

(Centerwall report)

(July 22, 1942)

BOUNDARY ADJUSTMENT
LAND MANAGEMENT DISTRICT NO. 6
HOPI INDIAN RESERVATION

AUTHORIZATION

The following communication, received at Phoenix, Arizona, under date of April 22, 1942, is cited as authorization for detailing the writer to the Hopi Jurisdiction, Keams Canyon, Arizona:

*Forestry & Grazing
62000-35-301

*April 18, 1942

*Mr. Willard R. Centerwall
Associate Regional Forester
607 Goodrich Building
Phoenix, Arizona

Docket 229 (Navajo)
Plaintiff's Exhibit No. 722

*My dear Mr. Centerwall:

*You are instructed to proceed immediately to the Hopi Jurisdiction and consult with Superintendent Wilson concerning the problem of adjusting the present boundary of Land Management District 6.

*It is the wish of this Office that careful consideration be given the present needs of the Hopis residing within this district and those Navajos who have lived there for many years and are recognized by the Hopis as having established their grazing rights. There are a certain number of borderline cases which must be considered individually on their merits and the area definitely established on which they have been grazing for many years and on which they have established use rights.

*On account of the scarcity of available range lands careful consideration must be given each case so that no injustice is done to the interested parties who have been using the range in the area adjoining the present District 6 boundary. It is suggested that you consult the Rachford report, utilizing everything that is applicable and of value in the same, as well as considering any other new developments and angles presented by the Hopis individually and through their Superintendent. You should also review Office letters of September 4 and (p. 2) October 27, 1941, and February 28, 1942, regarding the matter. This Office is very anxious to have this matter settled satisfactorily before Mr. Wilson's departure.

"A careful study should be made and it is hoped that your recommendations will be received at this Office at the very earliest possible date. It will be necessary for you to consult with the local personnel and members of the Hopi tribe as well as representatives of the Navajo Reservation and the Navajo Indians. In interpreting the needs of the Hopis consider primarily their present range use areas and those upon which they have established grazing rights as of the date that District 6 was established rather than the legal or traditional aspects that may be introduced. It is doubtful whether all the claims of either the Hopis or the Navajos can be entirely satisfied due to the tremendous demand upon the range. It is the desire of this Office that every attempt be made to arrive at an equitable solution of this problem.

"Mr. Wilson will be of great assistance to you and your recommendations should be concurred in by Mr. Wilson and if possible by the Chairman of the Hopi Tribal Council.

Sincerely yours,

/s/ JOHN COLLIER

4-14-42

Commissioner"

HISTORY

Under Executive Order of President Arthur, dated December 16, 1882, an area consisting of 2,472,320 acres or 3,860 square miles was set aside and became known as the "Moqui Indian Reservation." This area was set apart from the Public Lands of the United States for "the use and occupancy of the Moqui (Hopi) and such other Indians as the Secretary of the Interior may see fit to settle thereon."

From all information available it is known that both Navajos and Hopis inhabited the area at the time it was set aside as the Hopi Indian (p. 3) Reservation. There were at that time approximately 2,000 Hopis and a few hundred Navajos living within the boundaries of the Executive Order Reservation. Since 1882 the Hopi population has increased to approximately 3,000 and the Navajo population to 4,000. Under the provisions of the Executive Order of 1882 the Hopis did not obtain exclusive

rights and, as a consequence, the Navajos have continued within the Reservation in increasing numbers. "The Secretary of the Interior was given power to control the settlement upon the reservation of the Navajo Indians, but he was not authorized the right to deny the use and occupancy of any part of the reservation to the Hopi Indians without their voluntary action, as such denial would be an alienation of their property beyond the authority of the Secretary." (Solicitor's Memorandum for the Commissioner of Indian Affairs. February 12, 1941.)

From all historic evidence it appears that the Navajos entered Arizona in the last half of the eighteenth century, but their grazing areas did not conflict with those of the Hopis until about the year 1850. The U. S. Army temporarily relieved the pressure on the Hopis in the year 1863 by transferring the Navajos to Fort Sumner, New Mexico. The Navajos were released from Fort Sumner in 1868 and again returned to the reservation. After the return of the Navajos, grazing disputes between the Navajos and Hopis became so acute that in the year 1888, Col. E. A. Carr from Fort Wingate sent a detachment of militia into the then created Executive Order Reservation for the (p. 4) purpose of removing the Navajos found trespassing on Hopi lands. Due to inclement weather the mission was not entirely completed.

There are many such instances that go to show that the grazing and land use difficulties existing between the Navajos and Hopis are not of recent origin but date back approximately 90 years. Discussions based on the Executive Order lands cover a period of 60 years. To date there has never been a satisfactory recognition of use rights adopted and sanctioned by both tribes. In the past efforts have been made to work

out satisfactory agreements and working plans, but with little success. ⁴

From 1882 until 1936, the year when land management units were set up by the Navajo Service, the Navajos and Hopis residing within the boundaries of the Executive Order Reservation were administered by the superintendent of the Hopi jurisdiction. Since 1936 the administrative activities have been divided; the Navajos residing therein being administered from Window Rock (Navajo Service), and the Hopis from Keams Canyon (Hopi Indian Agency). Split administration, from the standpoint of the Indians as well as the two agencies, has not worked out to the complete satisfaction of all parties involved.

LAND MANAGEMENT DISTRICT NO. 6

In 1936 the Navajo Service set aside an area within the Executive Order Reservation to be known as "The Hopi Unit" or Land Management Unit 6. This unit is in the south central portion of the Executive Order Reservation (see map). The computed acreage of the unit is (p. 5) 499,248, of which 443,649 acres are in Navajo County and the remaining 55,599 acres in Coconino County, Arizona. According to all available data the area within the boundary of Unit 6 was to be for the exclusive use and occupancy of the Hopi Indians. The remainder of the 1882 reservation outside of Hopi Unit 6 was to be for the exclusive use and occupancy of the Navajo Indians. Reference is made to:

MEMORANDUM FOR THE COMMISSIONER OF INDIAN AFFAIRS February 12, 1941

"The Indian Office has submitted for the signature of the Secretary an order which would define within the Hopi Reservation created by the Executive Order of December 16, 1882, an area which is to be for the exclusive use and occupancy of the Hopi Indians. This area is referred to in this memorandum as the Hopi unit. The remainder of the 1882 reservation outside the

Hopi unit is to be for the exclusive use and occupancy of the Navajo Indians. It is proposed to accomplish this delimitation by fiat of the Department without expression or assent on the part of the Indians and without statutory authorization. The authority which is relied upon for this action is the wording of the executive Order of 1882 which created the reservation for the Hopi Indians 'and such other Indians as the Secretary of the Interior may see fit to settle thereon.'

"I am returning this order as I find it to be -

1. Contrary to the prohibitions against the creation of Indian reservations without statutory authority, contained in the acts of May 25, 1918 (40 Stat. 570, 25 U.S.C.A. sec 211), and March 3, 1927 (44 Stat. 1347, 25 U.S.C.A. sec. 398d);
2. In violation of the rights of the Hopi Indians within the 1882 reservation; and
3. Not in conformity with the provisions of the Hopi Constitution approved December 19, 1936.

