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Washington, D. C.,

Thursday, October 19, 1961.

The Commission met, pursuant to recess, in room 4137, General Accounting Office Building, 441 G Street, Northwest, Washington, D. C., at 1:30 p.m. Thursday, October 19, 1961, Associate Commissioner Scott presiding.

**PRESENT:**

T. HAROLD SCOTT, Associate Commissioner.

**APPEARANCES:**

On behalf of the petitioner in Docket No. 196:

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

On behalf of the petitioner in Docket No. 229:

Norman N. Littell, Esquire,  
1824-26 Jefferson Place, Northwest,  
Washington, D. C.

On behalf of the defendant:

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

MR. ROCHOW: I think so because she testified for the Acoma Lagunas which is a consolidated matter in this proceeding.

COMMISSIONER SCOTT: It may not be necessary, but just to be sure we are safe on it, we will swear Dr. Ellis again. Thereupon

FLORENCE HAWLEY ELLIS

was called as a witness by and on behalf of the defendant in Docket Numbers 196 and 229 and, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Rochow:

Q Will you state your full name, please?

A Florence Hawley Ellis.

Q Where are you presently employed?

A At the University of New Mexico in the Department of Anthropology.

Q Will you give us a brief history of your educational background? Start with where you went to high school and bring it up to date.

A I went to high school in Miami, Arizona.

Then I attended the University of Arizona and obtained an A.B. in archaeology; then an M.A. in anthropology; and I taught there and did research in tree ring material for five years.

early period as the others had. But then the missionaries had been killed but they accepted the Spanish mission again. This annoyed the Hopis very much.

Besides, there seems to have been factionalism in the town. It ended with the other Hopis deciding they would eliminate Awatovi and its missionized tendency. So the remainder of the women from Awatovi moved over mainly to Walpi and to some extent to Second Mesa villages. And the lands then were divided and their dependents in Second Mesa and First Mesa particularly obtained those lands.

That leaves us with the group of Pueblos in the 1700's and 1800's as we know them today. All of these have been occupied continuously. The only variation is there has been a movement in some cases to the Mesa top.

Oraibi was on the Mesa top from 1150 onwards as we know from the pottery. The others were earlier at the Mesa bases but moved up.

That is what these breaks indicate, here you have the breaking off of the Hotèvilla and Bakabi in the modern period.

Q So that as of 1848 when the United States obtained sovereignty over this area, what Hopi villages were in existence and where were they located?

A They would have been the Hopi villages which we know today.

For Third Mesa there would have been Oraibi.

For Second Mesa there would have been Shipaulovi, Shungopovi, and Mishongnovi.

For First Mesa, Walpi, and Sichomovi.

Q Now, in Chapter IV of your report and that begins at page 101, did you deal with Hopi land use. I would like to have you describe, first, the Hopi concept of inner and outer areas.

A The Hopi, as Mr. Eggan pointed out the other day, conceived their total claimed area as being of importance to them and utilized by them and they claim it usually according to the statements primarily on the matter of religion.

Now, this statement is made thus because of the fact that the Hopis, like the other Pueblo people, are so all aware of religion. It permeates their life much more than it does ours.

If we look at what the Hopis are doing in that same area we are more impressed with the fact that they utilized all of it apparently for hunting.

They also utilized large portions of it for gathering and the utilization of land for agriculture, of course, was closer to their villages in most cases than the other periphery although in the Moenkopi situation you have Moenkopi farms there from a very early period onward and apparently occupation off and on in the Moenkopi village area,

depending upon the security situation.

There were villages there in the 1100's and 1200's, then there was another village in the 1500's occupied for a while, then you had another village starting up, starting in the 1800's after the Navajos had been made peaceful.

Inside the Hopi area of the inner portion, you have agriculture carried on in several types of farms.

There are, of course, the village lands divided into clan lands which are utilized fairly close by the village. But some of these extend out at quite a distance.

What I am interested in in this respect is this point. These lands cannot be used every year as we are usually inclined to utilize lands. The lands are said to become too hard. Consequently the rain does not soak in properly and the plants can't grow properly. The outcome of this is that land will be used for a few seasons and then is allowed to lie fallow for another year or two.

Now I am quoting Hack on this matter.

During the year or two, what we would ordinarily call weeds, sagebrush and other wild plants grow up over it. This helps to collect some of the top soil which has such a tendency to blow off from the Hopi country.

