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INDIAN CLAIMS COMMISSION

Washington, D. C.

Oct. 16, 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
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NATIONAL 8-0343

I N D E X

- - -

Witness:	Direct	Cross	Redirect	Recross
Fred R. Eggan	7155			

E X H I B I T S

Petitioner's	For Identification	In Evidence
Nos. 3,4,4-A, B, C and D		7146
6 to 56 inc.		7147
58 to 67, inc.		7150
68 to 69.		7227

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P R O C E E D I N G S

CHIEF COMMISSIONER WATKINS: The Commission will resume session.

We have for consideration this morning the resumption of the hearing in 229 consolidated.

I think we have specifically for this morning 196, the Hopi claim.

MR. BOYDEN: The Hopis are ready.

CHIEF COMMISSIONER WATKINS: All other parties, I take it, are represented or they should be here this morning.

You may proceed.

MR. BOYDEN: May it please the Commission, I have a few matters some of which I would like to reiterate and some clear up at the beginning.

When we first had a hearing I came back to hear Navajo witnesses. There was one map I used on cross examination which was then accepted in evidence as Exhibit 1. The Commission already has one copy of that. I have prepared that in a volume in order to keep these all together.

Then Exhibit 2 was a map that was originally prepared by the Navajo Tribe in the Healing v.Jones case, Map 440, in that case. That was received in evidence out at the Grand Canyon, at the hearing when Commissioner Scott was there.

Now, Mr. Littell and I made a stipulation with respect to plants and with respect to certain testimony of Mr. Colton,

in Docket Number 196 and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Boyden:

Q Will you state your name, please?

A Fred R. Eggan.

Q Dr. Eggan, where do you reside?

A 1321 East 56th Street, Chicago, Illinois.

Q Will you give us an outline of your general biographical data, including your educational training and experience in the field of anthropology and ethnology with particular reference to the Hopi people?

A I was born in Seattle, Washington, in 1906.

I was educated at the University of Chicago where I got a Bachelor's degree in 1927, a Master's degree in 1928, and a Ph.D. in 1933 in the field of anthropology.

Soon after that I joined the faculty of the University of Chicago as instructor in 1935. I was promoted to Professor in 1948 when I became Chairman of the Department. I was Chairman until 1952 and since this fall I have again been Chairman of the Department of Anthropology.

My undergraduate and graduate work in anthropology was primarily in archaeology and ethnology, social anthropology.

I did my Ph. D. thesis on the Hopi Indians and the Western Pueblos.

1864 had rounded up the bulk of the Navajo who were placed over on the Pecos River at Fort Sumner in captivity for four years.

A considerable number of the Navajo escaped, some of them to the north, northwest, in the Navajo mountain region. Some of them down along the Little Colorado, some of them went down south of the Mogollon Rim.

Q What year was that?

A That was in the period between 1863 and 1868.

There were a number of attempts to round up the rest of the Navajo, various estimates as to how many were missing. This period of Navajo wars, of course, comes to a close with the end of this period when the Treaty with the Navajo was signed in 1868, and the Navajos were established on their reservation.

Q Now, Doctor, we have talked of the seven villages of Tusayan, as the Spanish called them, or the Moqui villages.

Will you explain to them the nature or the use of the lands by the Hopi people, at this time particularly and around the period of 1848?

A You can say a little bit that will be useful about the use of their land and ther attitude toward land because they have a somewhat different relationship to their land than many of their neighboring groups.

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For the Hopi, land is their central value. Religion

and life are closely related. Plants and animals are all, from their standpoint, part of one great system.

As I mentioned, Hopi believe that their ancestors originally came up from the underworld, their land of the dead, their heaven.

At the mouth of the Little Colorado River where it flows into the Grand Canyon here they met one of their chief deities, Masau'u. They made a compact with Masau'u in which he gave them the land which he controlled if in turn they would follow his teaching.

CHIEF COMMISSIONER WATKINS: At this point, we would like to take a ten minute recess.

(Short recess.)

CHIEF COMMISSIONER WATKINS: The Commission may resume session.

You may proceed.

By Mr. Boyden:

Q You were starting to tell us of the nature of the use of Hopi lands particularly around the period of 1848. Will you continue?

A I was mentioning that the Hopi have a special relationship to their land. Land is sacred, it is created by the deities, plants and crops grow through the aid of the deities, animals are put there by the gods for the men's use.

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The whole topography of the Hopi country is named and

they have stories about almost every portion of it relating to meterological events.

Their ceremonies dramatize their ownership of the land and the relations of particular constituent clans to different sections of the land.

Q Will you take just a minute, since that is not in the record, and tell the Commission what the clans are in just a general way? I know you have written a whole book on that but we want it in a general way.

A Let me start in with the larger unit, the village.

Hopi villages are now on the tops of the mesas. They retreated there for protection against the Spaniards after the Pueblo Revolt of 1680 but formerly most of them were at lower levels, in some cases even in the valleys.

The Hopi in recent years have come down from the mesas, Third Mesa, in the village of New Oraibi; First Mesa, in the village of Polacca, and are generally spreading out.

Moenkopi, an early village, west of the Executive Order Reservation, abandoned for a period and used as farming land in the 1870s was reestablished as a colony of Oraibi.

Q When you say abandoned, I notice you have used that several times, do you mean abandoned as a dwelling?

A As a permanent dwelling place. The people moved back to Oraibi and went out and farmed that area every summer.

A Yes, and also herding their cattle.

Now the Hopi are organized for urban living. Each main village is independent though they are organized in a ceremonial federation.

The constituent units of each village are the matrilineal clans, descent groups, in which people belong to the particular clan that their mother belonged to and not the clan of their father. These clans are named after animals and plants, so you have Bear Clan, Spider Clan, Corn Clan, and so on.

These clans are particularly important because they control segments of land, they control blocks of houses in the village, and they control the important ceremonies, furnishing the chiefs or priests to these ceremonies.

The ceremonial organization has been going on for a long time and it is still largely intact.

We can say more if you want about their ceremonial organization, but that perhaps is enough.

CHIEF COMMISSIONER WATKINS: May I inquire, were they religious organizations?

THE WITNESS: The clans are not religious organizations as such. But they control their religious organizations.

Cutting across this clan system you have a series of societies, of religious societies, the membership of which comes from generally the whole range of clans. But the control,

the chief priests and the sacred paraphernalia, the altars and the ritual are in the hands of a particular clan, so you have a complicated situation in which the clans control the ceremonial activities and ceremonies but they are actually performed by a society which includes members of a range of clans, generally of the whole village.

CHIEF COMMISSIONER WATKINS: Did the Spaniards ever really convert them to Christianity?

THE WITNESS: The Spaniards only converted the people at Awatovi. Well, the Spaniards partially converted them to Christianity.

In the period from 1629 on, a large number were baptized. How much religious instruction they got from the priests we don't have any detailed record of but as the priests put pressure upon them to give up their old way of life, to give up their own ceremonies and their own beliefs, they revolted against them and thereafter they didn't practice Christianity.

Even today there are relatively few Christians.

CHIEF COMMISSIONER WATKINS: Among the Hopi?

THE WITNESS: Among the Hopi.

COMMISSIONER SCOTT: I recall one of the Hopi witnesses when he was being cross-examined last fall at the Grand Canyon, as to whether he knew certain Navajos, and they went through about twenty-four or twenty-five, they finally came to one and he said "Yes, I remember, his name was Charlie"--

he met him at Christian Endeavor.

Would that indicate he was going to a modern type of church, I mean the type we are thinking about?

THE WITNESS: That might be possible. He might have been a Hopi living in Winslow or Flagstaff, I am not sure; there are some Christians there but the number is actually relatively small.

There is a minority of Christians today on the Hopi Reservation.

If we turn briefly to subsistence activities, Hopi subsistence today and in the last century has been primarily centered upon agriculture, supplemented by sheep and cattle raising. But hunting and gathering of wild plants is still practiced and in the past whenever there has been a famine condition or drought, it has become at that time even more important. Everybody, every Hopi, until very recently, has been a farmer. Corn, beans and squash are grown and agriculture in this country depends essentially upon rainfall, irrigation and flood water irrigation.

As the rains occur up on the mesas, the water runs down the washes, where it spreads out is one of the favorite areas for planting.

So that agriculture can only be carried out where either there are sandy areas which hold a limited amount of rainfall because the average rainfall here is only around ten

or twelve inches a year, or where wash concentrations spread flood waters, storm waters, over particular areas.

CHIEF COMMISSIONER WATKINS: Do they have any reservoirs or did they make reservoirs in the early days?

THE WITNESS: They used reservoirs only to a limited extent, below some of the springs they made terrace gardens and grew some vegetables, but there is a limited amount of water available from these springs.

Most of the water from the springs went for drinking purposes and only secondarily could they use it for irrigation.

Out in the valleys, before modern times, they made small check dams and things like that but they were not anywhere near the modern scale of irrigation. They had really no irrigation from streams, there were no running streams in their territory.

So, while they knew of irrigation techniques and practiced them with regard to the overflow from springs, they still were not able to irrigate large areas in modern fashion.

Now, agriculture was extended particularly in the Moenkopi area, in Moenkopi Wash you did have a semi-permanent stream and there was a good deal, there was an extensive use of that area.

In the springs to the south, in the southern part of the reservation, in the Wepo washes, in the Jeddito Valley that we mentioned, and so on, but the best lands for agriculture

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were around the villages themselves. They were owned, as we mentioned, by these matrilineal clans, and each clan held their particular set of lands in trust for their descendants.

The major ceremonies are centered around the growth of corn and other crops and are particularly concerned with rain.

By Mr. Boyden:

Q How about fruit?

A Fruit came in only with the Spaniards, except possibly a few wild berries. Peaches were planted in orchards, both on top of the mesas and along the sides and there are still quite a few peach orchards in this area. That did not form a major portion of subsistence.

Cattle and sheep as well as horses came and burros came in with the Spaniards, particularly after 1600. The Hopi got sheep during the mission period.

At Awatovi there in the ruins, in the house fills, there were numerous sheep bones and the sheep were well adapted to this semi-desert area.

To begin with they were herded away from the fields and the corrals were built at some distance.

Periodically, as a result of raids from neighboring groups, they had to be brought back to the vicinity of the villages every night, so that you had at various times in their history, in the last hundred years, a different pattern

of grazing. But even today or in the recent past, permanent sheep camps at some distance from the villages have been built and Hopi reside continuously there or groups of Hopi collaborate in taking their turns in herding sheep.

CHIEF COMMISSIONER WATKINS: At this point, Doctor, I would like to ask you a question.

You talk about herding the sheep some distance away from the mesas. As a matter of fact, the mesas were not adapted very much to the growing of any crops of any kind, were they?

THE WITNESS: The tops of the mesas are used particularly to grow beans. There are bean fields on the tops of the mesas, fruit orchards, peaches. Sheep can be herded on top of the mesas but there is not too much room. Most of it is out in the washes, in the valleys.

CHIEF COMMISSIONER WATKINS: I only saw two or three of the pueblos in that area but I observed that they were very small, as far as area is concerned, compared to the area around them.

THE WITNESS: That is true. I am thinking of the area up north, up behind them, north, which is a sort of continuous mesa, black mesa, a large area.

It is true most of the herding is on the flat lands around.

Cattle were allowed to range more widely. They were

turned loose, particularly in the western areas, west of Oraibi and south of Moenkopi, and were periodically rounded up.

We mentioned Escalante's account of seeing them out there in the 1770's. Cattle almost vanished from the Hopi area in the nineteenth century. In the 1890's, you began again to get herds of cattle, particularly in Third Mesa and Second Mesa.

MR. ROCHOW: Did you say the 1890's?

THE WITNESS: They were reported in the 1770's by Escalante. In the 1890's there was a revival of cattle running, ownership by Hopi.

Cattle could not be kept near or were not kept near the village partly because they competed with the Hopi for the limited amount of water there so that they had to range further away in order to have sources of water.

The surplus horses were likewise turned loose and periodically rounded up. Even as late as the early 1930's there were herds of horses west of Oraibi. Horses however never became an integral part of Hopi life, possibly again because they competed with sheep who were important as sources of food and subsistence, and also as sources of wool.

CHIEF COMMISSIONER WATKINS: Didn't they eat the horses, too, the horse meat as well as the sheep?

THE WITNESS: Yes, on occasion, though they never

really raised them for that purpose.

Hunting, which is now limited mainly to rabbits and small game, was once much more extensive and much more important.

By Mr. Boyden:

Q Give us an idea what that was in 1848 and prior thereto.

A Of the hunting?

Q Yes.

A In the last century, or even earlier, one of the important animals they hunted was the mountain sheep which was quite numerous around the cliffs of the Colorado River and the Little Colorado.

Q Can you tell us on Exhibit A which areas you are talking about there?

A This region along here.

Q Will you tell us, Doctor, where that region is?

A It is the region just to the north and south of Desert Viewpoint in the present Grand Canyon.

Q That is in the pink or west district we are talking about?

A In the west district.

Q Now, the Little Colorado, where the mountain sheep were, extended how far along the Little Colorado?

A Down to the area of Cameron; beyond that it is more

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open, antelope were also taken in a number of areas. Antelope were common along the Little Colorado River, the edge of the blue and red to the southwest, and were also taken on Black Mesa and on Awatovi Mesa one of whose names was Antelope Mesa.

Antelope were generally hunted in terms of communal hunts with converging corrals built and there were counts of their being taken in fairly large numbers.

Deer were normally hunted individually --

Q Doctor, before you leave that, did the Hopi Indians construct and use antelope traps or antelope corrals?

A Yes, they did. In fact, there are remains of some just on First Mesa, itself, just north of The Gap.

Deer were hunted individually, mainly in the more forested areas of Black Mesa.

Rabbits in early times were an important souce of food and today still are. They are still hunted communally several times a year in different locations.

The Hopi systematically move their rabbit hunts around from one area to another, leaving areas to rejuvenate.

Q What areas did they use in 1848 for that purpose?

A We have no specific documentary account of any rabbit hunt.

I would infer they used the same areas that they use today. They go out several miles from the village in different directions, depending on where rabbits have been noted to occur.

in enough numbers to make it worth while to round them up.

Q Now, did they also individually hunt them when they would go out to shrines, and so forth, at great distances?

A Yes, that was always done, I am sure, and is still done today as they go out.

At the times I have been there, I have seen them bring in one or two rabbits, individuals bringing in one or two rabbits very frequently.

Q Doctor, from the time the Spaniards came until the end of the Mexican period and the beginning of the American period, are there not documentary accounts of trading of venison and antelope and rabbits to the people who came in there?

A I am not sure that there was any trading of rabbits. The others are mentioned. Rabbits were merely traded in terms of rabbit skin blankets which I assume are the results of rabbits.

Q In giving the Spaniards gifts when they came in as tokens of friendship, included among those things were the bags of the hunt, were there not?

A That is right, venison, particularly they mentioned cotton blankets, woven from cotton.

I did not mention cotton but cotton comes in here as an important agricultural plant.

The Hopi had developed a special variety of cotton

which would grow in this relatively cool area and in this region cotton was grown primarily in the Moenkopi Wash area.

It would not grow in the higher altitudes of the Hopi Mesa, its bush was characteristically cultivated farther west in lower and warmer, slightly lower and therefore warmer areas.

Espejo reports getting somewhere between 1500 and 2000 cotton blankets as gifts in 1582. So that cotton has a long history here, if we didn't know archeologically we would know from this they made an extended use of cotton.

CHIEF COMMISSIONER WATKINS: Is that a native plant?

THE WITNESS: This is a native American plant which had been domesticated and which in this area through cultivation became very highly specialized.

It has been of great interest to the geneticist and agricultural experts for that reason.

By Mr. Boyden:

Q I take it from what you say, from the time the Spaniards came and during that period up to the American period, the cotton was raised largely out west towards Moenkopi?

A Moenkopi Valley was the major area where cotton was grown. It was grown there continuously up to the time that the trading post came in and supplied a more convenient form of cotton. Even then it was continued on for ceremonial

purposes until relatively recently since in their use of cotton string for ceremonies they need cotton that they raise themselves.

Q Now, Doctor, do the documents also, during the Spanish period, Mexican period and the early American period, show evidences of considerable trade of the Hopis with the surrounding Indians and communities?

A Yes. Almost everybody who stayed there very long remarked upon the Hopi as a center for trade. In fact, I think it was Escalante who said they were masters of trade for this whole area.

Their woven garments were traded particularly to the Rio Grande area, and they still are today. Almost all of the accounts -- well, his account, Father Garces' account, of Havasupai mentions Hopi traders there who guided him or showed him the way to Oraibi.

In fact, trade in this whole area with all of the neighboring groups has always been important and goes on continually.

There are even today trading delegations that come from Rio Grande, Santo Domingo, other villages, from Zuni, from Navajo.

Q Then during the period of the Spanish, the Mexican, and the early American periods, the trails were of considerable importance, were they not, through that country?

A Yes.

Q As their transportation methods?

A There were trails in almost all directions which were well known by the Hopi and by their neighbors and the Hopi were utilized as guides, in many cases as they were when Coronado came in, to these other regions.

Q When you say "to the other regions," what regions did they use the Hopis as guides to?

