultants from Hano regarding their
8 interpretation of the Tutskwa?

9 A Well, I was present at a conversation
10 between Harry Kewanimptewa and Arthur Honie -- who I
11 think spells his name H-o-n-i-e; he may not be alive
12 anymore -- in 1980 or '81, who, I believe, is half Tewa
13 and half Hopi. I'm not even sure if he's from Hano,
14 but he may be. Certainly the major subject of that
15 conversation was land. I personally did not ask
16 Mr. Honie about different Tewa interpretations of the
17 Tutskwa.

18 Q And I take it that during this
19 conversation he did not volunteer any such
20 information? He didn't talk about it?

21 A Not that I can recall. Quite a lot of
22 that conversation took place in Hopi, and my knowledge
23 of Hopi at the time was not sufficient to know all of
24 what was being said.

25 Q Fair enough. Dr. Whiteley, during the
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1 course of your archival research did you come across
2 any accounts of Hopi myths or legends that were
3 obtained during the period 1850 to 1900 that described
4 the land area or the land claim that corresponds with
5 the description that you provided on pages 4 through 6
6 of your report?

7 A No. Not exactly, anyway. But as I have
8 indicated, it's very difficult to interpret the
9 intentions of Hopis when they do appear to be
10 presenting certain interests in land, given the lack of
11 communication between English speakers and Hopi
12 speakers.

13 Q Because of the differences in language and
14 culture?

15 A Because of the differences in language and
16 culture, because English speakers didn't speak Hopi and
17 Hopis probably didn't speak English at that time.

18 Mr. Rogers: why don't we take a break at
19 this point.

20 (A break was taken.)

21 Q (By Mr. Rogers) Dr. Whiteley, I would
22 like to turn to pages 13 and 14 of your report. On
23 these pages you refer to stone tablets that have been
24 presented to various people starting in the late 1850s
25 and on into the 1930s.

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1 A Do they start in the late 1850s? Yes,
2 you're right, references do, yes, you're right.

3 Q Dr. Whiteley, have you ever seen any of
4 these tablets?

5 A No, I haven't.

6 Q On page 14, you make a reference that
7 there is a description of the tablets, or at least one

8 of the tablets, in Titiev's work, and another copy in
 9 Waters '. Are there any other descriptions of the
 10 tablets, aside from those two sources, that describe
 11 the tablets in any kind of detail?

12 A There's a new book in German called Hopi
 13 Kachina which has a reference to them and, I think,
 14 reproduces Titiev's description.

15 Q I would like to mark as Exhibit No. 20 --

16 A There may also be some descriptions of
 17 such tablets in documents -- some of them published -- by
 18 people associated with the Hopi traditionalist
 19 movement.

20 Q I should ask: For the source in German
 21 that you recalled, was it your understanding of the
 22 source that it was simply repeating what Titiev said?

23 A I think so, yeah.

24 Q I would like to mark as Exhibit No. 20 an
 25 excerpt from Titiev's book Old Oraibi. Exhibit No. 20

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1 includes the title page and pages 59 through 68.

2 I would also like to mark as Exhibit
 3 No. 21 an excerpt from the book titled Book of the Hopi
 4 by Frank Waters. And Exhibit 21 includes the title
 5 page, forward, and then pages 31 through 37.

6 A Mr. Rogers, may I interrupt?

7 Q Certainly.

8 A I'm not sure I understood your last
 9 question about there being other descriptions of these
 10 tablets. Certainly there are such descriptions, and I
 11 have a reference to Malotki and to Lomatuway'ma, which
 12 include descriptions in such tablets. That would -- if I
 13 understood your correct question, that would indeed be
 14 an additional source.

15 I think there are also references to these
 16 tablets throughout the Hopi hearings of 1955. There
 17 are references to the tablets from the 1890s -- well,
 18 there are references going back to the 1850s, and these
 19 are references to the tablets.

20 Q well, Dr. whiteley, I think I was trying
 21 to distinguish between references and descriptions.
 22 Let me ask the question this way to you: Do you know
 23 of any other drawings purporting to depict what appears
 24 in the stone tablet -- or stone tablets -- other than what
 25 appears in Waters' book or in Titiev's book?

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1 A This new book that I cited is the only one
 2 that I can recall.

3 Q And it merely replicates the drawing that
 4 appears in Titiev's book?

5 A I believe so.

6 (whiteley Deposition Exhibits 20 and 21
 7 were marked.)

8 Q Dr. whiteley, if you would turn, in
 9 Exhibit No. 20, to page 60, also page 61, and, in
 10 Exhibit 21, refer to pages 32 and 33.

11 Dr. whiteley, starting with Exhibit
 12 No. 20, on pages 60 and 61 Titiev gives a description
 13 of stone tablets that he saw; is that not correct?

14 A Yes.

15 Q Or a stone tablet. Is it your
 16 understanding that this tablet was provided to him by
 17 the Kikmongwi Oraibi?

18 A That's correct.

19 Q During the course of -- well, earlier in the
20 deposition you indicated that you had had the
21 opportunity to review some of Titiev's field notes on
22 the location of this book; is that correct?

23 A The census notes, yes; but I did
24 distinguish the census notes from other field notes.

25 Q During the course of reviewing any of

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1 those field notes or census notes, other supporting
2 material, did you come across any of Titiev's notes
3 referring to the stone tablet that he saw?

4 A I don't think so.

5 Q To your knowledge, is there a particular
6 person with the position of -- within a Hopi village who
7 would have custody of such a tablet?

8 A To my knowledge, those people who are
9 associated with the tablets that I have heard of have
10 always been very close to the -- to the Kikmongwi or
11 other important leaders in a village.

12 Q When you refer to "important leaders,"
13 would that be leaders of religious societies?

14 A Well, yes, but that would include a
15 religious society head who was the war chief too.

16 Q Anyone else?

17 A My knowledge is not sufficient to answer
18 that.

19 Q Now, on page 60 of Exhibit No. 20 a
20 drawing appears. Have you ever made an attempt to try
21 to interpret the meaning of that drawing?

22 A I'm not sure that I understand your
23 question exactly. How do you mean "interpret"?

24 Q Well, interpret what the different symbols
25 mean on the drawing.

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1 A Well, if you mean, what does this word
2 Tcip refer to? -- do you mean that?

3 Q Let me try it this way: On page 61,
4 Titiev describes -- or provides his interpretation of
5 what appears in Figure 4, and he states that "A double
6 rectangle in the center is supposed to represent the
7 Oraibi domain." Do you agree with that
8 interpretation?

9 A I have no reason to disagree with it.

10 Q In the course of the work that you've done
11 in reviewing at least some of Titiev's notes, have you
12 ever found any reference in those notes which defines
13 more specifically what Titiev understood the Oraibi
14 domain to include?

15 A No, I haven't that I can recall.

16 Q I would like to direct your attention to
17 Exhibit No. 21. On page 33, there are two figures that
18 are depicted, Figures 6 and 7, from the description
19 which is provided in the text. The second footnote on
20 that page indicates that Mr. Waters was shown this
21 tablet "by John Lansa's wife, Myna, of the Parrot clan
22 in Oraibi."

23 Is it your understanding that there were
24 two -- or was there more than one stone tablet in
25 Oraibi?

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1 A I have heard that there is more than one
2 stone tablet, yeah. Whether it's -- whether they are all
3 in Oraibi still, I don't know.