After two or three years of lying fallow, and those weeds and brush can be cleaned off, and the land can be re-utilized. This means that they have to shift their fields.

Consequently more fields would be utilized thus than they would under other circumstances.

Another point is that the land of the fields is subject to a great deal of wind erosion and this is important to the Hopi but it also gives them a little difficulty in shifting their fields.

The areas which have sand on them keeps the moisture up better than the areas which do not have sand on them.

So, when we look at fields with a great deal of sand on them, we may be surprised that the Hopis are likely to cultivate these but actually these are the favored fields. The moisture is brought up from the standby capillary attraction from below.

The Hopis stir the top of it around with a digging stick or more modern implement and the growth goes along pretty well but the winds are likely to take this loose sand top soil off. Consequently they build brush barricades around the edge of them, holding down the brush with stone and you can see where many of their old fields which are not utilized today just on the basis of tracing the stone lines around and Hack gave the picture of some of the various ones he had traced out. He said he had not traced all of them by any means but illustrations of some of those are put in this paper.

In spite of the fact that you have the brush around them, however, there are eight or ten yards of the lower part

of the field which is free of its top soil after it has been utilized a season or two because this is blown off. Therefore, the field has to be moved eight or ten yards in the other direction so that you have a full layer of top soil over the whole thing.

Now, clan-owned agricultural land is distributed to the clansmen as previously described but it is also possible for a man to utilize land which is in what you could call the Hopi public lands, that is it belongs to the Hopi Tribe, out at some distance.

Many of these farms have been made out at a distance of some miles. It has to do with the fact that perhaps there is not enough good clan land at home or perhaps the area of the land is not so good at a certain period because of erosion or lack of appreciable precipitation in that small area, and so on.

Besides this, there is, of course, the matter of use of small garden plots where they can be irrigated from springs. This is by actual ditches. Or small garden plots where they can be utilized on the basis of terraces that are built up on the sides of mesas and water carried to them from top of the mesas, from springs by ditches.

This is the final one which is the sand dune type of field which is something completely new to people who have been working in other parts of the country and that is that

western portion, the southern edge of the western portions of the Black Mesa country.

Yellow was obtained also in one of the branches of the Grand Canyon, east of Cataract Canyon.

Q You mean yellow clay?

A Yes, sir, for use in pottery and for painting kachina masks and so forth.

A great deal of these coloring minerals would have been utilized because they did make a great deal of pottery and they also did do a great deal of painting of masks and ceremonial paraphernalia, so this would not be something that would be acquired only once in a long period.

They got other yellow clay and this was supposed to be their very best and also some copper carbonate when they went after salt.

A spot a mile or two from where the Little Colorado joins the Large Colorado on the western edge of our map is where the Hopis went for salt. This is where they considered they had come out from the underworld. It is a sort of Holy Land concept to them and there was there a big muddy spot which was considered to represent the sipapu or opening to the underworld.

There was gases that came out with the water there. Although it was on a mound, it was always damp on the top and always bubbling a little. It looked like a good representa-

as wood is used year by year, it comes to be less close to the Mesa and you have to go off great distances.

It has been suggested on occasion that some of the moves of the different pueblo people in the past in the Southwest have been on the basis of the fact they used all their firewood in the area and they had to go out so far for firewood that it was more practical to move the whole pueblo than to go that distance for firewood.

I think this leaves us, then, with the matter of other hunting.

Hunting, as I said, took place all through this area.

Q Indicating what?

A The area enclosed by the Colorado and the Little Colorado and over to the New Mexico line, but I think that the majority of it for the period with which we are concerned would definitely have been carried on west of Steamboat; if that was considered to be the outline of where the Navajos came to.

Now, hunting is commonly done when they go off to shrines. These people are practical and they combine as many functions as possible at the same time.

There were other hunting expeditions but in some of those cases you could say they also went to the shrines because all hunting was supposed to be carried on with rituals during if and rituals preceding it.

Although Hopis today utilize meat only as a delicacy, it was pointed out that in the past, and Hough and Beaglehole both bring this matter up, in the past probably there was a greater use of meat than there is today because of the fact there is a great deal of emphasis on hunting ritual; that is, it is elaborate, and that there is a good deal of statement in regard to hunting in the legends of the people.

This would make sense that in the early period it was utilized more.

But hunting became more difficult than in times past because there not only was the matter of Navajo movement in this area and Navajo hunting here as well as Hopi and hunting more of the animals off, but there was also the problem, as soon as there were any Navajo or Hopi sheep, they were eating forage, also.