A They used them as guides to, as I mentioned, the Grand Canyon. They used them as guides to the Havasupai country to the west. They did not need them as guides to Zuni because most of the expeditions came through Zuni. But, generally, Hopi and Zuni relationships were quite close.

There were well known trails east to the Navajo area.

In 1850, Calhoun reports a delegation of Hopi coming all the way to Santa Fe. They knew the Rio Grande pueblos even earlier than that but that is the first record during the American period.

There were trading trails to the southern Paiute, on the borders of the Colorado River.

There were trails up into the Kayenta country and relations with the Utes during this period were mainly of warfare.

I don't remember any specific accounts of trading with them although I am sure they did.

CHIEF COMMISSIONER WATKINS: Did they have any vehicles in these eearly days?

THE WITNESS: No, they did al' of this on foot. In fact, even after horses came in, they preferred in most cases to go on foot.

The Hopi actually trained themselves in these early days by teaching the boys particularly to run long distances and to go with as little water as possible.

When they went on trails up through desert country they would take bottles of water along, they would bury them at particular places so they would have water on their way back if they went through areas that didn't have enough water holes.

But they could go across the desert or semi-desert country on foot probably faster than they could or just as fast as they could with horses.

CHIEF COMMISSIONER WATKINS: Did the Spaniards bring any vehicles in with them?

THE WITNESS: The Spaniards brought no vehicles into this country. They came in with pack trains.

One thing they did bring in that the Hopi adopted was the burro. There still are burros around but that became the pack animal and the Hopi also ride them occasionally. But no wheeled vehicles came in.

I think the wheel vehicles got into this area probably not until the 1890's.

MR. LITTELL: Mr. Boyden, you asked a question in reference to the Spanish, Mexican and early American periods. Mr. Watkins refers to the early Spanish period and the witness referred to the early period.

I don't know what he is talking about with respect tp his answer.

To what period does this comment you have made apply?

THE WITNESS: About wheeled vehicles?

MR. LITTELL: Yes, and then the one behind that, about the training and running long distances and the guides preferring to go on foot.

THE WITNESS: I think the training and running long distances has gone on since the beginning of Hopi history here.

MR. LITTELL: I mean the portion about serving as guides over these various trails?

THE WITNESS: That goes back, that documentary evidence for that goes back only to the Spanish period. We don't have any archeological evidence of guiding but we do have archaeological evidence of a great deal of trade, trade running all the way over to the ocean and to the gulf, indirectly at least, in that sea shells of various kinds were found in the pre- Spanish ruins at Awatovi and elsewhere, in fact evidence of turquoise from the Rio Grande region and different

styles of pottery made elsewhere are found buried both in pre-Spanish and post-Spanish -- pre-Spanish graves which indicate to the archaeologist the trade with the southern area.

MR. LITTELL: That is pre-Spanish and Spanish period?

THE WITNESS: I am talking about the archaeological evidence of the pre-Spanish period.

We found also at Awatovi the trade still continued up until the abandonment of Awatovi in 1700.

By Mr. Boyden:

Q Did the trading period continue into the American period?

A It still is going on today.

CHIEF COMMISSIONER WATKINS: You did not answer the other question directly. In the American period --

By Mr. Boyden:

Q 1848, for example?

A Yes, it went on then and it still is going on today.

Q In 1848, was it then an important part of their economy?

A It wasn't an essential part of their economy but it was an important part of their economy. It was the way in which they got ceremonial goods, particularly certain kinds of feathers, which came up from the south, parrot feathers, which were quite important in their religious rituals.

It was a way in which they got turqouise which did not occur locally.

It was a way in which they got réd ochre which they used for body paint and which came from a particular site in Cataract Canyon in the Havasupai territory.

These, plus shells of various kinds which were used in their dances and on their altars,all came in this trade and that trade has been continuous through the early American period and, as I say, right up to the present.

Q Now, was the hunting of antelope and mountain goat and rabbits an essential part of their economy in the year 1848 and prior thereto?

A Yes. It was more important then than it is now.

In the first place, at that time there was considerably more game in this area than there is today.

From the archaeological excavations numerous bones of these animals are found.

Also, in the ceremonies, it is these animals in many cases who are, portions of these animals' hooves or horns, and so forth, are used as an important part of their ceremonial apparatus.

Q That brings me to the question of turtles. Are they also an important part of their ceremonies?

A Yes, turtles, even foxes, their ceremonial custume consists always almost of a fox skin which is draped down the

back.

These foxes have to be ceremonially killed. They are trapped in special areas down toward the Little Colorado River.

They also utilize turtles as rattles, combination of a turtle shell and antelope hooves makes the basic rattle that they strap on to the back of their leg in their ceremonial kachina dances.

Q Those turtles were gathered where?

A They came primarily from the Little Colorado River.

Q That would be down to the south or blue area in Exhibit A?

A Along the south edge of the blue area and along the southwest edge of the red area.

More important even than these two animals was the ceremonial trapping of eagles, which occurred in a wide variety of places.

Eagles were taken from their nests as young, though the Hopi were careful to leave enough eagles, enough young to maintain the eagle population.

They were raised by the Hopi ritually, they were fed, treated almost as members of the family. They were ritually then, in June or early July, early or middle July, they were ritually killed, their feathers were taken and the eagles were buried in special cemeteries.

These feathers were used not only for their costumes but also as the main medium by which prayers were sent to the various gods.

A prayer stick was an integral part of every Hopi request and these require particular eagle feathers as well as turtle shells.

Q What is a paho?

A A paho is simply a prayer stick, usually two little willow sticks, one representing a male and another a female. They are tied together. Various wild plants are sometimes put with them, a little bit of cornmeal, in a corn husk, a little bit of honey and a wrapping of cotton thread with perhaps an eagle feather tied to it.

Q Did each of these things tied in a bundle have a specific significance in the form of prayer?

A As a symbolization of this particular purpose, of the importance of these particular elements.

CHIEF COMMISSIONER WATKINS: You mentioned a few minutes ago something about parrot feathers were especially desirable. Parrots were not native to this area, were they?

THE WITNESS: No,they were not,sir.

CHIEF COMMISSIONER WATKINS: How far away would they have to go to get parrot feathers?

THE WITNESS: In Southern Arizona, in the warmer desert country to the south, you have smaller parrots.

The large macaw feathers apparently came up in trade from the Mexican border but they seemed to be passed from one group to another.

The details of that, maybe Al Schroeder knows more about that than I do, but they did come in in trade and they still use them.

CHIEF COMMISSIONER WATKINS: Did they have any special significance, I mean the parrot feathers aspect.

THE WITNESS: In the early Spanish accounts for Zuni, you do have some accounts of parrots or macaws being kept in cages, if I remember correctly.

With regard to the Hopi, I think in this case it was largely their spectactular plumage that attracted them, possibly their reputed ability to talk, I don't know.

There is a Parrot Clan which is, in their belief, thought to be relayed to parrots. You have a great number of myths. But actually in regard to them they didn't live in their territory, they may have lived in the territory of some of their ancestors.

CHIEF COMMISSIONER WATKINS: I guess this is a good place to take our noon recess.

We will take our noon recess until 1:30.

MR. SONOSKY: Before we take the recess, could I make a correction on the record?

As you suspected, with the amount of exhibits we

AFTERNOON SESSION

(The hearing reconvened at 1:30 p.m., 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 petitioner in Docket No. 196:

John S. Boyden, Esquire,
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Salt Lake City, Utah.

On behalf of the defendant:

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

MR. BOYDEN: Yes, they are very legible when you get close to them.

By Mr. Boyden:

Q Will you proceed, Dr. Eggan?

A We were talking before about shrines and particularly about eagle shrines.

We were talking about the ceremonial gathering of eagles.

I described briefly how they were caught and raised and for what purposes they were used.

Eagle hunting areas are owned by clans and associated with these clans, associated with these hunting territories, are a series of shrines. So that each village and each clan has a number of these shrines which they periodically visit, not every year, they skip around from one to another because this is a sort of ceremonial farming of eagles by which the population was not depleted enough so that they did not continue to reproduce and to maintain themselves.

This is one of the most important Hopi ceremonial activities. It has been carried down, as we can tell from the archaeological record, from pre-Spanish times and it is still being carried on very actively to the present time.

These maps, one of them particularly perhaps I might mention now, Map Number 68, or Hopi Exhibit Number 68, shows the extent of these eagle shrines as they have been put

together by the Hopi Indians themselves.

I understand that another witness will document these further.

But let me just point out that here is the Little Colorado River, a series of these shrines runs down south of the Colorado River through Clear Creek Canyon, through Canyon Diablo, through Chevalon Creek, and through a series of tributaries running into the Little Colorado itself.

They run along the Little Colorado and the Large Colorado. They run all the way up here beyond Fair Mountain. They run down here to Black Mesa on both sides and they run down to the eastern margins and beyond the present reservation period.

There are in here a very large number of such shrines, not only in the area around the villages but in the cliffs and valleys on all sides of the present Hopi reservation.

CHIEF COMMISSIONER WATKINS: How do you account for so many of them?

THE WITNESS: I account for so many of them partly because eagles are not very numerous and partly because there are a large number of Hopi clans.

There are roughly something like fifty different Hopi clans, and in some cases these are found in several of the villages.

In most cases, these are found in several of the villages. Each village has in general its own section from which they gathered eagles so that this is an extensive, it is not only intensive as far as the clan is concerned, but each clan has several sections from which they gathered young eagles.

By Mr. Boyden:

Q Doctor, in connection with that question your further answer also applies, does it not, that they do not try to depopulate them, they move from one place to another to be sure that the eagles are not exterminated?

A Yes, they are very careful about that. They are very careful not to waste any feathers.

As I mentioned earlier, they have ritual ways of killing eagles. They have to smother them in a certain way.

The Hopi believe that if they are treated in this ritual manner, they will be reborn again and come back into the eagle population.

On the other hand, if they are not treated with the proper respect, why, they won't come back.

Now, I want to go on and say a little bit about the gathering of wild plants which, in the past hundred years and particularly before trading posts, was a much more important activity than it is today.

The Hopi, as you can see from Exhibit Number 3,

know a very large number of wild plants by name. They have definite uses for the majority of them. They know where they can be found and they gathered them from a very wide territory. Some of these are used for food. Greens in the spring; grass seeds in time of famine; piñon nuts, during the periodic heavy harvests of piñon nuts, are found in the pinon areas.

Q Where are the piñon areas?

A Piñon trees grow generally at higher elevations, 5500 feet and up. The principal area from which the piñon nuts are gathered in this region is in the Black Mesa area which runs through this general region here.

Q Will you just indicate what that region is for the record?

A It is the region in the northeast corner of the Executive Order Reservation and perhaps on the north and east margins as well.

They also gathered piñons at other places in the eastern region and occasionally in the western area.

Piñon nuts, wild potatoes, roots of various kinds were gathered. Pigweed, mustard, a variety of such plants were gathered for food.

Particularly this was true in the spring, if there had been drought or a bad harvest, in this hunger period before other foods were available, wild plants of various kinds were gathered in considerable number.

Q How important were wild plants in the year, say, 1848?

A Considerably more important than they are today. Actually, in their rituals, you have wild plants, in their rituals and in their myths you found wild plants playing a very important role.

From the accounts of the older Hopis during famine periods you learned that knowing where these plants were and gathering them might make the difference between survival and non-survival.

So that wild plants, in my opinion, were much more important in the past than they are at present.

CHIEF COMMISSIONER WATKINS: You mentioned wild potatoes, I thought, a moment ago.

THE WITNESS: Yes, little roots. They are about this big. They are gathered from various of the flats. They were eaten, interestingly enough, with a sort of clay to give them a flavor. They gathered a particular kind of clay which they mixed with it. This was sometimes done communally, a few would go out and dig at particular spots. They are not like our potatoes.

CHIEF COMMISSIONER WATKINS: Are they the same variety?

THE WITNESS: No, it is a small root which was given the name "wild potato."

COMMISSIONER SCOTT: Is it the same as the Kamas?

THE WITNESS: No, the Kamas are up further in the northwest. I think that is a sort of lilly type bulb. They are not as big or as good. These are quite small.

The Hopi also gathered food plants or gathered plants for medicinal purposes.

Juniper berries, sage brush made into teas, globe mallow, and a whole series of others.

I think Dr. Whiting has listed something like a hundred medicinal plants which you can find in this list which were known and which are utilized for illnesses of one kind or another.

They used plants for dyeing leather, particularly the mountain mahogany which they got at higher altitudes.

Plants were used for a wide variety of ceremonies. Wild tobacco was gathered and smoked ceremonially. Cotton wood roots were gathered on the Little Colorado River and used for making kachina dances and for portions or parts of altars. Pine and fir branches were gathered ceremonially for every dance and for every ceremony, usually they went north of some shrines at the top of Black Mesa.

On a few occasions they might go as far as the San Francisco mountains.

Agave, which is pretty much the same as mescal, was gathered in the Grand Canyon region or traded with the

Havasupai. Reeds were gathered for use for ceremonial purposes and willows along the streams for prayer sticks.

Their weapons and tools were made out of mountain mahogany and in other cases out of oak, throwing sticks were made out of oak.

Various kinds of plants were gathered for basketry, both on the reservation itself and on surrounding areas.

I have been with Hopi over in the Chinle area gathering sivahpi and basketry.

By Mr. Boyden:

Q Now, in 1848 were wild plants an important and an essential part of the Hopi economy?

A In my opinion they were, sir. I don't think the Hopi would have survived in the numbers they have today if they had not made an extensive use of wild plants.

Earlier than that, you go back far enough, this was all they depended upon. Their whole subsistence at one time was dependent on wild plants plus hunting.

Q Does the gathering of these plants include all the areas that are colored including also the Executive Order Reservation as set forth in Exhibit A?

A Yes, it does. They gathered plants from as far away as Grand Canyon, along the Little Colorado, up in the north, Black Mesa and beyond, and in the eastern area as well.

Another important problem is fuel. Archaeologists

looking at the southwestern region have come to the conclusion that the exhaustion of fuel supplies in the vicinity was an important factor in many of the migrations.

Wood in the form here of piñon or juniper was widely used both for cooking and in the winter for heating.

Black Mesa, this wooded area to the north and northeast, was the major source of wood beyond the villages themselves.

Coal was actually used in this area, too, in prehistoric times.

The archaeologists have found from around 1300 up to just before the Spanish period that coal was extensively used and it was used not only for baking pottery but as a means of heating their houses and cooking and in the kivas themselves.

We don't know why they gave it up. Perhaps a few of them got asphyxiated because the coal was not of too good quality but there was a period in there when there was quite extensive use of coal, at least in the Awatovi area.

Minerals were also gathered for ceremonial purposes.

We mentioned the red ocher which was traded from the Havasupai. Other earths were gathered on pilgrimages to the Grand Canyon.

Q Doctor, before you leave the red ocher, since it is referred to in a good many of the exhibits, is that what the

Spanish thought was the mercury possibility?

A This was, or at least the presence of red ocher in the Hopi villages, excited the interest of the Spaniards. It was a sort of heavy grease compound. They thought it might be cinnabar or mercury compound. They actually bought, I think, a burro load or two in the Hopi country, and sent it off for assay.

They also made searches for the mines further west.

It turned out that it was not mercury but probably an oxide of some kind.

Q Was there quite a bit of trade in this material to people away from the Hopi country?

A This was the major contribution or a major contribution of the Havasupai to the trading complex. They traded it to the Hopi and the Hopi, in turn, traded it to other groups.

MR. LITTELL: May we again ask what period you are talking about now?

MR. BOYDEN: We are talking about the Spanish period at the moment.

THE WITNESS: But that trade went on later. I haven't actually seen any myself in the twentieth century.

By Mr. Boyden:

Q Was this trading going on in the period in which we are interested, in 1848?

A Yes, particularly in the Moenkopi area and Oraibi where the Havasupai came particularly to trade.

I mentioned that other earths were gathered from the Grand Canyon, the Little Colorado Canyon, from the Painted Desert, and used on ceremonial occasions.

And salt, which was both a condiment and a sacred object, came primarily from the mouth of the Little Colorado and secondarily from down Zuni Salt Lake.

Expeditions went almost every year, or every year. It was a rather dangerous journey, not by way of enemies but because they had to be down into the Canyon over ropes and particularly because it was such a highly sacred area.

Clay was also gathered for pottery but mainly in the vicinity of the Mesas.

Grindstones for making cornmeal came fromthe volcanic areas in the Hopi-Ute country at the southern end of the Executive Order Reservation and beyond.

Q And beyond would take theminto the area indicated as purple on Exhibit A, is that correct?

A That is correct.

The Hopi Buttes --

MR. LITTELL: Will you be kind enough to read the answer to that question? I am afraid I got it mixed up a bit.

(The question was read by the reporter.)

THE WITNESS: The Hopi Buttes are listed in this map, this general area.

MR. LITTELL: Pointing to an area immediately south, southeast quarter, is that correct?

MR. BOYDEN: And in the south purple area.

MR. LITTELL: He confined it to that township immediately south of the southeast quarter, is that correct?

THE WITNESS: The Hopi I mentioned were the Hopi Buttes listed on this map.

Actually, they extend down to the Lower Colorado.

By Mr. Boyden:

Q The place to which you have pointed at this moment has Hopi Buttes right on it, does it not?

A That is right.

