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INDIAN CLAIMS COMMISSION

Washington, D. C.

Sept. 19, 1961

THE NAVAJO TRIBE OF INDIANS,
et al,

Petitioners,

v.

THE UNITED STATES OF AMERICA,

Defendant,

Docket No. 229, 196,
91, 30,
48, 22-D,
227 and
266.

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INDIAN CLAIMS COMMISSION

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THE NAVAJO TRIBE OF INDIANS,
Petitioners,

vs.

Docket No. 229

THE UNITED STATES OF AMERICA,
Defendant.

----- X

THE HOPI TRIBE, ET AL,
Petitioner,

vs.

Docket No. 196

THE UNITED STATES OF AMERICA,
Defendant.

----- X

THE HAVASUPAI TRIBE OF THE
HAVASUPAI RESERVATION, ARIZONA,
Petitioner,

vs.

Docket No. 91

THE UNITED STATES OF AMERICA,
Defendant.

----- X

THE FORT SILL APACHE TRIBE OF
THE STATE OF OKLAHOMA, ET AL,
Petitioner,

vs.

Docket No. 30

THE UNITED STATES OF AMERICA,
Defendant.

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INDIAN CLAIMS COMMISSION

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 THE NAVAJO TRIBE OF INDIANS, :
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 Petitioners, :
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 vs. : Docket No. 229
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 THE UNITED STATES OF AMERICA, :
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 THE HOPI TRIBE, ET AL, :
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 THE FORT SILL APACHE TRIBE OF :
 THE STATE OF OKLAHOMA, ET AL, :
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 Petitioner, :
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 vs. : Docket No. 30
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 THE UNITED STATES OF AMERICA, :
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 Defendant. :
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THE CHIRICAHUA AND WARM SPRINGS
TRIBES OF APACHE INDIANS,
Petitioners,

vs.

Docket No. 48

THE UNITED STATES OF AMERICA,
Defendant.

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THE SAN CARLOS APACHE TRIBE OF
ARIZONA, ET AL,
Petitioners,

vs.

Docket No. 22-D

THE UNITED STATES OF AMERICA,
Defendant.

----- X
THE PUEBLO OF LAGUNA, ET AL,
Petitioners,

vs.

Docket No. 227

THE UNITED STATES OF AMERICA,
Defendant.

----- X
PUEBLO DE ACOMA,
Claimant,

vs.

Docket No. 266

THE UNITED STATES OF AMERICA,
Defendant.

----- X

Washington, D. C.

Tuesday, September 19, 1961

The Commission met, pursuant to recess, in Room 4137, General Accounting Office Building, 441 G Street, Northwest, Washington, D. C., at 10:10 a.m., Tuesday, September 19, 1961, Chief Commissioner Watkins presiding.

PRESENT:

ARTHUR V. WATKINS, Chief Commissioner.

T. HAROLD SCOTT, Associate Commissioner.

APPEARANCES:

On behalf of the petitioner in Docket No. 229:

Joseph F. McPherson, Esquire,
Window Rock, Arizona.

On behalf of the petitioners in Docket No. 196:

John S. Boyden, Esquire,
351 South State Street,
Salt Lake City, Utah.

On behalf of the petitioners in Docket Nos. 30,
48 and 22-D:

Cobb and Weisbrodt,
By David Cobb, Esquire,
1908 Q Street, Northwest,
Washington, D. C.

On behalf of the petitioners in Docket No. 227:

Jay H. Hoag, Esquire,
1028 Connecticut Avenue, Northwest,
Washington, D. C.

our claim, but outside of the present Navajo Reservation.

So, for the purposes of my cross examination, and for the purpose of my witnesses, too, I'm going to divide this into various areas of conflict, centered around the Executive Order Reservation.

Now, as the Court knows, we have already tried a lawsuit over the Executive Order Reservation, which is in the hands now of a three-judge court, in Healing versus Jones.

CHIEF COMMISSIONER WATKINS: You are talking of the Hopi --

MR. BOYDEN: The Hopi-Navajo case, Healing versus Jones.

CHIEF COMMISSIONER WATKINS: Which executive reservation are you talking about? Both of them?

MR. BOYDEN: That is the Executive Order Reservation of December 16th, 1882.

CHIEF COMMISSIONER WATKINS: For the Hopis?

MR. BOYDEN: For the Hopis.

Now, we have had a lawsuit over that and the results of that lawsuit will determine what I claim in this case. For example, if that should all be given to the Hopis, then I would just have a claim against the government for allowing the Navajos to use part of it during this time. If there's some divided decision that

*Healing
Jones*

*Jan 196
#196*

*Hopi
EX.
Order*

1882

in this case #196
5772

gives us part, why, then, we would claim the part the
government took away from us would be ours, and so forth.
So, my position in this case must follow the final
determination in the other lawsuit with respect to the
Executive Order Reservation.

Now, outside the Executive Order Reservation,
I have, just for convenience, divided it with the four
directions.

First of all, the west section -- I'm talking
about everything that is west of the Executive Order
Reservation, within our claim, which takes us to the
Colorado and the Little Colorado Rivers, in a sort of a
bow shape, forming the north, west and south boundaries
of that area.

Then south of the reservation -- I take every-
thing in our claim south of it --

CHIEF COMMISSIONER WATKINS: Is that cross-
hatched, the part you claim?

MR. BOYDEN: The part -- I have crosshatched
the west in red.

Then in the south everything that is south
of the reservation, except this little portion that is
west, I have crosshatched in lavender and called that the
south area.

Then I go to the north and I take everything

that's north of the reservation, except that that's west, and I have crosshatched that in yellow, and I have called that the north section.

CHIEF COMMISSIONER WATKINS: How far north does that run?

It's difficult --

MR. BOYDEN: That takes us up to the San Juan River, and then the east section -- we take only that that is directly east of the Executive Order Reservation, and I have crosshatched that in green, so that we can refer to those various areas without difficulty.

COMMISSIONER SCOTT: Mr. Boyden --

MR. BOYDEN: Now, those are the conflicting areas which -- either because of the government's claim for an offset or because of their claim for compensation we are in conflict with the Navajos in all those areas, including the Executive Order Reservation.

MR. ROCHOW: And your eastern conflict area goes as far as the Arizona-New Mexico state line, doesn't it?

MR. BOYDEN: It does. That's right.

Our testimony may not go that way. That was a convenient way to describe it, but our testimony will vary from that, on that side some.

COMMISSIONER SCOTT: And the only section involved in your petition which represents an overlap, SRP001483

outside of the present Navajo Reservation, is that portion in the south, on which you have sort of a cross --

MR. BOYDEN: No. That is not so. We claim all of these areas that I am talking about in our petition.

COMMISSIONER SCOTT: But those are in the Navajo Reservation, --

MR. BOYDEN: Yes.