4 Q Was Myna Lansa considered to be -- hold a
5 position of authority in Old Oraibi?

6 A Yes, she was.

7 Q And what position did she hold?

8 A Well, after the death of Awaptewa, her
9 adoptive father, she made a claim to be the Kikmongwi.
10 Some people accepted that claim; others didn't.

11 Q Is it your understanding that -- of
12 Figures 6 and 7 -- that they depict the extent of the
13 Hopi land claim of the Tutskwa?

14 A I don't know that they indicate the
15 precise extent of the Hopi land claim. I think they
16 are intended as providing proof of some sort or other
17 of interest in that land claim. But I cannot interpret
18 these with sufficient precision from a Hopi perspective
19 to indicate that these model the Tutskwa boundaries as
20 we have talked about them so far.

21 Q Is the same true with the drawing that
22 appears in Exhibit No. 20?

23 A That's correct.

24 Q Referring back to Exhibit No. 21, in
25 Figures 6 and 7, do you know if any of the symbols or

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1 depictions that are shown on these two figures
2 symbolize specific geographic places?

3 A I don't know.

4 Q Referring back to the drawing in Exhibit
5 No. 20, do you know if any of the drawings or symbols
6 that appear in Figure 4 of Exhibit No. 20 symbolize
7 specific geographic locations?

8 A I don't know.

9 Q Over on page 15 of your report, Exhibit
10 No. 1, at the bottom of the page you refer to an
11 incident that occurred sometime in 1909 in which a
12 government -- or perhaps a former government employee
13 submitted a letter with a petition which, according to
14 you, "stating that the government, his employer, had
15 utterly failed to honor a land agreement with Hopis
16 initiated in the 1890s."

17 I would like to mark as Exhibit No. 22 a
18 letter from, I believe, a Mr. Ralph Collins to the
19 Commissioner of Indians Affairs, dated June 24, 1989.
20 It has the production number on the first page:
21 E25080.

22 (Whiteley Deposition Exhibit 22 was
23 marked.)

24 Q Dr. Whiteley, is Exhibit 22 the reference
25 that you cited as "Collins 6-24-89"?

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1 A I believe so.

2 Q Where in Exhibit 22 did you find a
3 reference to a land agreement?

4 Mr. Scarboro: Let me just state for the
5 record that the Collins letter referred to on page 15
6 of the text included another letter from George
7 Cochise, which, I think, is what is being quoted in
8 that report.

9 The Deponent: That's correct.

10 Mr. Scarboro: I don't see the Cochise
11 letter attachment to Exhibit 22.

12 Mr. Rogers: Well, in fairness to
13 Dr. Whiteley, I'll go ahead and mark that. It's not
14 terribly legible. The paralegal has provided a

15 transcription. I'll go ahead and mark it now, if that
16 will help you put it into context.

17 Mr. Scarboro: well, I just -- he can
18 obviously search this letter for references to
19 something that he doesn't claim, but he does not claim
20 in his report that Collins says anything about the
21 dissatisfaction. What he says in his report is that
22 the letter from George Cochise sets forth the Hopi
23 dissatisfaction.

24 Q (By Mr. Rogers) well, Dr. Whiteley, I may
25 be misinterpreting your sentence. The sentence that

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1 I'm looking at says, "Collins supported their petition,
2 stating that the government (his employer) had 'utterly
3 failed' to honor a land agreement with Hopis initiated
4 in the 1890s."

5 Mr. Scarboro: All right. So you're
6 looking for the phrase "utterly failed"?

7 Mr. Rogers: No, I'm looking to --
8 Q (By Mr. Rogers) Dr. Whiteley, perhaps the
9 best thing to do at this point is to go ahead and
10 review both documents, and then my first question to
11 you is, who was referring to the land agreement? Is it
12 Cochise, or is it Mr. Collins?

13 A Can you help me find "utterly failed"
14 without reading through the whole thing? Okay. It's
15 on page 2.

16 Mr. Scarboro: Got it?

17 The Deponent: Um-hum.

18 Mr. Rogers: I would like to mark as
19 Exhibit No. 23 two documents which have been stapled
20 together. The last three pages of Exhibit No. 23 is a
21 photocopy of a letter -- appears to be from George
22 Cochise to a Mr. Collins, dated May 8, 1909. It has
23 the production number, on the first page of the
24 letter -- actually, it has two production numbers,
25 E25084, and, below that, 300392.

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1 Attached to the front of this letter is an
2 effort that one of my paralegals made to try to
3 transcribe the letter because the letter is next to
4 illegible.

5 (Whiteley Deposition Exhibit 23 was
6 marked.)

7 Mr. Scarboro: Do you want him to identify
8 this document, the second part anyway?

9 Mr. Rogers: If he can.

10 The Deponent: I'm sorry?

11 Mr. Scarboro: The question is, Can you
12 identify the document with Production Nos. 300392 to
13 395 as the letter from George Cochise that you refer to
14 on page 15 of your report?

15 Q (By Mr. Rogers) Actually, it's the one
16 that you refer to on page 16 at the very top of the
17 page. It's "Cochise 5-8-1909."

18 A That looks like the one.

19 Q Is it your understanding that Exhibit 23
20 was the petition that was attached to Exhibit No. 22?

21 A Without going through it in detail, yes.
22 (A pause occurred in the proceedings.)

23 Mr. Scarboro: Is there a question?

24 Q (By Mr. Rogers) Have you had a chance to
25 look through Exhibit No. 23?

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1 Mr. Scarboro: What's the question? Is
2 there a question pending?
3 Mr. Rogers: Yes.
4 Q (By Mr. Rogers) Have you had a chance to
5 examine Exhibit No. 23?
6 Mr. Scarboro: Well, wait a minute.
7 Stop. What do you want him to do, spend ten minutes
8 reading it? What's the question?
9 Mr. Rogers: Well, I've provided Exhibit
10 No. 23 in response to your objection, the way that you
11 interpreted --
12 Mr. Scarboro: I'm just asking you, Is
13 there a question? Has he examined it? Yeah, he's
14 examined it at some point. Do you want him to look at
15 it right now?
16 Mr. Rogers: Yes.
17 Mr. Scarboro: What for? What's the
18 question?
19 Q (By Mr. Rogers) Dr. Whiteley, have you
20 examined Exhibit No. 23?
21 A Yes.
22 Q Now, at page 15 of your report you state,
23 quote, "Collins supported their petition, stating that
24 the government, his employer, had utterly failed to
25 honor a land agreement."

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1 Is there some reference that you were
2 referring to in Exhibit No. 22?
3 A To what?
4 Q Referring to a land agreement.
5 A Yeah, on page 2.
6 Q Based upon your interpretation of this
7 document or other archival research that you conducted,
8 do you have any understanding as to what that land
9 agreement was?
10 A I seem to recall there were other
11 documents which did indicate something more specific
12 about that agreement than is included here; but without
13 going over those, I can't be more specific.
14 Q Fair enough. Do you recall what documents
15 those were?
16 A I don't recall off the top of my head.
17 Again, they may be in my notes.
18 Q Dr. Whiteley, in Exhibit No. 23, do you
19 find any support for interpretation of the Tutskwa
20 boundaries?
21 A Again, given the problems of communication
22 that existed at this time, clearly Mr. Cochise has
23 difficulty with the English language; and in the
24 written English language I think one can interpolate
25 support for the Tutskwa boundaries, but he's not

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1 specifying those absolutely.
2 Q Are there some references in Exhibit
3 No. 23 which suggest to you boundaries that he is
4 referring to?
5 A Well, for example, he says -- and I think
6 this is the passage I quote -- "with beginning he tell
7 the people that that Gov. going give the Hopis back
8 their land."
9 Q But I take it he doesn't get any more
10 specific than that in terms of describing the area he's

11 referring to?