Q You have indicated in the trips that they made for religious purposes to the various shrines, for gathering also, and so forth, that on those they did individual hunting.

Did they also gather plants on those occasions when they would go out?

A Certainly they would, whether they went on a trading trip, or whether they went to hunt eagles, or to a shrine, they would hunt any animals that they came across. They would gather plants, those near a shrine in a great many cases had particular significance.

They made, in effect, a multiple use of such

trips.

I think they not only made multiple use but they made a relative intensive use of their territory, both on their own reservation and on the neighboring regions.

Some of these, for example, the long cultivation of cotton for ceremonial purposes and for clothing as well, took place almost entirely outside of the present Executive Order Reservation.

They made these trips quite frequently, almost every year a particular group would go to one or another of these sets of shrines, and they have done this, as I say, for long periods of time and continue to do it today.

For certain ceremonies they even have to go farther. For certain ceremonies, in the case of crises, they might go as far as the shrines on the San Francisco mountains, beyond the Little Colorado River, to various buttes, sacred spots, to ruins such as those in Wupatki or Homolovi, along the Little Colorado River.

Q Was that territory at one time regarded as Hopi territory or their ancestors'?

A Yes. Actually all of these spots are in areas that traditionally they claim even though some of them are in areas even outside this range here.

MR. LITTELL: To which area was that question addressed?

MR. BOYDEN: He was talking about the San Francisco Mountains, Mr. Littell.

MR. LITTELL: That is the area you confined it to?

MR. BOYDEN: He broadened it himself. But that is the question I asked him.

THE WITNESS: The Hopi have shrines in the San Francisco Mountain region, up the mountain itself, at Sunset Crater, the Ice caves and at various other places.

These shrines represent their most sacred places. Some are common to all, some, as we have seen, are limited to particular clans, particular villages, but they extend, as Map Number 68 shows, eagle shrines not only well outside the Executive Order Reservation but some portions of the area colored on this map.

By Mr. Boyden:

Q With reference to some of them extending to particular villages, I draw your attention to Plaintiff's Hopi Exhibit 66.

Will you explain to the Commission what that is? It is in the folder.

A 66 represents the traditional claim of the Second Mesa villages, which was sent in some time ago.

CHIEF COMMISSONER WATKINS: Is that 66?

MR. BOYDEN: Yes, 66.

THE WITNESS: You have here drawn the traditional

claim of the Hopi Indians of Second Mesa plus the particular eagle shrines that go with the Second Mesa villages, mainly to the south and to the east, with the LittleColorado River running along here, extending from Williams Mountain down to Sadona WoodruffButte.

MR.ROCHOW: That outline in black, does that relate to the Second Mesa area?

THE WITNESS: That is the area that some time in the past the Second Mesa people have claimed, I think about 1830 or '32.

When was that sent in?

MR. BOYDEN: I will look at it.

THE WITNESS: Things go into the Archives pretty fast these days.

MR. BOYDEN: I will have to check that up a little bit later. I can't find it immediately on the map. It was the claim of the shrine area of the Second Mesa. It is an Archive's map. That is the reason I am not so familiar with it. We can check it up a little bit later.

By Mr. Boyden:

Q At any rate, this illustrates your point that the different clans in different villages had a different set of these shrines that they used.

A That is true.

Q That is still true today, is it not?

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A That is true today, yes.

Q Now, I call your attention to Plaintiff's Exhibit 69, which refers to Hopi shrines other than the eagle shrines. What is the nature of those shrines? I notice them scattered all over the map here.

A Some of those are shrines owned by particular secret societies and are connected with the ceremonies which they perform.

Some of them are kachina shrines. Some of them are shrines relating to major Hopi deity. These are not as numerous but there is one down here at Woodruff Butte, for example, there is some up here by Chambers, there is one just southeast of Winslow. There are some over here near Flagstaff. Possibly these are the ice cave ones.

There are quite a few inthis area just northof Cameron and there are some all the way up in Lees Ferry, Navajo Bridge region, and there are some over here beyond the Little Colorado inwhat is now the Grand Canyon region.

The bulk of them, however, are in this region area, as you can perhaps see.

Q When you say "this general area," will you indicate?

A These are the Hopi Executive Order Reservation and its immediate margins, Tuba city region and the areas down south between the Executive Order Reservation and Little Colorado River.

Q Now, Doctor, before you leave that, may I call your attention to Hopi Exhibit Number 5 in the back of the same pamphlet? I will ask you if this is a sample of one of the types of shrines in addition to the Hopi or the eagle shrines?

A I have never seen that particular one as far as my memory goes, but this is typical of shrines. They may or may not have pictographs as this one does, but they are areas which are natural, generally natural groups of stones, sometimes artificial. They don't look like anything important but they are places where offerings are made, prayers are made to particular deities and sometimes you can find offerings, broken potsherd which may have represented offerings of food at one time but by and large this is the kind of shrine that you have.

Q You will notice that this is one introduced at the Grand Canyon and testified to by an Indian there. This is the pictograph of what, Doctor?

A Chaquina. [Kachina]

Q Now, Doctor, the tendency then, I take it from your testimony, is that this directs hunting and plant gathering activity to this extent because they go for those purposes and combine the other purposes with it?

A That is true and I think these shrines are particularly important because, as I mentioned before, they represent

the most sacred spots in the Hopi country, they represent their strong feelings with regard to land and territory.

In many cases they symbolize or represent their ancestral villages and the activities that they formerly carried on in the vicinity of their villages and which they still visit to offer prayers to their ancestors and to the deities or objects who are interred in the immediate area, as eagles are, around these areas.

So that these shrines are a living part of their territory. They visit them. They know them and they pass the knowledge to their children.

You have, therefore, not only an actual use of this territory, a gathering of plants and animals and hunting of animals, but you have these ritual ceremonial representations scattered around over this whole region.

MR. BOYDEN: Now, may it please the Commission, at this time this is sufficient reference in order to use them as illustrative of the testimony of Dr. Eggan.

I will have further testimony with respect to them with another witness that is coming but in order to make them part of the record, I would like to offer Exhibits 68 and 69 at this time.

CHIEF COMMISSIONER WATKINS: Any objection?

MR. LITTELL: No objection.

CHIEF COMMISSIONER WATKINS: They may be

received.

(The documents referred to were received in evidence as Petitioner's Exhibit Numbers 68 and 69.)

By Mr. Boyden:

Q Doctor, I notice in Hopi Exhibit Number 18, during the Spanish time, that one of the trade articles of the Hopi Indians in addition to tanned hides was rabbit mantles. What are rabbit mantles?

A That document has reference nowadays to what we call rabbit skin blankets.

Rabbits were used not only for food but their skins were taken, cut into strips, and then woven on a cotton frame usually, woven into quite warm and useful blankets.

Q Were those hides tanned before they were woven?

A No, they were just dried for the most part.

Q Now, the tanned hides they talked about during that time, what kind of hides were those?

A Those were usually deer skins which were tanned. Most of the deer skins actually came from the Havasupai rather than from the Hopi, although the Hopi knew how to tan them and did so.

Q So that they did a lot of the tanning for not only their own hides but the Havasupai?

A No, the Havasupai did their own tanning.

The Hopi tanned hides but they did not have deer in very large quantities. So I would guess that most of what they had for further trade they could well have gotten from their neighbors.

Q Now, Doctor, have you pretty well reviewed the nature of the Hopi economy as of 1848; that is, consisting of hunting and gathering of plants and gardening, raising of crops and trading? Were there other factors by which they lived as of that period, 1848?

A Did you mention domesticated animals? Sheep were particularly important. Cattle as well, although, apparently in the difficulties during the American period, most of the cattle were killed off or run off.

I think that pretty well covers the basic economy.

Agriculture, I would say, was all the way through the most important activity. The gathering of wild plants and hunting was important but waxed and waned, depending on the success of the crops.

As sheep herding came in, it gradually took over the supplying of subsistence meat to the economy.

It is rather interesting that you can tell how scarce meat has been all the way through in that meat is not a basic food. It is thought by the Hopi today to be a sort of relish, something to be added to the basic corn, beans,

squash, vegetable food.

CHIEF COMMISSIONER WATKINS: What other vegetables besides squash do they grow?

THE WITNESS: Now they grow quite a few. In 1848 they grew quite a few that had been introduced by the Spaniards but they have small patches of onions. They grew a few potatoes. Beans, of course, were the important vegetables besides corn.

CHIEF COMMISSIONER WATKINS: Did they grow beans before the Spaniards came?

THE WITNESS: Yes. Beans in their diet essentially were the main source of protein. They have had beans for a very long period of time.

CHIEF COMMISSIONER WATKINS: I don't remember hearing of them in any other docket numbers you have had, especially in the west.

THE WITNESS: Actually, this area is the farthest north in the western portion of the United States in which aboriginal agriculture occurred, sir. Beyond this area during certain favorable times, back several hundred years ago, in archeological times, crops were grown as far north, say, as Great Salt Lake, in that general area. But this is practically the northern limit of agriculture.

As you go over into California, they had little or no agriculture.

So that anywhere north of here, you would not have had corn, beans or squash or any of those aboriginally.

CHIEF COMMISSIONER WATKINS: They grew corn in the Mississippi Basin.

THE WITNESS: Yes, east, all the way up to North Dakota.

CHIEF COMMISSIONER WATKINS: I was particularly interested in beans because I could not remember reading about them in any of these docket numbers in these other areas even where they grew corn.

THE WITNESS: In the Southern States, corn, beans and squash as an agriculture complex was fairly widespread in our southeastern States, in the Mississippi Valley, in the eastern plains area.

I don't know where the northern limits were but they were all grown together, sir.

CHIEF COMMISSIONER WATKINS: Did they have any trade relations with the tribes farther east?

THE WITNESS: These people?

CHIEF COMMISSIONER WATKINS: Yes.

THE WITNESS: There must have been aboriginal trade because some of the kinds of corn that came into this area were from the Upper Mississippi Valley or were related to those kinds. Whether they came across the southern plains or the northern plains, I am not sure that we know,

but there was indirect trade with those areas.

CHIEF COMMISSIONER WATKINS: Are these Indians insect eaters?

THE WITNESS: I think the only insect that the Hopi might have on occasion eaten were locust but by and large they did not eat insects.

CHIEF COMMISSIONER WATKINS: They did not eat grasshoppers?

THE WITNESS: Not to any great extent, no.

CHIEF COMMISSIONER WATKINS: I know some of the Indians up in Utah did.

THE WITNESS: During times of famine they ate everything. But in ordinary years, they raised a surplus of corn which they stored and which they traded in part so that in ordinary years or good years they had adequate subsistence. It was only in times of drought, several years of drought, when theywould have a hard time.

CHIEF COMMISSIONER WATKINS: They did not have any wheat, did they?

THE WITNESS: The Spaniards introduced wheat. The only place they could grow it was in the Moenkopi area. They did grow a little wheat in the Moenkopi area. They continued to do that. They grew wheat as late as the 1930's in there.

There are also some accounts of planting wheat around Keams Canyon in the early period but the climate here

is not very good for wheat. It needs irrigation.

By Mr. Boyden:

Q You said about the blankets being woven, rabbit type, but were the Hopi weavers?

A I guess I took that for granted. They were quite excellent weavers.

To begin with, earlier in the pre-Spanish times, they wove almost entirely in cotton.

I think I mentioned the large number of blankets or cotton robes which they were able to collect to give away to Espejo. They still continue to weave cotton. The bridal costume, when a woman gets married, has to be made out of cotton. It is made out of white cotton and woven in the kivas, so they still maintain the weaving of cotton for that purpose and also for leggings and other ceremonial equipment.

But with the coming in of sheep and wool, they rapidly transferred to the weaving of wool. They wove women's costumes, the men's costumes as well, and ceremonial blankets for warmth and for various other purposes. That they still continue to do but now it is almost obsolete.

Q What was the situation in 1848?

A In 1848, they were weaving wool and cotton, too.

Q Did they weave blankets also?

A They wove blankets, blankets not so much as women's dresses and men's kilts, and in more recent times ceremonial

clothing.

Q I notice in Hopi Exhibit 24 that there is a trade item, the Havasupais were wearing Hopi shirts. Was that a part of the weaving you are speaking of now?

A Yes.

Q Does that pretty well cover the economy or the nature of the use of the area that the Hopis did use, Dr. Eggan, as of 1848?

A I think we mentioned the major activities.

I could add more detail. I don't know whether it is necessary.

Q I think that is sufficient to illustrate the point we want.

Now I would like to develop just a little more fully some of the testimony you have already given by a series of maps that we have developed.

Could you help me put this one up, Doctor, please?

I now unfold Exhibit 57.

Doctor, will you tell us what this map is?

A Exhibit 57 is a map which comes from the Spanish period, drawn essentially by a Spanish topographical engineer named Nicholas de la Fora, and also listed is Urretia.

This is a map which was drawn in the period around 1776 to 1778. It was not actually dated. Part of the data on this map -- it is a map, first of all, --

Q Before you go to the part this is not accurately dated, we are able to date the map by the men who went there, aren't we, Doctor?

A Yes. I meant the map itself does not have a date on it.

Q But the men who prepared this material went there at a particular time, did they not?

A Yes. This is a map of the northern frontier of New Spain, as it was in 1770's. It is based in part upon the reports of the Escalante Expedition, particularly on the map drawn by Don Bernardo de Miera y Pacheche, who personally went out with Escalante and visited the Hopi country in the ~~1860's~~ 1770's. And this material was, I think, originally sent to the King of Spain and the King sent it on to de la Fora to incorporate in his map.

Hopi Ex 57

Q Doctor, this work is referred to in one of the Hopi exhibits that we have now, is it not?

A It is referred to, the materials are referred to in Exhibit Number 24 on page 4.

Q Then these particular people are referred to in one of the documents although we do not have that part abstracted in our brief and that is Hopi Exhibit 23-A and 23-B, it is that same book. I just give the information to find it.

That is correct, is it not?

A The important thing for your purpose here is --

Q Now, Doctor, this purported, did it not, to cover a period from 1766 to 1768, taken from those other exhibits?

A In that general area, yes.

Q That is just eighty years before the Treaty of 1848, was it not?

A That is correct.

Q Did it outline the various provinces, including the province of the Moqui as reported to the King of Spain?

A It does. Here is the Province of New Mexico and adjoining that is the Provincio de Moqui, lying apparently between the Colorado River and the Little Colorado River here which goes on over here, here it is listed as the Rio Colorado.

Q I will ask you to tell us where the southern line of the Province of Moqui is drawn here by the Spanish at this period.

A The southern line seems to be down here somewhat below the Little Colorado.

Q And the northern line appears to be where?

A There is no northern line except the northern portion of the map. It seems to go here a little beyond the river called the Rio de Navajo.

Q What is that river now?

A It is probably the San Juan.

CHIEF COMMISSIONER WATKINS: You say it goes a little north of that river?

THE WITNESS: The word "province" at least is written north of that river.

CHIEF COMMISSIONER WATKINS: Does this map go clear across the whole of North America?

THE WITNESS: No, this is just, I think this is just the area of the northern frontiers of New Mexico. It goes out here into -- out here is the land of the Comanches. This is the Staked Plains area.

CHIEF COMMISSIONER WATKINS: What is the name at the top in the right-hand corner?

THE WITNESS: This is Tierra -- land of the Iscandis. This is the Province of the Tewas. This is probably the Texas region, the Gulf region.

By Mr. Boyden:

Q Now, Doctor, the Province of Moqui as reported to the King in this period was larger than the area that is claimed here in all directions, is it not?

A That is true.

Q Now, I will ask you to tell us what Exhibit 58 is, the map, referring to the book we have, the desk book.

A This is a map based upon the journal of Father Garcés, whose journey we mentioned, a map dated 1777 which is just two years after his journey from the Gulf of Lower

California up from Sonora up into California and into the Hopi area.

Q Are the Moquis shown on that map, Doctor?

A There is no mention of the Navajo on this map.

Q The Moquis, I said.

A The Moquis, yes, they are shown on this map.

Q It shows the Yuta Indians, does it not, above them?

A The Yutas are shown to the north. He did not get beyond Oraibi. En route to Oraibi or coming in from the west there is at this time no mention of the Navajo.

Q It shows the Apaches to the south, does it not?

A I believe it does though I don't have a copy here.

Q Do you have that before you?

A No, I do not.

Q I guess rather than rely on your memory, you should refer to this map.

Now, on the south, it shows the Apaches and to the southeast the Hualapai.

A Southeast. The Paiutes to northwest. The Utes up above what may be probably the San Juan.

Q But does not show the Navajos on this map?

A It does not.

Q Now, I will ask you to turn to the next one, Number 59. Tell us what that map is.

A Map 59 is the Disternel map of 1847. This was

Disturnel

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a map apparently prepared for the Treaty of Guadalupe Hidalgo. It is the same as Map Number 1, Map Number 1 is a portion of this.

Q Map Number 1 is a larger map of the portion we are interested in but those are taken from the same map, are they not, Doctor?

A I believe they are.

Q Now, this is at the time of the Treaty of Guadalupe Hidalgo in 1848?

A The year 1847.

Q The year before?

A It was apparently prepared for that, for the purposes of that treaty.

Q Will you tell us the various locations of the Indian tribes on that map?

