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ORIGINAL INDIAN CLAIMS COMMISSION ORIGINAL

AS/r&t

BEFORE THE INDIAN CLAIMS COMMISSION

Docket 196
Box 1187

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 :
 THE HOPI TRIBE, and Indian Reorganization :
 Act Corporation, 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, Sipaulavi, Shungopavi, Oraibi, :
 Kyaotsmovi, Bakabi, Hotevilla and Moenkopi :
 : Docket No. 196
 Plaintiff, :
 vs. :
 THE UNITED STATES OF AMERICA, :
 Defendant. :
 ----- x

FILED

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CLERK INDIAN CLAIMS COMMISSION

Indian Claims Commission
Hearing Room, Sixth Floor
1730 K Street, N. W.
Washington, D. C.

Thursday, November 11, 1976

THE HEARING ON COMPROMISE SETTLEMENT in the above-entitled matter commenced at 10:00 a.m., pursuant to notice.

BEFORE:

- JEROME K. KUYKENDALL, Chairman
- JOHN T. VANCE, Commissioner
- RICHARD W. YARBOROUGH, Commissioner
- MARGARET H. PIERCE, Commissioner
- BRANTLEY BLUE, Commissioner

APPEARANCES:

JOHN S. BOYDEN, Esq.
 10 E. South Temple Street
 Salt Lake City, Utah 84133
 Attorney for Plaintiffs

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DEAN K. DUNSMORE, Esq.
Indian Claims Section
Land & Natural Resources Division
U. S. Department of Justice
Washington, D. C.

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25C O N T E N T S

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE-CROSS</u>
ALBERT SEKAQUAPTEWA	5	30	41	--
SAMUEL SHINGOITWA	47	--	--	--
ALPH H. SECAKUKU	48	50	--	--

E X H I B I T S

<u>NUMBER</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
S-1	8	8
S-2 & S-3	17	17

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P R O C E E D I N G S

1
2 CHAIRPERSON KUYKENDALL: Good morning. The Commis-
3 sion is in session.

4 We are here to receive evidence and then consider a
5 proposed settlement in the Hopi Tribe Case, Docket Number 196.

6 I presume that counsel for the Plaintiff will pro-
7 ceed.

8 MR. BOYDEN: We are ready to proceed, Your Honor.

9 CHAIRPERSON KUYKENDALL: All right. You may proceed.

10 MR. BOYDEN: I would like to make a short opening
11 statement so that the Commission will be apprised of the posi-
12 tion we are taking.

13 The judgment was entered with respect to possession
14 some time ago. Motions were made for reconsideration, which
15 were denied. Appeal was taken to the Court of Claims, and the
16 decision was affirmed. Then a petition was filed for a writ,
17 to the Supreme Court, which is pending.

18 Now, in the meantime, we have arrived at a settlement,
19 which has been agreed to by both sides. It is my intension
20 that as soon as a judgment is entered here, that we will
21 then -- I will then file a motion with the Supreme Court to
22 dismiss the petition, on the ground that the question has now
23 become moot.

24 The Clerk has assured me that that procedure can be
25 followed.

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1 CHAIRPERSON KUYKENDALL: Including our accepting your
2 filing of the judgment?

3 MR. BOYDEN: Yes.

4 CHAIRPERSON KUYKENDALL: Even though the writ has
5 not yet been --

6 MR. BOYDEN: Yes. So that the Commission may under-
7 stand my purpose in this, I have another law suit, which was
8 authorized by a special Act of December 20, 1974, between the
9 Navajo and Hopi Tribe -- the Government is not involved -- and
10 the question of what lands are to be acquired within each of
11 the two tribes. And I did not want this to become a matter of
12 res adjudicata between this.

13 That is the reason I haven't dismissed the petition
14 up there, and don't intend to dismiss it until the judgment is
15 entered here. I have so represented the Hopi people.

16 That is my purpose in following a little unusual
17 procedure. Otherwise, under the regular rule, I would have
18 dismissed that position as soon as we had agreed upon a
19 settlement.

20 COMMISSIONER YARBOROUGH: Our query, Mr. Boyden,
21 do we have jurisdiction to enter that dismissal --

22 MR. BOYDEN: Yes, I think you do. The right of
23 appeal is not allowed in this case to the Supreme Court. It
24 is merely a petition for a writ; and so the Court does not
25 assume jurisdiction unless the writ is granted.

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1 With respect to the Court of Claims, they have
2 remanded the case here for further proceedings with this
3 Commission, which places the jurisdiction here. They, as a
4 matter of practice, keep the file up there usually until the
5 writ is disposed of. But that is a matter of form.

6 I'm satisfied that the jurisdiction is here under
7 those circumstances.

8 COMMISSIONER YARBOROUGH: Thank you.

9 CHAIRPERSON KUYKENDALL: I gather the Defendant does
10 not object to your suggested procedure?

11 MR. DUNSMORE: No, Your Honor. We have come to the
12 same conclusion.

13 CHAIRPERSON KUYKENDALL: Very good.

14 MR. DUNSMORE: It has been very well debated, and
15 it would be a matter, I think, that would be appropriate for
16 the Commission to consider as their own jurisdiction.

17 CHAIRPERSON KUYKENDALL: All right. You may proceed
18 with your settlement evidence.

19 MR. BOYDEN: I call Albert Sekaquaptewa.
20 Whereupon,

21 ALBERT SEKAQUAPTEWA
22 was called as a witness on behalf of the Plaintiffs and,
23 having first been duly sworn, was examined and testified
24 as follows:

25 DIRECT EXAMINATION

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1 BY MR. BOYDEN:

2 Q Will you state your name, please?

3 A Albert Sekaquaptewa.

4 Q Will you please spell that for the Reporter?

5 A My last name is spelled S-e-k-a-q-u-a-p-t-e-w-a.

6 Q Mr. Sekaquaptewa, you are a resident of the Hopi
7 Reservation, are you not?

8 A Yes, I am.

9 Q You were born on the Reservation?

10 A Yes, I was.

11 Q At which village?

12 A Hotevilla.

13 Q And have you lived on the Reservation during your
14 lifetime?

15 A I have lived there all my life, except for the time
16 I went to school, reporting school.

17 Q And you reside where now?

18 A I live at New Oraibi, Arizona, on the Reservation.

19 Q Are you now the Chairman of the Hopi Tribal Council?

20 A Yes, I am.

21 Q And is that the governing body of the Hopi Tribe,
22 in accordance with the Constitution and bylaws that are
23 adopted by the Tribe?

24 A Yes, it is.

25 Q And is the office of Chairman an elective office by

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1 all of the people?

2 A Yes, it is.

3 Q And all are given an opportunity to vote?

4 A Yes.

5 Q And you were so elected?

6 A Yes, I was.

7 Q Do the Hopi people have a tribal paper or a paper

8 that is published by members of the Tribe for the Tribe?

9 A It's not a tribally sponsored newspaper. It is an
10 independent newspaper that is published by Hopis on the Reser-
11 vation.

