

Hopi Tribal Council
Special Meeting
Upper-Hoanupipi Village
March 14, 1962

The Hopi Tribal Council convened at 10:00a.m. officially with a full quorum.

| | |
|---------------------|----------------------|
| Abbott Sekaguaptewa | Robert J. Adams |
| Roland A. Nehoitewa | Harry T. Chaca |
| Thomas Balinguah | Lesley Lesco |
| Earl Munkena | Andrew Setohoma |
| Roger Monahni | George E. Talahongva |

The minutes of the informal meeting of March 12, 1962 was summarized and approved.

It was announced that both Indian Fuel Service and First Mesa Village disapproved of the amendment to change the interest 1 $\frac{1}{2}$ % gross sales to 2 $\frac{1}{2}$ % on the Indian Fuel Service lease. To inform the Council of the villages right to lease on the Hopi reservation, Mr. Harry Chaca referred to a memorandum addressed to the Commissioner of Indian Affairs from the Assistant Solicitor, Franklin C. Salisbury concerning the extent of leasing authority vested in the Hopi Tribal Council and in the separate village governing bodies. This matter was dropped at this time for later discussion being that Mr. John S. Boyden arrived.

Mr. John S. Boyden, Tribal Attorney arrived 10:45a.m. to discuss matters concerning the agreement made and entered between to Hopi Tribe and Fisher Contracting Company. Fisher has completed prospecting coal within the area as described in their agreement. The discovery was little disappointing. Fisher drilled twenty holes, found the BTU content better quality coal, however, not in sufficient quantity to justify large operation. A representative from Fisher approached the Navajo tribe to enter into an agreement with the Navajo's so they could continue a lease with the Hopi tribe. Reasons unknown, the proposal was turned down by the Navajo's. Fishers main purpose is to get the best deal possible, in the meantime, deal fairly with both tribes. Tomorrow, March 15, 1962, under the agreement between the Hopi Tribe and Fisher Contracting Company the contract will be forfeited if the payment (\$5,000) is not paid, therefore being left to the Council to make a decision /or agreement today. Fisher requested a deal with the tribe in areas outside of District #6; however, Mr. Boyden will not recommend this since the decision is undetermined, such transaction may tie up future tribal rights. Fisher wishes to obtain legal authorization to delay payment of money due until the court decision to continue prospecting in areas outside of District #6. Mr. Boyden expressed that we should deal kindly toward Fisher when they came with \$10,000 when it was needed most; however, he is not satisfied with the expenditures of Fishers Contracting Co., expenditures up to this date was \$17,900. In comparison to the expenditures of the U. S. Geological Survey it seems that something was charged which was not legitimate. Expressed, he will not accept it at face value, Fisher agreed to spend \$25,000 per year. Both Superintendent O'Harra and Mr. Boyden received a copy of a complete record of the drilling and section log. Made a reasonable request that these logs be kept as tribal record only, not for public use. Mr. Boyden presented a feasible solution by declaring a moratorium with two clauses concerning time payment and Fisher's yearly expenditures. Explained that this would not commit the tribes for and in disputed area or interfere with the original agreement. Possibly declare a moratorium to the day of decision and perhaps a short period after (30 or 60 days), enough time for the tribe to anticipate what the court might do. The Peabody Coal Company has offered to enter into an agreement to prospect /or lease in the Northern Executive Order, may be interested in areas allotted to Fishers. Mr. Boyden is not in favor to enter into any additional agreements until we know where we stand.

EXHIBIT 101a

After considerable amount of explanation and discussion Mr. Earl Munkona of Upper-Mesa made a motion to declare a moratorium with the Fisher Contracting Company to extend the time limit to 60 days after the court decision. Andrew Satchana seconded the motion. The motion carried 9 votes in favor 0 opposed, this action being approved by an unanimous vote.

A question was directed to Mr. Boyden regarding heirship land holdings in Moencopi area. If land is not occupied within this particular area, will it jeopardize tribal lands? No. In reference to the Indian Fuel Service lease, in specifying interest of 1 1/2% gross sales in the lease, would it have any affect on the proposed traders ordinance? Mr. Boyden expressed, it was good business to include this in the lease since the traders ordinance has not been approved, however, suggested that the Council should withdraw the interest in the lease when the ordinance becomes in full effect.

