

Navajo Tribe of Indians et al v. United States of America, 10-1961, Testimony of
Witnesses for the Hopi Tribe (sample pages). John S. Boyden Collection, MSS
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INDIAN CLAIMS COMMISSION

Washington, D. C.

Oct. 18, 1951

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THE BUREAU OF INDIAN AFFAIRS,

Petitioners,

THE UNITED STATES OF AMERICA

Defendant.

Docket No.

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I N D E X

- - -

Witness:

Direct Cross Redirect Recross

Fred R. Eggan

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E X H I B I T S

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

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INDIAN CLAIMS COMMISSION

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 :
 THE NAVAJO TRIBE OF INDIANS, :
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 Petitioner, :
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 vs. :
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 THE UNITED STATES OF AMERICA, :
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 Defendant. :
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Docket No. 229

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 :
 THE HOPI TRIBE, ET AL., :
 :
 Petitioner, :
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 vs. :
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 THE UNITED STATES OF AMERICA, :
 :
 Defendant. :
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Docket No. 196

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 :
 THE HAVASUPAI TRIBE OF THE :
 HAVASUPAI RESERVATION, ARIZONA, :
 :
 Petitioner :
 :
 vs. :
 :
 THE UNITED STATES OF AMERICA, :
 :
 Defendant. :
 :
 -----X

Docket No. 91

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 :
 THE FORT SILL APACHE TRIBE OF :
 THE STATE OF OKLAHOMA, ET AL., :
 :
 Petitioner, :
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 vs. :
 :
 THE UNITED STATES OF AMERICA, :
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 Defendant. :
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Docket No. 30

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: THE CHIRICAHUA AND WARM SPRINGS :
: TRIBES OF APACHE INDIANS, :
: :

: Petitioners, :
: :

: vs. :
: :

: THE UNITED STATES OF AMERICA, :
: :

: Defendant. :
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Docket No. 48

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: THE SAN CARLOS APACHE TRIBE OF :
: ARIZONA, ET AL., :
: :

: Petitioners, :
: :

: vs. :
: :

: THE UNITED STATES OF AMERICA, :
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: Defendant :
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Docket No. 22-D

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: THE PUEBLO OF LAGUNA, ET AL., :
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: Petitioners, :
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: vs. :
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: THE UNITED STATES OF AMERICA, :
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: Defendant :
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Docket No. 227

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

: vs. :
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: THE UNITED STATES OF AMERICA, :
: :

: Defendant. :
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Docket No. 266

Washington, D.C.

Monday, October 16, 1961

The Commission met, pursuant to recess, in Room 4137, General Accounting Office Building, 441 G Street, Northwest, Washington, D. C., at 10:00 a. m., Monday, October 16, 1961, Chief Commissioner Watkins presiding.

PRESENT:

ARTHUR V. WATKINS, Chief Commissioner.

T. HAROLD SCOTT, Associate Commissioner.

APPEARANCES:

On behalf of the petitioner in Docket No. 229:

Marvin J. Sonosky, Esquire, and
Norman M. Littell, Esquire,
1824-26 Jefferson Place, Northwest,
Washington, D. C.

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 defendant:

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

Q Now, will you tell us a little of that period naming the explorers and giving us in a general way what they found as to the location of the Indians?

A The Spanish came into this area as I mentioned in 1540.

The Coronado expedition visited the Hopi pueblos soon after they arrived in Zuni. Here they heard of a great river which we now call the Colorado River and Coronado sent Captain Cardenas to the Hopi country where Hopi guides took him to the region of the Grand Canyon and along the Colorado River for a ways. They attempted to go down into the river and were able only to get part way.

Now, the Grand Canyon is important because this is the region of central religious importance to the Hopi.

Grand Canyon is an area out of which the Hopi believe they originally emerged, is the region to which the dead return. It is the area where they have some of their most important shrines to their major gods and it is the area where they got that essential of life, salt. It is still visited, it was still visited, it is still visited for these purposes in the twentieth century.

At the time the Spaniards came in there were roughly seven Hopi villages, two on Awatovi Mesa and five on the other mesa.

The next important visit was that by Espejo.

AFTERNOON SESSION

(The hearing reconvened at 1:30 p.m.,

Chief Commissioner Watkins presiding.)

PRESENT:

ARTHUR V. WATKINS, Chief Commissioner.

T. HAROLD SCOTT, Associate Commissioner.

APPEARANCES:

On behalf of the petitioner in Docket No. 229:

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

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 defendant:

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

Chief Commissioner Watkins: The Commission will resume session.

You may proceed.

Thereupon

FRED R. EGGAN

resumed the stand and, having been previously duly sworn, was examined by counsel and testified further as follows:

DIRECT EXAMINATION (Continued)

By Mr. Boyden:

Q Dr. Eggan, we were beginning to talk about the religious shrines and the distribution of those shrines of the Hopi people.

I will ask you to make reference in your testimony to three exhibits that are in evidence, Number 66, which is in the desk maps taken from Archives, and then the two that we have displayed.

MR. BOYDEN: I am sorry, your Honor, that these dots do not show better on here. They are small.

By coming a little bit closer, you can see them very well.

In putting them in their correct size, they don't look very good. I tried to brighten them up but it did not do much good.

CHIEF COMMISSIONER WATKINS: Are they legible when you get close to them?

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

By Mr. Boyden:

Q Will you proceed, Dr. Eggan?

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

We were talking about the ceremonial gathering of eagles.

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

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

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

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

together by the Hopi Indians themselves.

I understand that another witness will document these further.

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

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

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

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

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

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

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

By Mr. Boyden:

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

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

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

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

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

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

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

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

Q Where are the pinon areas?

A Pinon trees grow generally at higher elevations, 5500 feet and up. The principal area from which the pinon nuts are gathered in this region is in the black mesa area which runs through this general region here.

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

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

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

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

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

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

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

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

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

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

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

CHIEF COMMISSIONER WATKINS: Are they the same variety?

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

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COMMISSIONER SCOTT: Is it the same as the kamas?

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

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

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

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

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

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

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

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

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

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

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

I have been with Hopi over in the Chinle areas gathering sivaipi and basketry.

By Mr. Boyden:

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

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

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

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

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

Another important problem is fuel. Archaeologists

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

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

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

Coal was actually used in this area, too, in pre-historic times.

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

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

Minerals were also gathered for ceremonial purposes.

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

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

Spanish thought was the mercury possibility?

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

They also made searches for the mines further west.

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

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

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

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

MR. BOYDEN: We are talking about the Spanish period at the moment. 2-7

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

By Mr. Boyden:

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

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

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

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

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

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

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

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

A That is correct.

The Hopi Buttes --

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

(The question was read by the reporter.)

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

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

MR. BOYDEN: And in the south purple area.

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

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

Actually, they extend down to the Lower Colorado.

By Mr. Boyden:

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

A That is right.

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

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

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

They made, in effect, a multiple use of such

trips.

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

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

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

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

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

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

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

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

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

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

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

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

By Mr. Boyden:

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

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

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

CHIEF COMMISSIONER WATKINS: Is that 66?

MR. BOYDEN: Yes, 66.

THE WITNESS: You have here drawn the traditional

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

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

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

When was that sent in?

MR. BOYDEN: I will look at it.

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

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

By Mr. Boyden:

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

A That is true.

Q That is still true today, is it not?

A That is true today, yes.

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

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

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

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

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

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

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

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

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

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

A Chaquina.

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

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

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

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

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

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

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

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

CHIEF COMMISSIONER WATKINS: Any objection?

MR. LITTELL: No objection.

CHIEF COMMISSIONER WATKINS: They may be

Hopi Indians about the time of 1848, excluding, however, the mere visiting and raids and things of that type.

MR. ROCHOW: I object to the form of the question. It is not a question of exclusive control but Indian title is defined as exclusive use and occupancy of an area.

If he means the same thing, I wish he would change it to "exclusive use and occupancy."

MR. BOYDEN: I will accept the suggestion; "exclusive use and occupancy" of the area.

MR. LITTELL: Will you read the question as amended?

(The question referred to was read by the reporter.)

MR. LITTELL: I will object unless counsel wishes to reframe the question.

Maybe it would be more orderly to do that. I don't know what area you are talking about.

MR. BOYDEN: I already described the area about which I asked the question. It is the area marked "West" and colored in reddish pink on the map, Exhibit A.