A The Moqui Indians are shown in roughly their proper position and the Pais de los Indios Navajos are shown to the northeast of the Moqui Indians.

Q Roughly what position does that place them in our present geography?

A Looking at this map in the position of the river, it places them in what is now the State of New Mexico, northern New Mexico, north central New Mexico.

Q Who is to the south of it?

A To the south of them is Apache Tierra, land of the

Apaches, Cosninos, Indios Cosninos, or Havasupai are almost directly to the west of them.

Q What to the north?

A I don't see any Indians listed to the north until you get up to the Ute groups.

Q Now, that is 1847. The next map I believe is Number 60. That is what date?

A This is the map prepared by Captain R. D. Marcy of the U. S. Infantry under orders of the War Department and is based on explorations in New Mexico, 1849, '50, '51, '52.

Q What is the relative location of the Moquis and Navajos on that map?

A The Hopis are shown here for the first time, perhaps, the Little Colorado River is shown in its proper position. The Moquis are east and north of the Little Colorado River and west of Fort Defiance.

Q Now, I will show you Exhibit 61, Will you tell us what that map is?

A 61 is a map based on the reconnaissance of the Zuni and Little Colorado and Colorado Rivers by Captain Abert, Chief of the Corps of Engineers, made before him under his direction by Captain Sitgreaves, top California Engineering Corps, assisted by Lieutenant Park and Mr. Kern.

MR. LITTELL: If the Commission please, this

witness is qualified as anthropologist and archeologist. Now he is testifying as a historian.

I understood from Mr. Boyden we were not to have historians inasmuch as the documents speak for themselves.

I think they stand squarely on their own two feet and the witness adds nothing to it although I respect, as usual, his great erudition in all these matters.

MR. BOYDEN: The most effective way for us to understand what we are all talking about is to understand the exhibits as they tie in with the other exhibits we have.

I am connecting them with this map.

He is perfectly capable of doing it.

CHIEF COMMISSIONER WATKINS: I imagine an anthropologist has to study some history. He may not be a specialist in history but he has a general knowledge of them. I see no reason why his testimony should not be received.

By Mr. Boden:

Q You may proceed, Doctor.

A Map Number 61 shows the Moquis or Hopi Indians just to the north of the Little Colorado River. It shows the Navajos in what is now the Lukachukai Mountains. This is geographically as far as the Moquis are concerned at least in the proper position.

Q It shows the Navajos east of the Moquis?

A East and a little bit to the north.

Q That expedition was when?

A That was Captain Sitgreaves' expedition. They mapped the Little Colorado area and I think there is a statement in there that the Moquis were to the north of the Little Colorado.

Q What time was that?

A 1851, if I remember.

Q I will show you Exhibit 62.

COMMISSIONER SCOTT: That was 62, was it not?

MR. BOYDEN: No, this was 61.

CHIEF COMMISSIONER WATKINS: Santa Fe, New Mexico, it looks like 1857.

THE WITNESS: Number 62 is 1857. That is right, sir.

This map of the Department of New Mexico was prepared under the direction of Colonel Bonneville. It is important for our purposes, I think, because it is the first map that outlines both Hopi and Navajo territory.

The Hopi Indians are put in a block north of the Little Colorado River and some range of mountains.

The Navajo Reserve is based upon Governor Meriwether's agreement, treaty agreement with the Navajo in 1855. The territories blocked out here run from where the Chinle Valley, as they called it then, the Rio de Chelly, where that joins the San Juan, along the San Juan to Amarillo

Canyon and down Amarillo Canyon, diagonally along the height of the land to the head of Zuni Creek, down along Zuni Creek to where the Zuni River, to where the river intersects the Colorado and then straight north to the point of origin.

By Mr. Boyden:

Q Now I want to refer you to the Meriwether Treaty as set forth in Navajo Exhibit 289. 127, I thought it was. I guess I have it in the wrong place.

I must have two markers.

Yes, Navajo Exhibit 127.

Now, I am particularly anxious to have you read to us the eastern boundary of the Meriwether Treaty from Navajo Exhibit 127.

A The eastern boundary -- the eastern boundary of the Meriwether agreement and treaty went from where the Zuni River enters the mouth or enters into the Little Colorado, thence north to the beginning, which was where the Rio de Chelly, or as we now say Chinle Creek, enters the San Juan River.

Q Now, I would like to refer to Exhibit 2, Doctor, for this purpose, to clarify one matter.

MR. BOYDEN: Now, may I state to the Commission, it is already in the record but I think it should be reiterated here, that Exhibit 2, the base map, was the base map used with

Executive Orders put on it, was used in the Healing v. Jones as Exhibit No. 440.

Now, on that base map there is a line drawn over here called Meriwether Treaty, July 18, 1855, Royce.

By Mr. Boyden:

Q Now, I will ask you if you have caused to be placed on this map since its introduction a line where you have just described from Exhibit 127, Navajo, the Meriwether Treaty?

A I have, yes.

Q That goes from the place where the Zuni River enters the Little Colorado up to -- reading from the treaty -- this point on the San Juan to where?

A The beginning is on the south bank of the San Juan River at the mouth of the Rio de Chelly.

The Rio de Chelly is the old name for what we now call Chinle Creek. That is the river that runs out of the Canyon de Chelly.

Q In Exhibit 127, it described the last course as running from the place where the Zuni runs into the Little Colorado to the point of beginning?

A That is right.

Q That dotted red line that you have caused to be placed on this map is a demarcation of that line, roughly?

A Yes. The only exception is then reserving -- thence

north to the beginning excluding the land owned by the Pueblos of Zuni and Moqui and reserving to them all their rights and privileges.

Q So that this started at a point of beginning and then going east, and back down to where the Zuni enters the Little Colorado, so that everything was east of that point described in the Meriwether treaty?

A That is correct.

CHIEF COMMISSIONER WATKINS: What do you mean by everything? What are you talking about?

MR. BOYDEN: Everything that is described within the Meriwether treaty.

By Mr. Boyden:

Q Maybe it would be well to just read that description, Doctor, and point it out here so we will see without any question.

MR. ROCHOW: You mean land east of that dotted line was considered Navajo land?

MR. BOYDEN: That was placed in there for the Navajos under the terms of the treaty.

MR. ROCHOW: I think that is what Mr. Watkins was wondering about.

By Mr. Boyden:

Q Will you just roughly describe where that was so that we will understand what the Meriwether treaty covered?

A Chinle Creek runs out of the Canyon de Chelly, formerly called Rio de Chelly. It runs up into the San Juan River at this point.

Starting at this point, the treaty describes an area up to Amarillo Canyon which starts right here, just beyond Fruitland. Then the line goes up Amarillo Canyon to as far as it goes.

Then this is the area of the division of land because of east-flowing and west-flowing rivers.

From here down to the headwaters of the Zuni area, somewhere in the vicinity of present Fort Wingate.

Then along the north bank of the Zuni River to where it enters the Little Colorado and then north to the beginning.

This was the reserve laid out in the agreement between Meriwether and the Navajos which took place on July 18, 1855.

It is our most definite statement, somewhere near 1848, as to what the actual boundary between these two groups was.

Q Was there a reservation in this that was to be given to the Navajos?

A This is listed on this map --

Q I meant was there a reservation in the treaty itself? Read it. Reserving what?

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A Yes. Reserving, as I mentioned, excluding the land

owned by the Pueblos, Zuni and Moqui, and reserving to them all their rights and privileges and also reservation for the United States.

Q Within this area that you have described, it excluded that that was owned by the Zuni and also that that was owned by the Moquis within that area?

A That is correct.

Q That is the wording of that treaty?

CHIEF COMMISSIONER WATKINS: Was that treaty ratified?

MR. BOYDEN: No, it was not. This was 1858.

THE WITNESS: 1855.

MR. BOYDEN: That is correct. I beg your pardon.

By Mr. Boyden:

Q Now, Doctor, the documents disclose, do they not, a discussion of this with the Moquis?

Will you refer to those documents for us? If you do not have the numbers of them yet, just tell us what the situation was with Meriwether and the Navajo Indians with respect to this treaty as disclosed by the documents.

A Well, the documents suggest that or indicate that this treaty --

MR. LITTELL: I hope it is understood, if I may interrupt, that my objection goes to all this line of questions which the witness is answering, explaining the contents of

these documents. They speak for themselves and they are subject to interpretations and various legal conclusions.

CHIEF COMMISSIONER WATKINS: Your objection will run. However in all the testimony I have heard on this case up to date, there has been a lot of comment that has already been shown on the maps if any one wants to take time to read them.

We are very liberal --

MR. LITTELL: This is not objectionable. It is a matter of convenience. But when it comes to interpreting and explaining contents of a document which speaks for itself, that is quite another matter.

CHIEF COMMISSIONER WATKINS: Nearly all the experts we have had in this case have been guilty of that.

I do not think it is an offense because it helps us to get their points of view at least of it. We can give it whatever weight we think it deserves.

MR. LITTELL: I did not want anybody to think I was totally asleep at the switch for future generations reading this record.

CHIEF COMMISSIONER WATKINS: I am sure no one will get that impression from reading this case.

Go ahead.

THE WITNESS: In the documents submitted, we have a letter from Governor Meriwether to the Commissioner of

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Indian Affairs in which he states that these boundaries were selected by the Navajo.

We also have a letter from Colonel Dodge, who was the Navajo agent, stating that the Navajo were very pleased with these boundaries.

There are a number of other statements to the effect that these boundaries were thought by the white officials to be too liberal, which may be one reason, if I may venture a comment, that it was not ratified.

This is important, I think, because this is an agreement before the Navajo wars. This was an agreement which was entered into in an attempt to stabilize the situation here.

All told, twenty-seven Navajo chiefs signed this agreement and Colonel Meriwether or Governor Meriwether for the United States.

CHIEF COMMISSIONER WATKINS: Will you indicate on there where the State lines are between Arizona and New Mexico, Utah and Colorado?

We cannot determine it from here. Is it labeled?

MR. BOYDEN: Yes, Colorado, Utah, New Mexico, Arizona.

CHIEF COMMISSIONER WATKINS: I was not looking far enough to the top of the map or near enough to the bottom to get it.

THE WITNESS: This map is ten or fifteen miles further west than the actual treaty boundaries which was set up in the northern portion of this area under the Treaty of 1868, after Fort Sumner.

MR. BOYDEN: This treaty is also shown on the map, 1868. The doctor speaks of this line between here.

By Mr. Boyden:

Q Now, Doctor, I will ask you if this red line which you have caused to be placed on there as the western boundary of the treaty area of Meriwether was made to conform to the area that is shown on Plaintiff's Exhibit 62 and as described in detail in Navajo Exhibit 127?

A Yes, this reserve, this Navajo Reserve here is essentially the boundaries, is the area described in the Meriwether agreement.

Q Now I will ask you to look at Exhibit 63. Will you tell us what that is?

A This is a sketch of public survey of New Mexico and Arizona to accompany the annual report of the Commissioner of the General Land Office for 1866.

Q Will you tell us the relative position of the tribes in that map?

A This shows the Hopi villages in essentially their correct position, north and east of the Little Colorado River.

It shows the Navajos looking to the northwest east beyond or just into the edge of the Rio Chelly or Chinle Creek.

MR. LITTELL: Where does it show on the map?

MR. BOYDEN: Department of Interior General Land Office Map.

MR. LITTELL: Where does it show whether or not --

THE WITNESS: The end begins -- well, if you find Fort Defiance here, it is about an inch away from Fort Defiance, running over into Santa Ana County.

By Mr. Boyden:

Q Now, I show you Exhibit 64. Will you tell us what that is, Doctor?

A Exhibit 64 is the National Map of the Territory of the United States from the Mississippi River to the Pacific Ocean dated 1867 in the office of the Land Bureau, made under authority of the Secretary of the Interior.

Q Will you tell us the relative position of the Navajos and Hopis on that map?

A This is the Hopi villages and essentially their proper position to the north of the Little Colorado River.

For some reason or other, it does not show the Navajo at all so far as I can find them.

Q Map Number 65?

A Map Number 65 is mainly to show the position of

the Moqui who were over on the eastern side and to show Cosninas Bands to the southwest of them.

Q Again the Cosninas are which?

A Are the Havasupai. The Cosninas Bands here are listed roughly between the Little Colorado River and the San Francisco Mountains.

Q In other words, this map shows that the Havasupais were next to the Hopis?

A On the west and south, yes.

Q In that connection, have you examined the report of Dr. Euler in the Havasupai case?

A I have seen part of that, sir.

Q In that, does he not give a list of various maps that show the same relative position between the Moquis and the Havasupais with no Indians intervening between them?

A I believe that is correct.

Q He gives a list, I think, of eleven maps on page 8 through page 9.

Now, 66, we examined in connection with the shrines.

The last map in the book, 67, I am sure has been introduced at least twice before, as I look at the documents.

The relative position of the Navajos on certain dates taken from Smithsonian Miscellaneous Collection, Volume 100. This is Harrington's report. I think that is self-explanatory, Doctor. We referred to that here

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before.

Now, there are other maps, are there not?

A There are many other maps.

Q And they are not all in conformity but these are the maps that illustrate the position of the Hopi claim in this case.

A Yes.

MR. BOYDEN: May it please the Commission, I want the court to understand as I progress with this case that I am relying on some documents of the Navajo and some documents of the Government that are already in evidence which I think being in evidence once is sufficient.

CHIEF COMMISSIONER WATKINS: You have a right to rely on anything that is before the Commission.

MR. BOYDEN: Now, particularly there was a survey of the railroad, a long series of maps we had in the first hearing, and a statement of the Moqui country lying to the north of the Colorado, and the Navajos to the east, and so forth.

Those documents and maps I rely upon at this point.

I also rely on the Navajo documents in so far as the Navajos fleeing and being chased into the Little Colorado country during the time of Carson's round-up.

CHIEF COMMISSIONER WATKINS: We will take our afternoon recess at this point. About fifteen minutes.

(Thereupon, a fifteen minute recess was taken.)

CHIEF COMMISSIONER WATKINS: The Commission will resume session.

MR. BOYDEN: Your Honor, so there will be no misunderstanding, Exhibit 2, Hopi, shows various Executive Orders which may become very important to our proof of taking.

I assume that the Commission will take judicial notice of all Federal statutes and of all executive orders that are pertinent, without introducing them in the case.

CHIEF COMMISSIONER WATKINS: Well, I think as a rule that is generally true.

However, you do not want to count on us knowing all about them.

MR. BOYDEN: No, I certainly would bring them to your attention in the brief.

I did want an understanding it is not necessary for me to copy them and put them in the evidence.

CHIEF COMMISSIONER WATKINS: It will not be necessary to copy them.

By Mr. Boyden:

Q Now, Dr. Eggan, I will ask you if the military pressures of the United States had any effect upon the territories that we have generally described as Hopi territories at this time, commencing at the beginning line of

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the Meriwether treaty, going down the San Juan River until

it hits the Colorado, down the Colorado until it hits the Little Colorado and down the Little Colorado until it hits to the point where the Zuni River enters the Little Colorado.

Now I am asking you about that territory.

Now, did the military operations of the United States have any effect upon the entrance of the other Indians into this territory?

A I believe it did.

Q Is that opinion based upon the documents that are of record, both produced by the Navajos and produced by the Hopis?

A I think so.

It seems clear from the last map that we introduced that the Navajo have been moving west gradually from their original homeland, New Mexico.

I referred to Dr. Colton's report in Document 15, in Hopi Exhibit 15, on page 2, where he believes that the Navajo grazing area did not come in conflict with the Hopi grazing and hunting area until 1840 or 1850.

You will recall, also, that General Doniphan coming into New Mexico, in the Mexican war in 1846, immediately dispatched an expedition to the heart of the Navajo country. And the United States Army continued this pressure upon the Navajo and particularly after 1863 when they were rounded up by Kit Carson, expeditions were continued out along the

Little Colorado River into the Black Mountain or Black Mesa area and north of that area to round up additional Navajos.

In this period, from 1863 to 1868, many Navajos fled far beyond the Hopi country and around the Hopi country, they fled up into the region of Marsh Pass in the Shonta area where their history is documented in William Adams' Report, Number 19, Hopi Exhibit Number 19, and in others.

At this time there are numerous documents referring to the army chasing the Navajo down the Little Colorado region into the Black Mesa area, into the northern area, and even out into the western area.

At this time it is clear also from studies of the Navajo in these margins that their genealogy goes back to this period of the 1860's and the 1870's.

After the release from Fort Sumner, there was continued pressure on the Hopi areas as documented in Hopi Exhibit 38.

One of the reasons, I am sure, that the Hopi Executive Order Reservation was set up in 1882 was to protect them from not only white incursions from the railroad which had just gone through to the south, but also from the Navajo who were encroaching from the east, and in fact in 1888, as Dr. Colton reports in Exhibit 15, the War Department ordered the removal of all Navajo trespassing on the Hopi Reservation,

an order which was not carried out because of humane reasons for not removing the Navajo in the middle of the winter.

These numerous reports, reports of ethnologists which had been working in this area, make it clear that much of the expansion or most of the expansion of the Navajo in the area surrounding the Hopi Reservation were post-1860.