Signed: NATHAN R. MARGOLD, Solicitor

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It is evident from the Solicitor's statements that there could not be legally set aside within the boundaries of the Executive Order Reservation, a defined unit for exclusive use and occupancy of either the Navajo or Hopi Indians. Neither would it be within the scope of the authority of the Navajo Service to confine the Hopi Indians to any designated area within the Executive Order Reservation. Quoting further from the Solicitor's memorandum of Feb. 12, 1941, page 2:

"Section 211. Creation of Indian Reservations"

"No Indian Reservation shall be created, nor shall any additions be made to one heretofore created, within the limits of the States of New Mexico and Arizona, except by Act of Congress."

The relevant provision of the Act of 1927 is contained in Section 4 of that act and reads as follows:

"Changes in the boundaries of reservations created by executive order, proclamation, or otherwise for the use and occupation

of Indians shall not be made except by Act of Congress: Provided, That this shall not apply to temporary withdrawals by the Secretary of the Interior.

"As the definition of an area for the use and occupation of a group of Indians is a definition of a reservation, these statutes prevent the proposed action by the Department without legislative authority."

BOUNDARIES, DISTRICT 6

The boundaries of District 6 are well defined and easy to follow in the field. The unit has not been surveyed and is not marked with iron stakes, as stated in previously submitted reports. Boundary lines as a general thing follow along prominent topographical features such as mesa escarpments, washes and ridges. Unit 6 is bounded on the (p. 7) north by Unit 4, on the east by Unit 7, on the south by Unit 5, and on the west by Unit 3. (See map)

Livestock movement both from within and without the Unit 6 boundary has been a continual source of friction between the Navajo and Hopi range users. This friction is not of recent origin. Considerable confusion exists among the Hopis as to the exact meaning of the proposed boundaries of Unit 6. The belief exists that the Navajo Service has created a reservation for the Hopi Indians and, as a consequence, all Hopi Indians will be confined within these boundaries and lose all rights previously held in the Executive Order Reservation outside the boundary of Unit 6. This is far from the truth. District 6 is just another land management district and it is not within the power of authority of the Navajo Service to Deprive a Hopi Indian of prior use range rights established anywhere within the boundaries of the Executive Order Reservation.

Quoting from page 2 of Supt. E. R. Fryer's memorandum to Mr. Hutton and District Supervisors Frazer, Griffin, Thompson and Stocks, August 25,

1937:

"Land management districts were set up primarily for the purpose of controlling range use. District lines do not prevent the free movement of people from one district to another to get wood or for social purposes. Therefore, Hopi Indians can go outside District 6 for wood. We shall, however, attempt to set aside an area somewhere adjoining District 6 for the exclusive use of the Hopi Indians. In order to do this it will be necessary to obtain the consent of the Navajo Tribal Council." (*Underlining supplied by W. R. Centerwall) Until this is done, no attempt should be (p. 8) made to restrict the Hopis or Navajos from cutting dry wood. The cutting of green timber has been covered in previous memoranda from the Forestry Division."

It appears from the text of the portion of memorandum quoted above that "it was within the scope of authority of the Navajo Tribal Council to determine the use and occupancy by the Hopi Indians of areas within the Executive Order Reservation and without the boundary of Land Management District 6." Whatever the intent and authority vested, it is not believed by the writer that the Navajo Tribal Council has the authority to make and enforce decisions relative to the Hopi Indians and their property rights within the boundaries of the Executive Order Reservation. As a furtherance of this contention, I quote further from the Solicitor's letter of February 12, 1941, page 4, caption 2, "Rights of the Hopi Indians in the 1882 Reservation";

"The 1882 reservation was created for the use and occupancy of the Hopi Indians, together with such other Indians as the Secretary might settle thereon. Although their rights were not exclusive, the Hopi Indians were thus given the right to use and occupancy throughout the 1882 reservation. This right, as previously indicated, is the usual Indian title to land. An order forbidding the Hopi Indians from using and occupying a portion of the 1882 reservation would be an alienation of their property right in that portion of the reservation." (*Underlining supplied by W. R. Centerwall) No Citation of authority is necessary for the fundamental statement that the Secretary of the Interior is not privileged to alienate Indian lands without authorization from Congress, whether the alienation is to other Indians or to non-Indians. The privilege placed in the Secretary

of the Interior at the time of the creation of the 1882 reservation to settle other Indians within the reserve, permitted him to allow non-Hopis (p. 9) within the reservation. The privilege does not extend to the exclusion from the reservation of the Hopis themselves."

Quoting from the Solicitor's memorandum of February 12, 1941, page 5, caption 3 "Hopi Constitution":

"At least three provisions of the Hopi constitution bar action by the Department to limit the use and occupancy of the Hopi Indians to the proposed Hopi Unit without the assent of the Hopis. Article I, defining the jurisdiction of the Hopi Tribe, provides that the authority of the tribe shall cover the Hopi villages, and such land as shall be determined by the Hopi Tribal Council in agreement with the United States Government and the Navajo Tribe. This provision was intended to provide and clearly does provide for the defining of a boundary to the land of the Hopis by agreement of all parties concerned. Article VI, section (c) embodies the provision in section 16 of the Indian Reorganization Act that organized tribes may prevent the disposition of their property without their consent. Article VII places in the Hopi Tribal Council supervision of farming and grazing upon the lands beyond the traditional clan and village holdings."

It is evident that any proposed land use plan should have the approval of the Hopi Tribal Council. This apparently was not done when Unit 6 was created.

Section 4, Article VII of the Hopi Constitution & Bylaws specifically sets out that "the administration of this article (VII) shall be subject to the provisions of section 6 of the Act of June 18, 1934."

Act of June 18, 1934, Sec. 6

"The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range and like purposes." (p. 10)

RACHFORD REPORT

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During the latter part of 1939 and the months of January and February 1940, Mr. C. E. Rachford of the Department of Agriculture, United States Forest Service, conducted an investigation on the Hopi Reservation for the purpose of determining a boundary for Land Management Unit 6 that would be acceptable to both Navajos and Hopis. Meetings were held with the Hopi Indians at the various villages as listed below:

Second Mesa	Nov. 29, 1939
Polacca	Dec. 4, 1939
Jeddito	Dec. 7, 1939
Shonto Springs	Dec. 9, 1939
Oraibi	Dec. 12, 1939
Moencopi (Upper Village)	Feb. 2, 1940

At the meetings conducted by Mr. Rachford, all Indians were given an opportunity to tell their stories, enter complaints if they had any, and state existing conditions pertaining to themselves as brought about by the establishment of Land Management District 6, commonly called "The Hopi Unit." After gathering such testimony as was given at the various meetings and making the necessary field checks, Mr. Rachford submitted the following recommendations:

Recommended Boundary Changes
for the Proposed Hopi Segregation

"Beginning at the Hotevilla-Tuba City Highway bridge across the Dennebito Wash; thence $16\frac{1}{2}$ miles downstream along the Dennebito Wash to a point 2 miles west from windmill 6-k-300; thence southeast $1\frac{1}{2}$ miles to the point of mesa 1 mile southwest of windmill 6-k-300; thence 1 mile northeast to windmill 6-k-300; thence southeast $4\frac{1}{2}$ miles to the southern point of "blue point"; thence in a straight line 4 miles to (p. 11) "Blue Lake"; thence from "Blue Lakes" on a straight line $2\frac{1}{4}$ miles to the southern trip of ridge $1\frac{1}{4}$ miles south of Shonto Springs; thence following a meander line along the southeastern scarp of mesa paralleling the Oraibi Wash to a point of mesa opposite Shonto Springs; thence in a straight line, splitting Shonto Springs, $2\frac{1}{4}$ miles across the Oraibi Wash, between the two points of the mesas opposite Shonto Springs

and following the southern scarp of the mesa between the Oraibi and Polacca Washes; thence southeast 1 mile; thence south $1\frac{1}{2}$ miles to tank 5N-65; thence east $1\frac{1}{4}$ miles; thence $2\frac{1}{4}$ miles southeasterly to west tip of the 'hook' of Tovar mesa and continuing in a meander line along the north scarp of the 'hook' to the head of the canyon to which the 'hook' joins; thence southeast 2 miles in a straight line to the opposite side of Tovar mesa (mesa scarp adjacent to the Jeddito Wash); thence following the Jeddito Wash scarp of Tovar Mesa to tank M-21; thence continuing in an easterly direction, so as to include the farms used by Hopis adjacent to tank M-21 within this boundary, to the Jeddito Wash; thence continuing up the Jeddito Wash to a point 5 miles north and east of 'Giant Chair'; thence in a northeasterly direction, splitting windmill and well at a point where the line leaves the Jeddito Wash, to a point of mesa east of spring M-16; thence along mesa rim to Jeddito Wash side of Antelope Mesa to a point in scarp opposite the head of Talahogan Canyon; thence northwesterly $8\frac{1}{4}$ miles in a straight line to the point where the Keams Canyon 'old' road leaves Keams Canyon; thence northeasterly in almost a straight line across the mesa for a distance of $5\frac{1}{2}$ miles to the head of canyon, which point is situated $1\frac{1}{2}$ miles south and east of artesian well M-81; thence along northern rim of this canyon to a point approximately $1\frac{1}{4}$ miles east of artesian well M-80; thence northwesterly in a straight line for a distance of 2 miles to a point of mesa opposite; thence by meander line northerly and westerly to well H-11; thence in a westerly direction by a meander line along ridge of hills west of well H-11 in approximately a straight line approximately $4\frac{1}{2}$ miles to well H-8; thence northerly 3 miles to the southeastern corner of the buck pasture; thence along southern portion of pasture fence; thence southwesterly $1\frac{7}{8}$ miles to well M-43; thence along mesa rim to the Natani Tsani Agreement area; thence from well M-64 the line follows the southern portion of rim of mesa and continues west to Dennebito Wash; thence $1\frac{1}{2}$ miles to point of beginning, all in accordance with map dated 7-1-40 to which reference is made."

The proposed modification in the boundary of District 6 as recommended in the Rachford report increased the acreage from 499,248 surface (p. 12) acres to 528,823 surface acres. The carrying capacity would also be increased from 17,863 sheep units year long to 19,518 sheep units, making a net gain of 29,575, surface acres in area and 1,655 sheep units in carrying capacity.

Under date of March 28, 1942, Resolution No. 12 was passed by the Hopi Tribal Council by a vote of 7 to 9, wherein the Rachford recommendations for boundary changes relative to District 6 were deemed not acceptable to the Hopi Tribal Council. This rejection automatically eliminated the Rachford proposed boundary changes in so far as the Hopi Indians and the Hopi Tribal Council are concerned.

The Executive Order Reservation has an acreage of 2,472,320. District 6 has an acreage of 499,248. The 1936 Navajo population within the Executive Order Reservation is estimated in round figures at 4,000. The 1936 Hopi population within the Executive Order Reservation is estimated at 3,000.

Population		Acreage		Acres per Cap.	
<u>Navajo</u>	<u>Hopi</u>	<u>Navajo</u>	<u>Hopi</u>	<u>Navajo</u>	<u>Hopi</u>
4,000	3,000	1,973,072	499,248	493.2	166.2

The above tabulation shows in effect that if the present District 6 area were put into effect for the exclusive use of the Hopis and the balance of the Executive Reservation were made available for exclusive Navajo use, the ratio of Navajo acreage to Hopi acreage would be approximately 3 to 1. In the event that the total acreage of the reservation (2,472,320) and the total population (7,000) are taken (p. 13) into consideration and an equal division of acres per capita made, each Indian, Navajo and Hopi would have the use of 353.2 acres, a little over twice the Hopi per capital allowance in District 6.

Hopi Livestock, 1936

Cattle	S. U.	Sheep	Goats	Horses	S. U.	Total S. U.
2,650	10,600	14,229	994	1,100	5,500	31,323

The carrying capacity of District 6 in 1936 was 17,863 sheep units. In the event that all Hopi livestock were confined to District 6 there would be an overstocking of 13,460 sheep units or 75%.

From livestock figures in sheep units owned and the carrying capacity of District 6, it is evident that in order to comply with good sound range management practices, practice conservation of resources and prevent erosion, 13,460 sheep units had to be grazed on some area other than on District 6. Therefore, it is assumed that the Hopi Indians were using grazing lands on the Executive Order Reservation outside the boundaries of Unit 6 at the time Unit 6 was created. Such being the case the Hopis have undoubtedly established prior use rights on lands that are now being used by the Navajos. In a like manner, Navajo Indians have established use rights on grazing areas within the Executive Order Reservation boundary and must be given credit for same. Prior use rights both Hopi and Navajo must be considered in any unit boundary determination.

Hopi Livestock, 1941

Cattle	S. U.	Sheep	Goats	Mules-Burros- Horses	S. U.	Total S.U.
2,065	10,325	13,500	900	1,400	7,000	21,725

(p. 14)

Latest information shows that the Hopi Indians own 31,725 sheep units of livestock, which number is 13,862 sheep units in excess of the estimated carrying capacity of Unit 6. Therefore it becomes necessary that grazing areas outside the boundaries of Unit 6 be furnished for the excess number of sheep units owned by the Hopi Indians over and above the carrying capacity of Unit 6.

Under the present arrangement Hopi Indians desiring to graze their

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livestock outside the Unit 6 boundary are required to obtain grazing permits from the Navajo Service. However good the intention of the arrangement, it has not worked out satisfactorily from the Hopi point of view. Permits have been requested and refused, leaving the Hopi in a further state of quandary. The Hopi cannot understand why he should be required to go to the Navajo Service for a grazing permit on his own land when he has a superintendent of Keams Canyon to administer his affairs. The existing division of administrative authority is confusing in so far as the Indians are concerned, and they request that this matter be definitely decided for all time. "Let the Hopi superintendent administer the Hopis and the Navajo superintendent administer the Navajos." At least, definite areas for administration by each agency should be determined.

PROCEDURE

In accordance with instructions contained in Office letter of April 18, 1942, the writer proceeded to the Hopi jurisdiction, arriving at Keams Canyon, Arizona, April 24, 1942. Contact with Superintendent Wilson was made immediately upon arrival. It was learned (p. 15) that Superintendent Wilson was leaving on April 27, 1942, and as a result the greater portion of the intervening time was spent in the discussion of pertinent factors closely related to the problem. Superintendent Wilson made available all files, letters and reports relative to Land Management District 6 and advanced many good suggestions which will be of immense value in the final summation and analysis of fact findings. Local personnel familiar with existing conditions participated in the meetings, called and presided over by Superintendent Wilson.

Byron P. Adams, Chairman of the Hopi Tribal Council, was interviewed and a thorough explanation relative to the purpose of the boundary study was given him. Mr. Adams volunteered his help in any capacity desired in completing the study.

Acting Superintendent Hoffman of the Navajo Service at Window Rock was interviewed over the telephone and an appointment made for May 4, 1942, at Window Rock with interested Navajo personnel. The writer met with the Navajo personnel on the above stipulated date (May 4 and 5, 1942).