12 Q And does it have general circulation on the Reserva-
13 tion?

14 A Yes, it does.

15 Q And what is the name of that paper?

16 A The Hopi name of it is Quatoqti, which means eagles
17 call or eagles crying.

18 Q And would you also spell that for the Reporter?

19 A The name of the newspaper is spelled Q-u-a-t-o-q-t-i.

20 Q Now, was the notice of the meeting that was held on
21 October 30th or the general meeting of the whole Tribe
22 published in that paper?

23 A Yes, it was.

24 Q And an affidavit was obtained from the publishers
25 and is to be introduced as part of the record here, is it not?

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1 A Yes, that's correct.

2 MR. BOYDEN: I would like to have marked this as an
3 exhibit --

4 CHAIRPERSON KUYKENDALL: Well, you can mark it, I
5 guess.

6 MR. BOYDEN: I do have copies for all the Commis-
7 sioners.

8 CHAIRPERSON KUYKENDALL: Is this the order you want
9 to have them in?

10 MR. BOYDEN: Yes.

11 CHAIRPERSON KUYKENDALL: You can mark them "S," the
12 number "S" meaning settlement.

13 MR. BOYDEN: All right.

14 CHAIRPERSON KUYKENDALL: Plaintiffs' S.

15 MR. BOYDEN: Just S-1?

16 CHAIRPERSON KUYKENDALL: S-1. I presume the Defen-
17 dant probably won't have any such documentary evidence?

18 MR. DUNSMORE: No.

19 CHAIRPERSON KUYKENDALL: Okay.

20 (Plaintiffs' Exhibit S-1 was marked for identifica-
21 tion and received in evidence.)

22 CHAIRPERSON KUYKENDALL: After the hearing, Mr.
23 Boyden, you may check with the Clerk's Office to make sure you
24 have everything according to the way the Clerk generally has
25 it done, the numbering and what-not.

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1 MR. BOYDEN: All right. I will refer to it, for the
2 purposes of examination, as S-1.

3 CHAIRPERSON KUYKENDALL: Right.

4 MR. BOYDEN: I have sufficient copies, because I
5 intend to refer to this; for the members of the Commission.

6 CHAIRPERSON KUYKENDALL: All right.

7 BY MR. BOYDEN:

8 Q I show you what has been marked as Petitioner's
9 Exhibit S-1. You have examined that report, have you not?
10 (Handing document.)

11 A Yes. I have read it and translated the report and
12 all of the associated documents here.

13 Q And that contains the original applications or the
14 original affidavits for the publications in the various
15 papers, the Hopi paper and the Phoenix paper, does it not?

16 A Yes, that's correct.

17 Q And then, I will ask you if there is a TV channel
18 that is received generally throughout the Reservation that
19 has a transmitting facility without cable?

20 A That's right.

21 Q And what is that channel?

22 A That's Channel 2, in Flagstaff, Arizona.

23 Q Well, did --

24 A KOAI TV.

25 Q Now, did you have programs on that prior to the

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1 settlement meeting of October 30th?

2 A Yes.

3 Q And when was the first program?

4 A On October 21st.

5 Q And would you tell us the nature of the program on
6 October 21st?

7 A There was occasion upon which a dissident group,
8 members of the Hopi Tribe, gave their position statement. And
9 in my capacity as Chairman, I also gave a position statement
10 on behalf of the Tribe.

11 Q And how long was that program?

12 A Total time was one hour.

13 Q Now, was there an additional program concerning the
14 merits of this settlement, held on that station at a later
15 date?

16 A Yes, on October 29th.

17 Q And will you tell us the nature of that program?

18 A That was a debate between myself and the spokesman
19 from the dissident group.

20 Q And were there questioners for both of you?

21 A Yes. The Vice-Chairman of the Hopi Tribe posed
22 questions to both of us, and the representative of the dissi-
23 dent group posed questions also to both of us, on this issue.

24 Q And will you tell us who participated in the first
25 presentation, on the 21st?

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1 A For the Tribal Council, in my official capacity, I
2 was there and participated, and for the dissident group there
3 was Thomas Banyacya, who is the spokesman for that group;
4 Mina Lansa, who claims to be a Chieftan; Otis Presilima (Phonetic
5 who also says that he is a spokesman for the Chief of the
6 Village of Shungopavi; there was Guy Footseptewa (Phonetic),
7 who -- I don't know what his official capacity is but he was
8 also one of the spokesman, as I understand it, for the dissi-
9 dent group; there was David Mananya (Phonetic), who is from
10 Hotevilla, where I was born, who has been their advocate for
11 a long time, a member of the Hopi Tribe; and Harold Caroo
12 (Phonetic), who was also a member of the dissident group -- and
13 I don't know what his official capacity is, if any.

14 Q Now, that debate was conducted somewhat after the
15 style of the Presidential debates in the recent election, were
16 they not?

17 A That was when they gave their position statement.
18 It was at the next following meeting where we had our debate.

19 Q No -- I'm speaking of the next -- on the 29th, that
20 debate.

21 A Yes, sir. That's right.

22 Q And there was an independent moderator?

23 A Yes. The owner-manager of the television station
24 moderated the debate.

25 Q Now, were notices posted throughout the Reservation

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1 of this meeting held on the 30th?

2 A That's right.

3 Q And an affidavit to that effect is also included in
4 the exhibit I have given you?

5 A That's right.

6 Q And it was posted in some 23 places?

7 A Yes. That affidavit was signed by Ivan Sidney, who
8 posted those notices on the Reservation.

9 Q And then notices were posted at two of the colleges
10 where Hopi students attend; were they not?

11 A That's right.

12 Q And an affidavit, Exhibit E, attached to S-1, is the
13 affidavit covering that matter?

14 A That's correct.

15 Q Now, at the meeting, will you tell us how widespread
16 the attendance was -- in other words, from where they came?

17 A At the general meeting?

18 Q At the general meeting.

19 A Well, from various parts of Arizona, Phoenix, which
20 is about 270 miles, White River, an Apachee Indian Reserva-
21 tion, Flagstaff and other places, and from Utah and New Mexico.
22 It is my belief, too, that members of the Tribe residing in
23 Colorado were also present.

24 Q And approximately how many members were present there
25 during the day?

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1 A Well, there were people that were coming in and out,
2 and -- approximately 500, when the large number were there
3 were in attendance.

4 Q How long did the meeting and explanations take on the
5 30th?

6 A About 7 - 1/2 hours.

7 Q Now, at that meeting, did Alvin Dashee, the Vice-
8 Chairman, preside as Chairman?

9 A Yes.

10 Q And did you act as interpreter?

11 A Yes, I did.

12 Q And did you interpret from Hopi to English and from
13 English to Hopi, so that all present would understand the pro-
14 ceedings?

15 A That is correct.

16 Q And were there others present who had the same capa-
17 bility of translating both ways?

18 A Well, yes. The Tribal Council interpreter was also
19 there assisting me, and then a number of the members of the
20 Tribe-at-large were there in the audience who had the same
21 capability. Of course, others could speak both languages.

22 Q Now, let me go back to the time that we had the
23 Council meeting -- that is, the Hopi Tribal Council, the dele-
24 gates from the various villages -- that was held at what time?

25 A Well, on the 14th and the 15th of October, I know,

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1 we had about a day and a half session on this matter. Prior
2 to that, we had another discussion on this matter, also.

