

FILED

Aug 30 2 40 PM '78
VALERIE J. CLARK
CLERK OF THE DISTRICT COURT FOR THE
DISTRICT OF ARIZONA
BY _____

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

ABBOTT SEKQUAPTEWA, etc.,)	
)	
Plaintiffs,)	No. Civil 579 Pct. (JAW)
)	
vs.)	
)	INTERIM PARTITION DECREE
PETER MacDONALD, et al.,)	AND
)	ORDER
Defendants.)	

The Court having received the opinion and mandate of the United States Court of Appeals for the Ninth Circuit vacating and remanding the Judgment of Partition of this Court dated February 10, 1977, and directing further hearing on the boundary issue, the Court has carefully considered said mandate and particularly Part IV thereof, which provides, in part, as follows:

Although partition cannot be fully implemented until the precise boundaries of the Joint Use Area are known, the partition process need not come to a halt pending resolution of the boundary issue. The mediator drew up alternative partition plans reflecting possible determinations of the boundary dispute. Moreover, the district court may decide that particular portions of the Joint Use Area will be allocated to one tribe or the other. Despite our vacation of the partition decree, which is necessary to permit an adjudication of the boundary dispute, the district court may in its discretion enter an interim partition decree and implement such portions thereof as may be necessary or appropriate to resolve the

decree subject to review in this court.

We reverse the order of March 11, 1976, which foreclosed litigation of the question whether the border of the Joint Use Area is set by the 1965 survey lines. We vacate the partition judgment. Nothing in our mandate invalidates any action taken pursuant to the orders of the district court heretofore issued, other than the order of March 11, 1976, prior to the date upon which our mandate is spread.

The Court having further considered the mandate of Congress to provide priority and expedited handling of the partition matter (25 U.S.C., §640d-3(b)); and being familiar with and fully advised in all proceedings which have occurred herein prior to the mandate of the Court of Appeals, it is

ORDERED, ADJUDGED AND DECREED as follows:

1. That the Judgment of Partition herein, dated February 10, 1977, is hereby reaffirmed pending final adjudication of the boundary issue pursuant to the mandate of the Court of Appeals, subject, however, to the following interim modifications in said Judgment:

a. Pending resolution of boundary questions by this Court, those lands lying within the area defined by the Executive Order of December 16, 1882, along the southern and western boundaries of said area and containing approximately 49,454 acres, more or less, and referred to in Volume II of the Mediator's Report and Recommendations at page 36, shall be excepted from the lands affected by the Judgment of Partition.

b. The lands within Areas "A" and "B" as described in the Mediator's Report and Recommendations shall not be affected hereby and shall remain in joint, equal, and undivided ownership by the Hopi and Navajo Tribes, subject to the trust title of the United States, until further ordered by this Court;

c. However, as to all other lands subject to said Judgment of Partition and not specifically excepted by paragraphs "a" or "b", above, paragraphs 4, 5, 6, and 7 of the Judgment of Partition, including all subparagraphs thereof, shall continue to be in effect until further ordered by this Court; and

d. Except as to the lands specifically excepted by paragraphs "a" and "b", above, activities related to relocation shall continue as under the Judgment of Partition.

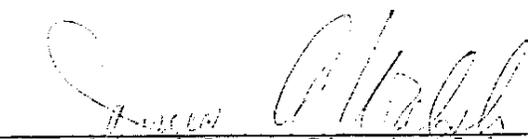
2. To expedite the final resolution of the boundary issue pursuant to the mandate of the Court of Appeals, the Court assigns the burden of procedure as follows:

a. Within forty (40) days of the date hereof, the Hopi plaintiff shall file with this Court and serve upon counsel a concise statement of its contentions with regard to the boundary issue, in the context of the opinion and mandate of the Court of Appeals, together with a summary identifying all evidence in its possession and/or which it intends to introduce to support such contentions, and together with copies of all documentary evidence to be offered in that regard.

b. Within thirty (30) days after receipt of such materials from the Hopi plaintiff, the Navajo defendant and the United States shall make a like submission and service of their respective contentions, evidence, and documents to the Court and counsel.

c. Following said exchanges, the Court will schedule and hold an evidentiary hearing on the boundary issue.

DATED: August 30, 1978.


Senior United States District Judge