COMMISSIONER SCOTT: -- The present Navajo Reservation, and my question is whether or not the only portion of your claim which is not within the Navajo Reservation or the Executive Order area is that below the heavy line and has a sort of a dip.

Am I right on that?

MR. BOYDEN: Yes. Yes.

I just didn't let your Honor finish. I'm sorry. I said too much.

COMMISSIONER SCOTT: Your claim, your conflict, then, as to an area which the Navajo looks to for, we might say, other than just status quo would be that section down in there.

MR. BOYDEN: That's right.

COMMISSIONER SCOTT: Yes.

MR. BOYDEN: South of the Navajo Reservation boundary and bounded on the west, south, by the Little Colorado River and the Zuni River and the New Mexico-

Arizona border on the west.

MR. ROCHOW: On the east.

MR. BOYDEN: On the east.

New Mexico-Arizona border on the east.

I believe that will lay the groundwork for what I have to say.

COMMISSIONER SCOTT: As we had our hearings in Farmington, New Mexico, I have made notations on my work map of any numbers that came within that general area and I am assuming, since this is cross examination of Mr. Correll, you won't be touching on that necessarily. Naturally you wouldn't be. It would have to be --

MR. BOYDEN: Well, that isn't quite right.

Mr. Correll makes up his mind as one of the criteria the testimony of Indian witnesses, and to that extent there will be some cross examination of the witness with respect to that testimony.

COMMISSIONER SCOTT: That is to say you would deem it to be within the province of your permissible cross examination to question Mr. Correll on any of these points established on this map through these Navajo witnesses to the extent that he has used them in his --

MR. BOYDEN: In arriving at his opinion.

COMMISSIONER SCOTT: Yes. I see.

MR. BOYDEN: That's all.

By Mr. Boyden:

Q Now, Mr. Correll, what were the outer limits of your study of this anthropological work?

A I'm not sure --

Q Territorial limits on the map.

A You mean the limits of our field work?

Q Yes.

A I have done field work primarily in all of the areas, particularly those around the periphery.

Since all along we had been advised that we would not have to work within the Navajo Reservation, since that was Navajo land, we did very little field work within the limits of the present Navajo Reservation, except over in the 1882 Executive Order Reservation, and you're well aware of that, I take it.

Q You haven't quite answered my question.

Was your field work limited to within your claim as shown on the map?

A No, sir.

We did work outside of the claim.

Q Just on the periphery?

A Around the periphery.

Q But in a general way it was restricted to the claimed area as shown on Plaintiff's Exhibit 555?

A In a general way; yes.

Q Now, what were the objectives of this whole survey?

What were you trying to do?

A Our objective was to determine what area was used and occupied by the Navajo Indians between 1848 and 1868 and also determine what, if any, other Indians were within the limit of this particular area, which we have drawn as the Navajo land claim boundary.

Q All right.

Why did you select those dates, 1848 to 1868?

A That was on the advice of our legal counsel.

Q That was just an arbitrary question of advice to you?

A Well, that was what we were advised, --

Q All right.

A -- that that would be the taking period, 1848 to 1868.

Q Now, this work that you did, and, as you say, concentrated also in the Executive Order Reservation of 1882, had in mind two lawsuits, did it not?

A Yes, sir.

Q And one is the present case against the government and the other one was the case of Healing versus Jones that we have just tried in the three-judge federal court?

A Yes, sir; primarily for the Prescott case.

Q Now, in compiling the data that you gathered for the Healing versus Jones case, you have simply incorporated that into this case, have you not, insofar as it pertains to the Executive Order Reservation?

A A good portion of it.

Q Have you eliminated some?

A Yes, sir.

Q What was your reason for eliminating some?

A Well, as I stated, our taking period was 1848 to 1868, and we had a great number of sites within the executive order area. Those we eliminated primarily were those dated considerably after Fort Sumner.

MR. SAM DAZZO: A little louder, please.

MR. McPHERSON: Considerably after Fort Sumner.

By Mr. Boyden:

Q So, you have eliminated those that were dated considerably after Fort Sumner because they have no particular relevancy to this case?

A To this case; yes.

Q And that is the only reason you have eliminated them?

A So far as I know; yes, sir.

Q Now, were you looking for Hopi sites?

A Yes, sir; we did.

Q And did you make the same effort to locate the Hopi sites as you did the Navajo sites?

A Only in this respect: Most of our guides we employed were Navajos.

Q You are remembering the cross examination in the Healing versus Jones, are you not?

A Well, I remember it; surely.

Q You had from 75 to a hundred Navajo informants, didn't you?

A Something like that; possibly more.

Q Now you testified in the other case you didn't have a single Hopi informant in the Executive Order Reservation, except two people who guided you to Burro Springs?

A Yes, sir.

Q Did you have any Hopi informants in any of this conflicting area outside the executive order?

A No, sir, because I don't know of any Hopis who live in that area who would know the area.

Q Now, aren't you arguing the case with me?

You were making an objective search to determine whether there were any structures --

MR. McPHERSON: Don't argue with the witness. Let him answer. Whether it is an argument is for the Court to decide; Mr. Boyden.

I object to counsel's comment.

CHIEF COMMISSIONER WATKINS: The objection is overruled.

MR. BOYDEN: Answer the question.

THE WITNESS: What was the question again?

CHIEF COMMISSIONER WATKINS: Read the question.

MR. BOYDEN: I will reask the question.

Better read it, Mr. Reporter. I might change it.

Better read the last two questions.

(The reporter read from the testimony as follows:

Question: "Did you have any Hopi informants in any of this conflicting area outside the executive order?"

Answer: "No, sir, because I don't know of any Hopis who live in that area who would know the area."

Question: "Now, aren't you arguing the case with me? You were making an objective search to determine whether there were any structures -- ")

MR. BOYDEN: I want the answer to the next to the last question now.

It is just no, sir, you didn't; is that it?

THE WITNESS: When we went into an area, -- and, as I said, our work was confined primarily to the executive order area within the bounds of the present Navajo Reservation -- we would usually contact the councilman, the Navajo Tribal Councilman, who knew the people within the area and ask him to tell us who the names of the people in the area were who knew the land where the sites were located. That's how we obtained our guides as a rule.

By Mr. Boyden:

Q Now, for this record, why didn't you use any Navajo or Hopi guides if you were looking for Hopi sites within the Executive Order Reservation?

A Well, as I stated, primarily because I don't know of any.

I imagine it would be rather difficult -- it would have been rather difficult to have obtained Hopi guides.

CHIEF COMMISSIONER WATKINS: Did you try?

THE WITNESS: No, sir; not to any great extent.

By Mr. Boyden:

Q Well, is there any different reason why you didn't employ Hopi guides on the rest of the area outside of the Executive Order Reservation than the reason you didn't employ them within the Executive Order Reservation?

A As I said, I don't think they were available outside.

Q Well, they were available inside and you didn't employ them there; is that correct?

A That's right.