Correspondence of a letter dated March 12, 1962 directed to the Council by Mr. W. W. Peterson, Winslow Arizona Public Service Sales Consultant's request that a code or standard be set up to control wiring, perhaps some type of wiring permit with inspection. Mr. Harry Chaca made a motion to appoint a committee to draw up an electrical wiring code as requested by Mr. Peterson. Thomas Balingwah made an amendment to the motion to request Mr. Peterson recommend qualified men to serve on the committee. After the amendment, Mr. Roland A. Nchoitewa seconded the motion. The movement carried an unanimous vote with 9 in favor.

Mr. Boyden read the moratorium enter between the Hopi tribe and the Fisher Contracting Company with no further payments be paid until 60 days after the court decision. Mr. Roger Honahni moved that the moratorium which was read be approved. Mr. Roland A. Nchoitewa seconded the motion. Motion being approved by 9 votes in favor, 0 opposed.

Mr. Boyden mentioned that there was two other things he wished to confront the Council before leaving. The Peabody Company approached him to see if the tribe would be interested in entering into a coal lease near Cow Springs in the Northern section of Executive Order Reservation (in disputed area). Suggested that the tribe take no action, not until the court clears up our title. Also mentioned that he talked to Fisher Contracting Company to be fair/sincere with us, and not stall us in any manner, he also requested that they write a letter in that effect.

Mr. Boyden also informed the Council that he has requested for an extension to the Claims Case since the Navajo prepared a filing motion to hold it up to introduce maps which was used in the Executive Order (Healing vs. Jones) Case. The Navajo claims that the missionaries in 1846 found Navajos in the Black Mesa area rather than the Chinli area. Before long Mr. Boyden plans to explore the original route the missionaries travel and take pictures of the areas to be presented to the Court.

In regards to the Indian Fuel Service lease located in Keams Canyon area, Mr. George Ira Talahongva made a motion for the Council to approve of the lease as written to pay rental of \$30.00 to the First Mesa villages on approval and on or before the first day of each successive month. In addition to the fixed monthly rental, the Lessee, Sublessee, Assignee, or other successor in interest, shall pay 1 1/2 percent (1 1/2%) of the gross receipts from the sale of gas and electrical appliances, but not including liquid petroleum gas to the tribe. The movement was seconded by Roland A. Nchoitewa, carrying an unanimous vote of approval; 9 in favor.

Application for license as Indian Trader by Bill and T.D. Skelton to conduct a L.S. fuel gas, gas appliances, and electrical appliances among the Hopi tribe, to be located at Keams Canyon, Arizona was approved by an unanimous vote of 9 in favor.

EXHIBIT 101b

January 17, 1962 correspondence directed to the Council by the Superintendent, H. E. O'Harra regarding a Project Plan Map, Project AU 3(75), widening and re-surfacing Route 3, Keams Canyon to Steamboat Day School. Indicated thereon three proposed pit sites as a source for fill material, aggregate base, and plant mix materials. Pit Sites No. 1 and 2 are in the area currently in litigation, while Pit No. 3 is within District 6. After discussion, Mr. Roger Honahni made a motion to approve of the three pit sites as indicated in Project Map AU 3(75), widening and re-surfacing Route 3, Keams Canyon to Steamboat Day School, provided that, if the sand is to be used on that section of Route 3 lying outside of the Hopi Executive Order Reservation, the Hopi Tribe will negotiate for payments for the sand by the contractor if such negotiations are within the scope of applicable rules and regulations. Mr. Thomas Balinqua seconded the motion. The motion was then approved with 9 votes in favor.

Mr. Boyden's expense voucher from date 11-16-61 to 3-2-62 was presented for approval. Mr. Roger Honahni made a motion to approve of the said voucher for the sum of \$706.47, Mr. Robert Adams seconded the motion. This action carried 9 favorable votes.

Upon Arizona Public Service Company's request to approve of the prints of proposed electric pole line located in the Polacca area, print PE 781 was approved by 9 votes for, 0 opposed with a motion by Thomas Balinqua and seconding by George Ira Talahongva. Other prints to be considered were tabled for further study by First Mesa Village Council.

It was agreed that the next special evening meeting will be scheduled for either on Monday or Thursday evening in Bacabi when ever the Chairman felt necessary to assemble the Council together. The next special meeting will be held April 21, 1962 9:00 A.M. at Oraibi.

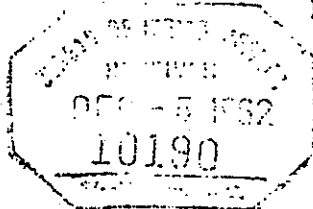
The Council adjourned 6:49P.M. with a motion and seconding by Thomas Balinqua and Roland A. Nchoitewa.

