Boyden, John S., 11-12-1958, Letter to Donald C. Gormley (Wilkinson, Cragun, and Barker). John S. Boyden Collection, MS# 823, Box 41, folder 2. J. Willard Marriott Library Manuscripts Division. University of Utah, Salt Lake City.

Bx41, fol 2

November 12, 1958

Mr. Don C.Gormley
Wilkinson, Cragun and Barker
Attorneys at Law
744 Jackson Place
Washington, D. C.

Re: Hopi Litigation

Dear Don:

I have given considerable thought to the contents of your letter of October 27th on the above captioned matter. Frankly, I am disturbed because Littell knows full well we are unable to prosecute the claims case and the District Court case at the same time. It is indeed an effort to finance the District Court case, but I believe we are going to be able to do so. It may not even be timely to file an answer to the opposition to the Hopi motion to remove the case from the hearing calendar. Nevertheless, I draw to your attention the following matters:

1. Exhibit A filed with the pleading of the Navahos clearly shows that both the Navahos and the Hopis are claiming compensation for the lands involved in the District Court case. Certainly if we are able to establish that the reservation was created for the Hopis alone, we have no claim against the government for taking it away from us. The determination of this matter in the District Court would determine this question before the Claims Commission.

2. Should the District Court determine that the executive order reservation is the exclusive reservation of the Hopis, we may then pursue our causes of action for just compensation for the use of the lands as set forth in our petition No. 196. This situation was discussed at the time we filed the petition. This adjudication by the District Court would also be a substantial portion of our burden of proof in proving the unlawful use of part of the Hopi lands by the government.

3. Should it be determined in the District Court that the Hopis must share the executive order reservation with Navahos that have been settled thereon by the Secretary, then we would proceed against the government in the claims case, claiming aboriginal title and an unlawful settling of Navahos upon the reservation. Therefore, the determination on this subject in the District Court would determine an issue involved in the claims cases.

Whether these matters could be incorporated in a pleading to be filed or whether a hearing should be asked to argue them, are matters I must leave for

your determination. Let me know your feelings on the matter.

Sincerely,

JOHN S. BOYDEN

JSB:bg