12 A I think that's probably true.

13 Q Dr. Whiteley, further down on page 16 of
14 your report you refer to a map that was submitted by
15 Mr. Murphy which you say contains another specific
16 reference to the Tutskwa.

17 I would like to mark as Exhibit No. 24 a
18 four-page document. It has the production number on
19 the first page: E25202.

20 A I believe this is one of the maps we're
21 going to add to the report.

22 (Whiteley Deposition Exhibit 24 was
23 marked.)

24 Q Dr. Whiteley, is Exhibit No. 24 the map
25 that you're referring to on page 16 of your report?

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1 A It is.

2 Q I note that you have the initials "Nd"
3 when you refer to the map. Do you have an approximate
4 date that you believe the map was prepared?

5 A My approximation is -- I think I may even
6 mention it elsewhere as 1910 -- but between 1908 and
7 1911.

8 Q And I believe the material that you're
9 quoting on page 16 appears on the first page of
10 Exhibit 24?

11 A That's correct.

12 Q Based upon your archival research or other
13 materials that you may have reviewed, were you able to
14 tell where Murphy obtained his information that's
15 quoted on page 16?

16 A Well, from older Hopis.

17 Q Were you able to figure out who they
18 were?

19 A No, although I may have access to some
20 records which I have never been over which may indicate
21 who they were. I have all of Murphy's allotting
22 records, or at least the bulk of them from the National
23 Archives, which I've never been through them entirely.

24 Q Based upon your research, were you able to
25 determine whether the informants that -- the people he

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1 talked to -- came from a particular mesa?

2 A No.

3 Q On page 16, you do quote from Murphy's
4 description. Is it clear to you, from his description
5 of the Hopi area, whether it includes the area around
6 the Havasu descent trail, Havasupai descent trail?

7 A It's not clear, but then his map and his
8 words aren't absolutely clear. His inclusion of
9 Cataract Canyon -- and I think there is a mention of
10 ruins in the vicinity of the -- at the head or tail, I
11 guess, of Cataract Canyon -- is, generally speaking,
12 consonant with a reference to that point.

13 Q Is it clear from the description that
14 Murphy provides whether he's including Bill Williams
15 Mountain within this area?

16 A No, it's not clear.

17 Q Is it clear whether he's including Bear
18 Springs in this area?

19 A No, it's not clear.

20 Q Is it clear whether he's including the
21 Apache descent trail within this area?

22 A Again, given his inclusion of Clear Creek
 23 Canyon with a notification of ruins, our conversation
 24 yesterday about the possibility of those ruins, which
 25 may be referring to Sakwawayki, S-a-k-w-a-v-a-y-k-i, as

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1 the most significant part of that area, that might
 2 indeed be a reference to the Apache descent trail
 3 point.

4 Q Is it clear whether he's including Literal
 5 Butte within his area?

6 A No, it's not clear.

7 Q Dr. Whiteley, if you would turn to the
 8 second page of Exhibit No. 24. We made an effort to
 9 try to enlarge the lower right-hand corner of the map
 10 which appears on the first page --

11 A You mean left-hand corner.

12 Q Yes. I'm sorry. In the lower left-hand
 13 corner of the second page of this exhibit there appears
 14 to be some writing that you did not include in your
 15 quotation. I believe it says, quote, "The younger
 16 Moquis claim that the present Moqui reservation was
 17 given them in lieu of either this or the territory
 18 described above."

19 A That's -- that's my reading of that too.

20 Q Do you have -- well, based upon any review
 21 you may have done of Murphy's materials, do you have
 22 any doubt that Murphy was told that?

23 A I have more reason to doubt that he was
 24 told that than what he was told what he's reporting
 25 earlier. Murphy was not the government's most

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1 competent employee.

2 My interpretation of this last part may be
 3 a reference to the fact that he knows the government
 4 wants to hear something about the 1882 Executive Order,
 5 so, therefore, he's saying, "well, these younger Hopis
 6 say that this was given to them in lieu of their
 7 aboriginal claim." Maybe some younger Hopis did say
 8 that to him; maybe they didn't.

9 Q I take it in other materials that you have
 10 reviewed by Murphy you haven't found any corroboration
 11 of that; is that correct?

12 A No, I haven't.

13 Q Dr. Whiteley, on page 16, in the last
 14 paragraph you state, "Clan migration traditions,
 15 stating territorial claims are recorded in a number of
 16 ethnological texts," and you cite several texts.
 17 "According to these, Hopis migrated from all directions
 18 in to Tuuwanasavi"-- which you describe as -- or translate
 19 as "earth center"--"where the present villages are
 20 located."

21 Do the Hopis consider their villages to be
 22 the center of the earth?

23 A What do you mean by the "earth"?

24 Q Well, perhaps I should ask: Is the
 25 translation "earth center" a literal translation of

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1 the --

2 A It is. Tuuwa means "earth," it means
 3 "soil," can mean "land."

4 Q So the translation, then, could be "land
 5 center"?

6 A I don't think it would be as meaningful

7 translated that way. I don't think it would get the
8 Hopi intention of the name as well as "earth center."

9 All I'm saying is that Hopi conceptions of
10 the earth may not be identical with Euro-american ones.

11 Q Well, try it this way: Do the Hopis
12 consider the navels to be the center of human
13 activity?

14 Mr. Scarboro: All human activity?

15 Mr. Rogers: Yes.

16 A No.

17 Q (By Mr. Rogers) Well, I'm trying to
18 understand the reference here to Tuuwanasavi. Is it
19 considered -- do the Hopis consider the mesas to be the
20 focal point of the world?

21 A They are a focal point. But as Alfonzo
22 Ortiz has identified for the Tewa in the Rio Grande
23 area, there are centers at the center and centers at
24 the periphery too, which Ortiz calls "earth navels."

25 In the sense that Siaaponi is in the

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1 boundary area, or at one point along the boundary, the
2 confluence of the Little Colorado and the Colorado
3 River, that's also a center. That's an earth navel, if
4 you will. So this conception of centers is
5 complicated.

6 Q So there can be multiple centers?

7 A I think that's fair to say, yes.

8 Q On page 17, you describe a letter that
9 Superintendent Leo Crane wrote in 1918, which you say,
10 "recognized the persistence of Hopi expressions of
11 their land claim."

12 I would like to mark as Exhibit No. 25 a
13 letter from Leo Crane to the Commissioner of Indian
14 Affairs dated March 12, 1918. It has the production
15 number on the first page: H100445.

16 Mr. Scarboro: Did you say 25?

17 Mr. Rogers: 25.

18 (Whiteley Deposition Exhibit 25 was
19 marked.)

20 Q (By Mr. Rogers) Dr. Whiteley, my first
21 question to you: Is Exhibit No. 25 the same as the
22 reference that appears on page 17 of your report as
23 "Crane 3-12-1918"?

24 A Yes, it is.

25 Q Dr. Whiteley, does Superintendent Crane

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1 anywhere in Exhibit No. 25 describe a traditional Hopi
2 land claim or the boundaries of such a land claim?

3 A May I ask if you have a copy of the map
4 that he's referring to on pages 9 and 10?

5 Q Well, I can tell you, Dr. Whiteley, that
6 was one of the questions I was going to ask, is if you
7 had seen a map with the document. I can represent to
8 you that I have not seen such a map, at least
9 associated with this document.