Q So, if they had been available outside, you wouldn't have employed them there? Is that to follow or do you have some reason?

A If they had been available, we would have.

Q You would?

A Yes, sir.

Q But you didn't inquire to see if anybody was available that knew about it?

A Yes. We inquired of the local councilmen --

Q That's the Navajo councilmen?

A -- as to who knew the area and could act as a guide for us.

Q And you asked the Navajo councilmen that?

A Yes, sir.

Q And, of course, the Navajo Council were well aware of your employment, were they not?

A I suppose they were. I couldn't say for certain.

Q Well --

A I know they are now.

This work has been going on for a number of years.

Q During the time you were doing this work they

were pretty well informed of what you were doing, weren't they?

A I suppose so; yes.

Q All right.

While you were looking for these Hopi sites without informants, what signs were you looking for for the Hopi sites?

A What signs?

Q Yes.

What were you looking for as evidence of Hopi sites?

A Well, if I recall, the ones which I recorded were primarily sites of which the field guides knew the history of the site.

Q Now, the field guides --

A A few others had Hopi pottery --

Q Just a minute before you go on.

A -- and no evidence of Navajo occupancy.

Q The field guides are the Navajo informants?

A Yes, sir.

Q All right. Go ahead.

A And a few others had Hopi pottery and no evidence of Navajo occupancy.

Q Now, you located some Hopi sites, did you?

A I believe there were about 10 or 12.

Q Where were they?

A They were primarily in the southern half of the executive order area.

Q And you found nothing outside of the executive order?

A No, sir.

Q Now, in trying to discover a Hopi site, what do you look for?

A Well, as everyone knows, the Hopis are stone builders as opposed to the type of structure which the Navajos build.

Of course, there is a reference that the Hopis did build a conical structure in the vicinity of their fields, and I believe that's in Gifford, which is similar to the Navajo structure; but in the main the Hopi is a stone house builder, square roofs.

Q Well, we know from our general studies, do we not, in anthropology, that they have a different mode of life altogether than the Navajos, do they not?

A Entirely; yes.

Q And they live in villages?

They are our first apartment house dwellers, aren't they, the Pueblo Indians?

A Well, their ancestors were our first apartment house dwellers.

Q And the Navajos scatter out and live at great distances from each other?

A Yes, sir. They're not city dwellers or town dwellers, except at the present time.

Q The Hopis live together and then go out for whatever purposes they care to go for?

A That's correct.

Q Now, do you know of your own knowledge whether Hopis return to their sites of former dwelling for any particular purpose, of their ancestors?

A Yes. They very frequently use these sites as Hopi shrines.

Q And in using those sites as Hopi shrines they travel to and from them, do they not?

A That's correct.

Q And the records also show, do they not, the literature, that is, that when they go they sometimes hunt on the way; sometimes gather different plants for different purposes?

A That's correct.

Q Now, is there any way that you can tell whether Hopis have been visiting a particular area with any recent visit?

A You mean for religious purposes or what?

Q Yes; for religious purposes.

A Well, occasionally they will plant prayer sticks or pahos.

CHIEF COMMISSIONER WATKINS: I didn't get your answer.

THE WITNESS: Prayer sticks or what they call pahos, at the shrines which they visit.

By Mr. Boyden:

Q Now, Mr. Correll, you were unable to describe for us what a paho looked like at the other trial. Have you looked into that since?

A No, sir; I am afraid I haven't.

Q You still wouldn't know just what a paho was?

A Well, I couldn't describe it minutely. I know it is a stick with feathers attached, with some painting, ordinarily.

MR. ROCHOW: Is this word pothole -- p-o-t-h-o-l-e?

MR. BOYDEN: Paho.

THE WITNESS: P-a-h-o.

MR. BOYDEN: P-a-h-o is as good a way to spell it as any.

MR. ROCHOW: I see.

By Mr. Boyden:

Q Now, during your entire search within or without the reservation did you find any pahos?

A No, sir; I didn't.

Q Not a single one?

A Not one.

The Navajos also use prayer sticks, but I didn't find any Navajo prayer sticks.

CHIEF COMMISSIONER WATKINS: You will have to speak up. It's difficult to hear you.

THE WITNESS: I am sorry.

I said the Navajos also use the prayer stick and I didn't find any Navajo prayer sticks either.

By Mr. Boyden:

Q Now, did you ever find any eagle shrines of the Hopis?

A There was one pointed out to me. I don't know whether it was an eagle shrine or not, but it was pointed out as the mesa where the Hopis went to catch the young eagles.

Q That was not by any investigation of yours, I guess?

A I didn't visit the mesa; no.

Q You didn't go up to see if there were any pahos there --

A No, sir.

Q -- or anything of that kind?

A I saw it from a distance.

Q Now, if that had been a Navajo shrine would you

have gone up and investigated what was left?

A I don't think so. It was a rather precipitous mesa.

Q That was too steep?

A A little bit.

Q Now, I will ask you to turn to your work, which I assume is a duplicate of Healing versus Jones, your field work, ALO, Group A.

A ALO, Group A?

Q Yes.

That's the way you referred to it before.

A That first A isn't one of my designations.

I presume you are referring to W --

Q The A may have been your 242-A exhibit. I'm not sure.

Here's the testimony in the other case.

A Oh, Group A. Onibi Group A. Lower Onibi Group A.

Q Now, you have the photograph with respect to that for Lower Onibi in Group A, LO-A.

A I beg your pardon.

Q Do you have the photograph of that one?

A Not in this volume; no.

Q Do you have it present in the court room?

A No, sir.

MR. ROCHOW: Is that in the 520-A through W series?

THE WITNESS: Yes, sir. It's Volume 18 or R,
rather.

MR. McPHERSON: What is the site?

THE WITNESS: W-LLC-LO-A.

MR. McPHERSON: May I stand here and read that with
him?

I haven't seen it for a good many months.

By Mr. Boyden:

Q Are we referring to the same one?

A That's the same site; yes.

Q Now, where is the photograph for that?

A We didn't have them reproduced in the land
claims case.

Q Any of them?

A We had some of them; yes, sir.

Q Is there any particular reason why this one was
left out?

A No; not this particular one, but the expense of
having six 8-by-10 photographs was quite excessive, and
we had to limit them.

Q Well, this particular one happens to be a stone
square house, doesn't it?

A I recall this site.

There was a stone house there, several hogans,
several corrals and fields.

Q I'm talking about House Number 1.

A Yes, sir. That was a stone, rectangular house, if I recall.

Q It was a stone house built of large and small shaped stone blocks, was it not?

"Oriented due east."

What is the "Mag"?

A Magnetic.

Q ". . . is about center of the east wall.

A part of wall has collapsed, leaving only base blocks. So, the width is not determinable.

"Floor: Sand filled.

"Ground Plan: Irregular."

A Rectangular.

Q "Sixteen" --

What?

A Rectangular.