It was generally agreed to by the Hopi personnel and concurred in by the Navajo personnel "that in order to arrive at and set up a temporary land use unit boundary which will be acceptable to and recognized by both the Navajos and Hopis extensive field work will have to be done." Every livestock owner, both Navajo and Hopi, ranging livestock or using range in the immediate proximity of District 6 (p. 16) boundary will necessarily be interviewed for the express purpose of determining prior grazing use rights that might be claimed by the range user. It was also agreed that all prior use rights should be established as of the date when District 6 was established. Other pertinent factors as well as prior use must be given their due weight and consideration in the final summation of facts.

Mr. Hoffman, Acting Superintendent of the Navajo, agreed that Mr. Lyle Young, Range Supervisor, Navajo Service, should participate in field examinations in so far as possible and that the District Supervisors of districts bordering District 6 would be made available when examinations were being conducted within the boundaries of the districts to which they

were assigned. All maps and information pertaining to the problem were made available for use by the Navajo Service.

In order to promulgate a satisfactory range program for either Hopi or Navajo it becomes necessary that the following facts be determined:

1. Area to work with.
2. Number in carrying capacity sheep units of area.
3. Number of livestock, sheep units grazing on area.
4. Vested administrative authority.
5. Prior use right status of areas within the area (both Navajo and Hopi).

It is the desire of the Hopi personnel to work out and put into effect a range management program that will better the livestock and existing range conditions, as well as increase the economic income of (p. 17) the Hopi livestock operators. This program, under existing conditions, is an impossibility. One must have a basis from which to start and know what he has to work with before he can go ahead with any comprehensive plan; hence the necessity of determining and agreeing upon a working unit that can be administered as a unit. Data required for the perfection of a working plan can be acquired after the area is set aside as an administrative unit. Until that time there is little incentive on the part of the Hopi personnel to go ahead with future planning.

In determining a boundary for a Hopi Land Management Unit the following must be clearly understood by all parties concerned:

1. The setting aside of a land management unit for the Hopi Indians does not create a reservation boundary, since the Hopis would remain entitled to all beneficial use, including the right to any proceeds within the remainder of the 1882 Executive Order Reservation.
2. The setting aside of an acceptable Hopi Land Management Unit would be to the practical advantage of the Hopis, both from an administrative and a land management basis.

3. The approval by the Hopi Tribal Council of any proposed changes in the boundary of District 6 will be in no way affect the rights of the Hopi Indians under Article I of their Constitution.
4. Full recognition shall be given to Navajo Indians who have established use rights anywhere within land Management Unit 6.
5. All occupants of the 1882 reservation outside Land (p. 18) Management Unit 6 boundary shall be under the administration of the Navajo Service.
6. All occupants of the 1882 reservation outside Land (p. 18) Management Unit 6 boundary shall be under the administration of the Navajo Service.
7. A definite division of administrative authority is desirable between the Hopi and Navajo Services.
8. In accordance with Forestry regulations, the right to secure fuel wood anywhere on the 1882 Reservation is reserved by the Hopis. (p. 19).

Recommended Boundary Changes
for the Proposed Hopi Working Unit No. 6

Beginning at a point where Lat. $36^{\circ} 00'$ crosses the Bennebito Wash; thence west $8\frac{1}{2}$ miles to the quarter corner common to Secs. 16 and 21, Twp. 30 N., R. 14 E.; thence south 5 miles to the quarter corner common to Secs. 9 and 16, Twp. 29 N., R. 14 E.; thence in a southeasterly direction $4\frac{1}{4}$ miles to the section corner common to Secs. 33 and 34, Twp. 29 N., R. 14 E., at which point the Dennebito Wash crosses the Twp. line; thence down the Dennebito Wash $8\frac{1}{4}$ miles to a point where the Dennebito crosses the Twp. line between Secs. 3 and 34; thence in a southeasterly direction 28 miles to the Sec. corners common to Secs. 26 and 31, Twp. 25 N., Rs. 16 and 17 E.; thence follow the Jeddito Wash in a northeasterly direction $22\frac{1}{2}$ miles to the point where the Jeddito intersects $110^{\circ} 15'$; thence in a northeasterly direction 15 miles to Bingham Lake in Sec. 33, Twp. 29 N.,

R. 21 E.; thence northwest in a straight line $11\frac{1}{2}$ miles to the south central portion of Sec. 25, Twp. 30 N., R. 19 E., thence by meander line northerly and westerly to well H-11; thence in a westerly direction by a meander line along ridge of hills west of well H-11, and in approximately a straight line $4\frac{1}{2}$ miles to well H-8; thence northerly 3 miles to the southeastern corner of the buck pasture; thence along southern portion of pasture fence $5\frac{1}{4}$ miles to the southwest corner of buck pasture at the section corner common to 15, 16, 21 and 22, Twp. 30 N., R. 18 E.; thence northwest in a straight line $5\frac{1}{2}$ miles to Hardrock Diversion (p. 20) Dam; thence southwest in a straight line 7 miles to the SW $\frac{1}{4}$ of Sec. 18, Twp. 30 N., R. 17 E. where escarpment passes through SW $\frac{1}{4}$ Sec. 18; thence SW 2 miles to Sec. corner common to Secs. 13, 14, 23 and 24, Twp. 30 N., R. 16 E.; thence straight west 6 miles to point of beginning, all in accordance with map dated 7-1-40 ^{east} to which reference is made.

The proposed boundary change, as outlined above, would add an additional 142,549 surface acres to the original acreage of District 6 and 112,974 surface acres to the boundary change as set up by the Rachford report in 1940.

The additional 142,549 surface acres involves 16,942 forage acres with a carrying capacity of 6,777 sheep units yearlong, using a ratio of $2\frac{1}{2}$ forage acres for one sheep unit, or 10 forage acres per C. A. U.

The additional carrying capacity of 6,777 sheep units yearlong added to the original carrying capacity would give a total C.C. of 24,640 sheep units yearlong for the proposed working unit, or 5,122 sheep units yearlong greater carrying capacity than the Rachford proposed boundary change. The working unit as now proposed would include 641,797 surface acres with

a carrying capacity of 24,640 sheep yearlong.

Proposed Unit 6

Surface Acres	Forage Acres	C. C. Sheep Units
641,797	61,600	24,640

The above compilation indicates a requirement of 26 surface acres per sheep unit. (p. 21)

It is believe that with proper management and livestock movement, all of which is dependent upon the final determination of an acceptable working unit, the carrying capacity of the unit can be materially increased and eventually equal the stocking of the unit. This is a matter that can be considered when circumstances warrant. (p. 22)

Justification for
Proposed Boundary Changes, District No. 4

District 4 as set up by the Navajo Service is the most heavily stocked of all districts and the one district where conflicting grazing use between Hopis and Navajos has been most acute.

By following Lat. $26^{\circ} 00'$ due east from the point where $36^{\circ} 00'$ crosses Unit 4 boundary line to the section corner common to Secs. 13, 14, 23, 24, Twp. 30 N., R. 16 E., we would include in District 6 two small acres, one of 512 acres in Twp. 30 N., R. 15 E. and another of 998 acres in Twp. 30 N. R. 16 E. These two small acres, while not large, would be a valuable addition for the horse range used by Howard Talayemptewa and Tenakhongso in Twp. 30 N., R. 16 E. and to the sheep range of Joel Pocheoma and Geo. Nasiwesuma in Twp. 30 N., R. 16 E. This boundary change would set up a straight line east and west of $14\frac{1}{2}$ miles which fact is desirable in the

Bur. Ind. Affs. (R.G.75) No. 7754-7794

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event that the Unit is ever fenced and worked as a unit. Simplified management is a desirable element to be considered in any livestock project.