I stated that in the record already.

MR. LITTELL: The question now is amended to read "use and occupancy"?

MR. BOYDEN: That is right.

CHIEF COMMISSIONER WATKINS: You may answer.

THE WITNESS: I think that is a legitimate inference

from the documents that I have seen.

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

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

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

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

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

By Mr. Boyden:

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

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

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

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

year it was abandoned.

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

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

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

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

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

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

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

portion of it.

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

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

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

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

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

"Now we are in Navajo country"

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

It was his first trip in, too.

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

to where the Zuni River intersects the Little Colorado.

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

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

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

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

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

COMMISSIONER SCOTT: Does that line run west of Canyon

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

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

By Mr. Boyden:

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

A I was looking at something else.

Would you repeat the first part of that?

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

A I could guess as to what it might be.

Q I am not asking you to make a guess.

A My general impression is that Governor Meriwether

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

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

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

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

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

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

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

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

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

Q Where is Steamboat Canyon?

A Steamboat Canyon is here.

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

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

MR. LITTELL: East of the Executive Order line?

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

By Mr. Boyden:

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

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

A You are referring to this particular area down here?

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

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

Exhibit A.

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

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

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

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

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

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

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

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

A Only in the western portion.

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

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

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

MR. ROCHOW: Would you read his answer?

His voice fell and I didn't hear it.

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

By Mr. Boyden:

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

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

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

Q You said "Navajo".

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

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

Q Let me correct the record here, Doctor.

You have said "Navajo" twice.

A Maybe I am getting tired.

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

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

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

By Mr. Boyden:

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

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

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

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

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

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

MR. LITTELL: Well, what you meant.

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

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

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

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

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

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

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

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

By Mr. Boyden:

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

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

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

A That is correct.

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

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

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

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

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

A Yes.

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

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

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

A They were quite different in many respects.

In many respects they were complementary.

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

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

A That is correct.

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

A Yes.

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

I am close to the end now.

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

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

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The previous census was that of Father Escalante.

He had 7,497.

CHIEF COMMISSIONER WATKINS: Was that a Hopi count?

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

CHIEF COMMISSIONER WATKINS: Is that for Hopis?

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

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

THE WITNESS: 1775 or '76.

By Mr. Littell:

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

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

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

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

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

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

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

Q In the course of your studies --

CHIEF COMMISSIONER WATKINS: Let him finish his answer.

He said "but."

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

But I have no evidence of that.

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

My secretary has brought some papers.

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

(There upon, a recess was taken for ten minutes.)

CHIEF COMMISSIONER WATKINS: The Commission will

resume session.

You may proceed.

By Mr. Littell:

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

Do you have any knowledge of this subject?

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

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

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

Q Is this what we call substitute shrines?

A They are real shrines.

Q They are in fact, though, substitutions for the

distant shrines?

A They are representations of distant shrines, yes.

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

A No, they visited the shrines, too,

You were talking about eagle shrines, were you not?

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

Q I am speaking now of both classes of shrines.

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

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

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

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

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

destroyed later by the people of Walpi. So that by 1700 we have the Hopi people occupying the Mesas that they are now occupying. From that time on they continued to occupy them."

I am sorry our best copies were put in evidence and this is a faint one. I will get better ones for the court.

But with those omissions, will you agree?

A I think that is essentially what I testified to.

Q Now, it seems to me it parallels roughly what you have said.

Now this is on the next succeeding page:

"The Hopis have traditions and stories which I think date to the time of the great drought. They give the story of the clans moving into the Hopi villages that came from the north. They came in the Hopi country from the San Francisco Mountain region. They came from the south. Clans like Fire Clan came in from the east. There is archaeological evidence of this moving in of the people and a great many claim that the Hopis are at the present time making claims for land based on these migrations from land they once occupied. They abandoned their old hallowed places, their shrines. Their shrine up in Navajo Mountains they abandoned. They abandoned shrines in the country around San Francisco Mountains, the shrines down around Winslow and their

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shrines over in the east. But still they feel that those places belong to them. For that reason certainly Hopis are making claims to all this old land although it is not land that has been used by them for many generations."

Do you agree with this statement?

A *James* They abandoned them physically. They did not abandon them spiritually and they continued to make use of them. They continued to visit them.

MR. BOYDEN: What is the date of that document?

MR. LITTELL: May 20, 1930. I am reading from the same document still.

By Mr. Littell:

Q Do you mean that they have a sort of spiritual title to these old lands?

A They still have shrines in these abandoned areas and they still visit them.

Q Doctor, do you think this has anything to do with title?

A I don't know. That is up to the Commission to decide. Those are the facts as I see them.

Q Do you in your layman's way contend -- is it your opinion that they own title because they once worshiped and had shrines in these scattered areas?

MR. BOYDEN: Obviously that is not a proper

in Palestine. It is the desire also felt by Christians, the desire which caused the crusades. Christians also wish to see their holy places out of alien hands."

A That suggested they still visit them, does it not?

Q Yes.

A And I think that is a fair statement as to where their shrines are and their relationship to them. They don't just take a helicopter to the shrine, however. The area in between is important to them, too.

I have suggested they do other things in between. They gather herbs and plants the same way the Navajo do.

They may hunt over that territory. They may bring back wood or they may bring back ceremonial objects.

I think that is otherwise a fine statement.

MR. LITTELL: Thank you, Dr. Egan.

Is it too early to take a few minutes' recess?

CHIEF COMMISSIONER WATKINS: We will take a fifteen minute recess.

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

CHIEF COMMISSIONER WATKINS: You may proceed.

MR. LITTELL: No further cross-examination.

MR. BOYDEN: Could I ask one question, just one short question here?

CHIEF COMMISSIONER WATKINS: Are you sure it is

for example, on which nothing grew. - They might travel across it or they might travel around it. It was within their territory.

It, by itself, might have no particular significance except perhaps for such things.

But, by and large, they thought of this as their territory and the resources on it were theirs and were given to them and these were the resources that they used, for the various purposes I described.

By Mr. Rochow:

Q As you use the term "occupy," Dr. Eggan, how do you understand it? In other words, how are you using the term "occupy"?

A For this particular area, I think of occupation as living within the area, having a conception of the boundaries of the area, knowledge of the products within that area, a utilization of these products continuously or periodically as the case may be, and a resentment of trespass by other groups who come in to use this same area.

COMMISSIONER SCOTT: Does that include the use of the shrines?

THE WITNESS: That includes the use of the shrines, yes, sir.

COMMISSIONER SCOTT: And the areas used to hunt eagles?

THE WITNESS: That is correct, sir.

By Mr. Rochow:

Q Are you familiar with the various shrine locations that are shown upon Hopi Exhibits 68 and 69?

A Generally, from this map and from reading and from talking with Hopi. But I have only visited very few.

These whole area is a matter which is sacred to the Hopi and they don't talk very much to outsiders about it. So that Hopis can give you much more information about this than I can. But I will try to answer your questions, sir.

Q Are you aware of places that are regarded by other Indians, Navajo or Apache or Havasupai or any other Indians other than Hopi, who regard places within this area outlined in color upon Hopi Exhibit A as sacred places of theirs?

A There are a number. I have seen some of the Navajo exhibits. There are a number of sacred places that the Navajo have in this area. I am not aware that the Apache have built some. There may be some. I am not aware of any sacred places of the Havasupai in this region.

Q If the Navajo go to places within the area that you have outlined as the aboriginal territory of the Hopi before 1848 and go there regularly to deposit eagle feathers or to worship in some other way, according to Navajo custom, wouldn't the Navajo consider that to be a sacred place of theirs and within their area just as much as the Hopi would?

A That is true. But my strong impression is that most of these are after 1848, the establishment of these sacred areas.

Q By whom?

A By the Navajo. The Navajo, for example, believe that Salt Canyon is a sacred place to them and they have a trail down there and they go gather salt in Salt Canyon.

They have a series of shrines and so forth.

I have yet to see any evidence that they were gathering salt down there before 1848.

Q Any of the so-called Navajo sacred places within the area we are referring to you think all became sacred places to the Navajo since 1848, is that your opinion?

A Most of them. They certainly knew about the San Francisco Mountains. I don't know whether it was a sacred place in 1848 or not. They undoubtedly knew about such mountains as Black Mountain or later Navajo Mountains as one of their sacred places but not one of their major ones.