That does not mean that there were not Navajos in this area before. There were Navajos that came out to trade much earlier and there have been occasional Navajos traveling around, but the large numbers of Navajos which are found there in the recent past, in my opinion, were largely the result of military pressures of the United States Army upon them in an attempt to keep them from raiding in the eastern areas and to put them on a reservation and restore law and order in that area.

MR. BOYDEN: Your Honor, this seems a good time to discuss a matter which Mr. Littell and I have discussed with respect to the record in Healing v. Jones.

There is considerable evidence in that case that will be very helpful here.

I see no point in going through it all again since we have a record.

Mr. Littell and I have been discussing it with the Government. The Government is a party to that case and has been also served with all of those documents.

It seems to me that perhaps under Section 14, I believe it is, of the Act, this could be done anyway where we are parties, but I believe we could stipulate that any of us might refer to the record in the other case setting out such portion thereof in our briefs as we might think might be helpful to the Commission, the Government, the Navajos or the Hopis.

That would save a lot of record and yet would make it available to us for various purposes. Since we have reply briefs, if it is not set out accurately or fully, we can set out the rest of it.

CHIEF COMMISSIONER WATKINS: It will save record as far as the parties are concerned, but it does not save anything as far as the Commission is concerned.

MR. BOYDEN: It would help the Commission because instead of handing you a terrific amount of material, we would pick from that record that which we thought was pertinent. We would have the privilege of doing that and setting it out in our briefs to the Commission. That would save the Commission a tremendous amount of work, as I see it.

COMMISSIONER SCOTT: What would you propose to do, to furnish exerpts or the relevant excerpts?

MR. BOYDEN: From a record you rely on, yes.

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COMMISSIONER SCOTT: So the Commission itself

would have a record?

MR. BOYDEN: That is right. The Commission would have it before it because we would set it out in our briefs.

The other could check on it because each of us would have a reply brief.

CHIEF COMMISSIONER WATKINS: Suppose in that record are things, that we thought were material in this case, that neither one of you mentioned?

MR. BOYDEN: The stipulation could say this: that if the Government, (or) if the Hopis requested it, we certainly would have no objection to producing the whole record.

However, I have vertical files that are about a yard long each and my exhibits, I think, cover three of those files, in book form. So it is a pretty large record. But it certainly would be available to the Commission.

CHIEF COMMISSIONER WATKINS: I ask those questions because I can realize the desire of parties to cut down on this hearing and, of course, the Commission does not want it to go any further than absolutely necessary to give a proper hearing.

At the same time, if you all agree to it, I assume there is no reason why we cannot do it.

I think our jurisdiction is very broad as far as matters of that kind are concerned.

COMMISSIONER SCOTT: It would be with the privilege

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or the right of the Commission, which is assumed of course, to ask for any portion of the record that is not referred to?

MR. BOYDEN: That is correct.

The Commission could ask for anything, any of the parties or the Commission might resort to that record for any purpose they desire.

CHIEF COMMISSIONER WATKINS: What about the Healing v. Jones situation?

MR. ROCHOW: I think under Section 14 of the Rules, Mr. Boyden is right, the transcript or record of any case in which the Indians are a party, and here I understand the Government is also a party, would be available to be used in evidence in this case.

I am at a rather disadvantage, though, since I had nothing to do with Healing v. Jones and, of course, I don't know what took place in the case.

But I suppose our U. S. Attorney's Office in Arizona has a complete transcript of that case as well as a copy of all the exhibits if we don't have that in Washington. I am not sure that we do, although I did read the Navajo and Hopi briefs that were filed in that case, but we borrowed those from the field, from the District Attorney's Office, so I don't think we have them in Washington. I suppose I could get them. I mean, if the occasion should arise.

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Frankly, it would be a lot more convenient for

all of us, the Commission as well as me, if everything were right here.

I can understand the tremendous expense and burden that the parties would be put to to reproduce such a tremendous amount of evidence.

CHIEF COMMISSIONER WATKINS: May I ask this question? Will the parties have the transcript of the proceedings here and if we agree with you on this matter of stipulation, are the other transcripts ready for us to work on?

MR. LITTELL: Yes, indeed, twenty-one volumes of them.

CHIEF COMMISSIONER WATKINS: You can understand full well that as far as we are concerned, it would not be necessary for us to wait until you file your briefs at least to read the evidence. That would be the same thing as if we had been at the hearing, refreshing our recollections. None of us have been at all the sessions of the hearings.

MR. BOYDEN: I think of more assistance to the Commission than actual testimony will be the exhibits that were prepared.

We each prepared three volumes of exhibits. So there are six volumes of exhibits, three for the Navajos and three for the Hopis, in that case. They cover a period

from the documents that I have seen.

You will recall that in this area Dr. Colton gives the Colorado River and the Little Colorado River as the area of aboriginal, pre-Spanish Hopi territory.

This is an area that the Hopi demonstrated their knowledge of when the Spaniards first came in by guiding them out to the Colorado River and along its banks for a few days.

This is an area which is really central in Hopi theology, this is the land of their dead. This is the area across which the Hopi go on their journey to the Grand Canyon.

This is the place to which they have gone for many centuries gathering salt.

At Moenkopi for pre-Spanish and Spanish periods, they have grown cotton and have had agricultural settlements.

By Mr. Boyden:

Q May I stop you there? During the time that the village was abandoned, between that time and the time that it was again resumed, did the Hopis continue to grow cotton in that area?

A The Hopis continued to farm that area during that interregnum in living there, yes.

Q Do you remember the dates that Moenkopi as a village for living purposes was abandoned and then resumed?

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A It was resumed somewhere in the ~~1807's.~~ 1870's. I forget the

year it was abandoned.

This is an area in which Escalante found the Hopi cattle herds and horse herds in 1776.

This is an area which was one of their traditional hunting grounds. It was through this area that they went to trade with the Havasupai and through which the Havasupai came on raiding expeditions and occasionally lived there for a short time.

It was through this area that their trading routes to the Paiutes went.

In this area, they have not only a large number of eagle shrines but they also have cachina shrines, shrines to their war gods and the major shrine to Masau'u, who is one of their major deities.

This is an area, too, that on all of the maps I have examined up to this period and around this period there is no evidence that any other Indians were living continuously in this area.

The Havasupai were by and large on the other side of the Little Colorado River and the Paiutes, except as they came in for trading expeditions or for occasional visits, were largely on the other side of the Colorado River up to this period of 1848.

So, that, for this area, I think it is reasonably clear that the Hopi made use of it. They occupied a good

portion of it.

There is no evidence that any other Indian group in 1848 laid serious claim to it.

Q Doctor, I would like to move over to the eastern district now because I notice that the Meriwether treaty line on the other map goes through a point that cuts off a portion of the northern, a portion of the eastern, and also cuts off a portion of the southern area.

So, without trying to put that map back up again, I think you will remember where that goes, do you not?

What do you consider as the eastern line of Hopi use and occupation as of the date of the Guadalupe Hidalgo Treaty in 1848?

A The best evidence for the eastern line in 1848, I think, is the Meriwether agreement which was made some seven years later. Because there were few visits to the Hopi area in the period from 1846 to 1855, the only accounts we have I think are of Surgeon Ten Broek's expedition. He came in from the region of Fort Defiance visiting the Hopi. As he went back after some two days' journey, he says:

"Now we are in Navajo country"

but he does not give enough details as to just where he was.

It was his first trip in, too.

The Meriwether treaty does give us a clearcut line, running north and south from the mouth of the Chinle River

to where the Zuni River intersects the Little Colorado.

This is a line which, as I mentioned earlier, was selected primarily or was part of the area selected by the Navajo, themselves.

You will recall that Dr. Colton's archeological boundary runs from the San Juan, from the region of Monument Valley down to the Little Colorado in this vicinity.

The Hopi, in this area, today, have shrines which are very close to this boundary line. They have shrines here in the region of Cornfield, on Pueblo Colorado Wash. They have shrines east of Steamboat Canyon in this area, and they have shrines along the mountain area of Black Mesa region just to the north.

We have some individual testimony on the part of Navajo as reported by Dr. Colton in Exhibit 15, where he reports that Charlie Day, a Navajo scout in the United States Army, told him that when he was a boy, before 1863, he was living a few miles east of Keams Canyon and at that time, he says, there were no Navajo to the west of their family.

In 1859, a scouting party, as evidenced in document 19, page 1, went through the Black Mesa area. They found no Navajo habitation on Black Mesa except on the very extreme eastern portion, which would be in this general area across from Chinle Wash.

COMMISSIONER SCOTT: Does that line run west of Canyon

de Chelly?

THE WITNESS: Yes, here is the Canyon de Chelly, Canyon del Muerto, Chinle Valley.

This line of Governor Meriwether runs to the west down through here, to the west of Chinle, down pretty much through the valley.

The actual 1868 Navajo treaty was right here on this particular line right at the very mouth.

Later on it was extended over a bit. But the fact that the Hopi have shrines here, that the archeological picture, the Hopi and archeological area as defined by Dr. Colton runs here, that the Meriwether treaty of 1855 established this line as a dividing line or as the western boundary of the Navajo Reserve, plus some ethnological evidence that is rather interesting.

The Hopi, as is illustrated in Exhibit 55 on page 2, the Hopi of First Mesa around 1850 made an agreement with the Navajo which set the boundary line just west of Ganado and marked it on a trail with a pile of stones.

The Navajo, with reference to this agreement, gave to the Hopi a ceremonial, tiponi, in Hopi chronology, the ceremonial wrapping of feather as a symbol of this particular agreement.

I think at a later time perhaps a witness will be introduced who will speak of this from a more direct knowledge.

But this old treaty made by the Navajo and the Hopi, the use of shrines, the documentary data, suggests to me that this particular boundary is a generous one and is a reasonable and reliable one.

It is the best boundary for this particular period that I can find in the documentary data for putting together documentary and other types of data.

By Mr. Boyden:

Q Now, Doctor, the exceptions in that treaty of Hopi lands that would lie east of that line, is it sufficiently clear in your mind in the documents as to what Hopi country was referred to by that that you would care to testify about it?

A I was looking at something else.

Would you repeat the first part of that?

Q The exception that is put in the Meriwether treaty-- in other words, they said excepting the lands that this encloses that belong to the Zuni and the Hopi; my question to you is, from the documents and the information in your hands is it sufficiently clear in your mind as to what Hopi lands they referred to in that territory that they desired to exclude that you would care to testify about here.

A I could guess as to what it might be.

Q I am not asking you to make a guess.

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A My general impression is that Governor Meriwether

did not know much about the Hopi and he was putting this in to reserve whatever rights the Hopi or Zuni might develop.

The Hopi do have an earlier association with Canyon de Chelly.

There are some archeological connections but they are long before this particular period.

He may have been more concerned with the Zuni claims which he probably was familiar with which are to the east and south of this area.

Q My point, Doctor, is this, to be more specific. I take it from your testimony you would not care to say that the Hopis in 1848 had land which they owned or used and occupied exclusively east of that line?

A I don't know of any at that time, no.

There is one small bit of evidence that is worth mentioning. In Richard Van Walkenburgh's history of the Navajo country, he mentions in Steamboat Canyon permanent Navajo settlements were started shortly before the exile to Fort Sumner in 1862 and 1863.

He said it had, however, been used intermittently for a hundred years as one of the outposts of Navajo expansion.

This seems to say in effect that Steamboat Canyon which I mentioned was not occupied until roughly around 1860.

Q Where is Steamboat Canyon?

A Steamboat Canyon is here.

Q That is between the Executive Order Reservation and the Meriwether line?

A Yes, just a little bit, ten miles or fifteen miles west of it probably.

MR. LITTELL: East of the Executive Order line?

THE WITNESS: All right. It is half way in between. West of the Meriwether line and east of the Executive Order Reservation. It is well marked topographically.

By Mr. Boyden:

Q Doctor, that leaves us with respect to the southern area from a tract of land that is south of the Executive Order Reservation and south of the green part marked "East" on Hopi Exhibit A but excludes a portion of the part marked "South" that lies east of the point where the Zuni River enters the Little Colorado.

Will you tell us whether you have an opinion with respect to that south area that is left as to whether the Hopis used and occupied that in the same sense that we have already described as of 1848?

A You are referring to this particular area down here?

Q I am referring to the purple area, excluding, however, everything that lies east of the Meriwether line, so it will be this part over here.

I want to ask your opinion with respect to that part that is west of the Meriwether line and all in purple on

Exhibit A.

A I think the western area was an essential part of the Hopi area of use and occupancy.

All of the early accounts of Government surveys during the American period referred to the area north of the Colorado River as part of the Hopi territory.

The Apache groups further south came up to the rim occasionally but did not occupy that area beyond the Little Colorado River.

The Hopi, as a matter of fact, traditionally have sites down all through these rivers, streams running into the Little Colorado River from the south, at least over this far, and they have a number of sites down there and they visit them.

There are a number of ruins down there that they think of as ancestral homelands but the archeological investigations of these sites have not progressed very far and we don't have as clear tie-up of those sites with the Hopi country as we do those on the Little Colorado itself.

So that, the fact that this area was used continuously as a hunting area, that they visited for a variety of ceremonial purposes, that there are shrines both along the Little Colorado and beyond it, particularly in the San Francisco River region, that ceremonial fox trapping ground

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went down into this region, that eagle trapping was particular-

ly important along this area, I think makes it clear that the Hopi made continual use of this area and that I am sure that they considered it an integral part of their homeland.

Q Now, Doctor, did that not include some grazing of cattle and sheep in the Spanish period in that area, too, the western portion of that?

A Only in the western portion.

In the southern portion, as you get further toward the Little Colorado, it becomes drier and more deserty and it actually is not a very favorable area except in the Hopi buttes region which was used for that purpose.

Q I take it it is your opinion that they did use and occupy it exclusively as of that period, 1848?

A Yes. The Havasupai to the west and south and Apache to the south, to my knowledge, made no claim to that and my strong impression is that the Navajo in that area were in there after 1848.

MR. ROCHOW: Would you read his answer?

His voice fell and I didn't hear it.

(The answer referred to was read by the reporter as above set forth.)

By Mr. Boyden:

Q Now, Doctor, I will ask you the same question with respect to the area that is marked in yellowish buff color and marked "North" on Hopi Exhibit A, with respect only to that

portion thereof that lies west of the Meriwether line in that district.

A This is an area which is the traditional homeland of part of the Navajo. The Kayenta area up in this Marsh Pass region --

Q You said "Navajo".

A Of the Hopi. The Kayenta area in this north part, the central part is part of the traditional area from which the Navajo population comes.

On the area of Black Mesa which extends into that region, there are --

Q Let me correct the record here, Doctor.

You have said "Navajo" twice.

A Maybe I am getting tired.

Q You have said "Navajo." I don't want to get in the record the wrong thing here. I want to be sure about that.

MR. LITTELL: Would you like to wait until tomorrow morning, Mr. Boyden?

MR. BOYDEN: No, this does not need to be rehearsed.

By Mr. Boyden:

Q Now, I will ask you, Doctor, if when you were referring to this area that I am pointing my finger just below the word "North," whether that was the ancestral home of the Navajo or the Hopi?

A That is the ancestral home of part of the Hopi.

Q The record will say "Navajo." That is the reason I wanted to correct it.

One other question. Since you also used the Navajo with respect to this area I take it there, too, you meant Hopi?

MR. LITTELL: Which did you say, Navajo or Hopi?

THE WITNESS: Do you want to know what I said or what I meant?

MR. LITTELL: Well, what you meant.

I am not trying to trip you up. I want to know.

THE WITNESS: The Kayenta area, as I explained earlier, when you were talking about the archaeological background, is an area from which part of the ancestral population of the Hopi came in the period 1275 to 1300 A. D.

The Hopi know those ruined cliff dwellings, Patatakin, Keet, Seel, and others.

On the extension of Black Mesa into that area, there are important Hopi shrines. There are ruins also on Black Mesa that the Hopi claim. There are a number of clan shrines in this area all the way up toNavajo Mountain.

There is a famous shrine belonging to the Snake Clan, which is on Navajo Mountain.

There are eagle trapping shrines and sites along the Colorado area in this northern region.

There were occasional hunting expeditions into this area, part into the western region and part into the north

Hopi aboriginal territory in 1848

These are the main evidence for Hopi claims to this particular region.

By Mr. Boyden:

Q What Indians in 1848 were to the north of the Moquis?

A The Indians that were to the north were primarily the Utes.

Q Is that not consistent with the location of the tribes during the Spanish and Mexican period also?

A That is correct.

Q Now, I will ask you the same question with respect to the Executive Order Resrervation, Doctor.

In the year 1848 did the Hopi Indians have the exclusive use and occupancy as we have heretofore defined it to you in the Executive Order Reservation?

A Yes; granted that the Executive Order Reservation was not set up then, the area listed in white there was an area which in my opinion was exclusively occupied by the Hopi Indians.

Q So that it is your opinion, from what you have stated, Doctor, that the territory exclusively used and occupied by the Hopi Indians to the exclusion, of course, of all others, except for visitors and raiders, occasionally people, extended on a point commencing, going counterclock-wise at a point on the San Juan where the Meriwether line intersected it, going

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down the San Juan to the Colorado, down the Colorado to the Little Colorado, down the Little Colorado to the point where the Zuni River enters, and then directly north on the Meriwether line to the point of beginning?

A Yes.