From a point within Sec. 18, Twp. 30 N., R. 17 E. where District 4 boundary line intersects the Mesa escarpment, run a line in a northeasterly direction to the Hardrock Diversion Dam in Sec. 30, Twp. 31 N., R. 18 E., thence in a southeasterly direction to the section corner common to Secs. 15, 16, 21 and 22, Twp. 30 N., R. 18 E. or the southwest corner of the buck pasture. This addition to District 6 would approximate 15,469 acres and include the Hardrock (p. 23) Diversion Project.

The area described above has been used in the past by Ten Hopis; namely, Cyrus Tungevia, Wallace Maha, Tom Silas, Silas Hopi, Herman Lewis, Curtis Lewis, Stephen Silas, Wadsworth Suta, and Mahe & Sons. It is also being used by the Natani Tsani group of Navajo Indians. These Navajos and Hopis apparently get along very well and could use the area in common, in so far as grazing is concerned.

Below the Hardrock Diversion Dam there are some good farm areas, lands that undoubtedly could be used to advantage by the Hopi Indians in the production of a hay crop for winter feeding of their bulls and bucks. An area below the Dam of approximately 20 acres on the east side of the Oraibi Wash is now planted to corn by the Navajo Service, for use in feeding stallions. Prior to this year no use has been made of the agricultural possibilities. The Hopis were afraid to operate any of the land due to the unsettled land and boundary status and the Navajos did not take advantage of their opportunity to cultivate the area. Now the Hopis state that in the event that the Hardrock Project is returned to them they want to make the best use possible of the area in furtherance of their livestock industry. According to reports, the Dennebito Project to the west of

Hardrock is a much better and more desirable project. This project has been turned over to Navajo users and it is therefore desirable that the Hardrock Project be turned back to the Hopis. According to all available information, the Hardrock Project was erected for Hopi use but misunderstandings threw it into (p. 24) a state of STATUS QUO, resulting in its non-use over the past several years. Undoubtedly the land below the Hardrock Dam will produce a good hay crop as the area in the rough supports a good stand of blue stem wheatgrass (*Agropyron Smithii*), and if the Hopis progress in their livestock enterprise they will need a place to produce supplemental feed. Hence the additional necessity for including this area for Hopi use.

From information obtained it appears that the Navajo Service entered into an agreement with the Natani Tsani group of Navajo Indians whereby said Navajo Indians were to have exclusive use rights to the grazing lands in the immediate vicinity of the Hardrock Diversion Dam Project and especially to those lands lying west of the Oraibi Wash. Hopi users of the area were not considered; neither was the Hopi Tribal Council consulted when this allotment of lands was made by the Navajo Service, thereby invalidating the entire land-giving procedure. While undoubtedly the Natani Tsani group should be recognized as prior range users along with the Hopi range users, no difficulty should be experienced in using the range area in common as was the practice before unit boundaries were established.

Relative to the agricultural possibilities below the Dam, the Hopi Indians should be given the opportunity to develop same, and for that reason the above described area should become a portion of District 6 and be administered in accordance thereto.

In accordance with the Navajo schedule for the Hardrock area, we find the following Navajos either using or having grazed livestock on the area:

Hardrock Area

<u>Census No.</u>	<u>Schedule No.</u>	<u>Name</u>	<u>Sheep</u>	<u>Cattle</u>	<u>Horses</u>
6324	101	Tachini White Hair	81	-	12
	100	Topolvac Bhiat	-	-	-
1824	99	Deceased	-	-	3
3415	301	*Black Mustache	91	-	15
3961	170	**Natani Tsani (Group)	835	6	6

Included in the Natani Tsani Group are:

3415	301	Black Mustache	}	Navajo Schedule
3777	169	Hesteen Lee		
6066	168	Jimmie Ki Yazzie		
3988	186	Willie Gory & Jessie James)		

In addition to above:

Oscar Yhani	}	Natani Tsani Statement
Hesteen Yazza		
Benay Elteel (Tsani)		

* Black Mustache cannot be considered as a prior user as he moved into the area since the creation of the proposed boundary unit.

**While the Navajo Schedule shows that the Natani Tsani group had 835 sheep, 6 cattle and 6 horses at the time the boundary was set up, all information points out that the Natani Tsani group does not own in excess of 500 sheep units at this time. This is a factor that has been determined in most cases where Navajo livestock operators were interviewed relative to their past and present holdings; namely, they do not own as many sheep now as they did in 1936 and 1937. Natani Tsani stated that in 1936 he had 400 head of sheep while now he has only 50 head, a decrease of 350. Natani Tsani stated that he and his Hopi neighbors "drank from the same bowl" and got along very nicely with one another.

From past activities (agricultural) dating back to the time of the erection of the Hardrock Diversion Dam, it is apparent that the Navajo Indians had no intention of utilizing the land below the dam other than for grazing purposes. The Hopis wish to make better use of this are (p. 26)

and should be given an opportunity to do so. Supplemental feeding of livestock can materially help a range that is overstocked and consequently overgrazed. The rumor that through a verbal agreement the Hopi Officials agreed to give the project to the Navajos should be disregarded as there is nothing of a sound nature in the files to substantiate this rumor.

District No. 4
Pollaca Wash

The proposed change in the boundary up the Pollaca Wash should not cause any undue hardship on the Navajo users of that area. In fact the area contemplated for addition to District 6 is used more by Hopi livestock operators than it is by the Navajos.

Navajos who might be affected in the Pollaca Wash area are:

Schedule No.	Name	Sheep	Cows	Horses
254	Klizilani (Many Goats)	69	5	6
250	Denet Lakai Begay	67	-	10
316	Sam Nez (Mays)	204	3	9

Of these three Sam Nez (Mays) does practically all of his grazing to the south and east of well M-70 so would not be affected by the proposed boundary change. Klizilani and Denet Lakai Begay graze their sheep in the immediate vicinity of the proposed boundary line, watering their livestock for the most part at well M-70.

Hopis of the Pollaca Wash area are both cattle and sheep men. The main livestock owners are Willie Avatshaya, Taylor Tahbo, Olson Tahbo, Hale Adams, Walter Seeyouma, Ami & Sons and Manakasya & Sons. These (p. 27) Hopi livestock operators, prior to the creation of the Unit boundary, grazed their livestock up the Pollaca Wash as far as Lone Mountain, watering in well M-70 and tanks erected for temporary watering purposes.

Since the creation of the District 6 boundary these Hopis have been forced to herd their livestock below the boundary line and water in well W-4. This has been a great disappointment to these Hopis, many of whom donated time and labor for the digging of artesian wells M-70 and W-4.

By running the line directly from Bingham Lake in a straight line to the vicinity of Cat Springs (see map), Well M-70 is left in District 4, the line going approximately 1 mile down the wash from the well. The Navajos would still be in District 4 with the privilege of watering in well M-70. Hopi cattle would have the opportunity of grazing approximately $2\frac{1}{2}$ miles farther up Pollaca Wash and to the northwest and southeast of the Wash. This arrangement would eliminate the heavy concentration of Hopi livestock, both sheep and cattle, found near well W-4. Temporary water to the northwest of well M-70 and to the southeast of M-70 would afford the Hopis an opportunity to make seasonal use of the area. The Hopi livestock operators in Pollaca Wash have been crowded for range and this addition should alleviate the situation to a great extent.