Also, cattle would be eating more forage and there would have been a little more difficulty then for the wild animals to obtain forage than they could otherwise.

COMMISSIONER SCOTT: May I interrupt at this point?

THE WITNESS: Yes.

COMMISSIONER SCOTT: When you said there were also Navajos and so forth, at that point in your narrative, at what particular time were you thinking of?

THE WITNESS: I was about to get into that because this thing of the Navajos getting sheep in here I think is in the post-Fort Sumner period.

very much eariler century.

The statement that we have that people go out and collect things where their grandmother went out to collect them is so in part of the grandmother's remembrance but also is in part on the basis of this is where the things have been found,

We certainly have pieces of various minerals and such excavated from the Awatovi sites and other sites and illustrate the fact that they were using precisely the same things.

Some of the studies that had to do with the mission colored painting at Awatovi points out that you have the same ones that they had been using in the kivas earlier and the same ones that they are using today.

So I don't think there is any difficulty about that.

By Mr. Rochow:

Q Well, the Commission now, of course, is interested in your opinion as to what area the Hopi exclusively used and occupied in regular Indian fashion as of 1848. Have you made such a judgment?

A I have done the best I could with it.

Q Will you show or outline on Defendant's Exhibit E-502 the area that you believe the Hopi exclusively used and occupied as of 1848 and for some period of time before that?

A I would say that we would run from the Navajo Mountain

on the north where they had shrines and took eagles, where their ancestral homes were and where they went hunting around by the Colorado River to where the Little Colorado comes in or perhaps a mile or two below to pick up this very important salt area where the sipapu is, the most important of all religious shrines.

[Little]

Then they come up the Colorado and I would take in the turtle collecting area which has been so important to them. I debated on the matter of whether Chavez Pass should go in with this and finally decided it probably should, not because when the people lived here they were not quite Hopis yet, although they went and joined the Hopis later and had related pottery. There is some eagle collecting, as such, but I think not to the extent that there is elsewhere.

MR. LITTELL: Where is Chavez Pass?

THE WITNESS: Here, below Chevalon Butte.

By Mr. Rochow:

Q You have them on the Little Colorado near what place now?

A Near Winslow and over to Holbrook and then I would go up the Puerco <sup>of the West</sup> to take in the Painted Desert where they collected through all these periods the reeds that were so important, the only place where they could get the material for that type of craft which was of fundamental household use to them.

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**INDIAN CLAIMS COMMISSION**

Washington, D. C.

October 20, 1961.

THE NAVAJO TRIBE OF INDIANS, et al.,

**Petitioners,**

v.

**THE UNITED STATES OF AMERICA,**

**Defendant.**

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

**HART & HARKINS**  
SHORTHAND AND STENOTYPE REPORTING  
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NATIONAL 8-0343

older than they really were.

Q Did you examine the Hopi testimony at the Grand Canyon before Mr. Boyden withdrew some twenty witnesses and we stopped the proceedings?

A No, sir, I have not seen that testimony.

Q You would not know whether there was any tendency there to exaggerate the age?

A No, I would not know.

Q Is it also a feature of the Hopi informant, when he talks to you, to get himself as old as he can?

A I have no information on it for the Hopi one way or the other.

Q Dr. Ellis, without reading your conclusion, your summary on Hopi land use area, and the boundaries which you suggest on page 222-A, as you described in your testimony, you realize, of course, that this is actually a larger territory than is embraced in the Hopi claim?

A Yes, I do. Let me call your attention to the fact that this does not say "exclusive use and occupancy." It is not intended to mean such.

Q I am glad to have this information from you.

Just what did you mean by this area?

A This is the area that the Hopis utilized and I do not believe, myself, that the exclusive use situation went out quite as far as these use areas that I have described in

here. I would go back to the area that I outlined yesterday as being as far as I can see the area which should be ascribed to them for exclusive use and occupancy. This is a little bit bigger area.

Q Now I am a little confused because I don't have yesterday's record before me, I can't specifically recall what you said as exclusive use and occupancy.

Would you mind repeating it in as brief a manner as you can in reference to either of these maps that you have before you, whichever is convenient for you, and refer to the map number, if you so desire?

A <sup>EX.</sup> On page E-502, I would bring them from the juncture of the San Juan and Colorado --

Q This is the beginning point for exclusive use and occupancy?

A At the moment, yes. I will start at that point.