Q And these various uses that you have described in detail as to gathering of plants, hunting, fishing, gathering wood, grazing cattle, sheep, and other uses enumerated by you as the nature of the Hopi economy, applies to those areas of course, unevenly but some in some parts and some in the other, and that is the basis for the opinion which you give?

A Yes. I want to emphasize that from the standpoint of the Hopi, their ceremonial use is just as important or perhaps even more so than some of the more secular uses we have been describing but both of these are important and both of these have to be taken into consideration.

Q Now, both from the standpoint of religion and from the standpoint of practical use, the Hopi was a different type of operator than the Navajo, was he not?

A They were quite different in many respects.

In many respects they were complementary.

Q As contrasted from the Navajo who lived in hogans and scattered over the territory used, the Hopis lived in concentrated dwellings, in effect, apartment houses, one on top of another, and close together in villages, and then

operated from that base out in their various directions, did they not?

A That is correct.

Q And that was their method of operation and use of this territory in 1848?

A Yes.

MR. BOYDEN: Since we are awfully close to adjourning time, I would like to review my record tonight to see if there are a few more questions I would like to ask Dr. Eggan.

I am close to the end now.

CHIEF COMMISSIONER WATKINS: We will recess at this time until tomorrow morning at ten o'clock.

25. (Thereupon, at 4:25 p.m., the hearing was recessed, to reconvene at 10:00 a. m. Tuesday, October 17, 1961.)

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INDIAN CLAIMS COMMISSION

Washington, D. C.

Oct. 17, 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 STENOTYPE REPORTING
930 F STREET, N. W. WASHINGTON 4, D. C.
NATIONAL 8-0343

I N D E X

- - -

Witness:	Direct	Cross	Redirect	Recross
Fred R. Eggan (resumed)	7301			

E X H I B I T S

Petitioner's	For Identification	In Evidence
No. 57		7301
15-A		7412

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A In 1300 they were spread out in a much greater number of villages and over a wider area.

They were not concentrated as they are today.

Q Was each of those villages a separate integrated pueblo?

A Yes, sir. Some may be satellites of others, as they are today, colonies.

Q Surely. What I want to get clear, because I so understood it yesterday, was that after the great drought there was a greater concentration here, there was water in this group of pueblos on what we know as the Mesas, where the present villages are located.

It is after that that you get the congealing or the amalgamation into a Hopi culture, as we know it, as we have learned it, as I understood you to say as we know it today, is that correct?

A Material culture as represented in the ruins and in the surface collections is ancestral to modern Hopi culture.

The village organization, the coming together in larger villages, just began at that period and was not perhaps completed until around 1700 perhaps.

Q Then by 1846 and 1848, where were the Hopis?

A That period the Hopis were living on First, Second, and Third Mesa and the surrounding area farming at

least Moencopi.

Q So, whatever the civilization was in 1300, it had now congealed and shrunk to these Mesa top villages in 1846, as you said, in 1700?

When we look at the situation in 1846 and 1848 there they were, is that not right?

A I don't understand your terms "congealed and shrunk" because their society and culture expanded in complexity and elaboration during much of that period.

Pueblo Four after 1300 was in this area a much more elaborate, represented a much more elaborate cultural development than earlier.

Q Well, sir, I perhaps misled you. I am not talking about cultural development. I am talking where they live.

A Villages on First, Second and Third Mesas.

Q Their population was roughly what? We have the evidence in the Prescott case and I won't refer to the exhibit, but do you recall what they were about 1846 or 1848?

A We don't have any census from there.

If you want to get into census, you can develop different populations for this region.

I, myself, happen to prefer the Bent Report of around 2500, 2450 to be exact, for around 1846, 1847.

Q This is the sort of thing I referred to. There are

several estimates.

A Dr. Colton has made an estimate in terms of archaeological sites.

When we get a survey as complete as that for the whole area, for the Awatovi group, made on Awatovi and Jeddito Canyon, we may be able to plot the actual number of ruins, we could plot the actual number of ruins by decades perhaps and arrive at some clear figure.

Q Well, just broadly speaking, they ranged in population from 2500, let us say, to what, in the period of twenty years following 1846?

A There were small pox epidemics through here. The population went up and down some. We don't have any good figures until considerably later.

I think 2500 is roughly a good figure for that time.

Q The smallpox epidemic was in 1850.

A There was one in 1853, 1854.

Q There was no census until the troops marched in there, as revealed by the documents in the Prescott case, I forget the date but I think it was about 1880, was it not?

A The first good census was taken by Stephen and all except Oraibi which refused to be enumerated, Oraibi however, in 1890, was enumerated by the Army who came in there and they marched past them and counted them.

The previous census was that of Father Escalante. He had 7,497.

CHIEF COMMISSIONER WATKINS: Was that a Hopi count?

THE WITNESS: Father Escalante was in there for some time and he claimed to have made a population count of families and came out with an estimated total of 7,400 -- I think it was 7,454.

CHIEF COMMISSIONER WATKINS: Is that for Hopis?

THE WITNESS: That is for Hopis. I think, myself, that probably was slightly exaggerated but I don't know how much.

MR. ROCHOW: That was 1775, was it not?

THE WITNESS: 1775 or '76.

By Mr. Littell:

Q Now, in describing the uses to which the Hopis put this land you talked at considerable length about the shrines. Did you hear the testimony at Prescott on behalf of the Navajos, particularly Scott Preston and Peshlakai?

A I heard part of it. I just heard the last portion of it.

Q Were you in the course of your studies made aware of the fact that the Navajos hunted eagles in the same places because that is where eagles were and they had their Navajo shrines and sometimes there was quite a vigorous competition between the Hopis and the Navajos as to use of those shrines?

A I am aware of that, sir. The Navajo have borrowed

from the Pueblo groups, not necessarily from the Hopi but from the Keresan in the east, but from the Zuni, Taos, and other villages, they borrowed a great deal of their culture and ceremonies and beliefs.

Q I am glad to hear that there is something they borrowed. There was no original Navajo culture in respect to the eagle catching shrines, then?

A There may well have been. I don't know but --

Q In the course of your studies --

CHIEF COMMISSIONER WATKINS: Let him finish his answer.

He said "but."

THE WITNESS: Eagles are caught in the northern plains. It may be that the Navajo coming down from the Canadian forests learned to catch eagles by the methods used in the Northern Plains.

But I have no evidence of that.

MR. LITTELL: If the Commission please, could we take a recess at the moment?

My secretary has brought some papers.

CHIEF COMMISSIONER WATKINS: Let us take a ten minute recess.

(Thereupon, a recess was taken for ten minutes.)

CHIEF COMMISSIONER WATKINS: The Commission will

resume session.

You may proceed.

By Mr. Littell:

Q Dr. Eggan, if the Hopis used such a vast territory, as is reflected in these shrines on Exhibits 68 and 69, how often did they get to them?

Do you have any knowledge of this subject?

A Yes. Visits to some of these shrines by each group were made almost every year. They might not go to the same particular shrine in successive years but they go to one of a series of shrines periodically.

Q If they occupied so great a territory, why this concentration of shrines near the villages?

A The concentration of shrines near the villages is in part a reflection of the fact that for ceremonial purposes they not only have distant shrines which are the real shrines but they have symbolic shrines closer to the village that represent these distant shrines. So that certain ceremonies, instead of taking a week off and going to the San Francisco Mountains, they go out and deposit offerings at a shrine in the direction of the San Francisco Mountains that represents those mountains.

Q Is this what we call substitute shrines?

A They are real shrines.

Q They are in fact, though, substitutions for the

distant shrines?

A They are representations of distant shrines, yes.

Q Then you would modify your statement, would you not, as to visiting the distant shrines as frequently as you indicated?

A No, they visited the shrines, too,

You were talking about eagle shrines, were you not?

You have to go to distant shrines to get to eagles.

Q I am speaking now of both classes of shrines.

A For major ceremonial purposes, they went to the distant shrines. In times of crisis, they went to the distant shrines.

In a particular ceremony, going around and making offerings at these shrines they might go to the local representatives of them.

Q Now, you spoke of the Hopi way of life and the fact that they were great runners and trained to run. Did they not run to their fields down from the Mesas? And I am referring to the material period from 1846 on.

A They either walked or ran to their fields, depending on how far away they were. If they were far enough away they stayed out in those areas while they cultivated their fields or while they prepared them or while they harvested them.

Q Do you mean to say they would stay out at their

fields overnight?

A Sure. I have stayed out with them overnight. They still do it.

Q Were would those fields be? Can you give me an example?

A Some of those are up in the Black Mesa area. Some of them are out to the west of Oraibi, fields over in the Moencopi area. They stayed over there. They setup permanent habitations at certain springs, Comar Springs, and springs in the Wepo Wash down in the edge or south of the Executive Order Reservation.

In fact, the Hopi spread out any time they could. They only came back, they only returned to the villages periodically when they were forced back.

Q You mean to tell me they did not prefer to live in the villages, they stayed of their own accord?

A They did not feel they had to sleep in the village every night, sir. In fact, some of them had hogan structures out there.

I have stayed in hogan structures that Hopi have built at their sheep camps. I have stayed out overnight in hogan type structures at sheep camps that the Hopi have built out away from the mesas.

Q Is it or is it not true that the practice was quite general to walk or run, sometimes run both ways, to

their field in order to get back to the village at night?

A That was a common practice, yes, sir. But it was not an exclusive practice.

Q Of course now. A man could walk if he wished.

A Or he could stay there for a period.

Q By the way, how were these hogans constructed that you are talking about? Were they shelters, lean-tos, brush shelters?

A As far as I could see they were generally Navajo style hogan replete with mud plastering.

Q Conducted with the Navajo ceremonial, I presume, the Blessing way?

A I am afraid not.

Q Can you give any examples of those? Have you brought in any pictures, any proof, any field work showing these hogans?

A No, but to my personal knowledge, I have been in there, I have stayed in them. This may be something that they borrowed from the Navajo.

Q Did you ever examine the structure of those hogans as to how they were built, precisely?

A I did not, but inside you could see the leaning of poles together. I don't know whether they were constructed in the standard Navajo style but the effect of them was exactly the same.

Q You have no field notes whatever as to the location of these hogans?

A Yes. This one I stayed in was about six miles west of Oraibi in the wash between Oraibi Mesa and Howell Mesa.

Q How long did you stay in it?

A I visited it two or three times. I stayed in it once overnight.

Q Yesterday you spoke about growing cotton. I got the impression they grew cotton quite generally all over this territory. Perhaps I was wrong.

Would you confine the growing of cotton by Hopis to any specific area?

A The growing of cotton by the Hopis was primarily in the Moencopi wash area. They could grow it in a few sheltered spots in the southern part of the reservation but so far as I know, I do not know the precise locations, I just heard they grew it at a few other places.

By the time I was doing field work, the growing of cotton had practically vanished because of trading posts and the bringing in of cotton string.

Only a little bit was grown for ceremonial purposes, for making prayer feathers, and so on.

Q Then what period was it grown in at Moencopi?

A It has been grown in Moencopi, I assume, for a

very long period of time.

The cotton garments noted during the Spanish period, by Espejo particularly in 1582, very likely were grown there.

There have been technical studies of cotton among the Hopi botanically and so on, but the main area was in the Moencopi region. It was a little warmer there.

CHIEF COMMISSIONER WATKINS: Where is that, for our information, on the map?

THE WITNESS: The Moencopi Wash area, here is Moencopi Wash running down through here. Here is Moencopi itself.

MR. LITTELL: The witness is pointing to the pink area on Hopi Exhibit A and the word "Moencopi" is printed there. The wash runs in a northeasterly direction through a corner of the Executive Order area.

CHIEF COMMISSIONER WATKINS: Does it run also into the Colorado?

THE WITNESS: It runs from the head of Black Mesa up here almost to Marsh Pass down through Black Mesa out there, this is Moencopi in the present village of Tuba City, and down here entering just around the area of Cameron.

MR. ROCHOW: It actually runs in a southwesterly direction, then, instead of northeasterly?

THE WITNESS: Well, he was pointing to the top.

CHIEF COMMISSIONER WATKINS: Is that a deep wash?

THE WITNESS: It is a deep wash.

In the Moencopi area it runs through low canyons. It has almost a continuous flow. There is more water available there than in any of the other washes.

CHIEF COMMISSIONER WATKINS: Is it spread out so they would have an area for cultivation?

THE WITNESS: There are benches today and in the past probably they used fairly extensive irrigation there. Today it is fully irrigated by dams and ditches.

CHIEF COMMISSIONER WATKINS: That area outside of the Executive Order of the Hopis, is that where they farm out to the west?

THE WITNESS: Yes, there is the village of Moencopi which originally was a colony from Oraibi but this is an old planting area, an old area also where they had cattle.

This area is outside the Hopi Executive Order Reservation even though at the time the Executive Order Reservation was set up there was a Hopi village there.

CHIEF COMMISSIONER WATKINS: And it is still there?

THE WITNESS: It is still there. In fact, now it is divided into two villages, upper and lower Moencopi.

CHIEF COMMISSIONER WATKINS: Built in the same order?

THE WITNESS: Yes. The old village is in the

same general form as Oraibi from which the population comes and where they have their main ceremonial affiliations.

The houses, however, are made out of -- well, in both cases they are made out of sandstone. They look a little different because it is red sandstone instead of gray.

CHIEF COMMISSIONER WATKINS: Where is Oraibi?

THE WITNESS: Oraibi is the westernmost village here of the Third Mesa. This is the westernmost and was the largest village until recent split-ups. Part of the population from this area had colonized this region, probably long in the past, and in 1870's they reestablished their old village here and lived there permanently. I think perhaps in part because by that time this was a sacred area.

CHIEF COMMISSIONER WATKINS: Where is Oraibi with reference to a modern highway?

THE WITNESS: There is now I think State Route Number 3, which runs from Window Rock -- Window Rock, it runs through Ganado, Steamboat Canyon, Jeddito Trading Post, Keams Canyon, Polacca, Second Mesa, Oraibi and then runs up through Coal Canyon to the city and joins, what is it, U. S. 89, something like that.

But you can go on a paved highway all the way across there now since the last few years.

CHIEF COMMISSIONER WATKINS: Were you out there prior to the time they had the paved highway?

THE WITNESS: I was out there at the time when they had as far as I can find in many cases no highway at all, you got lost. Well, there were wagon roads. When I first went out there there was only one truck on the Hopi reservation, one car.

CHIEF COMMISSIONER WATKINS: I was out there in 1947. I knew they were building highways. I did not know whether they built it along the same line they had or established a new line of highway.

THE WITNESS: They established for the most part a new line for the new highway. The old highway went up on top of the Second Mesa in different places, between Keams Canyon and First Mesa is pretty close to the old one, but they roughly followed the old one but straightened it out and improved it.

CHIEF COMMISSIONER WATKINS: Of course, we were not investigating claims against the United States Government when we were out there. We were just seeing the reservation trying to take care of the living Indians rather than getting back into their ancient history.

By Mr. Littell:

Q Dr. Eggan, the clan division you described still exists today, does it not?

A It does, sir.

Q You spoke of the break-up. I suppose you referred

to the civil disorder or revolt in Oraibi in the early 1900's?

A I would not characterize it that way.

Q You use your own phrase. That is what some of the books say. I don't know how to describe it.

A In the 1890's essentially Oraibi became a center of factional disputes. There was also a period of drought during that time which put a heavy strain upon the water supply.

In part, you can see the split-up of Oraibi as due to economic causes. In part you can see it as due to a factional dispute over whether children should be sent to school and taken out of the control of the village and out of the teaching to be a Hopi as against going to school, boarding schools, and going in a different direction.

This dispute, however, was solved in a rather interesting fashion.

They had a push-of-war, no one was killed, no one was injured. The only damage that was done was by the United States troops that came there and interfered.

Half of the population almost exactly went away to the north to an area around Hotevilla where they had previously had farms and springs and settled down there and started a new village.

This was the only disorder, largely was occasional,

except for perhaps a good deal of verbal noise was caused by American Government who did not understand what was going on.

CHIEF COMMISSIONER WATKINS: What time was this?

THE WITNESS: This culminated in 1906, about September 12, 1906.

The village divided almost evenly. Half went off and founded Hotevilla just three or four miles to the north.

By Mr. Littell:

Q When you were pursuing your studies, as you described it, winning the confidence of the Hopis and getting them to talk to you, you must have found considerable difficulty working with the conflicting views of the clans, didn't you? Or did you?

A Which conflicting views of what clans?

Q You get an individual from one clan, one village, and an individual from another, and they had some pretty sharp conflicts between each other as to grazing, and other villages and other factions, as to being hostile or friendly to the Government policies?

A That is not quite true, sir.

The legitimate faction, shall we say, at Oraibi, led by Chief Lololoma, who had been to Washington, wanted to send their children to school. There was a very, very

conservative faction which was not in power, shall we say, which wanted to obstruct this procedure, it is that group led by Youkeoma and other leaders who moved away.

Q In any event, did you find that this obstructed your pattern of study, as you described it yesterday?

If you would interview, say, ten people and their testimony confirmed what each other had said, you could draw a conclusion on that?

I am not quite using your language but that is the sense of your story that I got from your statement yesterday. Correct me if I am wrong.

A One of the things that we studied was the development of this split and who went where and how the clans and families and ceremonies were divided. I didn't happen to write up that portion of it.