The bulk of their sacred places are on the eastern half of this map and less so on the west.

But certainly wherever the Navajo went, they created sacred places.

Q In so far as the area which we are discussing right now is concerned, and that is the area I pointed out a little while ago as the area you have outlined for the

Hopi for 1848, do you think all the Navajo sacred places in that area became sacred places to the Navajo since 1848?

A I would not say all but I would say I believe the great majority of them have.

Q Do you know or can you point out on this Hopi Exhibit A any areas where the Navajo had sacred places as of 1848 or before?

A I am sure they did in the eastern United States, but I don't know of the documentary history of the Navajo.

CHIEF COMMISSIONER WATKINS: You said "in the eastern part of the United States"?

THE WITNESS: The eastern part --

Would you phrase your question again, please?

By Mr. Rochow:

Q You said "eastern United States."

A The eastern part of this map.

Q I am only talking about the area that is in color and that lies to the west of a north and south line from the mouth of Chinle Wash, Chinle Creek, to the mouth of the Zuni River at the Little Colorado, just this area that you have described.

Now, can you locate or identify or point out any places where Navajo sacred shrines were to be found in that area as of 1848 or before?

A I don't know of any for 1848 or before. I don't say

there were not any.

Q You just don't know of any?

A I just don't know.

CHIEF COMMISSIONER WATKINS: I have a question there.

"You talk about since 1848. When you say "since," that could have started immediately after 1848 or it could have started in 1849. What time did their occupation of that territory start?

THE WITNESS: ^{Navajo} My general impression is that their major occupation of that territory started in the 1860's. They knew of the territory. They traveled through it. They traded with the Hopi. They became acquainted with Hopi conceptions of their sacred places. They borrowed a great number of these Keet Seel, for example, up in the Betatakin, in the Kayenta area, the Navajo have legends about that, and it has some reference to their ancestors, but Keet Seel was abandoned before 1300. And I think they have taken this over because it was a sacred place to the pueblo, an old pueblo ruin, most of these areas became sacred places also to the Navajos.

By Mr. Rochow:

Q As of 1848, you estimated the Hopi population as approximately 2500. Is that right?

A That is Bent's estimate. I think that is probably

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some reasonable time before that.

What they lost after 1848 through no fault of theirs is another question.

Now, is there anything you would like to point out in particular to strengthen your statement, stronger than it already is about the Hopi exclusive use and occupancy of this area that we have outlined?

A I think there is clear evidence they hunted over much of this area, they gathered wild plants for a considerable variety of purposes, they herded cattle and sheep over much of this area, that they had agricultural fields mainly in the heart of this area, that they gathered ceremonial products as evidenced both by a continuation of these and by the shrines which we have located on these maps over an even wider area.

In many respects, this claim is conservative.

Q Do you base your judgment of the Hopi area exclusively used and occupied in 1848, Dr. Eggan, upon any informant's information, for example?

A I have not gone back and taken genealogies and asked particular informants what they have done, but a good deal of this has been done, I have not done this myself, but a good deal of this has been done, was done for the Healing v. Jones case, I believe.

Q But not by you, is that correct?

with regard to them.

I think the inference is warranted that this use did not spring up overnight, that this represents traditional use, that it goes back long before 1848.

COMMISSIONER SCOTT: Thank you.

By Mr. Rochow:

Q Dr. Eggan, you said you yourself made a limited study of the extent of this area that you have outlined for the Hopi that was utilized by them to gather food products but not nearly as extensive as Whiting had made or as Whiting shows by Hopi Exhibit 3.

To what extent did your own study show utilization of this area by the Hopi in gathering food products?

A Over the years on a very considerable number of occasions in talking with Hopi, they have mentioned food products or areas in which they themselves had gathered food products or traveling along with them over the road system they would point out areas where either they or their relatives or their parents had gathered food products.

Much of this is unsystematic information, I mean it came unsystematically. I didn't make any systematic study of ethnobotany. I can't even identify these plants by their Latin names. But I know many of them by their Hopi names and by their Hopi uses.

But all through the accounts of ceremonial life of

of Black Mesa where large pines and firs grow and ceremonially took a certain number of branches which they brought back and used for their costumes, for their kachina costumes.

There is a shrine up here called Kachina Shrine which is one of the very important shrines in the whole Hopi area.

Traveling south along the flats they would occasionally point out, I have had pointed out to me, areas where they used to gather these small wild "potatoes," in quotation marks.

By Mr. Rochow:

Q Would you indicate that area on Hopi Exhibit A?

A South along Oraibi Wash, down south of Oraibi Wash along the highway down there.

Q That is in the southwestern part of the Executive Order Reservation?

A Yes.

COMMISSIONER SCOTT: Doctor, if I may ask a question here, on this ethnobotany of the Hopi by Dr. Whiting in 1939, have you read that?

THE WITNESS: Yes, sir, I have.

COMMISSIONER SCOTT: Does that document refer to the dates?

THE WITNESS: I think he just refers to traditional use or use in the past. I don't think he at that time tied

between the Hopi and Navajo and we can refer to any essential exhibits.

The reason I ask counsel is because the date was written in by ink.

MR. BOYDEN: I think this was prepared in connection with the hearings that they held out there, part of a congressional hearing, that is published in one of the congressional documents.

I can get it. I don't have it here.

MR. LITTELL: By the very token of it, then, it is prepared for this boundary line controversy and by the statement you just made.

By Mr. Littell:

Q Now, Dr. Eggan, are you familiar with the testimony of Dr. Colton who has been quoted so frequently in your testimony before the Subcommittee of the Committee on Indian Affairs at Tuba City, Arizona, on May 20, 1931, which is embraced in the Navajo Exhibit 611 in Healing v. Jones?

MR. BOYDEN: What was the date on that?

MR. LITTELL: May 20, 1931.

THE WITNESS: I am not sure whether I am.

By Mr. Littell:

Q May I show it to you and see if it refreshes your memory? Then I will read two or three paragraphs of it.

CHIEF COMMISSIONER WATKINS: While he is looking

at it, may I ask both counsel this question:

Was the present witness, the witness in the case, out in Prescott?

MR. LITTELL: Yes.

THE WITNESS: I have seen that volume. Without reading it, I am not sure whether I have in the past read this particular one. It looks familiar.

By Mr. Littell:

Q May I ask if you agree with this statement of Dr. Colton's on the second page, or in the Committee Report it is page 9444 of the transcript of the committee hearings.

This is after he has reviewed the early Hopi history which you have done so ably.

He says:

"Well, after 1300, the Hopi people lived in the Moki Butte country but sometime between 1300 and 1500 there was a withdrawal. These pueblos that were along the Little Colorado near Winslow moved in apparently to the Hopi Mesa, to" --

I can't make out this word --

"and Oraibi and to the side down into the Jeddito Valley which was then occupied. This withdrawal continued even after the Spanish came. The Spanish found two pueblos in the Jeddito Valley one of which, apparently Ganado, somebody destroyed, the other the Walpi which was

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PAGES 7449-~~7505~~
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INDIAN CLAIMS COMMISSION

Washington, D. C.

Oct. 18, 1961 and
Oct. 19, 1961.

THE NAVAJO TRIBE OF INDIANS,
et al, Petitioners,

v.

THE UNITED STATES OF AMERICA,
Defendant,

Docket No.

229, 196,
91, 30,
48, 22-D,
227 and
266.

HART & HARKINS
SHORTHAND AND STENOGRAPHY REPORTING
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NATIONAL 8-0343

John S. Boyden

I N D E X

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Witness:

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Duke Pahona

7471 7490 7494

Florence Hawley Ellis

7510

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 :
 THE CHIRICAHUA AND WARM SPRINGS :
 TRIBES OF APACHE INDIANS, :
 :
 Petitioners, :
 :
 vs. :
 :
 THE UNITED STATES OF AMERICA, :
 :
 Defendant. :
 :
 -----X

Docket No. 48

-----X
 :
 THE SAN CARLOS APACHE TRIBE OF :
 ARIZONA, ET AL., :
 :
 Petitioners, :
 :
 vs. :
 :
 THE UNITED STATES OF AMERICA, :
 :
 Defendant :
 :
 -----X

Docket No. 22-D

-----X
 :
 THE PUEBLO OF LAGUNA, ET AL., :
 :
 Petitioners, :
 :
 vs. :
 :
 THE UNITED STATES OF AMERICA, :
 :
 Defendant :
 :
 -----X

Docket No. 227

-----X
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 PUEBLO DE ACOMA, :
 :
 Claimant, :
 :
 vs. :
 :
 THE UNITED STATES OF AMERICA, :
 :
 Defendant. :
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 -----X

Docket No. 266

Washington, D. C.,

Wednesday, October 18, 1961.