3 Q And was that the regularly called meeting of the
4 Council?

5 A Yes, it was.

6 Q And at that meeting was the full explanation made
7 by me?

8 A Yes, that's right.

9 Q And was there ample time for questioning?

10 A Yes.

11 Q And were there any questions?

12 A Well, we spent about a day and a half on that, at
13 the 14th and the 15th meeting, and -- well, I don't recall
14 now at the prior meeting how much time we spent on it, but it
15 was about a day, approximately, to ask -- to answer questions,
16 rather.

17 Q And then did each Council member express an opinion,
18 independent, after the debate or after the questions had taken
19 place?

20 A That's right. We took the time to ask them,
21 individually, for their opinion.

22 Q And the resolution was passed unanimously, was it
23 not?

24 A That's right.

25 Q And that is also a part of the Superintendent's

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1 report in Exhibit S-1?

2 A Yes.

3 Q Now, going back to the meeting that was held on the
4 30th, of the general Tribal meeting, at that time, was there
5 ample time spent in examination and questions and answers, both
6 to you as Chairman and to me as Plaintiffs' Counsel?

7 A Yes.

8 Q And that is a part of the 7 - 1/2 hours of which you
9 are speaking?

10 A Yes, that's right.

11 Q And at the conclusion of that, were independent state-
12 ments of opinion made by both sides, before the voting took
13 place?

14 A That is correct.

15 Q And the vote -- do you remember the tally of the
16 vote?

17 A Yes. It was such a long meeting that quite a number
18 of people had left. The tally was, when it was finally voted
19 upon, 229 in favor and 21 opposed, and there were three spoiled
20 ballots.

21 Q Now, would you describe the manner of counting those
22 ballots?

23 A Well, one of the Tribal officers removed the ballots
24 from the ballot box -- and two officers of the Hopi Police were
25 there watching. It was passed to a sorter, another Tribal

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1 member, who separated the "ayes" and the "nays" into two
 2 different piles. And the votes, as they were taken out, were
 3 read out aloud, either "aye" or "nay."

4 Then there were three secretaries, Tribal members,
 5 who took the tally, two of them on paper and a third one on a
 6 blackboard, in the view of the audience that was there. They
 7 tallied them.

8 Q And that was the manner in which the vote was
 9 recorded?

10 A That's right.

11 Q Now, I am informed that the Government has a tele-
 12 gram from Mina Lansa, which I presume they will disclose to the
 13 Commission.

14 Is Mina Lansa one of the persons who participated in
 15 the debate on the 21st?

16 A Yes. That's right.

17 Q That's one in the same person?

18 A That's correct.

19 Q Then, I will refer you, also, to a publication in the
 20 Hopi Tribal paper -- and I will not attempt to pronounce the
 21 name of that, either -- in which a statement was published,
 22 over the signature of Mina Lansa and others.

23 A Yes.

24 Q And on the next to the last paragraph -- this is on
 25 Exhibit J of the S-1 that I have introduced, in which it is

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1 said, "Therefore, there must be no voting on the proposed
2 settlement at this time or in the future."

3 A Yes.

4 Q Is that correct?

5 A That's right.

6 MR. BOYDEN: At this time, I would like, also, to
7 mark an Exhibit S-2, which is the approval of the Bureau of
8 Indian Affairs, and offer that in evidence.

9 CHAIRPERSON KUYKENDALL: Without objection, Exhibit
10 S-2 will be received.

11 (Plaintiffs' Exhibit S-2 was marked for identifica-
12 tion and received in evidence.)

13 MR. BOYDEN: Now, in order to make a full disclosure
14 to the Commission, a man by the name of Larry Anderson, of the
15 American Indian Movement, has sent a letter to me, as Counsel,
16 and to the Tribe; and I would like to mark that as Exhibit S-3.

17 (Plaintiffs' Exhibit S-3 was marked for identifica-
18 tion and received in evidence.)

19 BY MR. BOYDEN:

20 Q Did you receive a copy of that letter?

21 A I received a copy that was very much like this. It
22 states the same things, and it was addressed to me.

23 Q Now, do you know Larry Anderson?

24 A Well, I'm not personally acquainted with him but I
25 know who he is, yes.

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1 Q Is he a Hopi Indian?

2 A No, he's not.

3 MR. BOYDEN: A copy has been furnished to the Govern-
4 ment, of this. I would now offer it in evidence as Exhibit
5 S-3.

6 CHAIRPERSON KUYKENDALL: Exhibit S-3 will be
7 admitted -- Plaintiffs'.

8 BY MR. BOYDEN:

9 Q Now, in addition to the meeting that was held of
10 the general Hopi Tribe, were village meetings held where these
11 matters were discussed?

12 A Yes.

13 Q And did you attend some of those yourself?

14 A Yes. I attended two of them, and I conducted those
15 meetings, one at New Oraibi and one at Upper Moenkopi Village.

16 Q And were some of the dissident members present at
17 those meetings?

18 A Yes.

19 Q And were other meetings held at the sponsorship of
20 the Tribe, to which you did not attend?

21 A That's right. There were two separate meetings
22 of First Mesa, for the consolidated villages of Walpi,
23 Shitchumovi and Tewa, and then there was another one at
24 Second Mesa, for the villages there, Mishongnovi, Sipaulavi
25 and Shungopavi.

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1 MR. BOYDEN: I will furnish the spelling of those
2 names to the Reporter.

3 BY MR. BOYDEN:

4 Q And this was prior to the general meeting that was
5 held on the 30th?

6 A Yes. That's right.

7 Q Now, then I want to have your opinion on several
8 matters, Mr. Sekaquaptewa.

9 First, do you feel that the notice that was given
10 of the meeting of October 30th, was fair and adequate for the
11 purpose?

12 A Yes, I do.

13 Q And were the proceedings at that meeting fairly and
14 honestly conducted?

15 A Yes, they were.

16 Q And was the settlement fully explained on that
17 occasion?

18 A Well, I translated the whole proceeding, back and
19 forth, from English to Hopi and Hopi to English, and answered
20 questions in the same way; and the questions that were not
21 directed to me, I also handled them in the same way. So I
22 believe, in my opinion, it was.

23 Q And in your opinion, was reasonable opportunity
24 given for questions and statements of the various Hopi members
25 who were present?

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1 A Yes.

2 Q And in your opinion, after a full consideration,
3 both at the Council meeting and at the general meeting, do
4 you feel that the settlement is fair and reasonable for the
5 Hopi Tribe, under the circumstances?

6 A Yes, I do.

7 MR. BOYDEN: I think that's all.

8 COMMISSIONER BLUE: Just a minute, Mr. Boyden. I
9 think it would be well for the transcript, if for no other
10 reason, for you to state the amount of the award that both
11 proposes or that both proposed.

12 MR. BOYDEN: Yes.

13 BY MR. BOYDEN:

14 Q I will call your attention, Mr. Sekaquaptewa, to
15 the Exhibit S-1, in which the resolution is contained and,
16 also, the stipulation for entry of final judgment, which is
17 on Exhibit 1 attached to S-1.