10 A I cannot recall having seen a map, but I
11 may have.

12 Mr. Scarboro: Do you want to just take a
13 moment?

14 Mr. Rogers: Off the record.

15 (Discussion off the record.)

16 A I do not think that there is such a
17 reference to the Tutskwa land claim.

18 Q Okay.
19 Mr. Rogers: Why don't we take a break at
20 this point.

21 (A break was taken.)

22 Q (By Mr. Rogers) Dr. Whiteley, I would
23 like to turn to page 18 of your report. Toward the top
24 of the page you refer to a petition that was sent to
25 President Coolidge in 1926.

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1 I would like to mark as Exhibit No. 26 a
2 two-page document that has the production number on the
3 first page: H404741. The first page of Exhibit No. 26
4 appears to be a letter from the Commissioner to Senator
5 Ralph Cameron. Attached to that on the second page
6 appears to be a letter dated May 15, 1926, to President
7 Coolidge and Members of Congress.

8 (Whiteley Deposition Exhibit 26 was
9 marked.)

10 Q Dr. Whiteley, I would like to direct your
11 attention to the second page of Exhibit No. 26. Is the
12 second page of Exhibit No. 26 the petition that you're
13 referring to on page 18 in reference as "Saloftoche,
14 et al. 5-15-1926"?

15 A It is.

16 Q In the center of the second page of
17 Exhibit No. 26 it contains the language that you quote
18 in your report. Have you been able to determine the
19 location of the places described in Exhibit 26 as
20 Sue-chee-pu, S-u-e hyphen C-h-e-e hyphen P-u?

21 A I haven't been able to determine that. I
22 haven't inquired into it specifically. I have a guess,
23 for what it's worth, but it may not be worth anything.

24 Q And what's your best guess?

25 A It might refer to a place known in Navajo

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1 as Chilchinbito, C-h-i-l-c-h-i-n-b-i-t-o.

2 Q Is it your interpretation of this petition
3 that the area that's being requested in the petition
4 reflects what the signers thought their traditional
5 land claim was?

6 A Given that they're using extremely general
7 language, yes, but clearly their specification of it is
8 extremely imprecise. They're not attempting to
9 document a boundary with great precision.

10 Q Well, the boundary is described as being
11 to the west of the boundary line of the village of
12 Leupp. Is it your interpretation of this petition that
13 they were including the area of -- including within their
14 area that they were requesting the San Francisco
15 Peaks?

16 A The way it's specified, that would not
17 include the San Francisco Peaks.

18 Q Would it include the Moencopi Plateau?

19 A Do you have a map? Yeah, that would not
20 include the Moencopi Plateau.

21 Q And it would not include any of the areas
22 which are west of the Moencopi Plateau?

23 A Presumably not. But whether they are
24 referring explicitly to their understanding of the
25 entire Tutskwa claim or whether they're simply trying

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1 to get as much of it as they can, as they think is
2 reasonable, is a moot question.

3 Q It's just not clear from the petition?
 4 A Yes, it's not clear.
 5 Q I would like to direct your attention
 6 to -- again to the second page of Exhibit No. 26, to the
 7 people who signed the petition. Have you been able to
 8 figure out from which mesas these people came from?
 9 A In that I say on page 18, "bearing
 10 signatures from each mesa," then I certainly had
 11 figured that out at one point. I can specify that I
 12 know which mesas a couple of people come from, I think
 13 probably three.
 14 Given my doubt about Saloftouche,
 15 s-a-l-o-f-t-o-c-h-e, I won't attempt to do him right
 16 now. Quamaquaptewah, Q-u-a-m-a-q-u-a-p-t-e-w-a-h, I'm
 17 pretty sure was from Second Mesa; Shongopavi, my guess
 18 is. Ponyquaptewah, below him,
 19 P-o-n-y-q-u-a-p-t-e-w-a-h, was from Third Mesa.
 20 Setalla, which looks as if it's spelled here -- I don't
 21 know -- s-e-t-a-l-l-a, was from First Mesa.
 22 Q Is this person described here as
 23 Ponyquaptewah a person you refer to earlier from
 24 Bacavi?
 25 A Yes, originally from Old Oraibi.

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1 Q I note also that the petition has been
 2 interpreted by an M. M. Billingsley; is that correct?
 3 A Yes.
 4 Q Based upon your research of the period,
 5 archival research, is it true that Mr. Billingsley was
 6 a controversial character among the Hopi?
 7 A I don't know if he was a controversial
 8 character in the 1920s. Some stories that I have heard
 9 about him -- which didn't, obviously, begin until 1980 -- I
 10 would say were controversial, yeah.
 11 Q Well, it's true, is it not, that he was
 12 later accused by Hopis of trying to initiate Anglo
 13 people into the Hopi Tribe for a fee?
 14 A That is true, yes, but quite a bit later,
 15 I think.
 16 Q Further down on page 18 you refer to an
 17 investigation conducted by Inspector Fiske at
 18 Moencopi. I believe the reference is to -- on page 19 -- a
 19 meeting at Moencopi 11-25-88.
 20 I would like to mark as Exhibit No. 27 a
 21 multipage document which has the title on the first
 22 page, "Meeting of the Hopi Indians held on November 5,
 23 1928, at at Moencopi Village, Arizona." It has a
 24 Production No. E25089.
 25 (Whiteley Deposition Exhibit 27 was

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1 marked.)
 2 (At this time, Ms. Sprague reentered the
 3 deposition room.)
 4 Q Dr. Whiteley, is what has been marked as
 5 Exhibit No. 27 the same source that you refer to at the
 6 bottom of page 18, top of page 19 of your report as
 7 "meeting at Moencopi"?
 8 A Yes.
 9 Q Dr. Whiteley, on page 4 of the exhibit it
 10 has a Production No. E25092. About halfway down the
 11 page someone -- and I assume it's the interpreters --
 12 designated as "In" makes a reference or states, quote,
 13 "This one man says that over at Oraibi the Chief told

14 them that he has an old map from many years ago," and
 15 then there is an exchange back and forth between
 16 the -- what I presume is the interpreter and Fiske about
 17 this map.

18 My question, Dr. Whiteley: Have you ever
 19 been able to locate that map that's referred to here?

20 A I haven't.

21 Q Have you looked for it?

22 A I haven't; not specifically, anyway. I
 23 mean, I'm very interested in all old maps of Hopi.

24 Q In that same exchange, apparently
 25 Mr. Fiske says, "Has Keoweptewa, the chief, got that

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1 map?" And above, in handwriting, there is reference to
 2 "Tewakwaptewa." Is that referring to the Kikmongwi of
 3 Old Oraibi?

4 A It is.

5 Q Based upon your research, did Moencopi
 6 have a Kikmongwi?

7 Mr. Scarboro: At what point in time?

8 Mr. Rogers: Counsel raises a good point.

9 Q (By Mr. Rogers) Has Moencopi ever had a
 10 Kikmongwi?

11 A Well, the problem is that the definition
 12 of Kikmongwi has changed somewhat at Third Mesa. In
 13 other words, many people argued that Myna Lansa could
 14 not be a true Kikmongwi, and they've argued the same
 15 for Stanley Bahnimptewa. Some people argued that
 16 Tawaquaptewa was not a true Kikmongwi because he hadn't
 17 been ordained to the full extent that traditionally
 18 Kikmongwis should be ordained.