Boundary Changes District No. 3

The area of 21,651 acres proposed to be taken from District 3 and added to District 6 lies directly across the Dennebito Wash from the (p. 28) Hotevilla area (see map).

This area is one that has been used for many years by the Hopis; namely, Frank Kogesva, Frank Atshivisema, Lester Quanemptewa, Aquilla Sekayumptewa & Son, Nelson Kursnoiva, Frank Sumi, Joel Pocheema, and George Nasiwesuma, a total of 8 Hopi range users. As shown on the Navajo Service Schedule for District 3 there are only three Navajo permanent users and one part-time user; namely, schedules 1, 20, 21 and 22.

By starting the boundary change at the point where the Dennebito Wash

intersects the section corner common to Secs. 33 and 34, Twp. 29 N., R. 14 E., and running on a straight line northwest to the southeast point of Howell Mesa or to the south $\frac{1}{4}$ corner of Section 9, Twp. 29 N., R. 14 E., permanent water M-183 would be included within District 6. This fact would not create a hardship for Navajo users of District 3 as they have permanent water in Sections 24 and 33, Twp. 29 N., R. 14 E., a distance to travel which is not prohibitive from the proposed District 6 line. The straight line north from the south $\frac{1}{4}$ corner in Sec. 9 practically parallels the north-south line of Howell Mesa and this Mesa could be used as a temporary boundary until such time as the necessary fencing is completed. This line would run due north for a distance of 5 miles to a point where it intercepts Lat. $36^{\circ} 00'$, bisecting Secs. 21, 28 and 33, Twp. 30 N., R. 14 E., and Secs. 4 and 9, Twp. 29 N., R. 14 E. From the point in Sec. 17 where Lat. $36^{\circ} 00'$ is intercepted, run straight east to the point where District 4 line intercepts $36^{\circ} 00'$, a (p. 29) distance of $6\frac{1}{2}$ miles. In the event that the entire line were to be fenced, which appears to be a future necessity, it would require approximately 15 miles of fencing. The possibility of making use of portions of Howell Mesa breaks might lessen the required amount of fencing considerably. This can be determined when the field work survey is made.

Several Hopi farms are located on the west side of Dennebito Wash. In the event that cattle are grazed in the area the Hopis will have to fence their farms; if the area is used for the grazing of sheep, this fencing will not be necessary. This is a matter that can be determined when a range management plan is put into effect.

Navajos affected by this boundary change are:

<u>Census No.</u>	<u>Schedule No.</u>	<u>Name</u>	<u>Sheep</u>	<u>Cattle</u>	<u>Horses</u>
3041		Tom Shortie			
3828	20	Sam Charlie	120	-	15
3936		Floyd Yazzie			
	21	Black Whiskers	-	-	-
3049		Jacob Bedani			
2840	22	Lee Begay	55	-	12
71866		Charlie Gamble			
3025		Tseh Gehni Sani			
4571	*1	Natani	498	6	20
2848		Francis Williams			

* Schedule No. 1 is one of the largest livestock operators in this part of the country; however, he does not use the area in question for any length of time, ranging farther to the west on Howell Mesa and toward Tuba City. He has one winter camp in the area and, from all information obtainable, cooperates with Hopi range users.

Provided that all Navajo users grazed their entire listed number of (p. 30) livestock yearlong on the area, there would be a total of only 908 sheep units of Navajo livestock on the 21,651 acres of grazing land. Due to the fact that only part time use is made of the area the number of sheep units would be materially reduced, leaving a larger surplus available for Hopi use.

According to information obtained, Schedule No. 1 has more than sufficient range for his livestock farther to the west. In that event it would probably be advisable to exclude Schedule No. 1 from the proposed addition, in which case Navajo stocking in the area would be 310 sheep units. This is a matter that could be settled after the boundary line is determined.

Navajo
District 7 Schedules and Locations

C - Head of Tallahogan Canyon
 D - East of 110° 15' and above line to Bingham Lake
 G - West of 110° 15' on Jeddito
 H - Lower Jeddito

<u>Census No.</u>	<u>Schedule No.</u>	<u>Name</u>	<u>Sheep</u>	<u>Cows</u>	<u>Horses</u>
363	C-1	James Silago Biye	109	-	15
1122	C-2	Guy Multin	72	-	13
104	C-3	John Ben	21	-	-
1109	C-4	John Phillips	30	-	8
	C-5	Mike Duffy	45	-	8
	C-6	David George	-	-	-
	C-7	Joe Red Horses	-	-	-
	C-8	Charlie Smith	-	-	1
505	C-9	Clay Yazzie	48	-	3
609	C-10	Katherin Michael	-	-	-
557	C-11	Hosteen Benali	25	-	3
629	C-12	Tom James	41	4	10
1161	C-13	Gilbert Nelson	17	-	4
27	C-14	Edchee Cowboy	-	-	2
(p. 31)					
144	D-8	Hosteen Yellowhair	62	-	16
288	D-9	Kee Frank	38	-	10
3390	D-10	Hoholhahi Binoli	23	-	9
120	D-17	Hosteen Jimmie	102	-	8
155	D-18	Mrs. Frank Jim	24	-	8
241	D-20	Hosteen Todikozh Bedoni	19	-	7
1663	G-17	Guy White	31	-	4
16737	G-18	Charlie Kelly	41	-	7
1495	G-19	Hosteen Vesh	-	1	6
211	G-20	Benjamin James	9	-	3
1539	G-21	Klatsoso	45	-	9
1552	G-22	Dineh Gohni Besdza	36	-	18
14614	G-23	Tsihekaii Biye	6	2	14
14752	H-3	Tse Ghinbiinii	77	1	11
1438	H-8	Sam Big Gambler	73	-	7
1420	H-9	Slim Big Man	61	1	7
TOTALS			955	9	211

A summation of the above shows that in accordance with listed schedules in District 7 the Navajos own 955 sheep, 9 cattle and 211 horses. However, it is believed that since the time when the above schedules were

made out the Navajos have reduced their livestock holdings to a considerable extent.

For example: The schedule shows Guy White as owning 31 sheep and 4 horses. When interviewed, Guy White claimed ownership to 8 sheep and 4 horses. Guy Multin on the schedule is shown as owning 72 sheep and 13 horses but when interviewed his entire holdings were 20 sheep and 4 horses. In a like manner John Phillips is shown as owning 30 sheep and 8 horses. Phillips works as a coal miner and does not own any livestock. As a general thing most every Navajo interviewed claimed that he now owns a much smaller number of livestock (p. 32) than he did in 1937. The Navajo reduction program has brought about results, and a conservative estimate would not exceed 75% of the number of head owned as shown on the schedule. Eleven hundred sheep units owned by Navajos in that portion of District 7 which is under consideration for addition to District 6 would be a very generous and fair estimate.