18 A Yes.

19 Q Is that correct?

20 A That's right.

21 Q And this is the stipulation which was approved by
22 the Council?

23 A That is correct.

24 Q Now, under the terms of that stipulation, in the
25 "Whereas" clause, it is stated that the Hopis made claim to a

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1 larger tract of land than was granted to them; does it not?

2 A That's right, sir.

3 Q And the Government denied -- in the "Whereas"
4 clause -- denied all the allegations, in particular.

5 A That's true.

6 Q But both sides felt it desirable to settle for the
7 sum of \$5 million all of the claims set forth in the stipula-
8 tion, that were presented or could have been presented up to
9 the year -- pursuant to the Act of August 13, 1946?

10 A Yes, that's correct, sir.

11 Q And the Government settled all of its judgment off-
12 sets that it claimed or could have claimed up to the end of
13 their accounting in 1951 -- the exact date is also given in
14 this stipulation.

15 A It is. I believe it is April 30th of that year,
16 1951.

17 Q And in accordance with that stipulation, it was
18 agreed by both sides that judgment may be entered accordingly
19 but that the final judgment entered in this could not be used
20 in any other proceeding, as to any of the facts that were
21 claimed by either side.

22 A That's right. They would not set a precedent for
23 any other case.

Q And then there were certain claims against the
United States that were authorized by the Act of December 20,
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1 1974, which are to remain unaffected by this settlement.

2 A Yes -- December 22, 1974, the Navajo-Hopi Settlement
3 Act.

4 Q In order that the Act to which I refer may be
5 accurately described, it's found at 88 stat. 1712.

6 A Yes.

7 MR. BOYDEN: I do notice that it was approved
8 December 22, 1974. I think I had maybe referred to that as the
9 20th.

10 COMMISSIONER BLUE: May I further inquire whether or
11 not at the time you reached this proposed figure, had the land
12 been appraised by both parties? Did you have the benefit of
13 an appraisal or not?

14 MR. BOYDEN: May I explain, rather than question, as
15 to the procedure that we followed?

16 COMMISSIONER BLUE: Yes.

17 MR. BOYDEN: The land -- we had taken the claims
18 case decisions as of the time -- there were two cases with
19 respect to the first taking, and with respect to the second,
20 of course, the Government figured in a different way than we
21 do, I assume, but we figured what the Claims Commission had
22 and then we had some discussion with respect to the value of
23 the coal at that time. And we hired two special appraisers
24 for that purpose, to go down and make the estimates.

25 It was upon the previous decisions of this Court and

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1 facts that we consider to be comparable, and then on the
2 appraisals that we had from our two special appraisers, with
3 respect to the mineral values of the Reservation as of the time
4 of taking.

5 BY MR. BOYDEN:

6 Q This was fully explained, was it not, to the --
7 particularly to the Tribal Council, with maps illustrating
8 what the Claims Commission had done, and the manner in which
9 we had arrived at the \$5 million settlement?

10 A Yes, it was. And we also presented that at the
11 village meetings that we held.

12 MR. BOYDEN: I think that's it -- or does the
13 Commission have something further?

14 (No response.)

15 MR. DUNSMORE: I have a few questions of the Witness
16 but, first, Mr. Boyden referred to a telegram from the Depart-
17 ment of Justice, which telegram was addressed to Mr. Peter R.
18 Taft, Assistant Attorney General, Land and Natural Resources
19 Division. This was received yesterday.

20 I have made copies and marked it as Defendant's
21 Exhibit C-1, and have provided a copy to Mr. Boyden.

22 The telegram is from a Mina Lansa, stating to be in
23 opposition to the settlement, and stating some reasons. I
24 would like to offer that exhibit, and then I have some ques-
25 tions of Mr. -- I can't pronounce your name --

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1 THE WITNESS: Sekaquaptewa.

2 MR. DUNSMORE: -- Sekaquaptewa, related to it -- and
3 I have copies.

4 I have taken the liberty of --

5 COMMISSIONER VANCE: It's pronounced just like it's
6 spelled.

7 (Laughter.)

8 MR. DUNSMORE: -- of writing over it. It's a very
9 faint copy. The copy we get from the telegram is extremely
10 faint. I have a copy which I -- I will give the official copy
11 to the Clerk, if that is preferred.

12 COMMISSIONER BLUE: Would you mind, at this time,
13 identifying your companion at your table?

14 MR. DUNSMORE: I certainly will, Mr. Blue.

15 Again, I have difficulty with these type names --
16 this is Mr. Alph Secakuku, the Superintendent of the Hopi
17 Agency. He is in town to verify the signatures of members of
18 the Tribe, the Chairman, who signed the statement.

19 Having found out that Mr. Secakuku is also a Hopi
20 Indian, I felt that it might be advantageous that we have his
21 testimony as to his role as Superintendent in this settlement;
22 and Mr. Boyden suggested that I put Mr. Secakuku on as the
23 Government's witness, which I will do. I think this testimony
24 could be helpful on the settlement.

25 CHAIRPERSON KUYKENDALL: All right, Mr. Dunsmore.

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1 What did you say you had marked this exhibit?

2 MR. DUNSMORE: I marked it as Defendant's Exhibit
3 C-1.

4 We have some S exhibits in the original title phase,
5 and I felt --

6 CHAIRPERSON KUYKENDALL: Oh, I see.

7 MR. DUNSMORE: -- rather than putting in S.-- We
8 had a witness Shroeder, and he used S numbers on his exhibits,
9 I think.

10 CHAIRPERSON KUYKENDALL: What does the "C" stand for,
11 may I ask?

12 MR. DUNSMORE: I just said, "Compromise." I
13 picked a number -- I didn't know whether we had some other
14 exhibits with no prefixes, so --

15 CHAIRPERSON KUYKENDALL: All right. Since this will
16 be probably the last papers filed in this case, I don't think
17 there will be any confusion between "S's" and the "C's."

18 COMMISSIONER VANCE: This is a copy of a telegram
19 which was sent to the --

20 MR. DUNSMORE: Assistant Attorney General.

21 COMMISSIONER VANCE: -- to the Assistant Attorney
22 General?

23 MR. DUNSMORE: Yes. It was received yesterday by
24 Mr. Peter R. Taft. He provided it to our office; and we felt
25 that we should provide it to you.

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1 COMMISSIONER VANCE: And it is authentic?

2 MR. DUNSMORE: Yes, Your Honor. I -- obviously, Mr.
3 Taft is not here to vouch that he is the one who received it,
4 but I --

5 COMMISSIONER VANCE: Has this individual made any
6 attempt to appear before the Indian Claims Commission?

7 MR. DUNSMORE: I have no idea, Your Honor, whether
8 she did or didn't.

9 I will note that the last paragraph of this tele-
10 gram says that letters and petitions from hundreds of Hopi
11 people who oppose the proposed settlement and in support of
12 this message will follow shortly. That ends the quote.

13 Well, it is my intension that if we receive any
14 documents of this nature, we will forward them to the Commis-
15 sion, copies of them, and Mr. Boyden, so that you may be
16 apprised of whatever we receive on this matter.