You can find that in Professor Titiev's Old Oraibi, where it is set down in considerable detail.

By this time, this was two generations or a generation and a half later, Oraibi and the Hotevilla people on the surface get along fine. They visit each other's ceremonies, they eat in each other's houses.

Certainly there were disputes but they have methods of settling those. There wasn't any great hostility except perhaps on the part of a few individuals.

CHIEF COMMISSIONER WATKINS: Let me ask you a question

on that point.

Counsel asked you in his cross-examination about whether they had conflicts over the use of their lands.

I want to get the answer to that.

MR. LITTELL: Thank you for your help, Mr. Chief Justice.

CHIEF COMMISSIONER WATKINS: We are much interested in whether or not there were conflicts, whether it was one tribe or a half dozen tribes under the same name.

THE WITNESS: There were conflicts over land in this area among the Hopi, different villages on different mesas. They have the lines running down the washes divided and the precise position of those divided lines. In some places, it is marked by markers representing earlier agreements, in some cases it is not so marked, and there is a good deal of argument and conflict back and forth. But they have methods of solving these without violence generally.

Now, within the village, the land is organized in terms of traditional grants of specific land that have been given to particular clans and in Hopi theory this land was given when the groups first came into the village and was given to them in exchange for the performance of ceremonial activities and for assistance of one sort or another to the leading group in the village which is normally

the Bear Clan.

So, in Hopi theory, the Bear Clan, who are represented as being their first, in effect control the land. They allot particular segments of this land to specific clans for performing, say, the Powamu ceremony or acting as god for the village or for other things.

Now, this system does cause some disputes under the native pattern because a clan may grow large and not have enough clan land to support it. Then the surplus members have to be supported from other lands which are less useful and a greater distance away from the village and less reliable as far as growing crops are concerned.

CHIEF COMMISSIONER WATKINS: Do they have individual ownership of land?

THE WITNESS: They do not. Within the clan allotments are made by the heads of the clan to particular families and individuals of that clan but, if they stop using it, it is reallotted.

CHIEF COMMISSIONER WATKINS: Suppose they go on using it generation after generation, is it reallotted then?

THE WITNESS: It is not reallotted because the land is thought of as being held in trust by what we might call a primitive corporation.

These clans operate as corporations and they hold

this land and the ceremonies related to the group for the benefit of future generations.

This is passed down through the female line.

The land is allotted, shall we say, to the daughter. Her husband cultivates it for her.

If she does not have a husband, her brothers cultivate it for her.

Two attempts were made to allot land in this area to individuals in the general government allotting in 1890 and 1907, I think. The trouble was that the Government tried to allot it to men and, therefore, did complete violence to all Hopi rules about how land should be handled.

CHIEF COMMISSIONER WATKINS: If they had allotted it to women, it might have worked?

THE WITNESS: It might have worked, yes. At least, it would have worked better.

CHIEF COMMISSIONER WATKINS: Have you studied the New York Indians?

THE WITNESS: I know a little bit about them.

CHIEF COMMISSIONER WATKINS: They had some sort of arrangement there where the mother controls.

THE WITNESS: That is right, they had the same sort of matrilineal clans among the Iroquois.

MR. BOYDEN: May it please the Commission, I think it would be helpful at this point, because of the nature

of the questions, to let me make one observation.

This action was commenced -- well, at the time this particular action was commenced, Docket 196, all of the villages were organized into a group under the Reorganization Act, and so this --

CHIEF COMMISSIONER WATKINS: You mean the Wheeler-Howard Act?

MR. BOYDEN: That is correct. That is also referred to as the Indian Reorganization Act.

CHIEF COMMISSIONER WATKINS: I had the impression these Indians out there were too independent to be organized.

MR. BOYDEN: Well, they organized.

We commenced this action for the Hopi Tribe as the Indian Reorganization Act for incorporation, suing on its own behalf and as a representative of the Hopi Indians and the villages of First Mesa, (consolidated Villages of Walpi, Shitchumovi and Tewa), Mishongnovi, Shipaulavi, Shungopovi, Oraibi, Kyakatsmovi, Bakabi, Hotevilla and Moencopi.

I wanted the Commission to know that each one of those villages were represented in a representative capacity as provided by the statute.

THE WITNESS: If I can go further, I haven't finished answering your question as yet, when the schools were set up and after they were operating in the 1890's

and after 1906, when the split occurred, you had missionaries coming back to this area and a number of Hopis becoming Christian, moving down off the Mesa and did have difficulty then because with the encouragement of the agents and the missionaries, these Indians wanted to keep their land but not perform their ceremonies.

So, from the Hopi standpoint, they were not living up to the agreements which their ancestors had made when they came in.

And so there was a good deal of difficulty at that time since 1900 with regard to maintaining control over land that in effect belonged to the clan but which under white rules might be considered to be owned by the man who cultivated it.

So there was a good deal of dispute regarding the land which went on from that standpoint.

CHIEF COMMISSIONER WATKINS: They acted very much like white people in that respect.

THE WITNESS: Yes.

By Mr. Littell:

Q Dr. Eggan, the Hopis are, as you explained yesterday, fundamentally farmers, in fact some of them are probably some of the best dryland farmers in the world, I imagine, from the records, and the farming function or way of life is built into their ceremonials, is it not?

A It is, yes.

Q But grazing was not. How do you account for this, if I am correct in saying so?

A Well, grazing -- the Hopi are conservative Indians. Sheep having been adapted into the Hopi economy to a considerable extent. Cattle were not, particularly. The main difficulty is that cattle and sheep compete for water and they also, cattle and sheep, may get into the fields and eat the corn, beans, and the crops. This has always been a serious matter with the Hopi and that led to, as far as possible, sheep and cattle being pushed outside the agricultural area or grazed in areas in which there were not agricultural, there were not fields, or there were not very many fields, or insisting that they be watched.

All I can say is that the Hopi were perfectly willing to have as many sheep and they liked as many sheep as Navajo or white people do.

There just isn't enough water on the reservation to support them, and cattle even less.

They won't let the springs that supply the people, they won't let horses, cattle or sheep drink from those springs.

Q Is there any other reason why cattle or sheep-grazing is not built into the ceremonials? Isn't it because they arrived much later in the Hopi picture?

A That is partly so, sure. They didn't arrive until

period, the material period in 1846 and 1849.

Were they extensive cattlemen and grazers in 1846 and 1849?

A They were not. They were not for the simple reason that it was too risky to have any cattle. They did not survive under the margins of the Hopi area. This was the period of the Navajo wars and they were the most vulnerable aspects of Hopi subsistence.

They even came in and took their fields close to the villages in some cases.

Q Doctor, whatever be the cause, the fact is, and this we will deal with separately, whatever be the cause, the fact is they were not grazers in 1846 or 1849 to any great extent?

A With the sheep, as many sheep as they could raise.

CHIEF COMMISSIONER WATKINS: What was the limitation? You said "as many as they could raise."

THE WITNESS: The limitation was water, forage, and the fact that they used them for subsistence.

As hunting territories were reduced by encroachment, this was their only source of meat.

Let me clarify what I said about meat.

The reference to meat as a relish, that is true. That is the way linguistically they stated it, but they like meat as well as we do and they will eat it on any occasion.

Q No, Colton does. I am sorry.

"Living in the midst of Navajo country, the Hopi never heard that a confirmation of their title was necessary. Living in the midst of the Navajo country" and this is Colton writing, "the Hopi never heard that a confirmation of their title was necessary nor had they any money to make the claim. Therefore, they had no legal tenure to their land until the Executive Order of President Arthur in 1882 set aside 2,472,320 acres or 3860 square miles as the Moqui Indian Reservation. This was set aside out of the public lands of the United States for the Hopi and any other Indians the Government might wish to place thereon."

Do you agree with this paragraph of Dr. Colton's that the Hopis were living in the midst of Navajo territory?

A What date is he referring to? They certainly were at the time he wrote that, 1939.

Q Then you think that this comment --

A If you will read further, I quoted from this. He says, "From all historic evidence it seems that the Navajos entered Arizona in the last half of the eighteenth century but their grazing area did not conflict with the Hopi grazing and hunting areas until 1940 or '50."

Then he goes on to detail the accounts of the round-up and the reservation in 1868 and the attempts to get the Navajo off, to remove trespassing Navajo.

Earlier he says, "When the westward extension of the Navajo Reservation was established in 1884 for Navajo Indians no mention was made of the Hopi who have been using certain lands for several hundred years."

Either Dr. Colton contradicts himself or he is referring there to the situation in 1939.

Q Go ahead and read the next line, Dr. Eggan, or shall I read it?

A You had better read it because I don't think it is on mine.

Q "Although legally the Hopis have no right to be at Moencopi as the Reservation was set aside for Navajo alone, yet long continued use of the land should give them title. In settling the Navajo-Hopi boundary moral as well as legal questions must be considered."

A It sounds all right.

Q Now, without reading it at length, page 4 of the main report, he refers to the incident which you referred to in your testimony yesterday that in 1889, the Secretary of the Interior got the Army to send some armed forces out there.

Colton says "A party was sent out but the weather was bad and they only removed those Navajos who had recently encroached on the Moqui and warned those who had been living there a year not to impose on the Moquis."

Is this the source of your statement yesterday that the army stopped because of bad weather?

A I didn't say the army stopped because of bad weather.

Q Winter weather, I meant.

A In other documents, it is clear that the army came out there in November. They were guided by Chee Dodge, a Navajo, who asked the Colonel in charge not to remove the Navajo at this time because they would suffer because winter was coming on, they would have to build other habitations.

He said, "Can't they wait until spring?" Of course, by spring they had forgotten all about it.

Q Dr. Eggan, did you read the Army reports behind this incident? Do you know or don't you know that the army officers recommended against removal because the Navajos had been there so long?

MR. BOYDEN: No, other evidence does not show that.

THE WITNESS: The evidence does not show that.

I read the Army Reports. What they did was divert themselves to spending most of their time trying to put Hopi children in school.

The Secretary of the Interior, when asked about it later on, "Shall we do some more?" said, "No, I just wanted to see what the Department of War would do."

CHIEF COMMISSIONER WATKINS: When you said Hopi

stricken from the record.

CHIEF COMMISSIONER WATKINS: As it happens, you cannot take it out of our minds even if you strike it from the record.

By Mr. Littell:

Q We are not before a jury.

Do you dissent from his statement in any way or agree with it?

A His statement is correct in that the Hopi had no jurisdiction even over their own Executive Order Reservation at that time and they could not make any decisions about a reservation. It had not been ratified by Congress until just a few years ago.

At that time, they had no legal authority except by default.

Q Would you agree with this statement on page 7:

"The Hopis have in the past made use of the land within forty or fifty miles of their villages for hunting, grazing, agriculture and for wood supplies. From time to time they visited religious shrines well outside that area."

A I think that fits in with my testimony.

Could I interrupt just one minute?

I would like to clear up one point with regard to land which, when you asked me about land or when you asked me about land, I neglected; that is, in addition to clan

land there is individually-owned land. The areas which are not allocated for clan lands can be cultivated by any individual. As long as he and his family cultivate that, that can go down to the children. This can go out to any distance.

These lands in general are less desirable land than those closer to the village that are watered.

But you do have that addition.

CHIEF COMMISSIONER WATKINS: You mean to say in effect, as long as they use them they can keep on using them in the family but if they should move away or abandon them they could not pass that title to anyone else?

THE WITNESS: That is right. If one of these areas is abandoned outside of the clan lands, anyone else could come along and start cultivating them.

CHIEF COMMISSIONER WATKINS: You say there is an exception for clan lands?

THE WITNESS: Clan lands cannot be, even if all of the clan lands are not utilized, no one else can take them without permission.

CHIEF COMMISSIONER WATKINS: Of the clan?

THE WITNESS: Of the clan, that is correct.

By Mr. Littell:

Q One more quotation from page 12 of the full report, Exhibit 15-A, which I will offer in a moment.

"It is well to remember that the Hopi Tribe exists only in the eyes of the Indian Bureau and the general public. The Hopis themselves do not think of themselves in terms of a tribe. They owe allegiance only to the village in which they live and with a couple of exceptions the villages are independent of one another as certain Rio Grande pueblos like Santo Domingo, Zia, Cochiti and Acoma, which are bound together by language and culture. There is no political unity. It is, therefore, necessary to deal with each village separately. Walpi, Hano, Mishnonovi, Shipaulovi, Shungopovi, Oraibi, Hotevilla, Bakabi, and Moenkopi. The Indian Bureau after sixty years of struggle is just learning this fact. This means that as far as land use is concerned additions to District Six," which is the land management district embraced around, which embraces the Hopis,

"additions to District Six should be considered not only as one lump area but as additions to the grazing lands of each village or mesa; as, first Mesa, Second Mesa, Third Mesa."

Do you agree with that statement?

A No, I do not agree with much of that statement.

The Hopi, as a cultural and linquistic unit are a tribe. They do not happen to have a political organization,

just as the Navajo do not have an overall political organization.

The Hopi do have an over-all religious organization and Shungopovi is the mother village recognized in supreme religious matters by the Hopi group.

In the past, there have been conflicts between villages but the fact that all of these villages have united in this or the majority of them have united under the reorganization under the Wheeler-Howard Act which the Navajo have not done, they have a Tribal Council representing the villages on area-wide basis, and on the question of lands and their desire to have their own territory, I think they are all united on that.

Q Now, Dr. Eggan, this report --

CHIEF COMMISSIONER WATKINS: Just a moment before you leave that. There is a question in my mind about the organization.

You mention both the Navajos and the Hopis not having a political organization. I assume you do not mean in modern times, because you just mentioned the Wheeler-Howard Act in the Hopi territory and they don't have the Wheeler-Howard Act in the Navajo but they do have a tribal organization.

THE WITNESS: The Navajo have a tribal organization which was set up separately from the Wheeler-Howard Act.

question even on cross-examination, with the greatest latitude.

Now he is starting to argue a question of principle. Here a man is testifying in 1920 about claims that they had before them. No attempt to tie it in. He is asking him whether it is in his opinion a question of title. He has answered once. He said that is the Commission's job.

MR. LITTELL: The counsel's objection is well taken. I withdraw the question.

By Mr. Littell:

Q May I read one more paragraph to you and ask if you agree with it or dissent from it? This is on the next succeeding page, 9446 of the Committee Report.

"The exaggerated claims of the Hopis for territory are explained by desire to own their holy places, their shrines. These were the holy places of groups of Hopis before 1300. The orthodox Hopi now wish to control them. These shrines are found from Navajo Mountain to the Little Colorado and from the San Francisco Mountain to the Lukachukas. In solving the land question it might be possible to satisfy the older Hopi generation by giving to the Hopi title to these shrines which are small areas about ten feet by ten feet wherever they are found in national forest, public domain or Indian reservations. It would be a movement something like the Zionist movement

in Palestine. It is the desire also felt by Christians, the desire which caused the crusades. Christians also wish to see their holy places out of alien hands."

A That suggested they still visit them, does it not?

Q Yes.

A And I think that is a fair statement as to where their shrines are and their relationship to them. They don't just take a helicopter to the shrine, however. The area in between is important to them, too.

I have suggested they do other things in between. They gather herbs and plants the same way the Navajo do.

They may hunt over that territory. They may bring back wood or they may bring back ceremonial objects.

I think that is otherwise a fine statement.

MR. LITTELL: Thank you, Dr. Eggan.

Is it too early to take a few minutes' recess?

CHIEF COMMISSIONER WATKINS: We will take a fifteen minute recess.

(Thereupon, a recess was taken for fifteen minutes.)

CHIEF COMMISSIONER WATKINS: You may proceed.

MR. LITTELL: No further cross-examination.

MR. BOYDEN: Could I ask one question, just one short question here?

CHIEF COMMISSIONER WATKINS: Are you sure it is

going to be a short one?

MR. BOYDEN: Yes.

Dr. Eggan, during the year 1848 and prior thereto, were the Hopi Indians an identifiable group of Indians so that when you spoke of the Hopis there was no question about what Indians you were referring to nor what it included?

THE WITNESS: They were.

MR. BOYDEN: That is all.

By Mr. Rochow:

Q Dr. Eggan, in the course of this hearing, reference has been made on two or three occasions to District Six. I don't think that the record shows very clearly just what is meant by District Six. Can you tell us?

A I can tell you, I think, briefly.

District Six was one of the eighteen grazing districts which was set up under the Indian Reorganization Act commonly known as the Wheeler-Howard Act in the late thirties, after about 1936, '37, 1938. They were set up to control grazing, to regulate grazing, to reduce the herds of sheep which in many areas were too numerous for the carrying capacity of the range, and these were set up simply as administrative districts.

Now, it happened that one of these districts, just by chance, included the area which the Hopis at that time, 1935, were occupying and using and around which were

other districts which were largely occupied by Navajos who were at that time both on the Hopi Reservation and on their own Reservation.

These districts -- Mr. Collier, who was then Commissioner of Indian Affairs, repeatedly assured the Hopis that District Six was not a reservation district but was put up simply for grazing, for the regulation of grazing and for that only. But gradually during the late thirties, this became more and more a de facto reservation.

During the war, the Department of the Interior, or right after the war, attempted to make district six by administrative order the Hopi Reservation. This was not done because, I think, counsel for the Department of the Interior said that this was illegal, that only Congress could make any changes in reservation boundaries.