19 References in documentary records refer to
 20 various individuals as Kikmongwi of Hotevilla, as
 21 Kigmongwi of Kewanimptewa, K-e-w-a-n-i-m-p-t-e-w-a, as
 22 Kikmongwi of Bacavi. None of those individuals, to my
 23 knowledge, has ever formally claimed to be a Kikmongwi
 24 themselves, even though they might be referred to
 25 honorifically by other Hopis or by non-hopis as such.

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1 So I take it you're referring to the fact
 2 that traditionally Moencopi has looked to Old Oraibi as
 3 its political leader and would not attempt to replicate
 4 the role of Bear clan Kikmongwi in Moencopi. If that's
 5 the case, then the answer is yes.

6 Q Dr. Whiteley, if I understand your books
 7 correctly, a Kewanimptewa never claimed to be a
 8 Kikmongwi; is that --

9 A That's correct.

10 Q But I take it from your books that he was
 11 generally acknowledged as a village leader?

12 A That's correct.

13 Q And did he ever state that he was the
 14 village leader?

15 Mr. Scarboro: Did he ever use the word
 16 "village leader"?

17 Mr. Rogers: Yes.

18 A He didn't speak much English.

19 Q (By Mr. Rogers) Why? Was there -- to your
 20 knowledge, in the 1930s was there someone at Moencopi
 21 that had the same status?

22 A I believe that there was somebody at
 23 Moencopi in the 1930s whose name was Frank Siemptewa
 24 who had a direct relationship with Tawaquaptewa, the

25 Kikmongwi of Old Oraibi. Titiev, I believe, describes

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1 Frank as Tawaquaptewa's lieutenant.

2 Q Based upon the research that you've done
3 or your conversations with consultants, did all the
4 people in Moencopi recognize Frank Siemptewa as the
5 leader of the village?

6 A At what time?

7 Q During the 1930s.

8 A During the 1930s, at least if my
9 recollection of Nagata's account of Moencopi history at
10 that point is correct, was when there started to really
11 be two separate villages of Upper Moencopi and Lower.
12 Given that those events were occurring at that time, I
13 think probably not.

14 Q Picking a period before then, in the 1920s
15 would he have been acknowledged as the leader of
16 Moencopi?

17 A Possibly so.

18 Q And I take it after the division between
19 Upper and Lower Village, Upper Village did not
20 recognize him as their leader?

21 Mr. Scarboro: Object. Lacks foundation.

22 Mr. Rogers: If he knows.

23 A I'm sorry. Could you repeat your
24 question?

25 Q (By Mr. Rogers) Certainly. Based upon

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1 your archival research and various conversations with
2 various consultants, did people of Moencopi, Upper
3 Moencopi, recognize Frank Siemptewa as their leader
4 after there was a division between Upper and Lower
5 Village?

6 Mr. Scarboro: Same objection. Lacks
7 foundation.

8 A I don't know.

9 Mr. Scarboro: Can we take a brief break
10 and pass the guard here?

11 Mr. Rogers: Sure.

12 (A break was taken, after which time
13 Mr. Scarboro was not present and Ms. Sprague was
14 present in the deposition room.)

15 Mr. Rogers: Back on the record.

16 Q (By Mr. Rogers) Dr. Whiteley, I would
17 like you to refer to pages 4 and 7 of Exhibit No. 27.
18 I would like to ask you about -- there are some of the
19 passages that you quote on page 18, and if you would
20 like to just acquaint yourself to the context in which
21 the statements were made.

22 A Um-hum.

23 Q Dr. Whiteley, on page 4, the first passage
24 that you quote refers to "This one man." Do you see
25 where that is?

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1 A Yes.

2 Q And over on page 7 there appears to be an
3 interpretation of -- a person named John Gashyesva is
4 speaking. Do you see where that is? It's about
5 halfway down the page on page 7.

6 A Yes.

7 Q From your reading of Exhibit No. 27, when
8 the interpreter refers to "this one man" on page 4, is
9 it a fair inference that he's referring to John

10 Gashyesva?

11 A I am not sure that I can see why that
12 would be a fair inference --

13 Q It's just not clear to you?

14 A -- unless I reread the document. I don't
15 see any reason to believe that this first one is John
16 Gashyesva.

17 Q Let me ask you this: Do you have any idea
18 who the interpreter is referring to when he refers to
19 "this one man"?

20 A It doesn't appear to be clear from the
21 document.

22 Q Were you able to figure out from what
23 village John Gashyesva came from?

24 A No. That wasn't a question that I asked
25 myself. He -- if he's speaking authoratively of a

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1 traditional land claim, which he seems to be doing, my
2 guess is that he's an older man, since this is in 1930
3 that this document --

4 Q I'm sorry. It's 1928.

5 A 1928. You're right. Then I believe he
6 was probably from Old Oraibi originally and moved to
7 Moencopi perhaps later on.

8 Q On page 7 in the Exhibit No. 27 you quote
9 a passage that states, "This man (John) says our
10 borders were first the San Juan River and the Little
11 Colorado (tracing it on the map drawn.)"

12 Is it a fair interpretation of this
13 passage that Mr. Gashyesva was describing the
14 traditional claim as the area in between the San Juan
15 River and the Little Colorado River?

16 A Yes, it is, but, again, given the
17 imprecision of statements and translations into English
18 and the fact that I don't think he was being asked to
19 pinpoint that border exactly.

20 Q During the course of your research, did
21 you come across other Hopi accounts that described the
22 traditional land claim as extending in the area between
23 the San Juan River and the Little Colorado River?

24 A I think I have seen depictions which
25 include those references.

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1 Q Have you also seen or come across accounts
2 that describe the traditional land claim as extending
3 between the area of the Colorado River and the Little
4 Colorado?

5 A I seem to recall that I have seen such a
6 depiction. But, again, you know, I think it's worth
7 pointing out that we're talking about a culture whose
8 concepts of precise location of boundaries in the same
9 sense that western law depicts land boundaries -- we're
10 talking about a culture where things aren't done the
11 same way.

12 Q Does Mr. Gashyesva's description of the
13 traditional claim include the San Francisco Peaks?

14 A I -- I don't know, because I -- because I
15 don't know that he's excluding them.

16 In other words, if we're requiring that
17 this statement that says that our borders were first
18 the San Juan River and the Little Colorado River -- or
19 just the Little Colorado, he says -- and we're holding
20 him to an exact geographic depiction which pinpoints

21 the boundaries of the Tutskwa claim, then I suppose
 22 your conclusion would be that the San Francisco Peaks
 23 were not being included in this area.

24 If, as I think is far more likely, he's
 25 merely speaking generally in terms which he -- which he

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1 might think that Fiske would understand or however he
 2 might be able to translate Hopi concepts into concepts
 3 which he might -- or places that Fiske might
 4 understand -- then I don't see that we are entitled to
 5 interpret that he is excluding the San Francisco Peaks
 6 from that statement.

7 Q Well, Dr. Whiteley, is it clear to you
 8 from this description whether he is including the San
 9 Francisco Peaks within his description?

10 A It's not clear.

11 Q Is it clear whether he's including Bill
 12 Williams Mountain?

13 A It's not clear.

14 Q Is it clear whether he's including Bear
 15 Springs?

16 A It's not clear.

17 Q Is it clear whether he's including the
 18 Apache descent trail?

19 A It's not clear.

20 Q Dr. Whiteley, on page 19 of your report,
 21 Exhibit No. 1, in the last full paragraph you refer to
 22 the -- what you describe as being "the earliest detailed
 23 Hopi statement" regarding the traditional land claim,
 24 which, I believe, you identify on page 20 with the
 25 reference "Komalentewa 4-8-1930."