Q Rectangular.

"Sixteen feet north and south, nine feet east and west, from the interior."

Correct?

A That's correct; yes, sir.

Q "Wall standing up to four feet in the southeast corner. Some mud mortar between the stones.

"Ash dump 30 feet east on slope.

Eroded down slope.

"The house was never completed and the ash dump is from the camping of the builders."

Where did you get the information about the ash house being the camping of the builders?

CHIEF COMMISSIONER WATKINS: Ash dump?

MR. BOYDEN: Ash dump.

CHIEF COMMISSIONER WATKINS: You said "house".

THE WITNESS: Ash dump.

MR. BOYDEN: Ash dump.

THE WITNESS: I believe that was from the guide.

By Mr. Boyden:

Q That happened to be who?

A I believe that was from Crippled Man or --

Q Are you quite sure it wasn't Maxwell Yazzie?

A Maxwell Yazzie had visited this site previously in the company of Crippled Man, I believe it was, who gave him the history of the site.

Q So that you took this from Maxwell Yazzie who got it from Crippled Man?

A He had recorded it, I recall, and we combined the data on this site when it was rewritten.

Q Now, did you find any pottery sherds in that location?

A Yes, sir. There were 48 Pinyon Utility, which

are Navajo sherds, and trade sherds. There were two Jeddito Yellow Ware, three Jeddito Black-on-Yellow, 20 Polacca Polychrome and one Jeddito Plain.

Q All right. Let's get these Navajo sherds first. What kind were they?

A Those were regular Navajo utility sherds, sherds from what we call utility vessels, plain gray ware.

Q What is the difference between the plain gray ware of Navajo utility sherds and the Moencopi gray of the Hopis?

A Did you say the Pinyon Utility and the Moencopi gray?

Q I am talking about the regular gray sherds that you're talking about here. I want to know what the difference between those are and the Moencopi gray of the Hopi?

A I don't believe there is a Moencopi gray that I'm aware of.

MR. McPHERSON: Do they have any other name?

MR. BOYDEN: Let's see if I can give you a more technical name of it.

Mr. Colton in his work simply refers to it as the Moencopi gray.

By Mr. Boyden:

Q You don't think there is such a thing?

A There possibly is. I'm not familiar with that particular type.

Q Now, Mr. Correll, you told me at the other trial that it was necessary to make some rather close observations which were not done in the field in order to tell the difference between these two.

Does that refresh your recollection?

A Yes, sir.

Q All right. Now, what was done to distinguish, if you remember, between the Moencopi gray of the Hopi and these?

A Well, all of the sherds, of course, were not analyzed in the field. These were done after they were brought into Window Rock.

Q Now, you have an independent recollection or are you assuming that?

A What do you mean "an independent recollection"?

Q Do you remember taking them from this site and taking them in?

A Yes; I remember collecting the sherds; certainly.

Q From this particular site?

A Yes, sir.

Q And you remember distinguishing between the Moencopi gray and the utility of the Navajo, do you?

A Not in the field. As I said, that was done at

Window Rock.

Q But I am asking you if you remember when you got to Window Rock of doing it with respect to this particular site?

A No; I don't remember this particular site.

Q Now, is there anything in this record that you submit that shows us you did do it?

A Well, the analysis is on the report.

Q I understand that, but I want to know: Was it done in the field or was it done there?

A I stated twice we did it at Window Rock.

Q I want to know how you tell me that if you don't remember.

A I'm sorry. I don't understand what you mean.

Q Much of this was done in the field, was it not?

A The collecting was done in the field, sacked and labeled.

Q And you wrote down what kind of pottery it was in the field, except where you couldn't distinguish it?

A No, sir.

Q You didn't?

A No, sir.

Q You took the pottery into Window Rock and classified it all there?

A The pottery was collected and sacked and

labeled, with the site on which it occurred, the structure that it was associated with, the date it was collected, who collected it, and it was packed and labeled accordingly.

There was no identification done in the field.

Q And this particular work, then, you have determined -- you would have determined -- as a matter of course in Window Rock?

That's what I want to know,

A Yes, sir. All of the identification, the final identification, of sherds was done at Window Rock. There were occasional identifications done in the field, ~~and~~^{of} the pottery which is easily recognizable.

Q Now, this house was masonry work, was it not?

A Yes; it was stone masonry.

Q And that is the type of work the Hopis do?

A Yes, sir, but I might add that we find --

Q Now, wait a minute. Just don't argue with me.

Just answer my question.

A All right.

Q I will give you plenty of chance --

A The Hopis build masonry houses.

Q And this was square in type like Hopis build?

A No, sir. This was rectangular.

Q Well, rectangular I should say.

A Yes, sir.

Q But it's not round?

A No, sir.

Q And you found Hopi pottery in it, didn't you?

A No, sir.

Q What's the trade pottery you found?

A The Hopi sherds were associated with Hogan 7,
Hogan 10 and House 12.

Q What --

A They were not associated with House Number 1.

Q What are the trade sherds that you found in this
location?

A Beg your pardon.

Q What are the trade sherds you found in this
location?

A I would consider the Hopi sherds as trade sherds
on this particular site.

Q Well --

CHIEF COMMISSIONER WATKINS: What do you mean by
"trade sherds", Mr. --

MR. BOYDEN: I'm just going to ask him that.

CHIEF COMMISSIONER WATKINS: Oh.

By Mr. Boyden:

Q Now, Mr. Correll, what do you mean by "trade
sherds"?

A Well, trade sherds -- not trade sherds -- I

shouldn't use that phrase, but the sherds occur from pots that have been obtained through trade and later broken.

It was a common thing in the Southwest for various tribes to trade pottery.

Q So that if we find Hopi pottery in a square house that's where the Navajos traded it?

A Well, I might say that the Navajo pottery is so inferior to the Hopi pottery and other Pueblo pottery of the Southwest that it's not very likely that the Pueblos would trade for Navajo pottery.

Q Now, you haven't eliminated the possibility of an occupation here for a time by Hopis and for a time by Navajos, have you?

A No, sir. I wouldn't eliminate that, because this site is located at a very prominent spring, one of the few springs in that entire area, and I know that it has been used for years by both the Navajos and the Hopis, this spring.

Q But you listed it as a Navajo site and don't list it as a Hopi site, in spite of the fact you know that?

A The site, itself; yes, sir.

Q Now, have you used that same policy in other places on the reservation or is this a lone example?

A What policy are you referring to?

Q Where you know the Hopis have lived there, but

applicability it has.

MR. BOYDEN: That's right.

May the record show that the document that I explained to the Court earlier, to be used in cross examination of Mr. Correll and later to be used in producing the testimony for the Hopi Indians, describing the various areas of conflict and dividing them into the Executive Order Reservation of 1882 and the west, north, east and south portions of the claim, has been marked as Plaintiffs' Exhibit A.