EXHIBIT 101c

Melvin Tewa, Chief
Lower Moencopi Village
P. O. Box 354
Tuba City, Arizona

November 21, 1962

Hon. Carl Hayden
Senate Office Building
Washington, D. C.



Dear Hon. Hayden:

I am writing on behalf of all the Hopi chiefs and people to earnestly inform you that we would not be able to regard as legal any ruling contained in the recent judgment at Prescott on September 28, 1962 (Case No. Civil 579, Prescott) concerning the land dispute between the Hopi and Navaho on the primary ground that the Plaintiff of the Case, Dewey Healing, is merely a representative of the Hopi Tribal Council, which, historically as well as legally, is not a justifiable organization of the Hopi and which does not include any of the traditionally recognized chiefs. Not only the above is a grave truth to us but because of this Prescott Case, the already illegitimate Council has quite recently set out for more audacious and harmful actions in the total neglect of our traditional ways of life behind the shield of the Prescott judgment. Further we must point out that the tenure of John S. Boyden for the suit was a matter solely disposed of by the Council and not to any recognition of the Hopi chiefs, despite the occasional claims made by the Council representatives to the effect that he is the judicious appointee of all the Hopi. At least, we have never had a single opportunity to listen to his sheer consultation.

Therefore we would sincerely like to have your serious consideration on this issue and urge you to inaugurate an immediate as well as thorough investigation in order to rectify this anomalous and unhappy situation. This is the earnest appeal and wish of the people of Lower Moencopi, who assembled here in the village for the purpose of setting forth the above protest and who deem themselves as the pious followers of the most ancient and highest in every sense of all the Hopi villages, Old Oraibi, as ever. Indeed, it is the chief of Old Oraibi, we firmly believe, who has the solely legitimate right to claim all the Hopi land and who is the very person to be consulted over this whole vital question.

Yours very truly,

Melvin Tewa
Melvin Tewa, Chief
Lower Moencopi Village

cc: Mr. Robert Kennedy
U. S. Attorney General
U. S. Department of Justice
Washington, D. C.

EXHIBIT 102

PLEASE RETURN TO
SENATOR HAYDEN



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON 25, D. C.

IN REPLY REFER TO:

Tribal Operations
10190-62

SURNAME:

| | |
|----------|--------------------|
| Brackett | 12/20/62 |
| Gauthier | R.B. |
| Quinn | <i>[Signature]</i> |
| | |
| | |

12/31/62

Hon. Carl Hayden
United States Senate
Washington 25, D. C.

JAN - 21 1963

Dear Senator Hayden:

This is in reply to your letter of December 4, enclosing a letter dated November 21 from Mr. Melvin Tewa, Chief, Lower Moenkopi Village, addressed to you. Mr. Tewa indicates that he is writing on behalf of all the Hopi chiefs and people to inform you that they will not be able to accept the Navajo-Hopi decision of September 28 as legal. He says the reason for such belief is that the Plaintiff of the Case, Mr. Dewey Healing, is merely a representative of the Hopi Tribal Council and does not have any right to represent the Hopi Tribe.

The Hopi Tribe voted to accept the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). Subsequent to this election, on October 24, 1936, the Tribe voted to adopt a Constitution, which was approved by the Secretary of the Interior on December 19, 1936. This Constitution, still in effect, is the source of authority for the existing tribal council.

At the present time, a number of villages do not select delegates for the tribal council. However, since there is a quorum, the tribal council functions with full authority and in accordance with its Constitution. The more traditional faction of the Hopis, especially people from the villages of Hotevilla, Shungopavi, Mishongnovi and Lower Moenkopi, have through the years consistently refused to recognize the authority of the tribal council. Chief Tewa, in purporting to speak for "all the Hopi chiefs and people," is overlooking the fact that a majority of Hopi villages are represented on the tribal council and do respect its authority. However, Chief Tewa unquestionably is speaking for the more conservative Hopis.