17 COMMISSIONER VANCE: Well, you see --

18 MR. DUNSMORE: We have not been approached other
19 than -- in any way by Mina Lansa except through this telegram
20 that we received yesterday.

21 COMMISSIONER VANCE: Is it your position that the
22 Commission should consider this as evidentiary matter before
23 us, in determining whether or not this --

24 MR. DUNSMORE: I think they should be aware --

25 COMMISSIONER VANCE: -- proposed settlement should

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1 be approved?

2 MR. DUNSMORE: I think they should be aware of this
3 when you are reaching your decision as to whether to approve
4 the settlement.

5 If need be -- I would hope we would their testimony
6 if need be -- if the Commission would determine it needs the
7 testimony of some of these people, I do not know, but we
8 felt -- the Government felt that it should not -- could not
9 present this document to the Commission. That's what we are
10 doing.

11 Whatever full disclosure we can have available on this
12 settlement --

13 COMMISSIONER VANCE: Is this the only document that
14 you have which purports to oppose this settlement?

15 MR. DUNSMORE: The only document that I know of that
16 has been received by the Department of Justice in opposition to
17 the settlement.

18 COMMISSIONER VANCE: Has anyone from your staff had
19 any direct contact with Mr. Mina Lansa?

20 MR. DUNSMORE: Not that I know of, Your Honor, but I
21 certainly had none, and nobody from the Indian Claims section
22 has had any contact with the individual.

23 COMMISSIONER VANCE: As a matter of fact, do you, of
24 your own knowledge, know whether Mr. Mina Lansa exist?

25 COMMISSIONER PIERCE: It's Ms.

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1 COMMISSIONER VANCE: Ms. Mina Lansa?

2 MR. DUNSMORE: The only thing I know of is testimony
3 that Mr. Secakuku just previously given, that this person does
4 exist and had participated in one of the television debates,
5 and had spoken in opposition to the settlement on these debates.

6 So I assume, with that testimony, this person does
7 exist, but whether -- obviously, I cannot tell you that,
8 actually, this person sent this telegram or someone else used
9 the name.

10 We have this document, and this is all that we have.

11 COMMISSIONER VANCE: So this is just for information.
12 You don't suggest that the Commission can give serious consider-
13 ation to --

14 MR. DUNSMORE: I'm not suggesting that they give
15 serious consideration. It is for your information. I did not
16 feel it was in the interest of the Government that we keep this
17 document in our office.

18 COMMISSIONER VANCE: It arrives in a rather dramatic
19 fashion, then. One might infer from this that this Ms. Lansa
20 claims to represent 7,750 unrepresented Hopi -- members of the
21 Hopi Indian Tribe.

22 You don't suggest that this is a fact?

23 MR. DUNSMORE: I have no basis to believe that she
24 represents that group of Hopi Indians. As I say, I'm just
25 presenting the document for what it says. I have no indication

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1 she does represent that group of Indians or that number at all.

2 Again, I said it was presented --

3 CHAIRPERSON KUYKENDALL: Then, in other words, Mr.
4 Dunsmore, the Department of Justice received this, and you
5 didn't want to leave it secreted there, you just wanted to
6 expose it?

7 MR. DUNSMORE: Right.

8 CHAIRPERSON KUYKENDALL: All right.

9 MR. DUNSMORE: And, as I say, I intend to -- should
10 we get some letters and petitions, to also provide them to the
11 Commission.

12 I feel it is not our position to confine this material
13 of this nature to our files.

14 COMMISSIONER YARBOROUGH: I think it would be very
15 proper.

16 COMMISSIONER BLUE: Would it be in line with our
17 customs and traditions?

18 MR. DUNSMORE: On the settlement side, I'm not sure
19 of what all the customs and traditions are.

20 COMMISSIONER BLUE: No definite cut-off date on any-
21 thing?

22 MR. DUNSMORE: I would assume that once a final
23 judgment is entered and recorded, I will quit sending you
24 material related to it. I think that we have a clear cut-off
25 date.

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1 COMMISSIONER KUYKENDALL: Well, you need not feel
2 like --

3 MR. DUNSMORE: I'm afraid I provide this Commission
4 with too much material, as it is, Your Honor.

5 (Laughter.)

6 CROSS-EXAMINATION

7 Q Now, Mr. Sekaquaptewa -- is that it?

8 A Sekaquaptewa.

9 Q All right.

10 COMMISSIONER VANCE: He is identified.

11 MR. DUNSMORE: All right.

12 COMMISSIONER VANCE: Just call him "Mr. Witness."

13 (Laughter.)

14 MR. DUNSMORE: I will try not to call you by your
15 name, Mr. Chairman.

16 COMMISSIONER BLUE: That's fine -- Mr. Chairman.

17 COMMISSIONER VANCE: You are not new to this case,
18 are you, Mr. Dunsmore?

19 (Laughter.)

20 MR. DUNSMORE: I didn't do the original title page,
21 so I'm behind in that stage of the game.

22 BY MR. DUNSMORE:

23 Q I believe the general meeting the Tribe held on
24 October 30th was at the Hopi Day School --

25 A That's right.

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1 Q -- at Oraibi, Arizona?

2 A That's right.

3 Q Is this location on the Hopi Reservation?

4 A Yes, is it.

5 Q Is this location convenient for all the members of
6 the Tribe living on the Hopi Reservation?

7 A Yes. It is centrally located and it is also the
8 same community where the Tribal Officers are located.

9 Q It's a place where the members of the Tribe would
10 frequently be coming or, at least, regularly coming sometimes?

11 A That's correct.

12 Q I believe you testified that there were members of
13 the Hopi Tribe who lived outside the Reservation, and travelled
14 a considerable distance to come to this location for this meet-
15 ing?

16 A Yes. That's right.

17 Q I noticed in the report on the settlement meeting,
18 which is the first memorandum of Plaintiffs' Exhibit S-1, that
19 there was a provision for registering the people prior to
20 voting, at this general meeting on October 30th. Is that
21 correct?

22 A Yes.

23 Q Did the Tribe have a roll of the members of the Hopi
24 Tribe previously, from which they could, let's say, roll avail-
25 able voters?

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1 A Yes. We had the Tribal Census Department personnel
2 there to verify them before they issued the ballots to the
3 members, to determine their eligibility.

4 Q They did verify that the members who wished to vote
5 were Hopis?

6 A Oh, yes.

7 Q Was anybody refused the right to register and vote
8 in this because they were not a Hopis?

9 A Not to my knowledge. This was announced before the
10 voting was taken; so I would say that those who were not
11 eligible did not attempt to vote, and those that were doubtful
12 verified their enrollment before they -- before the time came
13 for the balloting, because we announced that any member of the
14 Tribe who was not sure of his enrollment status should go see
15 the enrollment personnel -- and we had a separate room set aside
16 for that purpose, so that they could do this before the session
17 began.

18 Q Do you know if any of the people there visited these
19 enrollment personnel?

20 A No, I don't know personally, because I wasn't able to
21 cover that part of it myself.

22 Q I take it no notice was mailed to individual members
23 of the Hopi Tribe, of this meeting; is that correct?

24 A Not individually, no.

25 Q Your reliance was on the posted notice, published

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1 notice in the paper and the newspaper; is that correct?