Navajo Residents in District 7
within Limits of Proposed Boundary Change
(Information from Navajo Service)

<u>Schedule No.</u>	<u>Name</u>	<u>No. People</u>	<u>Permit</u>	<u>Sheep Units</u>
1	• Tom Smoke	6	2407	38
2	• Wallace Sam Chee	8	2419	35
3	• Henry Zah	4	2407	20
4	• Hosteen Yellowhair	3	2249	82
5	• Morgan Sabidagi	5	2358	50
6	• Gilbert Nelson	4	2410	37
7	• Hosteen Kennie Widow	6	Pending	19
8	• James Salow Begay and Jr.	7	Pending	147
9	• Johnnie Ben	9	Pending	36
10	• Ed Claw	4	Pending	20
11	• Scott Yazzie	6	Pending	34
12	• Mike Duffy	10	Pending	52
13	• Johnnie Phillips	5	Pending	33

14	Guy Martin	6	Pending	39	
15	Miahdisgizzie Eltsossie	7	2355	51	Not filled
14	John Billie Ah Hosteen	5	2376	29	" "
14	Arley Ah Hosteen	6	2402	13	" "
16	Hosteen Gonnie	4	2365	48	" "
17	Hosteen Jimmie	7	2127	143	" "
22	Shorty Yazzie	4	2336	15	" "
23	Dewozzie	8	2469	25	" "
24	Deno Ko Widow	7	2194	106	" "
14	Tom Ben	6	Pending		No sheep
15	Na Kai Chee	<u>4</u>	2490	<u>15</u>	
Totals		141		1087	

(p. 33)

The above data was compiled by the Navajo stockman in District 7. It is noticeable that he shows a total of 1,087 sheep units owned by Navajos in the area under consideration for addition to District 6. This compares favorably with information obtained as compared to schedules.

Hopi Graziers in District 7
 1936 - 1942

Byron P. Adams	Preston Nakala
Sequi	Neal Naha
Charlie Naha	Vinton Naha
Emerson Namingha	Allen Hunter
Tom Povatea	Bennet Coeka
Frank Carl	Enoch Keatha
George Five House	Bert Bevaha
Justin Sanderson	Archie Naha
Jacob Cochise	Hale Secakuku
Ned Lomayestewa	Melvin Dashee
Jacob Dashee	Mahpi
Bob Adams	Donald Mahkewa
Timothy Sulo	Sidney Sulo
L. Lomevega	Dennis N.
Lonie Dashee	Albert Yava

The above listed Hopi livestock operators either are now grazing livestock on District 7 or have in the past grazed their livestock on District 7, thereby establishing prior use rights on the area. Both cattle and sheep are utilizing the area and to date the count is not sufficiently accurate to be used. The Hopis, especially along the Jeddito Wash, confine

their livestock operations more to the raising of cattle than to sheep. Before the next calendar year an accurate livestock count will have been obtained. (p. 34)

Boundary Changes
District 7

District 7, as set up by the Navajo Service, is one of the most lightly stocked districts within the Executive Order. Conflicting grazing use rights between Navajos and Hopis has been a source of trouble for many years, and when the original District 6 boundary was established along the line of hills to the north of the Jeddite Wash it did not settle the matter of conflicting rights. To the contrary, it aggravated an already sore spot.

From time immemorial, Hopi and Navajo livestock operators have used the Jeddite as a watering place for their sheep and cattle. Water has been the cause of many bitter range wars in the Southwest. The Hopis and Navajos have not engaged in a range war but, as could be expected, the Hopis resented being put on top of the hills away from their established range use rights.

The Jeddite Wash is a natural in so far as a boundary line between Districts 6 and 7 is concerned. Fencing would be practically eliminated, the Wash would constitute a prominent boundary line marker - one that could not be questioned as to location - and at the same time would serve a dual use purpose, District 7 using it from one side and District 6 from the other. Hopi farms, for the most part, are north of the Jeddite and Navajo farms are to the south.

By using the Jeddite as a boundary and leaving it at $110^{\circ} 15'$, thence running on a straight line to Bingham Lake, the Jeddite Trading (p. 35)

Post, dipping vat, and the surrounding Navajo settlement would remain in District 7. This line is believed to be desirable due to the fact that if one were to continue up the Jeddito to include the Trading Post the addition would include more sheep units than the added range would carry, thereby aggravating an already overloaded grazing condition.

The addition to the east and northeast of Keams Canyon as far as Bingham Lake would not deprive either Hopi or Navajo of what they are now using. This area is used in common and the Hopis recognize the Navajo users as having established rights. The original line, coming practically to the backdoor of Keams Canyon Agency, was not desirable. Bingham Lake has long been used in common by the Hopis and Navajos; hence the necessity of retaining the status. It is not believed that "splitting water" is a good thing, as a general rule, but in this case it can hardly be avoided.

The Navajo Schedule for the proposed added area shows a total of 30 Navajo families, owning 955 sheep, 9 cattle and 211 horses. This schedule was made up in 1937 and in all probability does not give the true picture existing at this time. The latest information obtained shows that there are 24 Navajo families that would be involved, with a total ownership of 1087 sheep units. This latter figure is undoubtedly a truer picture of what exists at this time.

There are 30 Hopi livestock operators now using, or who have in the past used the area under discussion and have established grazing (p. 36) use rights. The total number of Hopi livestock involved is not obtainable as the range is only used for portions of the grazing season.

Navajos Found in District 5 Area

<u>Name</u>	<u>Sheep Units</u>
Betsie Goodie	180
*** Dan Yellowhair	70

Knox Worker	300
*** Tohohomy Iske	120
Floyd Williams	210
Bena Ten Begay	80
Chissi Nez Bitsi	200
Hosteen Yazza	270
* Mark Spencer	50
Haskan Deal	80
TOTAL	<u>1560</u>

District 6, Adjacent to District 5

** Hosteen Dehahe	60
Lester Benaie	57
Charlie Aleott	<u>145</u>
TOTAL	262

- * Mark Spencer has no established rights in District 5
- ** Hosteen Dehahe does not have established rights; is a wanderer
- *** Dan Yellow hair has no prior rights, having moved in with Haskan Deal.
- **** No prior use rights. Moved into area in February 1942.

Of the 1560 sheep units shown in District 5 within the limits of the proposed boundary change, it is safe to state that no over 1,000 sheep units yearlong are carried on the area. Most of these Navajos are only on the area during the summer months, moving to the vicinity of Red Lake or Sand Springs for winter grazing.

Dan Yellowhair, Tohohony Iske and Mark Spencer cannot be (p. 37) considered as having prior use rights in the area under consideration, thereby lessening the total number of sheep units to 1320. The other 7 Navajo users can be considered as having prior use rights in common with Hopi right users.

The question arises as to whether or not a Navajo who has two semi-permanent homes, one of which he uses in the summer and one in the winter in order that he might utilize both summer and winter ranges, should be

considered as a permanent resident of one or both localities. In the case where a Navajo has a summer grazing camp on the proposed additional area and a winter camp at Red Lake or Sand Springs, it appears that said Navajo will have to decide as to where he is going to reside permanently in order that he may be considered in only one district and his affairs administered in accordance thereto. One should not endeavor to force a man to live in any location other than where he desires.

In cases such as cited above where an individual has prior use grazing rights in one district and resides in another, it is believed that a system of issuing "on - off" seasonal free use grazing permits could be put into effect. This matter should be included in any grazing regulations put into effect covering the Hopi range conditions.

By running a straight line from the Jeddito to the Dennebito, as shown on the map, many advantages will be obtained, as listed below:

1. Simplify fencing by getting away from the sharp breaks and escarpments.
2. Set up a boundary easy to follow and observe.
3. Make room for overlapping in grazing use, as it now the case along the boundary. (p. 38)
4. Avoid splitting waters.
5. Definitely set out work areas for each Service.
6. Simplify livestock management and movement.
7. Eliminate friction between Hopi and Navajo livestock operators.
8. Eliminate split administration.