CHIEF COMMISSIONER WATKINS: And you should add also "was used". You said "to be used", and it was used by you and the witness during his cross examination, for the most part.

Is that what you have in mind?

MR. BOYDEN: I explained it to the Court. I thought that covered it, and I am just starting to use it now in cross examination.

I intend to use it from here on.

CHIEF COMMISSIONER WATKINS: I beg your pardon. I thought it had been used previously.

MR. BOYDEN: I think not.

By Mr. Boyden:

Q Now, Mr. Correll, referring to Plaintiffs' Exhibit A, I draw your attention to the area which I have marked

"West" and have crosshatched in red, which is within the Navajo claim and within the Hopi claim, but west of the Executive Order Reservation.

You are familiar with the territory I am discussing now, are you?

A Yes, sir.

Q After your complete work, both as to your anthropology, your field work and your study of the documents, do you have an opinion as to who had possession of this territory prior to 1848 when the United States entered into the Treaty of Guadalupe Hidalgo?

MR. McPHERSON: Would you read me the question again so I --

(The reporter read the question as follows: "After your complete work, both as to your anthropology, your field work and your study of the documents, do you have an opinion as to who had possession of this territory prior to 1848 when the United States entered into the Treaty of Guadalupe Hidalgo?")

THE WITNESS: Yes, sir; I do.

I can --

MR. BOYDEN: All right. That's all I have asked you for the moment.

By Mr. Boyden:

Q Now will you tell me upon what factors that opinion is based?

A In the area between the executive order area and the west boundary of your red hatched line, very little field work was done in that area, that is, archaeological field work.

We did considerable work in the Black Mountain area, and --

Q Now, let's just talk about the west area now.

A Well, I'm coming to that.

I have to cover the east area first.

Q Very little field work, the first?

A Yes, sir. Practically none was done in that area.

We did considerable work in the executive order area, and to the west of the present reservation, Navajo Reservation, or, I should say, west of the Little Colorado River.

We found considerable evidence, that is, archaeological evidence, of Navajo use and occupancy of those two areas.

Therefore, I think it is reasonable to assume that the Navajos, occupying in such numbers these two areas, also occupied the area in between.

They were not isolated groups.

Q So, your opinion with respect to this, then, is upon the assumption that the occupation of the Navajos on both sides of it meant also the use of this land?

A I have no doubt had we done field work in that area we could locate considerable evidence of Navajo occupation.

Q Why didn't you do any field work in that area?

A I believe I told you that we concentrated our efforts along the periphery outside of the present Navajo Reservation, as we had been instructed that we did not have to claim the reservation.

It was already --

MR. McPHERSON: You mean originally.

MR. LITTELL: Originally.

THE WITNESS: Originally; yes. It was already the Navajo Reservation.

Also, I might add --

MR. BOYDEN: Now --

MR. McPHERSON: He hasn't finished his answer.

THE WITNESS: I have something to add.

MR. BOYDEN: Well, I am just trying to make it clear.

MR. McPHERSON: He has a right to answer your question.

MR. BOYDEN: I understand he has, but I just want to get down to what he has told me.

By Mr. Boyden:

Q Now, you have told me two things, Mr. Correll: One, that very little field work was done there, and that you have assumed because of the outside districts near it. Now, those are the two things that you --

A No. I didn't say I assumed. I said it is reasonable to assume.

Q I am asking you about your opinion. That is what I want to know.

Did you assume?

A I am going to finish it, if you will let me.

Q Well, I would like to get it clear as we go, but go ahead.

A Based also on some archaeological evidence and documentary evidence as well as the testimony of the aged witnesses who have a number of their ancestors who were born and brought up in that area prior to the period involved also -- I should say further -- I don't know the word I want to use -- is indication that the area was occupied by Navajos.

Q Isn't that a summary of the rest you have said? What are the indications?

A I have just stated there is a limited amount of

archaeological field work; there is documentation, and the testimony of the old witnesses, plus the concentrated archaeological evidence both to the west and the east of the area about which you have asked.

Q All right.

Now, then, you first say that you make some assumptions because of the concentrated evidence you have on both sides.

That's one.

Two: You did a limited amount of archaeological work.

A Very limited in that particular area; yes, sir.

Q All right. Let's put it very little, then.

Very limited.

Then the documentary evidence?

A Yes, sir.

Q And then the testimony of living witnesses, who are testifying about the period prior to 1848; is that correct?

A The period prior to 1848 and 1868.

Q And from that you have a professional opinion as to who occupied it before 1848?

A Yes, sir.

Q All right.

Now, then what documents did you rely upon?

A Which specific documents?

Q Yes, sir.

A Well, there are some -- I have been through all of the documents in Volumes 1 through 3.

I cannot cite you the specific documents.

Q Well, did you --

A Those which show Navajos there are shown on Plaintiff's Exhibit 555.

Q All right. As I read this document, you have one exhibit, 340.

Would you see if there's any more that I have overlooked?

A Yes, sir. That seems to be the only one.

Q All right. Now, that document is short, and I'll read it to you. You look at it with me, Mr. Correll, --

A I have my copy here.

Q -- so we'll be sure of doing this correctly.

This is from Fort Canby, New Mexico, is it not?

A That's correct. From P. W. L. Plympton, Captain.

Q I asked you if it was from Fort Canby.

A Yes, sir.

Q Where is Fort Canby?

A Fort Canby is the old name for Fort Defiance.

Q Will you point to that on the map, please?

A Fort Defiance --

CHIEF COMMISSIONER WATKINS: Now, which map?

MR. BOYDEN: Look at Exhibit A.

THE WITNESS: On Exhibit A Fort Defiance is in Quad 5-J.

MR. BOYDEN: All right.

By Mr. Boyden:

Q What is there in this document that authorizes you to put this over in the territory we have marked as "West" in red?

A In Paragraph 2 --

Q The next to the last sentence.

A -- the document reads:

"This will be, so far as can be ascertained, the last installment of Navajos from this post. Many are living beyond the Moquis, cultivating the land."

Q All right. Now where would "beyond the Moquis" be --

A As I --

Q -- from Fort Canby?

A As I interpret the document, the agricultural lands beyond the Moquis could either be along the Dinnebito Wash or along the Moencopi, as today there are a great many farms along the Moencopi. There are numerous springs coming out of the sides of the wash as well.

Q Well, as a matter of fact, you have some of your archaeological sites on Howell Mesa, do you not?

A Yes.

Q And along Dinnebito?

A Yes.

Q All within the Executive Order Reservation?

A That's correct.

Q And all beyond the Moqui from Fort Canby?

A That's correct.

Q Then why do you put it clear out here?

A Mr. Boyden, I could have put it further out. I could have put it close in. As we were talking this morning, the location is purely an approximation.

Q All right. This very well could have been put inside the Executive Order Reservation?

A It could. It could have been put beyond.

Q All right.

Now, for your documentary support, what other documents do you have beyond that one for this area?