2 A That's right -- and radio and television announce-
3 ments.

4 Q I notice that all of the notices were, of course, in
5 the English language. I presume there are members of the Hopi
6 Tribe who do not read the English language; is that correct?

7 A The Hopi language is not a written language. Most of
8 the Hopi people can read. And the announcements -- there were
9 announcements that I made on television, in Hopi, the Hopi
10 language.

11 Q Is it your opinion then that even if the individual
12 could not read the English language, that they received notice
13 orally of the meeting?

14 A Yes.

15 Q Do you know of individuals who attended the meeting
16 on October 30th who could not speak or read the English
17 language?

18 A Yes.

19 Q But these persons were still at the meeting?

20 A Yes.

21 Q I also noticed that the ballots used were in the
22 English language.

23 COMMISSIONER BLUE: He says there is no written
24 language for Hopis.

25 MR. DUNSMORE: Yes.

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1 BY MR. DUNSMORE:

2 Q Was any provision made to assist any members of the
3 Tribe in voting who could not read the English language?

4 A We had representatives and some of the officials from
5 the various villages to assist their village members in the
6 ballot process but, to my knowledge, I do not know personally
7 if any individual was assisted in marking his ballot.

8 Q Is it your opinion though that nobody was hindered
9 from voting because they could not read the English language?

10 A That is correct.

11 Q I also notice that a total of 29 votes were cast on
12 October 30th in opposition to the proposed settlement.

13 Did any of the members of the Hopi Tribe who opposed
14 the settlement speak in opposition to the settlement at this
15 meeting?

16 A Yes. There were 21 that voted in opposition --

17 Q Okay.

18 A -- and there were several people -- I don't remember
19 the exact number now -- that got up and spoke in opposition
20 and presented statements in opposition, including those who
21 couldn't speak the English language.

22 Q All right. Do you recall the reasons, any of the
23 reasons given by these persons, for opposing the settlement?

24 A Yes. They were saying that we had sold the land,
25 and they were very suspicious of the settlement, that it didn't

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1 really mean what it said -- the agreement, I mean, the settle-
2 ment agreement.

3 Q Was anyone prevented from speaking or asking questions
4 at the meeting on October 30th?

5 A I don't believe anybody was prevented from it. One
6 individual was asked to verify his membership; and, after that
7 was clarified, then he was permitted to speak.

8 Q Then the speaking was limited to members of the Hopi
9 Tribe, on the settlement?

10 A That's correct.

11 Q I believe that Mr. Secakuku, the Superintendent of
12 the Hopi Reservation, was present at the Tribal Council meeting
13 on October 14th and 15th, and at the general meeting on October
14 30th; is that correct?

15 A Yes.

16 Q At any of these meetings, did Mr. Secakuku ever
17 insist or direct that the Hopi Tribe accept the proposed
18 settlement?

19 A No.

20 Q Did any other official of the United States insist
21 or direct the Hopi Tribe to accept the proposed settlement?

22 A No. We didn't have -- just Mr. Secakuku and, usually,
23 one or two other staff people from the local agency -- except
24 at the general meeting on the 30th, at which the Bureau of
25 Indian Affairs people -- Indian staff people from that office

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1 were present but they didn't speak.

2 Q Do you understand that this proposed settlement will
3 finally dispose of all of the claims of the Hopi Tribe, before
4 the Indian Claims Commission?

5 A Yes -- pursuant to the Indian Claims Commission Act.

6 Q Do you believe that when the members of the Hopi
7 Tribe voted to accept this settlement that they also understood
8 that this would dispose of all claims of the Hopi Tribe before
9 the Indian Claims Commission?

10 A Yes -- that's right.

11 Q Was it explained to the members of the Hopi Tribe
12 that if they rejected the settlement, that they might ultimately
13 receive an award against the United States in excess of the
14 \$5 million for which they were settling?

15 A Yes -- and also the possibility that we might not
16 get -- that we might get a lesser amount, also.

17 Q At the general meeting on October 30th of this year,
18 was the proposed stipulation for entry of final judgment read
19 to the meeting?

20 A Yes, it was read, and I translated it into the Hopi
21 language.

22 Q And its terms -- were the terms of the proposed
23 stipulation explained and translated to the members of the Hopi
24 tribe?

25 A Yes.

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1 MR. DUNSMORE: Now, I have one question which I
2 think should be raised by the telegram we received, which I
3 think may be answered by the Witness. And I will refer the
4 Witness -- this is Defendant's Exhibit C-1, the second para-
5 graph, where the writer states, "...all the religious leaders
6 and many of the Hopi people were deeply involved in a religious
7 ceremony which conflicted with the date of the hearing and
8 prevented their appearance."

9 THE WITNESS: May I see that again?

10 MR. DUNSMORE: Oh, certainly.

11 THE WITNESS: So that I can look at the exact
12 language, the wording in there.

13 BY MR. DUNSMORE:

14 Q You may read the whole thing. I have written over
15 it so that you can read the faintings.

16 A Is there a period that follows the word "opinions?"
17 I can't see that. Is there a period that is suppose to follow
18 this word?

19 Q Well --

20 A Or is that a break in the sentence?

21 Q I think there is a break in the sentence there.
22 There is no period in the original.

23 A So that the statement says, "In addition, all the
24 religious leaders and many of the Hopi people were deeply
25 involved in a religious ceremony which conflicted with the

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1 date of the hearing..." and so forth.

2 Q Right.

3 A That stands by itself in the statement.

4 Q That's right.

5 A As I read it.

6 Q Was there any conflict with the religious meeting on
7 that date, that you know of?

8 A There was a conflict with a religious ceremony at
9 one of the villages, but the statement that all of the Hopi
10 religious leaders were participating is not true.

11 Q All right. Were some of these religious leaders at
12 the meeting, at the general meeting, on October 30th?

13 A With the permission of the Commission, I could maybe
14 clarify that by going into a little explanation.

15 Q I think that would be fine. That was my only real
16 question on the telegram.

17 A The villages are autonomous, and each village is
18 organized according to their own way. Each of these villages
19 that are still traditionally organized or who have some part
20 part of their religious organization still intact, they have
21 these various ritual and religious activities, but they don't
22 occur at the same time in all of the villages.

23 The religious leaders are not the same ones for all
24 of the Hopi Tribe. One village has its own religious leaders;
25 another has its own religious leaders; it may be the same or

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1 similar ceremony.

2 This ritual that they referred to occurred at
3 Shungopavi and, as far as I know, none of those religious
4 leaders were at the meeting, although the Chief of the Village
5 came down to the meeting before it began and objected to the
6 meeting being held.

7 But the religious leaders from the other villages,
8 who hold that same capacity for their own village, some -- I
9 don't know whether they attended or didn't attend, because I
10 didn't look for all of them, but they wouldn't have any part in
11 this particular ritual, because they would have that function
12 in their own village.

13 There were some people at the meeting who hold some
14 religious office of one kind or another, and others who had
15 held a priesthood in some of the other ritual organizations
16 who were present.

17 So the statement that all of the religious leaders
18 were involved in that and couldn't attend, can't be true, not
19 according to their traditional system of doing things.