The Commission met, pursuant to recess, in Room 4137, General Accounting Office Building, 441 G Street, Northwest, Washington, D. C., at 10:00 a. m., Wednesday, October 18, 1961, Chief Commissioner Watkins presiding.

PRESENT:

ARTHUR V. WATKINS, Chief Commissioner.

T. HAROLD SCOTT, Associate Commissioner.

APPEARANCES:

On behalf of petitioner in Docket No. 229:

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

On behalf of petitioner in Docket No. 196:

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

On behalf of the defendant:

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

P R O C E E D I N G S

CHIEF COMMISSIONER WATKINS: Resume session.

You may proceed.

MR. BOYDEN: I will call Charles Pitrat.

Thereupon

CHARLES PITRAT

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

DIRECT EXAMINATION

By Mr. Boyden:

Q Will you state your name, please?

A Charles Pitrat.

Q Mr. Pitrat, are you an employee of the United

States Government?

A Yes, sir, I am. I am the Land Operations Officer at the Hopi Agency.

Q Your headquarters is where?

A Keams Canyon.

Q That is in Arizona?

A Yes, sir.

Q Now, as such land operations officer, does it become necessary for you to acquaint yourself with the country, not only within District Six but the shrine areas of the Hopi Indians?

A Yes, sir. The religious traditional life of the Hopis is such that it is a very important part of it. We become familiar with their shrines and so on in the every daywork we do with them.

Q Now, have you pretty well covered the area that is colored, including the Executive Order Reservation which is not colored, on Hopi Exhibit A?

A Yes, sir, we have at various times -- I have been over the major part of that area.

Q Now, Mr. Pitrat, I call your attention to Hopi Exhibit in Docket Number 196, Numbers 68 and 69. Will you tell us what those two exhibits are? Number 68 first.

A Number 68 is a map of the eagle shrines that are used and are claimed by the Hopi people. The red dots on that map and the numbers are used or they represent an actual eagle nest or shrine where the Hopis go to collect eagles or to place their pahos during the collection of their eagles.

The green ones represent the areas that those particular clans collect the eagles in the past or in the present in some cases.

Q Now, will you tell us whether you have visited these shrines personally?

A All of the red dots or the eagle nests that are shown in red, I believe I have seen all those that are shown

on the map, I would say about eighty or ninety per cent of them.

Q How about the green ones?

A The green ones represent a cliff line or a line of a break in terrain where the eagles nest. There are various nests there. But I have not followed that out on those green circles.

Q So that the green circles are based on the testimony of the Indians rather than upon your personal observation of the place?

A That is right.

Q Then will you tell us what Exhibit 69 represents?

A Number 69 is a map showing the different shrines of the Hopis that I am familiar with. It does not show all the shrines but it shows those that I have either seen or they have told me about.

Q Now, in the course of your work, have you had occasion to cover the northeast corner of this claim? I notice you don't have shrines in there.

A I haven't placed any shrines up in there because I haven't seen any of those shrines in that area.

The Badger Clan from Oraibi claims shrines in that area but I could not find them out on the map so I didn't place them on it.

Q So that, on these two maps, these entries that are

made either by your personal observation or by what the Indians have explained to you as being their shrines?

A That is correct, yes, sir.

Q Now, this visiting these shrines are their evidences of use?

A It depends on the type of shrine that it is.

If it is a spring where they put the wooden paho, you will see some evidence of the old pahos in there.

Q In the bottom of the spring?

A These are in the rock cracks above the spring, not usually in the water itself. They put them around the spring.

Q I see.

A Some of them are a pile of rocks of different shapes maybe shaped like, they claim, their altar is, I am not familiar with that, but there is some type of evidence that they say represents a shrine.

Q Now, I will show you Exhibit 5, Mr. Pitrat, and I will ask you if you are familiar with that picture?

A Yes, this picture represents a shrine or is a shrine near Chambers, Arizona. It tells the story to the Hopis on who went through there and which clans went through there and they place -- when I was there, anyway, they placed a land paho or a paho with strings on it or feathers which, if you go through now, you can't find any

out there. They blow away or are destroyed.

Q Those and pahos have no sticks in connection with them, do they?

A That is right.

Q They are feathers with string attached which are designed to be caught in the wind, are they not?

A That is right.

Q You have seen them deposit those land pahos in those positions?

A In this area.

CHIEF COMMISSIONER WATKINS: Did you say "yes" to that or not?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: You only partially answered the question.

THE WITNESS: The shrine here, the picture, they will put these pahos around where they sprinkle their cornmeal. Then they put the pahos where they sprinkle their cornmeal.

By Mr. Boyden:

Q You have been there with the Indians?

A Yes, sir.

Q And you have seen them do that?

A Yes, sir, I have.

Q Now, will you point on the map to us to the shrine

where this pictograph can be located, Exhibit 5?

A It is in this area.

Q You are now pointing to Exhibit 69?

A It is called "Chaquina" on the map and it is --

Q It is a little red dot next to the one marked "Chambers"?

A Yes. Chambers is the town on Highway 66.

Q That is nearest sign to it, is it not?

A Yes, sir.

Q Mr. Pitrat, were these locations of these shrines entered by yourself on those maps?

A Yes, sir.

Q Is it your testimony that these pretty well cover the shrines of the Hopi people excepting the Kayenta Valley where you indicate the Beaver Clan from Oraibi --

A Badger.

Q Badger Clan from Oraibi claims shrines but which you havenot visited nor attempted to locate?

A Yes, sir.

MR. BOYDEN: I think that is all.

MR. LITTELL: No cross-examination.

I do mention the fact that this very able witness testified at Prescott in the Healing v. Jones case and the Prescott testimony is now by stipulation in the record, and I could refer to any specific things that we thought

necessary in the manner that we suggested the other day.
So we will save time by not duplicating any examination.

MR. ROCHOW: I would like to ask just a few questions.

CROSS EXAMINATION

By Mr. Rochow:

Q Mr. Pitrat, since I don't know anything about
Hopi shrines, maybe you can tell me a little.

You learned of these shrines, of course, in the
course of your employment at the Keams Canyon, which is the
Hopi Agency, isn't that right?

A Yes, sir, that is correct.

Q Did they tell you how long they had been using
these shrines?

A You might say it is ageless on these shrines because
there doesn't seem to be any date other than the migration
of that clan through that area when they came into the Hopi
land. That is way back, I don't know.

Q Does each clan have different shrines that they
visit?

A Yes, sir. They have different shrines and then
they have some that are common to a number of clans, the
principal shrines.

Q Are the same clans on all the mesas or is the
Bear Clan, for example, only on, let us say for illustrative
purposes, on First Mesa and the Snake Clan on the Second Mesa

and some other clan on Third Mesa, or are they represented throughout all the three mesas?

A I believe the best answer for that is that they are represented throughout the mesas. There are some clans that are not on one mesa but may be on the other, but usually there are some of each clan on each mesa.

Q On all the mesas?

A Yes, sir.

Q Now, these areas that are sacred to the Hopi, do you know of any other Indians that visit the same area for the same purpose?

A The only one that I am familiar with would be the salt area, Zuni, which is a common source of salt.

Q That is the Zuni Salt Lake you are referring to?

A Yes.

Q Do you know of any Navajo Indians who utilize these same areas where the shrines are located?

A No, sir, I don't know that the Navajos use any specific shrines that are on that map.

Q They might but you don't know, is that right?

A Yes, sir.

Q Do you know anything about the Havasupai using any of the shrines in the west?

A No, sir, I don't.

Q Do you know anything about any of the Utes using

any of the shrine areas in the north?

A No, sir.

Q ~~To what extent, if you know, or how often do the Hopi visit these areas that you have indicated as shrine areas on Hopi Exhibit 68 and 69?~~

A The eagle shrines on 68 that are in the vicinity of Flagstaff or the red marks there, I believe, are visited every year in that specific area, that is down in this area.