For many years there has been a controversy between the Navajo and Hopi Tribes over rights and interests in an area set aside as an Indian reservation in an 1882 Executive Order. To solve this problem, Congress passed the Act of July 22, 1958 (72 Stat. 420), to adjudicate the conflicting claims. The law provided that the case would be heard and determined by a District Court of three judges. It further provided that lands, if any, in which the Navajo Indian Tribe or

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Branch of Tribal
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EXHIBIT 103a

individual Navajo Indians are determined by the Court to have the exclusive interest shall thereafter be a part of the Navajo Indian Reservation. Lands, if any, in which the Hopi Indian Tribe, including any Hopi village or clan thereof, or individual Hopi Indians are determined by the Court to have the exclusive interest shall thereafter be a reservation for the Hopi Indian Tribe.

The U. S. District Court for the District of Arizona filed its decision on this case, Civil No. 579, at Prescott, Arizona, on September 28, 1962. It is our understanding that the Navajo Tribe intends to appeal this decision.

We hope that the foregoing information will help you prepare a reply to Chief Tewa.

Your enclosure is returned as you requested.

Sincerely yours,

Commissioner

Enclosure

cc:

Area Director, Phoenix, w/copy of inc. corres.
Superintendent, Hopi Agency, w/copy of inc. corres.
Secretary's Reading File

DCCO

SOL

IM

DL

✓ Surname

Chrony

Mailroom

Holdup

PBrackett:mdh 12-20-62

Rewrite: JEOfficer:mdh 12-28-62

EXHIBIT 103b



UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF INDIAN AFFAIRS
 WASHINGTON 25, D. C.

IN REPLY REFER TO:

File
 Tribal Operations
 2341-63

FILE COPY
 SURNAME:

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| <i>Gautreaux</i> |
| <i>Pinney</i> |
| <i>4/24</i> |
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APR 26 1963

Hon. Barry Goldwater
 United States Senate
 Washington 25, D. C.

Dear Senator Goldwater:

This is in further reply to your letter of March 1, transmitting a letter you received from Captain Caleb H. Johnson. Captain Johnson requests that the delegation of authority to the Hopi Tribal Council by the Secretary of the Interior to enter into mineral leases be revoked and that a general meeting be called by the Secretary on the subject of a constitutional committee.

The delegation of this authority to the Hopi Tribal Council was requested by the Tribe in Resolution H-4-61. It was delegated under the authority granted to the Secretary under Article VI, Section 3 of the Hopi Tribal Constitution and remains in effect until revoked by the Department.

Subsequent to this delegation of authority, the Hopi Tribal Council granted an exclusive Mineral Prospecting Permit (Coal) to the Fisher Contracting Company of Phoenix, Arizona, involving approximately 35,252 acres of tribal trust land within the exterior boundary of Grazing District 6. This Mineral Prospecting Permit (exclusive with option) was terminated effective September 14, 1962. Fisher Contracting Company paid the Hopi Tribe \$10,000 for the exclusive right (with option) to prospect for coal in the designated area.

In the absence of a request from the Tribal Council and without further information, we know of no reason to revoke this delegation of authority.

The Bureau, as well as the Tribe, is cognizant of the shortcomings of the Tribal Constitution and the need for amendment.

Several years ago, the House Subcommittee on Indian Affairs held lengthy hearings on the problems of the Hopi Indians. At that time, it was suggested that steps be taken to establish a tribal constitution committee to prepare a draft for discussion by the various factions and the Bureau of Indian Affairs.

On August 13, 1958, representatives of the Bureau of Indian Affairs met with the Chairman of the Hopi Tribal Council and several other

EXHIBIT 103c

Hopis. The meeting broke up on agreement that there was a need to examine the Constitution to determine what revisions were needed to make it more acceptable to all the Hopis, including the traditionalists. It was agreed that a committee composed of one or more representatives of the various villages, selected by the villages, should be established to examine the Constitution and to consider its revision. It was further agreed that although this committee should operate outside the Tribal Council, the latter would have to initiate the action by sending invitations to the various villages to consider the matter and select such representatives.

While the Chairman of the Tribal Council was agreeable, he advised he could make no commitments binding the Council, but would discuss the matter with the Tribal Council. The Tribal Council, in a meeting held on September 19, 1958, did consider the matter and referred it back to the villages for discussion and recommendations.

In a letter dated February 17, 1959, to the Superintendent from the Secretary of the Hopi Tribal Council, the Secretary stated that as of that date, only one village had submitted a report and that report stated that any reorganization and revision of the Constitution should await the outcome of the Navajo-Hopi boundary dispute. Individual councilmen and others had expressed the same sentiment for the following reasons:

1. The matter of jurisdiction of any Tribal Constitution will depend on the final land settlement.
2. There is need for much education on procedure and purposes of amendments.
3. The Tribal Council and Hopi people are much too occupied with the litigation to cope with constitutional revisions.