But this area has continued today as a sort of de facto reservation pending the clarification of who owns the Executive Order Reservation which is to be decided by the Federal court.

The area is not shown on this map but it roughly runs from the general vicinity of Keams Canyon to the southern area of Black Mesa and around in this general area, about the heart of this area, but with other districts, grazing districts on the margins.

These have been readjusted one or two times

because some Hopis were outside of District Six and some Navajos were inside of it, and there is a long set of documents on this which were introduced in the other trial which I think have not been introduced here.

Q When you said and pointed with your finger, "this general area," you were indicating most of the southern half of the Hopi Executive Order Reservation, is that right?

A I think in Dr. Ellis' report, I think I saw a map in there of District Six. I can only roughly draw it on this map.

Q Is that the general area, the southern second half of the Executive Order Hopi Reservation?

A It is the south, the central south. Sort of an irregular area, heart-shaped area.

Q That gives us a general idea of what you mean.

MR. LITTELL: For counsel's information, we have extensive map exhibits in Healing v. Jones. We have that shown in 511-A in this case.

MR. ROCHOW: That is the outline in yellow?

MR. LITTELL: I withdraw the last statement about 511-A. That is the area we contend for but we will get at least one of those maps from Healing v. Jones to clarify this point.

MR. BOYDEN: It is in Figure 2 of Dr. Ellis' report, page 109.

600 A. D. and 1300 occupied a larger area than at present, an area bounded on the west by the Little Colorado, Colorado, and San Juan Rivers, on the east by a line south from Monument Valley, west of the Chinle Wash to the Little Colorado. With the exception of Moencopi, all of the remaining pueblos are within the Executive Order Reservation."

Doesn't this summarized statement of Colton indicate that the area occupied by them in 1848 was considerably less than the area occupied by them one hundred fifty years earlier, say 1300? That is five hundred fifty years earlier.

A He says they occupied a larger area than at present and understanding occupied the way we have defined it, it seems to me that his statement of their occupation at this time and the statement that I have made here do not vary very greatly. And the statement of their occupation at 1848 is comparable to this.

Q You think the area they occupied in 1848 is comparable to what?

A To the statement of Dr. Colton for 1300.

Q For 1300 A. D. Well, they don't occupy that large an area now, do they?

A In some places in some respects it is probably even larger if you take the full extent of their shrines.

COMMISSIONER SCOTT: How do you define the word

"occupy," Mr. Rochow, as you pose your question?

MR. ROCHOW: As I use the term "occupy," I should probably say "use and occupy" as we use it in these Indian cases.

Of course, in order to have good claim, the Hopi have to exclusively use and occupy an area from time immemorial or at least from some reasonable length of time before 1848 when we obtained sovereignty over this area.

By Mr. Rochow:

Q When you testified on direct examination, you indicated that it was your opinion that the area exclusively used and occupied by the Hopi in 1848 was the area in Color on Hopi Exhibit A, except that the line was drawn which would cut off the eastern half of the orange, green, and purple, east of the Executive Order Reservation, that is a line ~~were~~ was drawn from the mouth of Chinle Wash on the north south to the mouth of the Zuni River which is where I have indicated my pointer now.

In other words, the line would go just about between the "e" and the "a" which is indicated as the eastern area on this exhibit. Is that right?

A That is correct.

Q In other words, the area that you would ascribe to the Hopi as their exclusive area of use and occupancy in 1848 and for some reasonable time before that would be the

area west of that north and south line?

A Yes.

Q Indicated in color on Hopi Exhibit A. Is that right, Doctor?

A That is correct.

COMMISSIONER SCOTT: When you say that, Doctor, you are thinking of two different things? You are thinking of the word "occupy" and the word "use"; is that right?

THE WITNESS: Yes, sir. They obviously were not living on every square mile of that area but they were, I think, using essentially that area.

COMMISSIONER SCOTT: Then with reference to the definition of the word "use" for your purposes, do you include area for travel purposes?

THE WITNESS: I think travel purposes were incidental to the use. I would think of "use" as occurring in part during travel but they had to travel to most of these areas to use the various resources and in areas which, in effect, a particular area that had no resource within this, they might travel across it, but they might not make any use of it.

CHIEF COMMISSIONER WATKINS: Except to travel over?

THE WITNESS: Well, - -

COMMISSIONER SCOTT: They used it for traveling purposes?

THE WITNESS:-- you might have a barren salt flat,

for example, on which nothing grew. They might travel across it or they might travel around it. It was within their territory.

It, by itself, might have no particular significance except perhaps for such things.

But, by and large, they thought of this as their territory and the resources on it were theirs and were given to them and these were the resources that they used, for the various purposes I described.

By Mr. Rochow:

Q As you use the term "occupy," Dr. Eggan, how do you understand it? In other words, how are you using the term "occupy"?

A For this particular area, I think of occupation as living within the area, having a conception of the boundaries of the area, knowledge of the products within that area, a utilization of these products continuously or periodically as the case may be, and a resentment of trespass by other groups who come in to use this same area.

COMMISSIONER SCOTT: Does that include the use of the shrines?

THE WITNESS: That includes the use of the shrines, yes, sir.

COMMISSIONER SCOTT: And the areas used to hunt eagles?

THE WITNESS: That is correct, sir.

By Mr. Rochow:

Q Are you familiar with the various shrine locations that are shown upon Hopi Exhibits 68 and 69?

A Generally, from this map and from reading and from talking with Hopi. But I have only visited very few.

This whole area is a matter which is sacred to the Hopi and they don't talk very much to outsiders about it. So that Hopis can give you much more information about this than I can. But I will try to answer your questions, sir.

Q Are you aware of places that are regarded by other Indians, Navajo or Apache or Havasupai or any other Indians other than Hopi, who regard places within this area outlined in color upon Hopi Exhibit A as sacred places of theirs?

A There are a number. I have seen some of the Navajo exhibits. There are a number of sacred places that the Navajo have in this area. I am not aware that the Apache have built some. There may be some. I am not aware of any sacred places of the Havasupai in this region.

Q If the Navajo go to places within the area that you have outlined as the aboriginal territory of the Hopi before 1848 and go there regularly to deposit eagle feathers or to worship in some other way, according to Navajo custom, wouldn't the Navajo consider that to be a sacred place of theirs and within their area just as much as the Hopi would?

Order Reservation is two and a half million acres, would you say the area outside would be at least two and a half million acres?

A It looks like it would be a little bit more than that.

Q Perhaps three million acres in round figures?

A Yes.

Q So the entire area, you would advocate as the aboriginal territory for the Hopi, would be roughly about five and a half million acres, is that right?

A That is right, roughly.

Q You are not being held to a hard and fast estimate, just your judgment from looking at Exhibit A.

That is a lot of acreage for a small group of people, although 2500 is a fair number, to occupy.

Now, upon what documents or upon what evidence do you rely in concluding that this area was exclusively used and occupied by the Hopi in 1848? It might be documentary evidence, it might be any other kind of evidence.

Can you tell us, Dr. Eggan?

A For the period 1848, I rely upon the maps which show the Hopi in this area and no other groups in this area.

I rely upon the statements just before this period by Father Escalante and his journals. I rely upon the statement of the various individuals, the various Government

army officers, Government surveyors, and so on, who in the 1850's traveled through this area either along the Little Colorado River or through the area or around it, Ives, Sitgreaves, Surgeon Ten Brock, who traveled in this region.

None of them reports other Indians occupying this area and all of them put the Hopi Indians in this region.

Q Don't all of those documents to which you have just referred talk about meeting Hopis on the various Mesas in their villages?

A Sometimes they met them in Zuni, sometimes they met them in the Havasupai villages, sometimes they met them on the trails, sometimes they met them in the Moencopi area, sometimes they met them in the east, In the middle 1850's, for example, a group of Hopis went over to Fort Defiance to get supplies from the first agent, including the Chief of Walpi. They knew all of that area.

One day back from there, they were ambushed and all except two or three killed by the Navajo. But they traveled around. There is documentary evidence of their traveling around, all through this region.

Certainly if you went to the Hopi villages, you always found some there because that was their homeland.

Q But do these documents spell out or point out in any way at all specific areas or overall that this area was occupied by the Hopi; when I say "occupied" I mean

exclusively used and occupied.

A They don't. Most of them don't come out and say it in that fashion, but they say it both by inference and by exclusion. They put no one else in this area and they put the Hopi in this area.

Q Don't they generally just say they met a Hopi here or they met two Hopis there, or perhaps herding sheep or doing something like that?

A As you point out, sir, this is a large area and traveling over certainn trails you might or might not meet Hopi, They might be just over the next hillside. It is just as easy to go through this country and not see Hopi as it is to go, if you were out in the fields and out herding, if you were to go through Navajo country, and not see Navajo.

Q So far as the documents go that you have referred to, Dr. Eggan, the only place they actually report Hopi living were on the First, Second, and Third Mesas, weren't they?

A That is correct, except Moencopi and except for a little later on some of the areas outside the Mesa region.

Q None of the documents referred to encountering Hopi who were picking piñon nuts, do they?

A I don't think they referred to them, but I would guarantee that every year there were piñon nuts the Hopi were out picking them.

anthropologists and ethnologists is what you are referring to?

A Yes, sir.

CHIEF COMMISSIONER WATKINS: Would the writings themselves of the various travelers become part of the tradition, establish a tradition?

THE WITNESS: In some cases.

CHIEF COMMISSIONER WATKINS: That would apply to any of the Indian tribes, Navajos, Hopis, or any of these other tribes that are petitioners in this consolidated hearing, five or six of them altogether?

THE WITNESS: If I understand your question, that is correct.

By Mr. Rochow:

Q How far out from the villages, Dr. Eggan, do the clan agricultural lands extend?

A The clan agricultural lands are mainly in the various washes which run along beside the villages. They are within a few miles of the village generally.

Q When you say "few miles," what do you mean, two or three, four or six, or what?

A They run certainly within ten miles and in some cases shorter. One and ten miles would cover most of them.

Q It depends on the nature of the area around the village, is that right?

A Yes, sir.

Q Where do the individually owned or those lands used exclusively by certain families extend?

A Individually owned ones extend a considerable distance farther away and some of them are cultivated quite a distance away. You take in Moencopi, forty or fifty miles away. The Hopi in recent years have been expanding out in all directions where they could find new land which they could cultivate with modern equipment.

Q Now, one of the exhibits submitted in behalf of the Hopi is a list of wild food products that the Hopi ate back one hundred years ago or more, 1848 and to some extent, I suppose, still use in their way of life.

That list of food products, I think, was prepared by Whiting, was it?

A Originally it was prepared by Alfred Whiting, yes, sir.

Q Is that the fellow who is presently at Dartmouth?

A I think he is at Dartmouth. He was recently. At that time, he was on the staff of the Museum of Northern Arizona.

Q I think he was the fellow who testified last April in the Havasupai case across the hall.

A That is right.

Q Just where in this area that you have ascribed

to the Hopi, did they gather these various kinds of food products? For example, where did they go for piñon nuts?

A For piñon nuts, they went mainly on Black Mesa, the area in the northest corner of the Executive Order Reservation and in the northern section and eastern section. That whole area of Black Mesa is an area of piñon juniper.

As you know, piñon nuts, the harvest is irregular. You may have several years with nothing worth gathering, then you will have a bumper crop. They also gathered them in some areas out in the west, and in the east in the southern portion of Black Mesa, Antelope Mesa, Roberts Mesa, and those Mesas between there and Steamboat Canyon.

Q Up in this northern area around Black Mesa, weren't Paiutes also in that area?

A No,sir, not to my knowledge, unless you are thinking of a different Black Mesa than I am.

My Black Mesa is this area of high table land here which slopes off to the south, the headwaters of these streams.

Q Do you know where these Paiutes were at this time, I mean about 1848?

A The Paiute territory is up in this region on the other side of the Colorado. They came across for trade, they came across for raiding. You have the reference to the sacking of Moencopi which you read. By and large, the Paitues had relatively little to do with this region. I am not

A yes. I made some effort along those directions.

As far as my effort goes, it corresponds to Whiting's account but it is not nearly so complete.

COMMISSIONER SCOTT: What do you mean by that, Doctor?

THE WITNESS: Where I have evidence of this kind, it corresponds with Dr. Whiting's fuller account as represented in this.

COMMISSIONER SCOTT: Then you do mean that Exhibit 3 is not to reflect areas which Dr. Whiting, from his investigation at least, believes are or were used in aboriginal times, in 1848, or prior thereto?

THE WITNESS: Yes, sir.

COMMISSIONER SCOTT: I wanted to get that because, of course, unless it would relate to the time of 1848 or prior thereto, it would have no legal significance in this proceeding.

THE WITNESS: That is true. My testimony yesterday, I think, was to the effect that in times earlier than 1900, the Hopi depended to a far greater extent than they do today on wild plant food and that in the famine period particularly they were almost entirely dependent on plant foods plus whatever animal food and their utilization of these today is only a small part of what it was a hundred years ago.

COMMISSIONER SCOTT: Of course, you can't testify

for Dr. Whiting, but this was included --

THE WITNESS: Dr. Whiting, I may add, followed the same procedure that Mr. Littell outlined. He got knowledgeable informants. He took them out with him to these various areas and they showed him where they collected them, and he collected them himself, and made a botanical identification. In his account he has a good deal of evidence, a number of statements as to traditional uses of them.

COMMISSIONER SCOTT: There is nothing independent of your testimony, as I see it, in Exhibit 3 which would place these descriptions as being of areas in use as of 1848 or prior thereto. Am I right in that?

THE WITNESS: It might vary with different plants, different objects.

MR. BOYDEN: It might be helpful to the Commission if I suggested here Exhibit 47 which tells a little about the ceremonies with these plants. Exhibit 48 is "The Hopi and His Relation to Their Plant Environment," which was written in 1947.

There is Exhibit 49, "Environmental Interrelations in Arizona," that has some reflection on the Hopi plants use and so forth.

So all of those put together seem to indicate a regularity of use. That is what we were relying on to support the testimony of this witness.

COMMISSIONER SCOTT: The point I was trying to get at, though, is that except for the testimony of Dr. Eggan on cross-examination here, there would seem to be nothing else in the record to establish the date to which these descriptions in Exhibit Number 3 referred, as you state.

THE WITNESS: There is, sir, in Plaintiff's Exhibit 48 done by Walter Hough, who was under the United States National Museum, his paper on the Hopi relations with their plant environment. In the American Anthropologist, 1947, on page 3, he has a statement I think which is relevant. He says: "It is true that the Hopi extend their environment by long journeys for various substances. Every berry patch for many miles around is known and visited; a journey of two hundred miles or so for salt from the Grand Canyon, wild tobacco from the Little Colorado, sacred water from Clear Creek, pine boughs from San Francisco Mountain, the home of the snow, is thought of little moment. To my knowledge, an Oraibi man made a continuous run of 160 miles as bearer of a note and answer. The knowledge of the resources of a vast territory possessed by the Hopi is remarkable and the general familiarity with the names and uses of plants and animals is surprising. Even small children were able to supply the names, corroborated later by adults."

His primary interest was in ethnobotany, he did a great deal of work on the Hopi.

MR. BOYDEN: Read the next paragraph, too.

CHIEF COMMISSIONER WATKINS: May I ask a question on that point?

Do you believe that statement?

THE WITNESS: Which statement?

CHIEF COMMISSIONER WATKINS: The one you just read.

THE WITNESS: I do, sir.

CHIEF COMMISSIONER WATKINS: A Hopi ran one hundred sixty miles continuously?

THE WITNESS: I think the reference he has is a Hopi who was sent by an army officer either to Fort Defiance or to Zuni and came back again with the answer in time which was brief enough so that he had to run most of the way. I don't say he ran every step.

CHIEF COMMISSIONER WATKINS: I got the impression when you read it that he ran all the time.

THE WITNESS: Not a rapid run but even when I was out there young Hopi were out, would be taken out in an automobile twenty miles and just run back for training. I have seen that myself.

Then in some of the early marathons in this country there were quite a few Hopi winners in the early part of the nineteenth century.

CHIEF COMMISSIONER WATKINS: Do you think they ran in the Boston marathon?

THE WITNESS: In the Boston Marathon.

COMMISSIONER SCOTT: May I ask Mr. Boyden at this point whether or not he intends to have additional testimony concerning Number 3 to establish more clearly the dates?

MR. BOYDEN: The testimony, I think, that is already in the record, if I may refer to it, the next paragraph where Dr. Eggan stopped reading says: "The ancient Hopi" --

MR. LITTELL: What page?

MR. BOYDEN: Page 3 of Exhibit 48:

"The ancient Hopi were apparently in no wise inferior to their descendants in these matters, as was proven by the excavations undertaken by our party last summer.

"In the remains of any ancient culture, stone and bone relics stand as surviving a multitude of other articles which have perished."

And so forth, and goes into this a little bit further.

I notice there are several places in here that I think we show the use of the Hopi plants clearly from archaeological excavations and so forth, are the same as they are using at this time.

COMMISSIONER SCOTT: The point I am making, Mr. Boyden, is whether or not the Commission may rely for the dating of the material in Exhibit Number 3 as being of 1848 or prior thereto on any other evidence than that given on