Q Indicating an area where some shrine locations are indicated on the map some distance east of Flagstaff?

A I know that they have been visiting those shrines for the number of years that I have been on the Hopi Reservation.

Q How long have you been on the Hopi Reservation?

A Six years. Those others are visited on the right, coming down into Holbrook.

Q Indicating the southeastern part where the shrines are located.

A Yes. They go by each year to see if there are eaglets in those places. Then if there are, then they come back and pick them up. Actually, all the red shrines are visited either each year or every other year.

Q Sort of an annual visitation or excursion to these locations?

A That is right.

Q At least once a year, is that it?

A Yes. It may mean nothing more than going by that area and looking at it with field glasses or seeing whether birds are nesting in that area so that when they come back in the spring to pick eagles up they will know where to come.

Now, the other shrines on Number 69, those are a little bit harder to see, but they do visit those at various times.

I don't think that I can say from my own knowledge that they visit one each year or every other year because they are on patented land now, some of them, and it is hard to get to them and there may be trespass signs against it.

So I don't believe I can answer that question.

MR. ROCHOW: That is all. I don't want you to tell me anything you are not relatively sure about.

Thank you.

COMMISSIONER SCOTT: Mr. Pitrat, what is the method of transportation at the present time to the shrines?

THE WITNESS: They will go in pick-ups on the roads and then walk to them or they will use, in cases of the eagle shrines, they use field glasses to see if the birds are on the nest.

COMMISSIONER SCOTT: Do you know whether they keep any records of their visitations?

THE WITNESS: I don't know, sir.

CHIEF COMMISSIONER WATKINS: Where do the eagles nest; on the ground or in the trees, or where?

THE WITNESS: They are usually in a crevice or a ledge upon the side, quite a ways up in the air in the more inaccessible places, where you have a line of cliffs, why, you usually find quite a few eagle nests in that area if it is fairly close to water. It is around the spring areas that they find most of them. They don't usually nest in trees, sir.

CHIEF COMMISSIONER WATKINS: They do nest on the ground?

THE WITNESS: On the rocks.

CHIEF COMMISSIONER WATKINS: They necessarily would have to if they don't nest in trees. It is a rather foolish question.

THE WITNESS: Usually on the face of a cliff or on a crest or on top of a spire, something along that line.

REDIRECT EXAMINATION

By Mr. Boyden:

Q Mr. Pitrat, have you determined from your interviews of these Indians whether their use of these shrines has decreased or increased during the years?

A I know that these far out places, they have quite a problem getting to .

those now like they used to because you don't like to go through a place where it says "no trespassing" and you don't like to go through a place where you are not wanted.

I just don't believe they use these shrines a long ways away from the villages as much as they used to.

Q You get that impression from your discussions with them?

A Yes, sir.

Q You have seen the difficulties they have trying to do that now?

A Yes, sir, I have.

CHIEF COMMISSIONER WATKINS: What about the signs? Are the signs all over the country where the nests are located?

THE WITNESS: It is on land management land, public lands or on private lands they will have "no trespassing" signs in those areas so that they don't want people driving across their range lands to these areas.

On the Reservation itself, on the upper part of the Navajo, up around Navajo Mountain, that country, they still go up there once in a while, I suppose. But it is a long ways away and I don't know about that particular area.

MR. BOYDEN: You dropped your voice on the latter. I didn't hear you.

THE WITNESS: I said in the upper area, around the

Navajo Mountain Reservation, they don't have particular trouble getting up to those areas, but it is still an awful long ways away and the younger people are not quite as interested in the shrines as they used to be and the old people maybe are too old to ride the horses up there any more.

As I say, I don't think they use them as much as they used to.

CHIEF COMMISSIONER WATKINS: Is there a gradual change in the Indians' belief in these shrines, respect for them?

THE WITNESS: I think as the younger fellow gets older, he goes back into the religious aspects of them.

That is my opinion of it, anyway.

When they are young they are not interested in them quite so much. As they get older, they go back to it again.

CHIEF COMMISSIONER WATKINS: Are the younger Navajos of school age in school now?

THE WITNESS: The Hopis are.

CHIEF COMMISSIONER WATKINS: I mean the Hopis. The Navajos, too, as a matter of fact.

But the Hopis do have schools and the youngsters attend them now?

THE WITNESS: Yes. I think the Hopis are very proud of their attendance at these schools and the number of people who do attend the off-reservation schools, colleges, and

universities, and so on.

CHIEF COMMISSIONER WATKINS: You do not have any Hopi children that do not attend, do you?

THE WITNESS: Probably a few but very few, sir.

CHIEF COMMISSIONER WATKINS: I ask you that question because on the Navajo Reservation until very recently they had some sixteen thousand students who were unable to attend school. Schools have been provided now and some have even been trailer schools out over the Reservation and dormitories have been opened up in white settlements, white cities and towns surrounding the Reservation, where they go to schools, stay in dormitories. Probably all of them, probably with the exception of a couple of hundred, are now in school.

That is the information I have received recently.

THE WITNESS: Most of the Hopi children are in school, ninety to ninety-five per cent of them.

CHIEF COMMISSIONER WATKINS: How many Hopis do you have on your Indian rolls?

THE WITNESS: A little over five thousand, the Hopi population in the latest census report.

CHIEF COMMISSIONER WATKINS: Do they all live on the Reservation?

THE WITNESS: No, sir, we figure there are about 3800 on the Reservation.

CHIEF COMMISSIONER WATKINS: The rest of them are out working somewhere else?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: That is all.

MR. BOYDEN: That is all, Mr. Pitrat.

RE-CROSS EXAMINATION

By Mr. Littell:

Q Mr. Pitrat, may I ask you a question?

Did I understand when they are looking for eagles that is the same thing as worshiping at an eagle shrine?

A When they go out to look for eagles --

Q That is a ceremonial, too, is it not?

A That is right.

Q I did not know whether I had understood you.

A It is all part of the ceremony. They say "this certain time of the year we will go out and lay for these eagles," and that is part of their eagle hunting ceremony.

Q When you said they visited each of these red dot shrines, in your opinion once a year, did you count visitation by field glasses?

A Yes, sir.

Q That constitutes it. Have the Hopis got even so modern that they also conduct a ceremonial or a sacred or worshiping process in their language by field glasses?

A No, I don't mean that.

The eagle shrine nests in some cases may be the main shrine, but usually the main eagle shrine is within the boundaries of a clan -- let me see if I can show you this. For instance, we have this series along here, the Snake Clan Eagle Shrines.

Q What wash are you pointing to?

A The Polacca Wash. The Snake Clan shrines on each side of the Polacca Wash. They go up to approximately where the road turns off from Pinon to Salina and they go around to the right and follow clear around the edge of the Black Mesa escarpment and back down on the west side of the First Mesa Wash clear back into Polacca, down the Wepo, which is on the left or the east of the First Mesa drain.

Their main eagle shrine is shown on this map up here, Hopi Exhibit 69, up in the Polacca Wash, about nine miles east of Pinon.

Q These shrines on 69 are in addition to 68, are they not?

A That is right.

Q We understood, I thought the record showed yesterday that the eagle shrines were all on here, on 68. Is that not correct, Mr. Boyden?

MR. BOYDEN: That is correct, except that there is a joint use that Mr. Pitrat is explaining now, of the relative position between the shrines.

THE WITNESS: Before anyone from the Snake Clan hunts eagles or in the process, they always leave a paho or a ceremonial, cornmeal, or so on, here at the Snake shrine which is at Polacca Wash which has to do with the eagle ceremony. Then they can drive this road and check all these nests that are in red.

MR. ROCHOW: Now you are indicating on Kipi Exhibit 68?

THE WITNESS: Yes, sir.

By Mr. Littell:

Q Then you are telling us that every red dot there is an eagle nest?

A Yes, sir, at the time I was up there those were all eagle nests.

Q That must be a pretty big eagle population in this area.

A The eagle does not usually use the same nest every year. They will use it this year and then they will go to another one and then come back. At least, that is what they tell me.

You can see the nests up in the rocks and you can look at them. They have this big pile of brush that they use for the nest.

CHIEF COMMISSIONER WATKINS: Talking about brush, you mean they carry large pieces of wood?