20 CHAIRMAN KUYKENDALL: Mr. Chairman, about what is
21 the population of this village that was having their ritual
22 ceremonies that day?

23 THE WITNESS: About -- I would say, about 1,000.
24 The ritual ceremony that they speak of is a womens' society
25 ritual, and only -- there is mostly women involved in that

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1 and with a few male priests also having responsibility in that
2 ritual.

3 COMMISSIONER BLUE: How many different villages do
4 you have on the Reservation?

5 THE WITNESS: There are 12 separate villages,
6 recognized villages, with their own governing bodies.

7 COMMISSIONER PIERCE: What is your membership of the
8 Hopi Tribe?

9 THE WITNESS: About 8,000; and, of those, approxi-
10 mately 6,500 reside on the Reservation on a daily basis.

11 COMMISSIONER PIERCE: Did many people from that
12 village that was having the religious celebration come to the
13 meeting?

14 THE WITNESS: There were some there, I know. How
15 many there were exactly, I don't know, I'm afraid. I would
16 say that several were there but I just didn't keep an individual
17 count myself; so I don't know.

18 BY MR. DUNSMORE:

19 Q On the meeting of October 30th, you testified that
20 approximately 500 people may have been in attendance, at the
21 largest peak.

22 A Yes.

23 Q Would you say this was an unusually large gathering
24 of the Hopi Tribe, or is this --

25 A I have been on the Council now, in some capacity or

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1 another, for 20 years -- and that's a pretty good sized meet-
2 ing -- and I don't recall -- well, to the best of my recollect-
3 tion, I don't recall any meeting, you know, in the past 10 or
4 15 years where there were a larger number of people in atten-
5 dance. It's kind of an unusual -- it's unusual to have that
6 many at a meeting, public meeting, like that.

7 REDIRECT EXAMINATION

8 BY MR. BOYDEN:

9 Q Mr. Sekaquaptewa, in giving the population, that
10 included men, women and childred, did it not?

11 A Yes. That's right.

12 MR. BOYDEN: I would like to make a statement that
13 the Mina Lansa who sends this telegram is the person who
14 debated and -- I already have it in evidence; so there will
15 be no question about that -- is the one who said that they
16 should not hold that meeting then or ever hold a meeting on
17 this. She didn't want it to be voted on at all. That is the
18 same person.

19 I just thought that ought to be drawn to the atten-
20 tion of the members.

21 COMMISSIONER VANCE: Well, perhaps my line of ques-
22 tioning implied that I approved of this sort of evidentiary
23 material, and that the Commission should give consideration to
24 it. That is not my position, Mr. Boyden, and I would not want
25 the record to show that that is anything that -- that this sort

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1 of evidentiary material is anything the Commission should give
2 any consideration to.

3 This is the time for hearing the question of whether
4 or not the settlement should be approved. And I think that
5 clearly, the Chairman, Mr. Sekaquaptewa, has ably represented
6 the Tribe for years, as have you, and I have no doubts at all
7 that the matter was done in a perfectly proper way.

8 I think this sort of thing causes the Commission and
9 the whole process of the settlement of Indian claims a great
10 deal of difficulty.

11 I think the Government has acted in a very mature
12 way in settling this case and, of course, we are grateful to
13 have all of the matters that pertain to it, but this really
14 came in from left field -- and it's nothing but a red herring.

15 If she is intelligent enough to debate these matters
16 on television, before the members of the Tribe, she certainly
17 knows the place to oppose this hearing. This is simply propa-
18 ganda.

19 BY MR. BOYDEN:

20 Q May I ask you this question -- at the time this
21 meeting was called, had you or any of those that determined
22 the date of the meeting have any knowledge of a ceremony to
23 be performed?

24 A Well, we knew that that ceremony was to be performed
25 sometime at that village, so we asked around the Tribal

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1 offices of members of that village when it would be, to deter-
2 mine if it would be in conflict with the general meeting on the
3 30th, and we were advised that it would not be on that day; so
4 that's the reason why we selected that day.

5 Q And you learned after the meeting had been called
6 that the religious ceremony had been called subsequent to the
7 time you called this meeting?

8 A Yes, I learned about it thereafter, that it would be
9 on the same day.

10 MR. BOYDEN: That's all.

11 The resolution authorized five members to come back.
12 Either testimony would be merely cumulative. I might put one
13 or two on just to indicate that the testimony is the same; but
14 I wanted the record to show that all were here and available
15 for any questions that the Commission --

16 CHAIRMAN KUYKENDALL: Why don't you introduce each
17 one of them to the Commission?

18 MR. BOYDEN: I will. And they are available for
19 either the Government or the Commission if they care to ask
20 any questions.

21 I would like to introduce, reading from the record
22 itself -- Mr. Sekaquaptewa has already testified -- Mr. Logan
23 Koopee. Would you stand?

24 I'll introduce him in just a minute.

25 Mr. Samuel P. Shingoitewa -- Mr. Shingoitewa is

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1 sometimes referred to as Sam Shing, but this is a little
2 offensive to him; but this is the way it was signed, and this
3 is the way it is in the resolution. His true name is Samuel
4 P. -- and would you spell your last name, your Hopi name?

5 MR. SHINGOITEWA: Shingoitewa, S-h-i-n-g-o-i-t-e-w-a.

6 MR. BOYDEN: And he is very desirous that that name
7 appear in the record, the correct name, although he has signed
8 it as Sam Shing.

9 COMMISSIONER BLUE: Is he a member of the Tribal
10 Council?

11 MR. BOYDEN: He is a member, an alternate on the
12 Tribal Council, and is a Tribal interpreter.

13 And then, Mr. Roger Honahni. Roger Honahni is a man
14 83 years of age and is very interested in Hopi matters. He is
15 not a member of the Tribal Council at this time.

16 Then, Mr. Dewey Healing. He is the man famous for
17 the case Healing vs. Jones. He was the Tribal Chairman at the
18 time that case was tried.

19 The other gentlemen is not one of the delegates, but
20 is here as an observer.

21 Will you state your name, please?

22 MR. NASANOTIE: George Nasanotie.

23 MR. BOYDEN: Would you spell your last name?

24 MR. NASANOTIE: N-a-s-a-n-o-t-i-e.

25 MR. BOYDEN: He is well acquainted with the

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1 traditions of the Tribe, and is referred to as a traditionalist,
2 not a dissident traditionalist, but they sometimes refer to
3 themselves as traditionalists in law.

4 Then Nathan Bégay is a Government employee who is
5 here and just working with the Hopi Reservation.

6 Mr. Koopee hasn't returned yet, Logan Koopee, but he
7 has been Chairman of the Hopi Tribal Council. He is on the
8 Tribal Council now and, in the general election, the time
9 before the present administration, was elected as Vice-Chairman
10 of the Hopi Tribal Council.

11 If there is nothing further -- as I say, the testi-
12 mony would be cumulative that I have to put on.

13 COMMISSIONER BLUE: And you still recommend that the
14 settlement be approved?

15 MR. BOYDEN: I do. I think that it is in the best
16 interest of the Tribe, for more than one reason.

17 COMMISSIONER BLUE: All right.

18 CHAIRPERSON KUYKENDALL: Mr. Boyden, perhaps it
19 might help the record a little bit if I asked all of these
20 people who you might otherwise call to rise and take the oath,
21 at the same time, and you can just ask each one of them if
22 they would testify in the same manner as the Chairman did.