Hopi Prior Use Right Users - District 5

Lyle Quamanewa
Clarence Beeson
Manco McClean
Chester Dennis
John Nuwakuku
Joe Dongva
Lewis Tweanema
Ralph Puhuyesva
Alfred Puhuyesva
Fred Lomayesva
Sanky Lomayesva

Moody Lemayesva
Roger Quochytewa
Ross Macaya
Gilbert Tovaguop Tewa
Dan Quomahogioma
Benjamin Wytewa
Orin Poley
Joe Wyty
Jacob Coin
Willie Coin
Fielding Nehoitewa

The 22 listed Hopi livestock owners range their cattle and sheep along the new existent boundary of Districts 5 and 6. All of them claim grazing rights across the boundary in District 5 and are using grazing lands in District 5 as well as 6. This overlapping of grazing use will be eliminated when a permanent boundary is established. (p. 39)

Summary

	Original Dist 6	Rachford Dist 6	Proposed Dist. 6	Proposed Dist 6 Additions
Surface Acres	499,248	528,823	641,797	142,549
Forage Acres	44,657	48,785	61,600	16,942
C.C. in sheep units	17,863	19,518	24,640	6,777

The above carrying capacities are based on 2½ forage acres per sheep unit yearlong.

Indians Involved in Boundary Change

District No.	Navajos	Sheep Units	Hopis
3	4	310	8
4	13	835	24
7	24	1087	30
5	10	1320	22
Totals	51	3552	84

The above compilation of 3552 Navajo sheep units on the proposed additional area is giving the Navajo credit for everything on a yearlong basis. It is a known fact that most of the Navajo sheep are only on the ranges in question during a portion of the year. The Navajo sheep owner follows the grass and to the best of his ability obtains seasonal use. In a final analysis one would be safe in saying that out of the total number 3553, only 2000 sheep units of forage are consumed in any one year. This statement is made as a result of many interviews with Navajo sheep owners

on the range.

A tremendous amount of field work was done in an effort to contact those Indians who might be affected by a boundary change, with special effort being made to contact Navajo graziers adjacent to the (p. 40) existing District 6 boundary. Miles were traveled in search of Navajos listed on the Navajo Service Schedule, only to find upon arrival at the location that hogan or hogans were abandoned and showed no signs of having been occupied in recent years. This fact above all others accounts for the difference in the numbers of families found on the areas and the number of families listed as per the schedule. The total of 51 Navajo families listed in all probability includes some that are not entitled to consideration and omits some that are deserving. Over all a good cross-section was obtained and that was about all that could be expected.

Necessarily disregarding traditional and legal aspects, and basing final decision on the necessity for action in order that the Hopi Indians and personnel can proceed along a sound basis in their livestock enterprise, it becomes imperative that boundary determinations become effective in the immediate future. It is impossible to satisfy all the people all of the time, and in cases of this kind where benefits are obtained for the majority, decisions should be made in accordance thereto.

It is respectfully recommended that consideration from every angle be given to the boundary changes as shown on the enclosed map, and if justification is appropriate, approval be given to same.

Submitted by:

Approved:

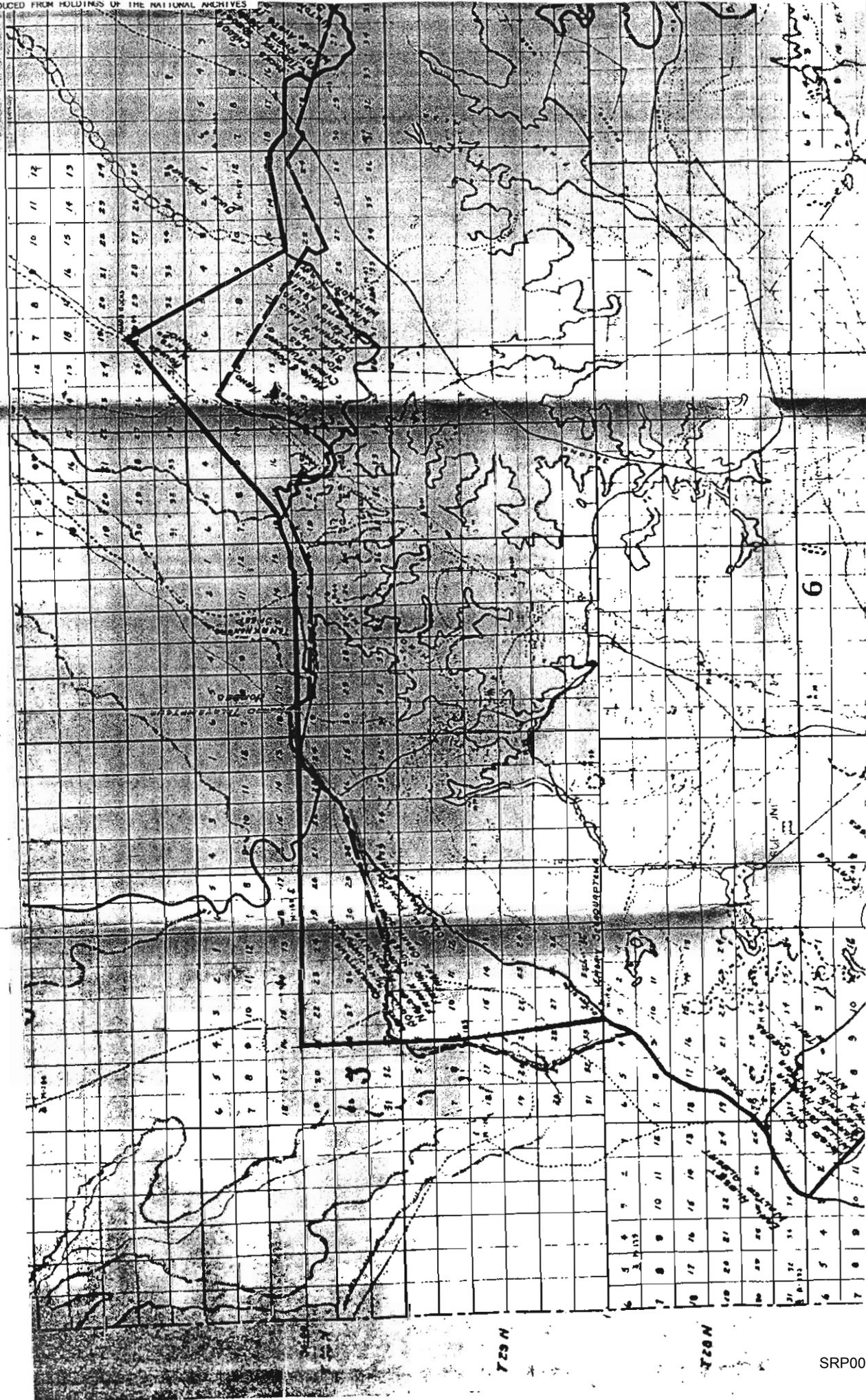
W. R. CENTERWALL
Associate Regional Forester

Byron P. Adams
Chairman, Hopi Tribal Council
Burton A. Ladd
Superintendent, Hopi Reservation

Superintendent, Navajo Reservation

Healing v Jones
Def. Ex. 454

Docket 229 (Navajo)
Plaintiff's Exhibit No. 722



6

729 N

729 N