THE WITNESS: About this long and about as big around your finger.

MR. BOYDEN: About a foot long.

THE WITNESS: Yes. Then they build -- the brush stands eight or nine inches high, I would say, and a foot and a half across. They will build the nest in that manner.

CHIEF COMMISSIONER WATKINS: Do they line their nest with anything?

THE WITNESS: It has a soft material, whether it is feathers off their own body or whether it is stuff they kill, I don't know, but it has a soft lining.

CHIEF COMMISSIONER WATKINS: How many eggs do they usually lay?

THE WITNESS: I believe it is two. The eaglets usually come in two's, sir.

CHIEF COMMISSIONER WATKINS: You have visited these nests yourself, have you?

THE WITNESS: Yes, sir.

By Mr. Littell:

Q Mr. Pitrat, can you tell the difference between a Hopi paho and a Navajo keiton or prayer stick?

A I don't believe I can tell that difference.

Q Did you ever find anything in any of these eagle shrines which did not seem to you to be Hopi?

A No, sir, I didn't. The Hopi

Navajo is a shorter paho. That is all I know. I am not sure that I can tell the difference.

MR. LITTELL: That is all.

REDIRECT EXAMINATION

By Mr. Boyden:

Q Have you ever seen a Navajo prayer stick that you know of in these locations?

A No, sir.

MR. BOYDEN: That is all.

MR. ROCHOW: No further questions.

CHIEF COMMISSIONER WATKINS: You may step aside.

(Witness excused.)

MR. BOYDEN: Duke Pahona.

CHIEF COMMISSIONER WATKINS: Do you understand English?

MR. PAHONA: I can understand it. I don't use too big words.

MR. BOYDEN: We can get along without an interpreter.

CHIEF COMMISSIONER WATKINS: I want to see if he understand an oath.

Have you ever been to court?

MR. PAHONA: No.

CHIEF COMMISSIONER WATKINS: I am going to administer the oath to you that requires you to tell the

truth.

Thereupon

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DUKE-PAHONA

was called as a witness by and on behalf of the petitioner in Docket Number 196 and, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Boyden:

Q What is your name?

A My name is Duke Pahona.

Q Pahona is spelled P-a-h-o-n-a?

A Yes, sir.

Q Where do you live?

A First Mesa, Polacca, Arizona.

Q Polacca is just under the Mesa, is it not, at the foot?

A That is right.

Q Are you a Hopi Indian?

A Yes, sir.

Q Do you belong to a clan?

A Yes, sir.

Q What is that clan?

A Snake Clan.

Q Are you an officer in the Snake Clan?

A Yes, sir.

Q What office do you hold?

A Tchakmongwi.

Q Now, Duke, are you the head man in the Snake Clan?

A Yes, sir.

Q Now, do you have any symbol of authority?

Do you know what I mean by that?

A I have.

Q What is that called?

A A Tiponi.

Q How are you selected as the head man of the Snake

Clan?

A Well, it is generally handed down from my relatives, first my uncle was a Tchakmongwi before me. Since he got blind and he was not able to go around, he let me be it.

Q So your uncle selected you?

A Yes.

Q Your clan follows your mother, does it not?

A Yes, sir.

Q So that your uncle that selected you would be your mother's brother?

A Yes, sir.

Q You say when he became blind he selected you?

A Yes, sir.

Q Is he deceased now?

A Yes, sir. I was sick in bed. It happened that

the ceremony was going to take up and I was disabled to attend my meeting with the other chiefs, so he helped me, to go over there so he could attend it.

Of course, he was blind, and in the evening it was dark and on his way he got off the side of the road and fell off from the mesa.

Q And he was killed?

A He died.

Q How old was he then?

A He was about eighty-five years old.

Q Will you explain to us what the Hopi Tiponi is, of the Snake Clan?

A Well, the way the Hopis pick up their Tiponis is from their earthly mother, the food that the people eat and authority of the officer.

Q I see. Now, that is represented by what?

A By the Hopis.

Q What is this Tiponi that is handed to you? What is that made out of?

A It is a secret that I just can't expose here.

Q But it is something that is handed to you, is it not?

A Yes, sir.

Q It represents the people and their food and your authority?

A Yes, sir.

Q So that when that is in your possession, there is no question about you being the head of the Snake Clan, is that right?

A Yes, sir.

Q Now, as head of the Snake Clan, do you have in your possession any other Tiponi?

A Yes, sir.

Q Will you tell me what that is and where you got that?

A At my early age, I don't know anything about this Tiponi, what we had at our place, I mean at our Snake Clan or headquarters but, later on, after they chose me as Tchakmongwi, they were explaining to me about this Tiponi, what they had in that place.

Q Now, Duke, you say at your headquarters of the Snake Clan they had this Tiponi and they explained what it was after?

A Yes, sir.

Q Who explained to you?

A My uncle.

Q Tell me what he explained about this other Tiponi.

A I guess way back when they had trouble with the Navajos and at the time they have a treaty made between the Navajos and the Hopis and the Navajos came over to make a

treaty with the Hopis, wanted to be friendly and all that, but the Hopis don't want to make no treaty with them.

They came three times and the Hopis refused.

The fourth time they came they came along with this Tiponi, what they call a Tiponi. The Navajo, himself, he promised if the Hopis accept his treaty, he promised that he is not going to do what he had done before at that time.

What I mean he is not going to fight the Hopis no more, he is not going to take things away from the Hopis, he is not going to steal any more. He is going to settle down and lead the life like the Hopis lead.

Q This other Tiponi was made by the Navajos and brought by them?

A Yes, sir.

Q Now, Duke, is there a marker out near Ganado that you know anything about in connection with it?

A Yes, sir.

Q Will you tell us where that is first?

A It is about north of Ganado, right close to the junction close to Chinle, only on a kind of west side of it.

MR. BOYDEN: If we can point that out, and if you can help us, Mr. Pitrat, knowing the terrain.

By Mr. Boyden:

Q Now, will you say that again to see if we can locate it here on this map?

Mr. Pitrat, will you point to Ganado? That is marked on the map, is it not?

MR. PITRAT: This is Ganado.

MR. BOYDEN: Mr. Pitrat is pointing to Ganado on Hopi Exhibit 2.

By Mr. Boyden:

Q Now, where do you say this pile of rocks is?

A It is a little northwest of Ganado.

Q Now, northwest of Ganado, about how far?

A It is about eight or nine miles.

MR. PITRAT: This would be nine miles west.

THE WITNESS: Right about the foot of the red hills on the east side.

MR. BOYDEN: Do you know where they are, Mr. Pitrat?

MR. PITRAT: He said a junction wherethe road turns off to go to Chinle. That is in this green area here. That junction is approximately here about eight miles west of Ganado and then across the valley farther west is where he calls the Red Hills, about four or five miles farther west at the junction of Route 3 and the road to Chinle, which would be in this green area here.

By Mr. Boyden:

Q Now, will you tell us what the tradition is with respect to that marker?

A Well, the tradition of that marker, what my uncle

told me, is it is supposed to be the boundary of the Hopi land.)

Q Now, where did the boundary go from there; do you know?

A Well, the boundary goes from there on to the Chinle Valley down into San Juan.

Q Chinle Valley down into the San Juan?

A Then down into the Grand Canyon, I mean Ganado, Colorado River.

Q Then where?

A Down to the salt on the Colorado River.

MR. BOYDEN: Where is that, Mr. Pitrat? That is about the mouth of the Little Colorado, is it not?

THE WITNESS: About there somewhere.

By Mr. Boyden:

Q Then go on to the Little Colorado. Then to the Little Colorado to where?

A Up around all the way up, all the way up the Little Colorado River. Then around Holbrook and come back to Chambers around that place.

MR. BOYDEN: I am lost again. Mr. Pitrat, can you help me? Where is Chambers?

CHIEF COMMISSIONER WATKINS: It is where you are pointing your finger somewhere.

MR. PITRAT: Right here.

MR. BOYDEN: Chambers is here, marked on this map.

By Mr. Boyden:

Q And then back to where the monument was?

A Yes.

CHIEF COMMISSIONER WATKINS: Before you leave this description, I would like to ask a few questions of the witness about Ganado.

Ganado is a little settlement in which they have a hospital, is it not? Isn't there a hospital at Ganado?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: And school?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: It is run by the Presbyterians?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: Do the Hopis attend the school and go to the hospital?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: Do the Navajos likewise go there?