23 Do you want to wait for the other one?

24 MR. BOYDEN: Mr. Koopee will be here in a minute,
25 I'm sure.

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1 CHAIRPERSON KUYKENDALL: All right.

2 MR. BOYDEN: Logan, would you remain standing just
3 a moment?

4 MR. KOOPEE: Yes.

5 MR. BOYDEN: This is Logan Koopee, that I have just
6 introduced as being a member of the Tribal Council at the
7 present time, and a former Chairman on more than one occasion,
8 and elected Vice-Chairman in the previous administration.

9 Now, would all of the delegates stand?

10 I see all but Mr. Shingoitewa here now.

11 (Laughter.)

12 MR. BOYDEN: If you would swear these people, I can
13 proceed then.

14 (Whereupon, all witnesses on behalf of the Plaintiffs
15 were duly sworn, en masse.)

16 MR. BOYDEN: Is there anything that you would care to
17 add to the testimony that Mr. Sekaquaptewa has given?

18 MR. KOOPEE: Well, I think he has pretty well covered
19 everything, the way I understand, on what is taking place.

20 MR. BOYDEN: That's Mr. Koopee speaking.

21 Now, Mr. Shingoitewa, would you raise your hand,
22 please, and be sworn?

23 Whereupon,

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1 SAMUEL SHINGOITEWA

2 was called as a witness on behalf of the Plaintiffs and,
3 having first been duly sworn, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. BOYDEN:

7 Q Mr. Shingoitewa, you have heard the testimony of
8 Mr. Sekaquaptewa?

9 A Yes.

10 Q Do you have any differences of opinion with respect
11 to what he has stated?

12 A Well, I think he has pretty well covered, and I
13 think what he has stated here is the truth.

14 MR. BOYDEN: Thank you.

15 CHAIRPERSON KUYKENDALL: Does that conclude your
16 evidence, Mr. Boyden?

17 MR. BOYDEN: Yes.

18 CHAIRPERSON KUYKENDALL: Mr. Dunsmore, you may pro-
19 ceed.

20 MR. DUNSMORE: Would you take the stand, please --
21 I keep having trouble with these names.

22 Whereupon,

23 ALPH H. SECAKUKU

24 was called as a witness on behalf of the Defendants and,
25 having first been duly sworn, was examined and testified
as follows:

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1 DIRECT EXAMINATION

2 BY MR. DUNSMORE:

3 Q For the record, will you please state your full name?

4 A My name is Alph H. Secakuku.

5 Q In what position are you presently employed?

6 A I am the Superintendent of the Hopi Agency, under
7 the Phoenix, Arizona office.8 Q Are you also a Hopi Indian, a member of the Hopi
9 Tribe?

10 A Yes, sir, I am.

11 Q Have you heard the testimony given this morning by
12 Mr. Sekaquaptewa, Chairman of the Hopi Tribe?

13 A Yes, I have.

14 Q Do you agree with the testimony that he has given?

15 A Yes, sir, I do.

16 Q Would you add anything to that testimony? Do you
17 wish to add anything?18 A Well, I think the only thing I can add is that we
19 posted the notices and we also opened the meeting and explained
20 to the people what the purpose of the meeting was, and turned
21 it over to the Tribal Chairman.22 Q Then, I take it you were involved in posting the
23 notices of the meeting? Is that correct?

24 A Yes, sir.

25 Q Did you call the meeting to order on October 30th?

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1 A I have explained the purpose of the meeting to the
2 Hopis, both in Hopi and also in English.

3 Q Did you turn the control of the meeting over to some-
4 one else?

5 A I turned the control of the meeting over to the Vice-
6 Chairman of the Hopi Tribe.

7 Q Did you at any time direct any member of the Hopi
8 Tribe to vote, in any manner, on this settlement?

9 A No, not at any time I directed anyone. There were
10 discussions held on the merits of the case. The report was
11 given by Mr. Boyden, and the explanation of these were made,
12 but at no time did I influence anyone how to vote.

13 COMMISSIONER BLUE: Are you in any position to direct
14 anybody how to vote, anyway?

15 THE WITNESS: No, sir, I am not in that position to
16 direct anyone how to vote.

17 BY MR. DUNSMORE:

18 Q At the meeting on October 30th, as well as the
19 Tribal Council meeting on October 14th and 15th, it has been
20 testified that you were in attendance at those meetings; is
21 that correct?

22 A That's correct.

23 Q Did you hear explanations for the settlement as made
24 by the Tribal Attorneys, the discussions given at that time,
25 on those dates?

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1 A Yes, sir.

2 Q Do you speak the Hopi language?

3 A Yes, sir, I do.

4 Q Did you hear the translations of the discussions,
5 both from English to Hopi and Hopi to English?

6 A Yes, sir.

7 Q Do you believe that those translations were correct
8 and sufficient to explain the proposed settlement to persons
9 at those meetings?

10 A In my judgment or in my opinion, I think they were
11 accurately explained. I was able to understand it.

12 Q Is it your opinion that in your role as Superinten-
13 dent of the Hopi Agency, you performed no functions other than
14 those that would have been performed by any other Superintendent
15 in the Agency?

16 A That's right, sir.

17 MR. DUNSMORE: That's all the questions I have for
18 this witness.

19 CHAIRPERSON KUYKENDALL: Do you have any cross-
20 examination?

21 MR. BOYDEN: Just one.

22 CROSS-EXAMINATION

23 BY MR. BOYDEN:

24 Q I show you what has been marked as Plaintiffs'
25 Exhibit S-1, and ask you if that is a copy of your report?

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1 A Yes, sir, it is.

2 Q And do you have in -- you have in detail described
3 what happened at both meetings, and you have attached to that
4 report the various affidavits of publication and posting of the
5 notice?

6 A Yes, sir.

7 Q And you have also attached to that a copy of the
8 form of the ballot and the Attorney's report, which was passed
9 out to all of the members present at the meeting of October
10 30th?

11 A Yes, sir.

12 MR. BOYDEN: That's all.

13 MR. DUNSMORE: You may step down.

14 THE WITNESS: Thank you.

15 CHAIRPERSON KUYKENDALL: Does that conclude the
16 evidence of both parties?

17 MR. DUNSMORE: Yes.

18 COMMISSIONER BLUE: I would like to commend both
19 parties and the people for finally getting together and resolv-
20 ing this long, long issue to the extent it has all been
21 resolved. It is very helpful.

22 COMMISSIONER YARBOROUGH: I would like to congratulate
23 the witnesses that have made the long journey, for being with
24 us here today, which shows the interest of the Tribe in pur-
25 suing the knowledge of their affairs.

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Thank you for coming to Washington, gentlemen.

CHAIRPERSON KUYKENDALL: We are sorry the weather is so cold.

If there is nothing further to be said, then the Commission is adjourned.

(Whereupon, at 11:15 a.m., the hearing adjourned.)

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