A That's the only one that's pinpointed in that particular area.

Q What do you mean when you have a figure on your map, 555, that's half one color and half another?

A That indicates that we obtained tree ring dates from both periods, as indicated by the colors, indicating

either a reuse of the site, rebuilding or a long, continuous occupation with repairs --

Q Well --

A -- extending from one period into the next.

Q Well, it doesn't necessarily mean extending from one period into the next, does it?

It means just the dates of the poles that you found in the hogan?

A I interpret it to mean that it extends from one to the other, with the exception of rebuilding the hogan in the later period using timbers from a former hogan built in the earlier period.

Q Well, when you get back to 1848 and you've just got a pile of logs, it's pretty hard to tell whether they were hauled in as repairs or whether they were there, isn't it?

A When you look at the site, you can't determine, no, whether they were there or not.

Q I can't tell without looking at it, either.

MR. McPHERSON: You haven't arrived at that.

By Mr. Boyden:

Q Now, in this entire area you have how many sites pre-1868?

I'm not saying 1848.

How many sites pre-1868?

I have counted it and found six green is all.

Can you find more?

A Let's see. That would be --

Did you say pre-1868?

Q Eighteen sixty-eight. That's your green.

A I count seven.

Q Maybe I ought to count with you.

I only counted six.

MR. SAM DAZZO: Maybe you didn't go to school as far as he did.

THE WITNESS: One, two --

MR. BOYDEN: Oh, that's a half one. I'm not going to count those.

THE WITNESS: Well, I'm considering those.

MR. BOYDEN: I know you're considering things like that, but I'm not.

By Mr. Boyden:

Q You have got six clear green ones, haven't you?

A Yes, sir.

Q Now, this hybrid you've got up there that you counted in -- you got poles that were numbered both before and after?

A Yes, sir.

There are two of those.

Q That's correct. There's two that are one half

green and one half orange?

A That's correct.

Q So, that means you found poles in that area that were dated, according to the tree rings, pre-1868 and post-1868?

A I believe those were dated on the basis of typology. I would have to check the individual sites.

Q Those two one-half ones, you mean?

A Yes, sir.

Q I see.

That doesn't necessarily exclude the tree ring or does it on those green ones?

A No, sir. We have no tree ring dates from those sites.

Q So that we don't have tree ring dates on those two that were -- or any of these?

A No, sir.

Q Not a single tree ring date on all the six you have got in that area?

A No, sir.

That's a rather timberless area, if you've ever been into it.

Q Now, what is the typology there --

CHIEF COMMISSIONER WATKINS: Just a minute.

How far is it from timber or would it have been

Received 10-11-61

INDIAN CLAIMS COMMISSION

Washington, D. C.

Sept. 20, 1961

THE NAVAJO TRIBE OF INDIANS,
et al,

Petitioners,

v.

THE UNITED STATES OF AMERICA,

Defendant,

Docket No. 229, 196,
91, 30,
48, 22-D
227 and
266.

HART & HARKINS
SHORTHAND AND STENOGRAPHY REPORTING
930 F STREET, N. W. WASHINGTON 4, D. C.
NATIONAL 8-0343

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Witness:

Direct Gross Redirect Recross

J. Lee Correll (resumed)

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INDIAN CLAIMS COMMISSION

----- X

THE NAVAJO TRIBE OF INDIANS,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Docket No. 229

----- X

THE HOPI TRIBE, ET AL,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Docket No. 196

----- X

THE HAVASUPAI TRIBE OF THE
HAVASUPAI RESERVATION, ARIZONA,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Docket No. 91

----- X

THE FORT SILL APACHE TRIBE OF
THE STATE OF OKLAHOMA, ET AL,

Petitioner,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Docket No. 30

----- X

Washington, D. C.

Wednesday, September 20, 1961

The Commission met, pursuant to recess, in Room 4137, General Accounting Office Building, 441 G Street, Northwest, Washington, D. C., at 10:04 a.m., Wednesday, September 20, 1961, Chief Commissioner Watkins presiding.

PRESENT:

ARTHUR V. WATKINS, Chief Commissioner.

T. HAROLD SCOTT, Associate Commissioner.

APPEARANCES:

On behalf of the petitioner in Docket No. 229:

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On behalf of the petitioners in Docket No. 196:

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48 and 22-D:

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By David Cobb, Esquire,
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Nicholas C. Dazzo, Esquire,
Albuquerque, New Mexico.

On behalf of the defendant:

Walter A. Rochow, Esquire,
Attorney, Lands Division,
Department of Justice,
Washington, D. C.

- - - -

you had arrived at the same opinion as to this all being Navajo territory in all four of these directions, and if that's correct I won't repeat that question.

That's so, is it not?

A Yes, sir.

Q And you arrived at that before we received these last few reports that you have handed to us?

A Yes, sir.

MR. McPHERSON: So that the record may be accurate and complete and the answer meaningful, I understand you mean in all four directions within the claimed boundary as shown on 555?

MR. BOYDEN: That's correct.

And the reports that I am talking about are these tree ring reports that have just been handed to us this morning.

By Mr. Boyden:

Q Now, let's refer to the area that we have marked in lavender, which we call the south area, which is south of the Executive Order Reservation of 1882 and is bounded on the west and south by the Little Colorado River and the Zuni River and on the east by the Navajo or the New Mexico-Arizona line.

You see the area to which I refer, do you not, Mr. Correll?

A Yes, sir.

Q Now, in that area did you use exactly the same criteria in determining that this was Navajo country?

MR. McPHERSON: You mean the same type of criteria?

MR. BOYDEN: Well, he can answer if he wants to correct me.

THE WITNESS: In the area to which you have just referred there was considerable more field work done to determine archaeologically the extent of Navajo occupation.

Also in this area there is considerable more documentation.

By Mr. Boyden:

Q So, on the south we can say, in arriving at your opinion, you had considerably more documentation and you had considerably more field work?

A Yes, sir.

Q Now, I presume that you had other factors also that weighed in your consideration of this matter besides the documents and the field work, did you?

A Well, of course, there is the lack of any reported sites of other tribes within that area that would fall or date within the period under consideration, that is, the period 1848 to 1868.

Q Now, Mr. Correll, that leads us to a very interesting problem. You are assuming, are you not, that where the Navajos have built a hogan or built some structure that that establishes their use and occupation of it?

That's correct, isn't it?

A I think that's very conclusive, that the Navajos were there; certainly.

Q All right.

Now, then, with respect to Pueblo Indians who live in one place and extend their operations out from it, you are assuming, by what I understand here now, because they haven't built structures out from it, that that proves their absence; is that what you mean?

A No, sir, Mr. Boyden.

Q Well, isn't that what you said?

A I think it would be very unreasonable to assume that other Indians did not go into the area.

They may have gone in there for one purpose or another.