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1 I would like to mark as Exhibit No. 28 a
 2 three-page document that has a production number on the
 3 first page: H22532. The first page of Exhibit No. 28
 4 is a letter from C. J. Rhoads to Edgar K. Miller dated
 5 July 17, 1930, indicating that a petition is enclosed.
 6 The second page of Exhibit No. 28 appears to be a
 7 petition to the Commissioner of Indian Affairs, dated
 8 April 8, 1930. The last page appears to be a map
 9 similar to that map which follows page 19 of
 10 Exhibit No. 1.

11 (Whiteley Deposition Exhibit 28 was
 12 marked.)

13 Q Dr. Whiteley, I would like to direct your
 14 attention to the last two pages of Exhibit No. 28. For
 15 what it's worth, we attached the first page of Exhibit
 16 No. 28, the petition, to the map, because it was
 17 produced in that manner to us, and it may give you some
 18 assistance in placing the petition and the map in
 19 context.

20 Dr. Whiteley, are the last two pages of
 21 Exhibit No. 28 the same as the reference that you make
 22 on page 20 to "Komalentewa 4-8-1930"?

23 A I believe so.

24 Q Dr. Whiteley, on page 19, before you start
 25 quoting from the petition, you indicate that the

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1 petition was signed by many individuals, do you not?

2 A Yes.

3 Q I note from Exhibit No. 28, the second
 4 page, there is the petition. There does not appear to
 5 be any signatures with it. Have you seen a different

6 version of Exhibit No. 28 that had signatures?

7 A Yes.

8 Q Can you recall where you saw that
9 document?

10 A Yes: in the files at Arnold & Porter.

11 Q Can you recall if the -- was there a
12 separate signature page?

13 A I believe there was, yes, or there may
14 have even been several pages or two pages of
15 signatures.

16 Mr. Rogers: Counsel, at this time I would
17 request a copy, if it exists, of the document that
18 Dr. Whiteley seems to recall seeing with the
19 signatures. It may be the case that that has been
20 produced to us before. I can tell you that searches
21 have been made of our files, and we have been unable to
22 secure a copy that had the signatures.

23 Ms. Sprague: I will make an attempt to
24 locate that, Counsel.

25 Mr. Rogers: Counsel, have you seen a copy

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1 of this with signatures, that you recall?

2 Ms. Sprague: We'll have to look.

3 Mr. Rogers: Okay. Fair enough. I mean,
4 I don't mean to -- I was just curious if you knew of
5 something or there was something I was missing.

6 Q (By Mr. Rogers) Dr. Whiteley, can you
7 turn to the last page of Exhibit No. 28, to the map.

8 Toward the bottom of the page there is some
9 handwriting. It says, "Map to accompany the Hopi
10 petition of April 8, 1930, drafted by Fred"-- I believe
11 it's "Kabotie." And then there is -- appears to be some
12 other handwriting below that.

13 I note from the map that appears following
14 page 19 of your report, the handwriting that appears
15 under the name of Fred Kabotie is also obscured. Have
16 you seen a copy of the map that fully depicts the line
17 underneath the one that contains the name of Fred
18 Kabotie?

19 A I don't recall. My recollection, as far
20 as it goes, is, yes, that I have seen that, but I don't
21 honestly recall.

22 Q Fair enough.

23 Mr. Rogers: And in terms of making a
24 request, to the extent that you do have a copy of a map
25 that has that line legible, I would like to get a copy

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1 of it.

2 Ms. Sprague: I did attempt to identify
3 the best copy for inclusion in the report, so I'm not
4 hopeful I'm going to turn up anything here. If
5 Dr. Whiteley saw a copy, it might have been in some
6 other files. I'll look, but I know I looked for this
7 before, and this is the best I could do.

8 Q (By Mr. Rogers) Dr. Whiteley, I realize
9 it's a longshot, but can you recall what the words were
10 on that line, the line below the line that has Fred
11 Kabotie's name on it?

12 A No, I can't. Certainly the last three
13 words on that line seem to be "men of Shongopavi," but
14 there must be at least two words, maybe, below that.

15 Q Dr. Whiteley, based on your archival
16 research, were you able to figure out whose handwriting

17 appears on the last page, starting with the notation,
18 "Map to accompany"?

19 A No, I wasn't.

20 Q Is it your understanding that this map
21 which appears as the last page of Exhibit No. 28 was
22 drafted by Fred Kabotie?

23 A That's what it says. Fred Kabotie and
24 presumably others.

25 Q During the course of your work leading up

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1 to your Ph. D. thesis and later, did you ever have the
2 opportunity to talk to Fred Kabotie?

3 A I have been in Mr. Kabotie's presence on a
4 number of occasions. I don't recall if we ever had a
5 direct exchange.

6 Q Fair enough. Is Mr. Kabotie still alive?

7 A No, he's not.

8 Q During the times that you were in the
9 presence of Mr. Kabotie, did the subject of this map
10 ever come up?

11 A I want to make sure that I'm interpreting
12 your question correctly. Did this particular map come
13 up, or did the subject of the map, meaning its interest
14 in the traditional land claim, come up?

15 Q This particular map.

16 A Not that I can recall.

17 Q Do you recall who signed the petition?

18 A Well, certainly Komalantewa and others,
19 since that's how I identify it. But I seem to recall
20 there was at least a page of two columns of signatures
21 and possibly even two pages of signatures.

22 Q Fair enough. Was Mr. Kabotie a
23 traditional leader, as you have defined it here on
24 page 19?

25 A In 1930 Mr. Kabotie was probably about

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1 27 years old. Traditional Hopi leaders tend to be
2 older people.

3 Q So I take it he was not a traditional
4 leader?

5 A Well, in 1980 he was a traditional leader
6 of some kind or another.

7 Q But in 1930 he would not have been?

8 A I think not. But, again, let me make a
9 proviso, and that is that in 1930 it's very likely that
10 he was one of the most literate Hopis. Hopis had only
11 been becoming literate in general probably since the
12 1910s.

13 And leaders of Shongopavi, if they are
14 indeed some of the main forces behind this petition,
15 would have needed somebody to express things in
16 writing, somebody who could type, somebody who could
17 draw according to the white man's way, and certainly
18 older people would not have had access to those skills,
19 so they would have relied upon a younger man.

20 Q Was Komalantewa a traditional leader?

21 A I think he must have been, yes.

22 Q Do you know where in Second Mesa he came
23 from?

24 A Probably from Shongopavi, but I could
25 never decipher that signature in a way that I was

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1 comfortable with identifying which individual it was.

2 My guess, I think -- and I may be wrong
 3 here -- was that he was the Kikmongwi of Shongopavi at
 4 the time, but I'm not exactly sure about that. I
 5 possibly could reconstruct that, given enough time.

6 But Komalentewa -- well, I guess it does
 7 mean something in Hopi. I guess it does -- it could be
 8 actually his name. I always thought that it might be a
 9 misspelling or a spelling which didn't depict an actual
 10 Hopi name, but Komalentewa does indeed mean something.
 11 It means "black flute" something or other.

12 Q Dr. Whiteley, on page 19 you describe the
 13 petition, and I presume the map, as, "The earliest
 14 detailed Hopi statement about their traditional land
 15 claim."

