McNickle, D'Arcy, 2-21-1952, Letter to G. Warren Spaulding, Director, Program Division, Bureau of Indian Affairs. Arnold and Porter Hopi Archive.

Director, Program Division

FROM :D'Arcy McNickle

SUBJECT:Hopi Affairs

Administration of Hopi affairs has always been difficult. An agency was established at Keams Canyon in the 1870's against the active opposition of a considerable portion of the tribe. The early years of agency administration did not dissipate the misgivings and open opposition of the tribal members. Effort was made on two occasions to allot the Hopi Reservation, and when members of the tribe objected, they were threatened with armed force. I believe a military detachment was actually stationed on the reservation for a time, but fortunately this force did not actively intervene. In 1906, the opposition to the Government became so critical at the village of Oraibi that pro- and anti-Government forces lined up in the village plaza and began a shoving contest. The opposition party was shoved out of the village, and thereupon packed up its belongings and moved to Hotevilla, some 10 miles away. Oraibi continued to disintegrate until today the villages of New Oraibi, Bakabi, Hotevilla, and Upper Moenkopi are made up of families deriving from Oraibi.

In 1936, the Bureau made a sustained effort to close these old breaches and to achieve, in the form of a written constitution, a mechanism by which traditional village government could work amicably with those villages which, having broken away from Oraibi, had adopted elective systems of government. Oliver La Farge was assigned to the task of developing a constitution because of his anthropological training and his long friendship with the Hopi Indians. At the time the constitution was drafted, it was our sincere belief that we had developed an instrument which would work and which in time would come to have the united support of all the villages. La Farge reported at the time he submitted the constitution that no one at the agency knew the village chiefs (Kikmongwi) for all the villages. This condition is probably true today, and in fact probably has always been true. Hence, the provision in the constitution that in those villages which followed the traditional form of organization, representatives to the Tribal Council would be approved by the Kikmongwi. This did not require that the Kikmongwi divulge his identity, but it provided a means by which that official could give his approval to the action of the village in naming representatives. These representatives, therefore, would be his spokesman. This was the traditional pattern in Hopi organization, and there was good reason to believe it would operate as intended. At least, La Farge discussed the matter in countless village meetings, and it seemed to satisfy the Hopis.

Exhibit 27

Unfortunately, the question of setting up a land-management district and of reducing livestock to the carrying capacity of the land confronted the Hopi people with desperate political questions before the Tribal Council had fully established itself in the confidence of the people. It was assumed by many that the written constitution and the Council created under the constitution were somewhat responsible for bringing about an apparent reduction of Hopi territory and of livestock. The Council foundered on that problem and no Hopi leader in the traditional line has been willing to support the Council.

When at a general meeting of members of the Hopi Tribe in February 1950 a decision was made to reconstitute the Hopi Tribal Council, we in this office felt that the question of recognizing the reconstituted Council should be held in abeyance until we had all the facts. I visited the Hopi Reservation at that time and met with the Council and with the traditional leaders at Shungopavi. I also reviewed with the Superintendent the procedural actions that had been taken by him and by the tribal members to reestablish the Council. I was convinced at the time, and still am, that the tribe had acted properly to meet all technical requirements for reestablishing the Council. In spite of this, I still recommended against formal action and urged the Superintendent and the Area Director to continue a campaign of building up confidence in the Tribal Council and, if at all possible, winning the support of the traditional leaders at Shungopavi, Hotevilla, and Lower Moenkopi. It may be that we can never expect to win the active support of these leaders, but I think it is possible to achieve a situation of passive acceptance. We have proceeded on that basis since.

Opposition to the Council soon spread beyond the Hopi Reservation, and we began to receive protests from Dr. Byron Cummings, a long-standing friend of the Hopis, from the New Mexico Association on Indian Affairs, the Verde Valley School, and others of like standing in the Southwest. Recognition of the Council, if it had taken place, would have spread criticism and possibly have done real damage to our relations with the tribe and with the public generally. The removal of Superintendent Crawford helped to relieve the pressure and reassure the Hopi Tribe that we were proceeding with their interests in mind.

I am still convinced that it is possible to accomplish our objective of eventual acceptance of the Hopi Tribal Council. To bring this about, however, we must continue to work concertedly, with each step planned beforehand. The Superintendent, Dow Carnal, must make use of every opportunity in village meetings and in conferences with individual leaders to point to the advantages of tribal organization. At all costs, he ought to avoid urging the step as a convenience to the Government or to the oil companies which would like to lease Hopi land. These considerations will not

HP018036

persuade the Hopi Indians. What they want to know is [illegible] not interfering with traditional forms and beliefs, (2) we are not asking that noninitiated and nontraditional Hopis abide by traditional forms in their village organization, and (3) that the Hopi villages need a united organization through which the wishes of the Hopi people may be made known to outsiders, including the Government and all nonmembers of the tribe.

In addition, the Government should make certain decisions on matters which deeply affect the Hopi people. It is my recommendation that the following actions be taken and announced to the Hopis:

1. Keams Canyon Agency should be removed from the Window Rock Area and placed under the Phoenix Area Office. This may not seem to make sense on paper, but I think it is one of the important keys to the problem.

2. We should request a review of the Solicitor's opinion of June 11, 1946. In support of that request, we should present an argument for a contrary view of the rights of the Hopis in the 1882 Executive Order Reservation. An earlier opinion dated February 12, 1941, held that the Hopis possessed "Indian title" to the 1882 area which, as I understand, in view of the Supreme Court decision in the Shoshone case, means that the Hopi title was as sacred as a title in fee. Moreover, the area represented by the 1882 Executive Order was fully contained within the area occupied by the Hopi Indians from immemorial times. The exact extent of that area will ultimately be determined by the Indian Claims Commission. It may be that the Claims Commission will find that the Hopis were entitled by aboriginal right to a larger area than that contained in the 1882 Executive Order. That question is beside the point in this connection. For the sake of our present argument we need only contend that the area was contained within the aboriginal occupancy area and that the Hopis had a right antedating the 1882 Executive Order. For these reasons, we believe that, in equity, the Hopis are entitled to the minerals underlying the 1882 area. We recognize that for practical reasons the Navajos cannot today be removed from the 1882 area, but we ought to limit Navajo rights in the area to use rights on the surface.

3. The settlement at Moenkopi is part of the immemorial Hopi occupancy area. For many hundreds of years Hopi families living on the three Mesas operated farms at Moenkopi. The area seems to have been abandoned when Paiutes began to raid the area several generations ago. About 1850, with the help of Mormon settlers, the Hopis were able to reoccupy Moenkopi. In subsequent years, Navajo families have moved into the area, which contains the only perennial source of water in the general vicinity. No settlement of the conflicting land rights of Navajo and Hopis will ever be complete without some equitable division of Moenkopi water and farm lands between Navajos and Hopis.

HP018037

4. The Hopis have a continuing interest in certain shrines located at various outlying points. Some of these shrines are in areas occupied now by Navajos, and doubtless others are in national forests or other public land areas. These shrines should be identified; in some cases, as in public land areas, it may be possible to reserve an acre or two for exclusive Hopi use, and in all cases free access to Hopi shrines should be guaranteed to the fullest possible extent.

I am confident that if decision and action can be taken on each of the above questions, we can begin to count on Hopi cooperation in other fields. Wherever possible, I would act in the name of the Hopi Tribal Council or in full cooperation with the Council in order that the Hopis may come to feel confidence in the strength and good purposes of the Council.

(Sgd) D'Arcy McNickle

D'Arcy McNickle
Program Division

DMcNickle:mm 2/21/52

cc: Program Div-Tribal Programs

HP018038