What I was saying is that the absence of reported sites there indicate that they were not living in that area during ---

Q Do you have any documents in this area at all indicating that the Moquis, for example, conceded that this was Navajo country?

A I can't recall any to that effect, but there are documents which refer to it as the Navajo country.

Q And there are also many documents which refer to it as the Hopi country, too, aren't there?

A I can't recall them.

Q Well, I'll show you some, then.

Now, Mr. Correll, in this south area you have named 17 documents upon which you rely, as I count them.

The first document is 125.

Why do you place that in this area?

A Did you say 125?

Q Yes; that's right.

A I don't have that one in my notes.

Are you sure it's within the area?

Q Unless I have made a mistake.

Yes. Here it is.

A No, sir. That is not a document.

Q No. That's not. Excuse me.

A That is a beehive symbol.

Q That's right.

I took several hours to find these things to begin with and I don't suppose I can impose on the Court to find them again, but if you agree that 125 doesn't belong there, whether it is there or not, that's as far as I need to go.

MR. McPHERSON: You mean Document 125?

THE WITNESS: I would --

MR. BOYDEN: Document 125.

THE WITNESS: I would agree it is not a document;
no, sir.

By Mr. Boyden:

Q So, 125 is not applicable?

A No, sir. That is one of the --

Q Let's go to 127, then. That's the Meriwether
Treaty.

Do you have that listed in this area?

A No, sir; I don't.

Q All right. We agree on that one, then.

Incidentally, though, let's go to 125 a second,
because it illustrates a point that was raised yesterday.

I call your attention to Page 2 of Document 125,
the last large paragraph. There are three little tiny
paragraphs after.

"They have already received from
Captain Dodge all the hoes, axes and spades
which he could get at the post sutlers, which
they are putting to a good use. They all
represent to me that they are cultivating more
extensively this year than ever before, which
is to be attributed to the very often repeated

advice of their agent and myself, as well as to the existence of this post, which has taught them the advantages of planting."

This letter was written in what -- 18 --

A Eighteen fifty-five.

Q That's 13 years before 1868, wasn't it?

A Yes, sir.

Q And it appears that substantial equipment was furnished at that time, doesn't it, from that document?

A At Fort Defiance; yes.

Q All right. Now, 159. You have that cited with respect to this area, do you not?

A Yes, sir. I have that one listed.

Q All right. Let's look at 159.

COMMISSIONER SCOTT: Is that Exhibit 159 or Page 159?

MR. BOYDEN: It's Exhibit 159.

We're talking now only about documents, and when I refer to these numbers I am referring to the exhibit numbers of the plaintiff Navajo Tribe --

COMMISSIONER SCOTT: Thank you.

MR. BOYDEN: -- in Docket 229.

By Mr. Boyden:

Q I presume you have reference there to Oak Springs, do you not?

A Otherwise known as Quelites. You will find that spelled a number of ways in the documents. Here it's spelled Q-u-e-l-i-t-e-s.

Q That's Oak Spring, isn't it?

A Yes, sir.

Oak Spring is located south of Fort Defiance approximately 20 miles, which would be in Quad 3-D, southeast quarter.

Q That would be just over the border, would it not, into the south, over the border from the line that runs --

A Yes, sir. That would be just south of --

Q In the latitude --

A -- your north boundary of your south quarter.

Q Okay.

Now, what do you find does this document say happened down there?

A In the latter part of the third paragraph it reads:

"After a long parley and having consulted with their chief, Sarcillo Largo, they resolved to retire, driving their herds to the Quelites, since which time there has been no further trouble with them, and there is every appearance of their being well disposed."

Q That doesn't say anything about that being their

home or anything of the kind. They were having trouble up at Fort Defiance, weren't they?

A Well, I would interpret the word "retire" meaning to return.

Q To retire means return?

A I would interpret it that way; yes, sir.

Q And you have put that connotation on the word for the purpose of making your opinion in this regard?

A Yes, sir, and there are other documents which support this particular area.

Q Well, I just want to know about this one. You have said retire means to return where they were?

A I didn't say it means that. I said I would interpret it that way.

Q Well, don't you give them their usual meaning, these words?

A Yes.

Q Or do you give them meanings of convenience?

A No. I interpret it the way it reads.

Q Well, you have interpreted retire as return here, have you?

A Yes, sir.

Q What is your reason for that?

A The context of the thing, itself, the document --

apparently they had gone to Fort Defiance to parley, as the sentence reads, and then they returned or retired, as the document reads, to their home in Quelites.

Q All right. You have put returned to their home. Show me where you find that in your document.

A I think I stated I interpret the word "retire" to mean "return".

Q So, you gave that just the same meaning as though they had said "returned to their home"?

A I interpret it that way; yes, sir.

Q Now, Mr. Correll, let's go to the next document, 206.

Tell us why you have that in this south area.

A In the first paragraph:

" . . . the best cultivable lands occupied by the Navajos lie in the Chuska Valley," --

Q Yes. That's in New Mexico, isn't it?

A No. That's in -- yes; that would be in New Mexico east of the Chuska Mountains.

-- "Tunicha," -- T-u-n-i-c-h-a --

Q Where is that?

A Those are the Tunicha Mountains. Those are just north of the Chuska Mountains.

Q That is also in New Mexico?

A They branch southwest over into Arizona. About on the line.

Q All right. Bear Spring.

A Yes, sir.

Then:

-- "Ojo Caliente," which is known today as Tocado, which is southwest of Shiprock, east of the mountains, "Collittas," which is another spelling for the word for Oak Springs, "and Laguna Negra," which is another word for present-day Red Lake, north of Fort Defiance, "named in the order of the largest first."

Q Are you adding that or are you reading that somewhere?

A I was reading it from the document, but I was interpreting, interposing the interpretation, the name Laguna Negra, which is present-day Red Lake.

Q I see. All right.

A Then in the third paragraph --

Q All right. Just a minute before you leave this paragraph. What is it you claim in that shows Navajo use of this area we're talking about as the south area?

A Well, Mr. Boyden, he states there that the best cultivable lands of the Navajo lie in these particular areas.

Q All right. I am asking you which particular areas.

A One of which is the Oak Springs area.

Q Now, the Oak Spring area is just right on the line, isn't it?

A It's a little south of your north boundary of your southern area.

Q It would be right in that corner?

A In the northeast corner; yes, sir.

Q All right. Now would you please read the third paragraph?

A "I will here mention that the largest and best lands under cultivation by the Navajos and also grazed by them" --

Q All right. Now, let's analyze that part first.

That's the largest and best lands they have under cultivation by the Navajos and also, I suppose, the largest and best grazing for them.

A Yes, sir.

Q All right. Now, what happens to it?

A -- "viz, Collittas," -- C-o-l-l-i-t-t-a-s -- which, of course, is Oak Spring, "Bear Spring, Chuska Valley, Tunichay, Ojo Caliente, Laguna Negra, Cienega Negra, Cienega Juan Inico, lie east of a longitudinal line passing through this

fort."