16 I take it during the course of your
 17 archival research you didn't find any statements or
 18 maps by Hopis that provided a detailed description of
 19 the Tutskwa area?

20 Ms. Sprague: Prior to 1930?

21 Mr. Rogers: Yes.

22 A Not that I can recall, no, not as detailed
 23 as this.

24 Q (By Mr. Rogers) Dr. Whiteley, the map
 25 which is attached to Exhibit No. 28 depicts Chinle as

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1 being outside the Tutskwa claim; is that correct?

2 A That's correct.

3 Q Can you tell from the drawing or from the
 4 attached petition whether the area where the Tutskwa is
 5 being described here includes any part of Canyon de
 6 Chelly?

7 A It would not seem to.

8 Q Is it clear from the map or the
 9 description in the petition whether the Tutskwa area
 10 includes the Havasupai descent trail or extends that
 11 far out to the west?

12 A It would not seem to. But, again, I think
 13 it's worth noting that this map isn't exactly what one
 14 would call a topographic map.

15 Q Can you tell from the map or the petition
 16 whether the area being described includes Bill Williams
 17 Mountain, extends that far west?

18 A It would not seem to.

19 Q Can you tell from the map or the
 20 description whether the traditional area would extend
 21 as far south as the Apache descent trail?

22 A It would not seem to.

23 Q Dr. Whiteley, on page 20 you describe a
 24 meeting that was held at Flagstaff in 1930 on the
 25 Navajo-hopi boundary. You make a reference to a

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1 "Meeting at Flagstaff 11-6-1930."

2 I would like to mark as Exhibit No. 29 a
 3 document has the title "Minutes of Conference on
 4 Navajo-hopi Boundary Controversy Held at Flagstaff,
 5 Arizona, on November 6, 1930." It has a production
 6 number on the first page: H24222.

7 (Whiteley Deposition Exhibit 29 was
 8 marked.)

9 Q Dr. Whiteley, if it would be of help to
 10 you, the page I'm going to be referring to is page 15.
 11 Dr. Whiteley, is Exhibit No. 29 the same as the
 12 reference that you note at the bottom of page 20 of

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23

your report, "Meeting at Flagstaff"?

A I believe so.

Q On page 15 of Exhibit No. 29 there is an exchange which appears at the top of the page between Mr. Hagerman and Peter Nuvamsam -- oh, boy -- Nuvamsa, N-u-v-a-m-s-a. It indicates, toward the top of the page, that Mr. Nuvamsa came to the front and offered a map and other documents to Mr. Hagerman. Have you ever been able to locate that map during your archival research?

A Well, I'm not sure. Maybe it did indeed accompany this document in the records that I saw. My guess is that it probably may have been the same map as is depicted in Exhibit 28, or if not the same map, a map not terribly different from it.

Q During the -- do you recall where you obtained a copy of Exhibit No. 29?

A From the files of Arnold & Porter.

Q When you looked at it, was there a map attached to it?

A I don't remember.

Q Dr. Whiteley, just as a background, there are a number of reports, because of their age, that refer to maps that somehow over the years the map and the report have come apart. That's the reason for my questions.

Is it your understanding that Mr. Nuvamsa was from Second Mesa?

A Yes.

Q Was he a Kikmongwi?

A Not at the time, no. I seem to recall that that was within his lineage.

Q Further down the page there is a statement that's made by Otto Lomavitu. At this time, was Mr. Lomavitu living at Kykotsmovi?

A I think he probably was.

Q Do you know, at the time, was he considered to be a traditional leader?

A No, I don't think he was.

Q Toward the middle of page 15 there is a description by Mr. Hagerman of the sketch that was apparently given at the meeting. Is it your understanding or is it your interpretation of his description that it comports with the description or the map that follows page 19 of your report?

A That's correct.

One moment.
(Discussion off the record between deponent and his counsel.)

A Yes. Counsel has just pointed out, and I concur, that St. Michael's may not be included within this boundary, nor Fort Defiance.

Q Dr. Whiteley, you raise a good point. I didn't mean to mislead you. A moment ago you mentioned that -- with reference to the map that follows page 19 -- does not include Chinle within the traditional Tutskwa claim area; is that correct?

A I'm sorry, Mr. Rogers. Can you repeat your question?

Q Certainly. When we were discussing Exhibit No. 28, the map attached to that, which is

24 identical with the map which follows page 19, you
25 stated, did you not, that Chinle was not included

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1 within the Tutskwa area described on that map or
2 depicted on that map?

3 A Yes. I think my intention was to indicate
4 that Chinle was not included in the area depicted on
5 that map. I know that you did ask me to specify the
6 Tutskwa area, and I assented to your terminology; but I
7 don't know that the word "Tutskwa" actually appears in
8 this report on -- in Exhibit 28.

9 Q Well, that's a fair point, Dr. Whiteley.
10 Is it -- would you feel more comfortable -- well, do you
11 consider the map that's attached to Exhibit No. 28 to
12 be a description of a traditional land claim?

13 A Yes.

14 Q Now, I note in Exhibit No. 29, in
15 Mr. Hagerman's description, he notes that apparently
16 the area's bounded "on the east by St. Michael's, Fort
17 Defiance, and Chinle."

18 A Um-hum.

19 Q Is it a fair interpretation of that
20 passage that at least Mr. Hagerman thought that the
21 eastern boundary -- on the eastern boundary the city of
22 Chinle was located?

23 A Sounds like it, yes.

24 Q He also describes a line to the south some
25 25 miles south of Winslow and Holbrook. Now, I realize

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1 the map which follows page 19 certainly isn't to a
2 cartographer's scale, but based upon the depiction on
3 that map, does the southern boundary appear to be
4 25 miles south of Holbrook and Winslow, or does the
5 line that Mr. Hagerman is describing appear to extend
6 further south?

7 A I think -- I think, Mr. Rogers, you're
8 asking me to speculate further than I can. And I don't
9 know, again, the exact intentions of this map included
10 in my report as -- as supposed to include or exclude
11 particular geographic points. I don't know the extent
12 of Mr. Hagerman's ability to imagine a distance of
13 25 miles.

14 I don't know which point south of the
15 Little Colorado River he would be attempting to
16 imagine -- or, sorry -- south of a line between Winslow and
17 Holbrook -- I just don't know how to answer the
18 question.

19 Q Well, based upon Mr. Hagerman's
20 description on page 15 of Exhibit 29, comparing it to
21 the sketch which follows page 19 of your report, is it
22 your interpretation that Mr. Hagerman is describing the
23 same area as is depicted on your map following page 19
24 of your report, or can you tell?

25 A I think it's -- given my repeated statements

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1 about the problems of attempting to hold Hopi or
2 interpreters of Hopi intentions to precise boundary
3 points, as western individuals would consider such
4 precise geographic boundary points, I can't answer the
5 question, and I -- as it exists -- because I think we're
6 dealing with shifting interpreted ground.

7 I don't know that Mr. Hagerman's
8 conception is, as you have indicated, the level of

9 precision of a cartographer's. I have no way of
10 knowing whether he was thinking about a line 25 miles
11 or 24 miles or in fact probably 15 miles or 20 miles or
12 30 miles or 35 miles south of Winslow and Holbrook.

13 How can I speculate about what he was referring to?

14 I think the problem, just to state this
15 again, is that we're not dealing with concepts of
16 geography which are precisely replicable from
17 Euro-american culture to Hopi culture. This is why I
18 think -- or one of the reasons why I think, as I have
19 stated in the report, as I have stated in this
20 deposition, there are differences in specific points
21 which are identified as part of the Tutskwa boundary,
22 as well as the problem with ritual secrecy.