THE WITNESS: I suppose they are now.

CHIEF COMMISSIONER WATKINS: You say "they are now." When did they start going there?

THE WITNESS: I couldn't tell you that. I don't know.

CHIEF COMMISSIONER WATKINS: How long have Hopis

been going to Ganado to school and also to the hospital for treatment?

THE WITNESS: Well, ever since it was established there, I think.

CHIEF COMMISSIONER WATKINS: How long has it been established, do you know?

THE WITNESS: I never knew because the school might be older than me.

CHIEF COMMISSIONER WATKINS: How old are you?

THE WITNESS: Fifty-six.

CHIEF COMMISSIONER WATKINS: It has been there quite a while, has it not?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: How large a community is that? How many people live at Ganado?

THE WITNESS: I don't know. I can't tell you that because I am not familiar with that place there.

CHIEF COMMISSIONER WATKINS: But you are sure that the Hopi children go there to school?

THE WITNESS: Yes, sir. My wife graduated from there.

CHIEF COMMISSIONER WATKINS: Do the Navajos or the Hopis go to the same school?

THE WITNESS: Yes, sir, I believe with the Navajos down to Phoenix Indian School.

CHIEF COMMISSIONER WATKINS: Down to Phoenix?

can show you that if you will give me just a moment there.

CHIEF COMMISSIONER WATKINS: You would not believe me if I told you I could read it from here.

MR. BOYDEN: Right there.

CHIEF COMMISSIONER WATKINS: But I didn't say that I could.

MR. ROCHOW: Right in the southeastern part of the Executive Order Reservation.

CHIEF COMMISSIONER WATKINS: Now, do any Hopi families live around the vicinity or nearby Ganado?

THE WITNESS: There used to be workers there living in Ganado.

CHIEF COMMISSIONER WATKINS: They have quite a number of Indian homes where Indians live in Ganado, do they not?

THE WITNESS: Not that I know.

CHIEF COMMISSIONER WATKINS: Indians? A number of years ago, in 1947 --

MR. BOYDEN: You said "Indian homes."

CHIEF COMMISSIONER WATKINS: Yes, some Indians had homes very well built, modern homes, right in Ganado. I stayed in one of their homes overnight. So I had good occasion to observe it.

THE WITNESS: As I say, I haven't been around that place very much.

CHIEF COMMISSIONER WATKINS: Then you would not know that probably.

THE WITNESS: I only go, when I go to Gallup I just go through, I never stop there.

CHIEF COMMISSIONER WATKINS: When I was there nobody ever told me whether the Indians were Hopis or Navajos, that is the reason I am trying to find out this late after being there. There were a lot of Indian children, very fine group of children and very well trained; and there was an excellent hospital, very well conducted by the Presbyterian Church people, and also a mission. They were teaching them Christianity as well.

By Mr. Boyden:

Q Now, Duke, will you please tell us what the tradition has to say about this boundary in connection with your Tiponi that was given to you by the Navajos?

A Well, at the time when the Navajos were making the treaty, wanted to be friendly with Hopis, as I say, they came three times and the Hopis didn't accept it.

The fourth time they came is when they brought this Tiponi with them. The Hopis know this Tiponi is a very sacred thing, and they respect this Tiponi because they know what is in this Tiponi. It is the people and the food and the authority.

Q People, food, and authority?

A Yes, sir.

Q Now, would that represent the people, the food, and the authority of the Navajos because they brought it?

A Yes, sir.

Q So they respected it?

A That is representing the Navajo people. So they respect it because in their Tiponi they respect theirs.

Q Now, what was the agreement made, according to, your tradition?

A Well, since the Navajos were coming to make an agreement, the Hopi accepted it under this Tiponi that they brought.

The Navajo himself tell the Hopi, "I brought this Tiponi here for you to keep and not to do away with. I have done a lot of damage. I am too mean. I can take things right off from your land. If you just close your eyes I will take things off your land, I am making a treaty right now that I will not do it any more, I am going to settle down, I will be your friend. If I do break my promise, if I do break my promise, just remind me with my own Tiponi and tell me about my promise, what I have told you. If it has to, if I don't settle down again, it might be the same Tiponi that I brought here that might turn me back and drive me off from your land on to my own."

This is what the Navajo told the Hopi, himself.

So this agreement they make with the Hopi and the Hopi agree on it.

Q Now, has that Tiponi been kept all this time and handed from one leader of the Snake Clan to the next?

A Yes, sir.

Q Do you know how long ago that was?

A I don't know how long it has been there. I may not have been born at that time but it has been kept at our place at the Snake Clan's headquarters.

Q By "our place," you mean the Snake headquarters?

A Yes, sir.

CHIEF COMMISSIONER WATKINS: Do you know the name of the Navajo that made that promise?

THE WITNESS: No, sir, because I was not born maybe or I may have been a kid when they brought this. My uncle did not say anything about who brought it and all that. He just told me the Navajos brought it.

By Mr. Boyden:

Q Now, have you brought that Tiponi forth since that time?

CHIEF COMMISSIONER WATKINS: What do you mean brought it forth?

MR. BOYDEN: He said they were to bring it forth if there was any violation. I was trying to use his same words.

By Mr. Boyden:

Q Maybe I am misleading you.

Have you shown this to the Navajos?

A No, sir, never did. They came for it themselves about three times already, just lately, but they come to the wrong place. The Navajos know that their Tiponi is at the Hopi Village, so they came for it three times, but they came to the wrong place, so we didn't let them have it.

Q Now, do you have that?

A Yes, sir.

Q Have you shown that to anyone?

A I haven't shown it to anybody excepting down at Prescott at the time the hearing was going on. I thought it was the right time to show it but I didn't show it.

Q Now, why didn't you show it when you came to Prescott?

A Well, it wasn't the right time, it wasn't right for me to show it until this claim proposition come up, then my lawyer told me to bring it up and show it.

Q So your lawyer was me at that time, was it not?

A Yes, sir.

Q And I told you that that was not the proper case to bring it in, it was the claims case?

A Yes, sir.

Q So now you have brought it with you?

A Yes, sir.

Q Now, you don't want this to leave your possession, do you?

A No, sir.

Q Do you have any objection to showing it at this time, then?

A No, sir.

Q Will you produce it now, then?

A I would like to show it but I wish some Navajos were here to see and know what kind of Tiponi they have. It has been kept for so long and it is kind of decayed, so I have to kind of fix it up the way it should before I came. I did not add nothing to it, only I braced it up a little and put a string around it, that is all.

MR. LITTELL: We representatives of the Navajos will do our best to tell them exactly what it is.

THE WITNESS: Yes, sir.

MR. BOYDEN: I think the Commission and the attorneys for the Navajos would like to see it now if you would produce it.

(The witness produced the Tiponi under discussion.)

By Mr. Boyden:

Q Is this the string you put on it, you say?

A I just put this string on it. It has been hanging like that all the time.

(The witness unwraps the Tiponi.)

MR. BOYDEN: I think this is as far as you need to go.

CHIEF COMMISSIONER WATKINS: What string is he talking about?

THE WITNESS: This is the string that is used. It is kind of decayed. So I braced it and put what string I can find on it, tie on those.

MR. ROCHOW: The string around the bottom half is what you put?

THE WITNESS: I don't mind showing the whole thing.

MR. BOYDEN: That is all right. You may show all you want to show.

THE WITNESS: Since it is not mine -- it is all decayed, it has been so long, nobody every touched it, the last time when I was taking it to Prescott I thought it was the right time. So I checked up on it and it was broken right in here, so I braced it. I used this cloth on it to keep it from decaying some more.

MR. ROCHOW: Is it all right for me to touch it?

THE WITNESS: Yes.

CHIEF COMMISSIONER WATKINS: What is the corn for?

THE WITNESS: It is the food for the people.

CHIEF COMMISSIONER WATKINS: Is that a part of it?

THE WITNESS: Yes, sir, that came out from there.

It was broken right in here.

CHIEF COMMISSIONER WATKINS: Is there more corn inside?

THE WITNESS: Yes, sir.

COMMISSIONER SCOTT: That was made by the Navajos?

THE WITNESS: That was made by the Navajos, so we understood.

MR. LITTELL: That is presumably doeskin or deer skin, isn't it?