Q As of 1848?

A I believe so. Down to the juncture with the Little Colorado or making a loop of a mile or two to the south of that to where their salt mines are and where there are these exceedingly important shrines to them, the sipapu area.

Q When you said "down to," you were meaning toward the Colorado River?

A Yes, slightly south to the juncture of the Colorado and the Little Colorado.

Then I would come down the Little Colorado to Holbrook and up the Puerco and then on the basis of Ives' commentary for his camps, Camp 101, and he calls it, I think, White Rock, it seems to be about comparable to where Steamboat is and I stated yesterday about fifty miles from First Mesa, I think it actually is thirty-three or thirty-five.

Q On a line between First Mesa and Ganado approximately?

A Approximately, yes.

I would then go up --

Q That line you are describing, you are now describing the eastern line of exclusive use and occupancy and you have that go north from the point on the Puerco?

A Yes.

Q Where is the point?

A I don't have the point. It is where the line would intersect the Puerco but it would more or less come down the Pueblo Colorado Wash.

Q It would constitute a projection of the Colorado Pueblo Wash if it were projected in a straight line down to the Puerco, is that right?

A Yes, except that I would make sure that this Hopi sand grass collecting area was included at the edge of the Painted Desert that has always apparently been a very important spot for them.

Q It would be a slightly slanting line?

A Slightly slanting, yes, sir. I would then carry it north.

Q From Steamboat?

A From Steamboat, and either curve it to the Rainbow Bridge area or bring it more directly north, depending upon an evaluation of this newly offered material in connection with heavy usage by shrines but I would want to evaluate that data at some length because I think it has importance here.

Q When you curved it toward the Rainbow Bridge area which way would the curve go?

A It would curve toward the northwest, if I curved it. Otherwise, I would bring the line directly to the San Juan and follow the San Juan to where it joins the Colorado.

MR. LITTELL: Would counsel mind if at this uncertain point she makes a red mark on the map to indicate what she is saying -- on this exhibit?

MR. BOYDEN: I don't think my acquiescence is at all necessary.

MR. ROCHOW: I think it would be all right to have some line.

MR. LITTELL: We all understand it is an approximation.

MR. ROCHOW: I think I have a better crayon than red, because there is so much red on it now.

MR. LITTELL: I got confused between counsel, who is

the counsel for Dr. Ellis. I should have addressed my question to Government counsel and I now do so.

MR. ROCHOW: Here is a crayon which I think will show up in good shape.

By Mr. Littell:

Q Let us begin down here at the Puerco, where you left the Puerco. I think we have the rest of the line that you have described quite clearly.

A (Witness draws line on the map.)

Q Now you are making the line down the Colorado. You have gone clear around the circle, along the San Juan. Would you make it a little clearer where this blue dotted dashed line you are drafting hits the San Juan River? Fill that in between the blank spot.

Now, the witness went down the San Juan to Colorado and along Colorado clear back down the Little Colorado and over to the Puerco to the point where the straight blue line begins.

COMMISSIONER SCOTT: Let us make sure the exhibit number is entered in the record.

THE WITNESS: That is E-502.

COMMISSIONER SCOTT: Is there any portion of that area that lies outside of the Navajo Reservation?

MR. BOYDEN: Yes. A little of this in the south, the Navajo Reservation line runs through here. This little

bit on the place, the salt mines, I am not sure about that.

MR. LITTELL: If it is west of the Colorado, then it is not in the Reservation.

COMMISSIONER SCOTT: From the practical standpoint, as far as any proceedings before the Indian Claims Commission is concerned, the primary interest of the petitioners in Docket 229 is on the question of offsets. Is this not the case in Healing vs. Jones?

MR. BOYDEN: Except the piece in the south.

COMMISSIONER SCOTT: From a practical standpoint that is your interest.

Am I right on that, Mr. Littell? I mean the suggestion that has been made by previous Government counsel that there might be an attempt to claim that as an offset.

MR. LITTELL: Not quite, Mr. Commissioner, if I get your question clearly. The previous Government counsel made the contention that any lands given to the Navajos in this area since the Treaty of 1868 were to be treated as offsets.

Have I stated that correctly?

MR. ROCHEW: That is true.

MR. LITTELL: This is not the case of any land given to the Navajos. This is the case of one tribe, the Hopis, contending that they were there and the Navajos were not.

Of course, I am again confused. This is a Government witness. I keep forgetting that. She is such a good Hopi witness