23 Q Are you saying that there are differences
24 in interpretation among the Hopi as to the landmarks
25 which delineate the boundary for the Tutskwa?

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1 A Well, I'm -- you know, I'm saying what I
2 just said. If you want to interpret it that way, then
3 that's your interpretation. I cannot assent to the way
4 that you have described that without adding all the
5 contexts that I just added.

6 Mr. Rogers: Can you reread the answer
7 which preceded the last question.

8 (Page 493, line 25 through page 494,
9 line 21 was read back.)

10 Mr. Rogers: Stop right there.
11 Q (By Mr. Rogers) Dr. Whiteley, my question
12 was really directed to what you meant when you said
13 that there were differences in interpretation. Is it
14 differences among the Hopi? Is that what you meant?

15 A There are differences stated in the
16 record, as we have been repeatedly showing today, as
17 exists already in my report.

18 Q And --

19 A If that equates with differences in
20 interpretation --

21 Q And, Dr. whiteley --

22 A I don't -- you know, I don't think it does
23 necessarily equate with differences in Hopi
24 interpretations, for the reasons that I have
25 specified.

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1 Q That answers my question.
2 Dr. Whiteley, on pages 20 and 21 you refer
3 to another petition that was submitted to a Senate
4 Subcommittee on Indian Affairs in 1931 which
5 identifies, "Sakhongva et al. 5-18-1931."

6 I would like to mark as Exhibit No. 30 a
7 document, four-page document, with a production number
8 on the first page: H24334. It appears to be a letter
9 to the Subcommittee on Indian Affairs of the United
10 States Senate.

11 (Whiteley Deposition Exhibit 30 was
12 marked.)

13 Q Dr. whiteley, is Exhibit No. 30 the same
14 as the reference you have on page 21 to "Sakhongva
15 5-18-1931"?

16 A It looks like it.

17 Q Dr. whiteley, was this document provided
18 to you by Arnold & Porter?

19 A Yes.

20 Q Was the version -- I think you note on this,
 21 many of the signatures are very faint. Was the copy
 22 that you saw more legible?

23 A I think it was.

24 Q Did you see a hard-copy version of this,
 25 or was it on microfilm?

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1 A I don't remember.

2 Mr. Rogers: Counsel, at this time, if
 3 it's possible to obtain a clearer copy -- and I realize
 4 the difficulty of making reproductions from some of
 5 these old documents -- I would like to request that.

6 Ms. Sprague: I will make an effort to
 7 locate that.

8 Q (By Mr. Rogers) Dr. Whiteley, during the
 9 course of your archival research, did you ever come
 10 across a copy of this document that had a map attached
 11 to it?

12 A I don't recall.

13 Q Based upon your archival research, do you
 14 know if a map accompanied this petition?

15 A I don't recall, but that would be a
 16 reasonable assumption from the statement on page 1. It
 17 may also be a reference to previously submitted maps.

18 Q I take it you just don't know one way or
 19 the other?

20 A No, I don't know. I don't remember.

21 Q Dr. Whiteley, on the first page of Exhibit
 22 No. 30 there is a request that's made, and there is
 23 some language that's been typewritten, and it refers to
 24 the "return to the Hopi the land according to the
 25 original boundaries (sic) which they possessed before

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1 the white man came."

2 I take it that there's nothing in this
 3 description which says what those boundaries were?

4 A That's correct.

5 Q Dr. Whiteley, do you recall, when you were
 6 looking at some of the signatures that were attached
 7 with this petition, Exhibit No. 30, whether any of the
 8 people who signed the petition were from Old Oraibi or
 9 then residing in Old Oraibi?

10 A Sakhongva -- I'm not answering your
 11 question; I'm just pondering -- Sakhongva is a Third Mesa
 12 name around that time. Sakhongva, if I recall
 13 correctly, had lived in Old Oraibi before moving to
 14 Hotevilla. It's possible that there was also a Second
 15 Mesa Sakhongva. So I can't definitively state that I
 16 know who he is, unless perhaps I see his name in
 17 association with other names which might indicate
 18 that.

19 Q Dr. Whiteley, the reason I ask, I note
 20 earlier on there were some petitions that -- or at least
 21 one petition that was submitted by three Second Mesa
 22 villages, but apparently from -- the signatures from the
 23 other mesas -- there were other petitions that appeared
 24 to have been signed by people from all three mesas.

25 From your examination of the signatures

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1 that are attached to Exhibit 30, were you able to
 2 figure out if the petition was submitted by just one
 3 mesa or by more than one mesa?

4 A May I ask as to suspend consideration of

5 this until I can see a clearer copy?

6 Q Certainly. And, again, I apologize for
7 the quality of the copy.

8 A It's not your fault.

9 Mr. Rogers: It's 5 o'clock. Should we go
10 ahead and break for the day?

11 Ms. Sprague: That's fine.
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1 whereupon, the within proceedings were
2 concluded at the approximate hour of 5:00 p. m. on the
3 23rd 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 Iii

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

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C E R T I F I C A T I O N

1
2
3 I L. Lynne Stammen, Registered
4 Professional Reporter, appointed to take the deposition
5 of

6 Peter M. Whiteley, Ph. D. - Volume Iii,
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 163 pages
13 herein; that the foregoing is a true transcript of the

Page 67

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 6th day of April, 1989.
20

21 L. Lynne Stammen
22 Registered Professional Reporter
23 Proofread by: Tyler Smith
24 Fees
25 Appearance: \$70.00
Original: \$268.95
Copy: \$260.80

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1 Hyatt & Associates, Inc.
2 Registered Professional Reporters
3 1719 Emerson Street
4 Denver, Co 80218
5 (303) 830-0208
6 April 6, 1989
7 Mary Gabrielle Sprague, Esq.
8 Arnold & Porter
9 1700 Lincoln Street, suite 4000
10 Denver, Co 80203

11 Re: Sidney vs. Macdonald, et al.
12 Deposition of: Peter M. Whiteley, Ph. D. - Volume Iii
13 Enclosed is the original signature page of the above
14 deposition. It was agreed that you would arrange for
15 signature for the above deposition by means of your
16 copy transcript and the enclosed original signature
17 page.
18 Also enclosed is a form of Amendment for changes, if
19 necessary. After having the signature page and
20 Amendment form signed, please have them notarized and
21 return for filing . . .

22 X to this office within 30 days to comply with
23 the statute
24 to ^,
25 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.

26 Thank you for your attention to this matter.

27 Sincerely,
28 Hyatt & Associates, Inc.
29 cc: John W. Rogers, Esq.
30 Peter M. Whiteley, Ph. D.

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1 Hyatt & Associates, Inc.
2 Registered Professional Reporters
3 1719 Emerson Street
4 Denver, Co 80218

WHITEL3.TXT

3 (303) 830-0208
4 John W. Rogers, Esq.
Brown & Bain, P. A
5 2901 North Central Avenue, P. O. Box 400
Phoenix, Arizona 85102

6 Re: Sidney vs. Macdonald, et al.
7 Deposition of: Peter M. Whiteley, Ph. D. - Volume Iii
Date of Deposition: March 22, 1989

8 Enclosed is the above original transcript. ..

9 signed, no changes

10 signed, with changes, copy enclosed

11 not signed, notice duly given 4-6-89,
12 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
□