THE WITNESS: Yes, sir.

MR. LITTELL: And then wrapped with a string?

THE WITNESS: Yes, sir.

MR. LITTELL: You think it contains corn pollen or corn like this?

THE WITNESS: This is what came out from it.

MR. ROCHOW: What kind of feathers are these?

THE WITNESS: Eagle feathers and turkey feathers and a blue bird and a yellow ones.

MR. LITTELL: Seven inches high in substance and the feathers extend up about seven or eight inches. About three inches in diameter across the base.

CHIEF COMMISSIONER WATKINS: You say there are turkey feathers in there?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: Wild turkey, I assume?

THE WITNESS: I guess so. The Navajo made it.

CHIEF COMMISSIONER WATKINS: You don't have domestic turkeys there?

THE WITNESS: Yes, sir, we have it at our place but it was made out at the Navajo home. I don't know where they get their feathers.

CHIEF COMMISSIONER WATKINS: I didn't see anything that looked like turkey feathers.

MR. BOYDEN: Then we return that to your custody.

By way of explanation, I would like to refer the Commission to Exhibit 55, page 2, which is the second page of the letter to the Commissioner from an anthropologist to the Commissioner Collier in 1938, twenty-two years ago. The anthropologist's name is Gordon MacGregor.

In that paragraph he says:

"The First Mesa or Walpi people made an agreement with the Navajo some time about 1850 establishing a boundary line. The Navajos were to cross it only on condition of good behavior. As a sign of good faith the Navajo are said to have presented a feather shrine or symbol which First Mesa still preserves. A pile of rock some distance west of Ganado on the old road once marked this line. First Mesa, of course, would like to see this line for the eastern limit of the Reservation."

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No further examination.

CHIEF COMMISSIONER WATKINS: We will take a recess at this time for ten minutes.

(Thereupon, the hearing was recessed for ten minutes.)

CHIEF COMMISSIONER WATKINS: The Commission will resume session.

You may proceed.

CROSS EXAMINATION

By Mr. Littell:

Q Duke, I would like to ask you one question. If you had this Tiponi all these years and the Hopis have been complaining for some years about the Navajos, why didn't you show it to them before?

A Well, according to my tradition, my uncle told me that we have to show this at the right time, by which I mean if we can't control the Navajos from doing things and all that, and if the Navajos don't live up to their promise, then when is the time to show, whenever a claim or something comes up then is the time to show. That is the instruction we get from our elders.

Q But the land claim conflict between the Hopis and the Navajos is very old, indeed, certainly since 1850 or thereabouts, if that is the time when this agreement was made. You have had many, many conflicts since then.

Why didn't you use it to show the Navajos and ask them not to do these things if they were doing them?

A Well, we never knew at that time we were in a serious position like we are now. That is the one reason.

I thought it wasn't that bad yet at that time but it seems like we can't make a step now on our own land. That is the way it is right now, that is the reason why we have to show it right now.

Q You have now shown it under advice of counsel, your attorney.

A Yes, sir.

MR. LITTELL: That is all.

MR. ROCHOW: No questions.

COMMISSIONER SCOTT: Duke, when you were a young man did you ever go with your father or your elders on these visits to these shrines?

THE WITNESS: I did on my eagle shrines down towards where my clans came from.

COMMISSIONER SCOTT: How did you travel?

THE WITNESS: On horseback once and on a burro about two or three times.

COMMISSIONER SCOTT: About how long would it take you to make a journey to the shrine and come back?

THE WITNESS: At that time it took on the burro about a day and a half or two days to Tuba. From there it is

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about the same distance to Navajo Mountain. That is where
my ruin is.

CHIEF COMMISSIONER WATKINS: Where your what is?

THE WITNESS: Navajo Mountain.

CHIEF COMMISSIONER WATKINS: Did you say "ruin"?

THE WITNESS: That is where my ruin is.

CHIEF COMMISSIONER WATKINS: What do you mean by
ruin? The same as in English, something that is dilapidated,
gone to pieces, is a ruin?

THE WITNESS: Yes, sir.

CHIEF COMMISSIONER WATKINS: Is that what you mean?

THE WITNESS: At the time my uncle told me we were
supposed to live there. For some reason we moved out from
there and everything gone to pieces there.

COMMISSIONER SCOTT: And you accompanied your
parents, your father, did you?

THE WITNESS: No, my uncle.

COMMISSIONER SCOTT: Did he say anything about
his visits when he was a boy and earlier in his life?

THE WITNESS: He did. That is the reason why
he wanted to take me there. He said every once in a while
"Don't forget your ruins here, always remember it. At least
once a year make a prayer stick or something to remind of
your ruin and place it where it is supposed to be placed."

COMMISSIONER SCOTT: Did he tell you anything about

how long he had been going there?

THE WITNESS: He never did.

MR. LITTELL: May I ask another question?

CHIEF COMMISSIONER WATKINS: Certainly.

By Mr. Littell:

Q Do you go to the eagle shrines or any of them?

A Yes, sir.

Q Where are the ones you go to and how often do you go?

A About every other year.

Q And where do you go?

A We go on the right side of that cliff on Polacca Wash, clear up.

Q Is there an eagle nest up there?

A Yes, sir.

Q Do the eagles nest there every other year?

A Well, the nest is there all the time but they don't hatch every year there. They go somewhere else and hatch. Then the next year they come back.

Q Is that why you go there every other year?

A Just once a year. I have to find them in the other nest, not in the same nest.

Q So, one year you go to one nest and the next year you will go to this one on Polacca Mesa?

A Yes, sir.

All the way up the other side of Pinon, just go around that point and come back towards Pinon, on the left-hand side, on the Mesa there, Polacca Mesa.

Q You go in the spring at what time of the year? You go there when there are young eagles there? You go when there are young eagles in the nest, is that it?

A Yes, sir.

Q What time would that be?

A That would be about the latter part of May.

MR. LITTELL: That is all.

REDIRECT EXAMINATION

By Mr. Boyden:

Q Duke, when was the first time you told your attorney about this Tiponi?

A I think the first time I told my attorney about this Tiponi is down at Prescott.

Q When we were trying the Healing v. Jones case?

A Yes, sir.

Q Had you shown it to any people other than Hopis before that time?

A No, sir.

Q That was when your attorney said it did not belong in that case, it belonged in this one?

A Yes, sir.

MR. BOYDEN: That is all.

M95 343
 Box 43
 Doc 22-D-246

concerning this second claim, that actual use is not the important thing. What is important is that this area be recognized as a sacred area."

Why did you break this up and throw it some place else? It qualifies the very boundaries which you described on the opposite page.

A This is the reason: Because I stopped to explain in regard to the sentences on 104 that Page had said that this area that he was discussing "approximates the area formerly occupied by the ancestors of the clans which now make up the loosely organized 'Hopi Tribe.'"

Now, the ancestors of those clans in part lived within the area that we now think of as Hopi, or let us say, within the boundaries that we are discussing today. Whereas others of them are supposed to have come from down in the Salt River Valley and elsewhere.

I take exception to "occupied by the ancestors of the clans" only in so far as some of those clan ancestors lived completely outside the area that he is discussing or we are discussing. That is why the break in between.

Q Let us go on to another sentence at the bottom of that first paragraph on page 105 continuing the quote: "Use is made of it," meaning this area you described by notes and bounds from Page:

"Use is made of it by priests who visit the shrines

to perform certain rites, to trap eagles, and to gather various herbs and minerals necessary to their rites. The Hopi does not think of this region as an area to be used for agriculture or for exploitation of the natural resources."

And agriculture is their basic industry, is it not?

A It is one of their two basic industries. The other one at present being herding and previous to herding I would say the other basic industry if you would call it that was hunting for which herding had become a substitute.

The point to this is that you have Page indicating as far as I can see that the Hopi idea was that the ceremonial use of this land was the most important.

But as I discussed the matter yesterday, although the Hopi look at it from that standpoint because they concentrate to such a large extent upon religion and figure that is fundamental to all of their life and industry, actually this large area, as I indicated in the first sentence in the last paragraph on 105 directly following the quotation we have stated, is "formerly their hunting area." This is where they did the majority of their hunting which took in the place of their livestock raising of today and, of course, part of that hunting is still going on.

So, the Hopi might think of it as primarily from standpoint of religion in the same way he thinks if