The Hopis apparently felt discussion of constitutional questions might cause dissension among the Hopis which would be exploited by the Navajos to the detriment of the Hopis in the territorial dispute. Since this was the feeling of the Hopis, the Bureau did not attempt to pressure them into establishing a constitutional committee. Any indication that the Bureau would impose a need for action on the Hopis would tend to defeat the purpose and would leave the Bureau vulnerable to the charge of interfering in tribal matters.

It is our suggestion that Captain Johnson write to the Chairman of the Tribal Council and express his views as to the manner in which the Constitution should be amended. We are certain the Council would be receptive to practical and realistic suggestions.

We hope this information will be helpful to you. Your enclosure is returned.

Sincerely yours,

(SCD) JAMES E. OFFICER
ASSOCIATE
Commissioner

Enclosure

Area Director, Phoenix
Superintendent, Hopi Agency
Surname
Chrony
Mailroom
Holdup

JRGauthier:mdh 4-23-63

EIGHTY-EIGHTH CONGRESS

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CHARLOTTE T. REID, ILL.
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PATRICK MINOR MARTIN, CALIF.

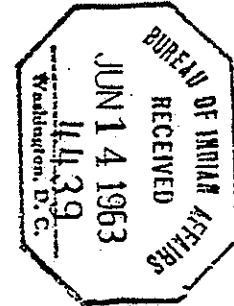
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

House of Representatives, U.S.

WASHINGTON, D.C.

June 13, 1963

A. FERNOSBERN, PUERTO RICO



Mr. Philleo Nash
Commissioner
Bureau of Indian Affairs
Department of the Interior
Washington 25, D. C.

Dear Mr. Nash:

During our Subcommittee hearings on Hopi-Navajo affairs in February, 1957, the question of a constitution for the Hopi Tribe was discussed. I recall that the concensus at the time was that it would be unwise to work on a constitution until a judgment in the Hopi-Navajo land case had been rendered. Now that a judgment has been handed down, what steps have been taken to create a committee to draft a constitution? I am aware of the factions within the Tribe, but unless steps are taken to establish a working relationship among them, I doubt if the differences will settle themselves.

Please advise me what has transpired in this regard since 1957.

Sincerely yours,

James A. Haley

JAMES A. HALEY, Chairman
Subcommittee on Indian Affairs

35

Congressional

EXHIBIT 104

INDIAN TRIBES, STATES, AND PROFT

June 29, 1961

Commissioner of Indian Affairs
Department of the Interior
Bureau of Indian Affairs
Washington 25, D. C.

Dear Sir:

I received a letter dated June 23, 1961 over the signature of Acting Commissioner Fred H. Massey officially informing me that the Secretary had delegated additional authority to the Hopi Tribe to act on mining leases and on the use of income from them. A copy of the letter of the Secretary dated May 24, 1961 to the Area Director was also enclosed.

I note that both the Assistant Secretary and the Acting Commissioner suggest that the Tribe consider amending its constitution. We are well aware of the necessity of amending the constitution not only with respect to leasing, but, it is after a rather careful study, we are confident that the entire constitution should be reviewed and redrafted.

We have had many meetings with respect to constitutional changes with the Hopi Indians and with government officials. I have been fortunate in obtaining some of the history of the original adoption of the Hopi constitution. This, with other materials gathered, will be of considerable assistance in drafting a new constitution. Since the undertaking is of considerable magnitude, it is not anticipated that I will have the opportunity to approach this task until the conclusion of the Hopi case of Healing v. Jones and until after the trial of the Hopi case against the government before the Indian Claims Commission. When we are in a position to proceed in this matter, we will certainly call upon the Bureau for assistance.

Yours very truly,

JOHN S. BOYDEN

JEB:bg

CC: Harra Chaca, Chairman

H. E. O'Harra, Superintendent (2cc)

EXHIBIT 105

43
Tribal Operations

FILE COPY
DATE:

331 - 51963

3/28/63
Jenkins
Jenkins

Mr. W. Wade Head

Area Director, Phoenix

Dear Mr. Head:

In 1951, the Subcommittee on Indian Affairs held hearings to determine how to bring accord to the various factions of the Hopi Tribe. As a result of the hearings and other meetings and correspondence, it was agreed by the Bureau and the Hopi Tribal Council that a Constitutional Committee should be established to determine what revisions are needed to make the document more acceptable to all the Hopis, including the traditionalists. However, it was decided to postpone setting up such a committee until such time as a decision was reached on the Navajo-Hopi boundary dispute.