Q Okay. Let's make a longitudinal line passing through the fort, since we have talked about the balance of this tribe.

A Well, the longitudinal line, north and south --

Q North and south.

A -- and he is stating Fort Defiance --

Q Where is Fort Defiance?

Put your finger on that.

A Fort Defiance is on the south boundary of the 1868 Treaty Reservation.

Q All right.

And not only that, but it is very near the Arizona-New Mexico border?

A That's correct.

Q And the largest and best cultivated and grazing lands of the Navajos lie east of that, do they not, according to this document?

A I don't think he includes all of these places.

He does say: ". . . lie east of a longitudinal line passing through this fort."

Q You can't read it without that, can you, Mr. Correll?

A Well, Mr. Boyden, Oak Springs is in a broad valley, which isn't more than three or four miles wide.

Q I know, but he specifically names Oak Springs in that same paragraph, doesn't he?

A Yes, sir.

Q And he says the best of it all lie in those places east of that kind of line, doesn't he? So, there is no question what he is talking about, is there?

A All of them -- the Bear Springs, Chuska Valley, Tunichay, Ojo Caliente -- I can't place the Cienega Negra or the Cienega Juan Inico, but all the others do lie east of that area; but the Laguna Negra and the Collittas lie just about on the longitudinal line which he draws. That could very well be east, but it would still be --

Q He names those and says that all of those that he's talking about lie east of a longitudinal line, doesn't he?

A Well, that would still put Oak Spring just about on the line, and there is territory east --

Q Well, it is pretty hard to stretch it past that kind of line, isn't it, --

A Well, these are only approximations.

Q -- by what he said?

A Of course, we can't pinpoint these things exactly.

Q But that is what you are relying on, isn't it?

A Yes; of course.

COMMISSIONER SCOTT: Let me ask you about the Fort Defiance location.

I have a work map here today. It doesn't show Fort Defiance.

Would that be right along about just to the west of Window Rock aways there?

THE WITNESS: No, sir. It is six miles north of Window Rock.

You have Window Rock on the map?

COMMISSIONER SCOTT: Yes; I do have. That locates it for me.

THE WITNESS: It is six miles due north.

COMMISSIONER SCOTT: Thank you very much.

Oh, it's here. Yes. I found it.

THE WITNESS: It is a little obscured by the treaty reservation line.

COMMISSIONER SCOTT: Yes. I see. Thank you.

By Mr. Boyden:

Q Now, do you have 217 in this area?

A Yes, sir.

I have that one listed.

Q For what reason?

A Well, according to my notes again we have the Oak Springs reference.

Q Now, this, Mr. Correll, is a document in which

Colonel Miles of the Second Infantry is commending certain of his men to Colonel Thomas for their action, is it not?

A Yes, sir. It is dated the 12th of July 1859.

Nav.
EX-
217

Q All right. What is your reference to Oak Spring that is important here?

A I have Paragraph 2 on Page 1.

Shall I read it?

Q Yes.

A "First Lieutenant George W. Howland, Regiment Mountain Rifles, for gallant and energetic conduct after a fatiguing night march on the 23rd October '58 in capturing Terribio, (an influential captive living with the Navajos) five or six warriors and several women and children at Collittas, south of Fort Defiance."

Q Now, you were interpreting that as meaning that the Navajos were living at that place because that is where they were captured?

A No, sir. They were not captured. They captured Terribio.

Q Yes. I understand.

A I don't know who Terribio was.

Q I am not arguing about who they captured. They captured this fellow --

A Terribio was living with the Navajos at Collittas.

Q That is your deduction from that, is it not, because that is where he was captured?

A Well, it so states the Navajos were living there; yes, sir.

Q No; it doesn't so state the Navajos were living there.

A Well, I think it does, Mr. Boyden.

Q Well, that is a matter of interpretation, isn't it?

It says he lived with the Navajos and that's where he was captured.

Isn't that what it says?

A Living with the Navajos; yes, sir.

Q All right. Is there anything else in 217?

A No, sir. That's my reference to that particular one.

Q All right. Let's go to 254.

Now, this is 12 years after 1848, isn't it, by this time?

A What is?

Q This next document, 254.

A The document is dated December 11th, 1860.

Q Well, I'm right, am I not?

A Yes, sir.

That would be 12 years after 1848.

This is a document --

Q Yes.

A -- from Major Canby to the Assistant Adjutant General at Santa Fe, --

Q That is right.

A -- and you have the date.

Q And I presume you refer to the second paragraph.

A No, sir. The third.

Q The third paragraph?

A Yes, sir.

Q All right.

A "Abundant evidence was found by Captain McLaws of recent occupation and in considerable numbers on the Puerco, the Lower Collites," -- C-o-l-l-i-t-e-s this time -- "the Ojo de Jara and Navajo Springs, the trails from the last mentioned place leading to the south and west. This scout and information derived from other sources shows that considerable numbers of the Navajos, divided into small parties, are now wintering on the Puerco, the Lower Collites and the Pueblitos or Torrejon."

Q Now, are you interpreting that as though they lived there?

A I think they were there for the winter.

MR. McPHERSON: Gallup is in the northeast quarter of 3-E.

MR. BOYDEN: Let's locate this country, Manuelito's country we are talking about in this document.

THE WITNESS: Let me check the document to see what area you are speaking of.

Are you speaking of 352 or 357?

MR. BOYDEN: Well, they are both with respect to Manuelito, and it says that he lived west of Fort Defiance.

THE WITNESS: Well, I think you will find on Page 2 of 357:

"The next is Manuelito's band. It lives this side" --

MR. BOYDEN: The Chuska Mountains --

THE WITNESS: -- "of Colorado Chiquito, about 60 miles beyond Zuni."

MR. BOYDEN: Let's read that part --

THE WITNESS: That's the bottom of Page 2 of 357.

MR. BOYDEN: Just a minute here.

THE WITNESS: "The next is Manuelito's band. It lives this side of Colorado Chiquito," which is the Little Colorado, "about 60 miles beyond Zuni. It consists of about 100 souls of all

ages and sexes."

MR. BOYDEN: But --

THE WITNESS: "There are about 25 warriors."

By Mr. Boyden:

Q There's no question about where Manuelito's country was, is there?

A No, sir.

Q It was west of Fort Defiance, wasn't it?

A West of Zuni, about 60 miles --

Q No. Just a minute. You have got two documents here. Let's interpret them both at once.

I was hoping we could get over this faster, but we can't.

Let's go back to 252, or 352.

A 352.

Q 352.

Where is Canyon Bonito?

A That is the canyon right at Fort Defiance, the west side of the --

Q And that is where Manuelito's country was and that's where he intended to plant that season, 1865, wasn't it?

A Where are you reading that?

Q I am reading in the very first paragraph.

"Also that he intended to plant at