On September 23, 1962, the United States District Court for the District of Arizona filed its decision on this case, Civil No. 579, at Prescott, Arizona. Both the Hopi and the Navajo Tribes appealed this decision. On June 3, 1963, the United States Supreme Court granted a motion to affirm the lower court's decision. (Copy enclosed.)

We would like to know whether any new actions have been taken either by the Bureau or the Tribal Council with respect to revision of the Hopi Constitution.

Sincerely yours,

(Sgd) HOMER B. JENKINS

Assistant Commissioner

Enclosure

cc: Superintendent, Hopi Agency

Surname

Chrony

Mailroom

Hold Up

Brackett: kea 6/21/63

Rewrite per JEOfficer: 6/28/63

EXHIBIT 106a

IN REPLY REFER TO:



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
Hopi Indian Agency
Keams Canyon, Arizona

July 19, 1963

JUL 22 1963

Mr. W. Wade Head

Area Director, Phoenix, Arizona

Attention: Mr. Walter Olsen
Tribal Relations Officer

Dear Mr. Head:

Concerning Assistant Commissioner Homer B. Jenkins' letter dated July 5, 1963, and related correspondence from the Honorable James A. Haley, Chairman, Subcommittee on Indian Affairs, pertaining to revisions to the constitution of the tribe, we offer the following comments:

True, the United States Supreme Court has affirmed the decision of U. S. District Court, in the lawsuit, Healing vs. Jones, Civil No. 579, Prescott, Arizona. Although the District Court discharged its responsibility, the decision leaves the area within the exterior boundary of the Executive Order Reservation of 1882 lying outside District 6 (1,850,000 acres approx.) in joint undivided ownership Navajo and Hopi Tribes, share and share alike. Since the entire area is occupied by Navajos and is being overgrazed, the matter of the Hopi Tribe's use and occupancy of its one half share presents an administrative problem of some magnitude. I am certain your office is completely aware of the problem at hand.

Likewise, there is the matter of establishing the rights of the Moencopi Hopi in the Western Navajo Reserve, and we believe they do have certain rights which are protected by the Act of June 14, 1934 (48 Stat. 960). Your office is also cognizant of the problems involved in establishing these rights, because as the solicitor recently stated he was not certain at this time as to the extent of the Hopi rights therein.

EXHIBIT 106b

I am certain all of us are well aware of the shortcomings of the present tribal constitution and the need for revisions. However, at the present time, the attention of the tribal council, the tribal attorney and the Hopi Indians at the reservation level is focused on resolving the two matters above noted. Accordingly, in my own opinion, it will be most difficult to generate any real interest in constitutional amendments until the two problems are brought to a final conclusion.

Division of the 1882 Executive Order Reservation between the Hopi and Navajo tribes, if division or partition is the ultimate answer, and determination of the Hopi rights in the Western Navajo Reserve, will for the first time, definitely establish the area of jurisdiction of the Hopi Tribe. An established area of jurisdiction will, without a doubt, have a direct bearing on proposed revisions to the existing constitution. For that reason, it is very doubtful if the Hopi Tribe will want to take any decisive action toward revision at this time. When the two matters above noted are finalized, there is no question the council will take decisive action to amend or completely re-write the constitution.

We suggest that the Honorable James A. Haley, Chairman of Subcommittee on Indian Affairs, be fully apprised of the situation. Copy of Attorney John S. Boyden's letter dated June 19, 1953, directed to Mr. Caleb H. Johnson, is attached for your information.

Sincerely yours,


H. E. O'Harra
Superintendent

Enclosure

Dept. of the Interior
Minerals

Deputy Commissioner

July 22, 1963

Chief, Branch of Real Property Management

Handwritten:
2/27/64

Mineral leasing on Navajo-Hopi lands

The subject land is tribal land and can be leased for mining under the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396(a-g)). Section 396a of that Act reads as follows:

"Hereafter unallotted lands within any Indian reservation or lands owned by any tribe, group, or band of Indians under Federal jurisdiction, except those specifically excepted from the provisions of this section by section 396f of this title, may, with the approval of the Secretary of the Interior, be leased for mining purposes, by authority of the tribal council or other authorized spokesmen for such Indians, for terms not to exceed ten years and as long thereafter as minerals are produced in paying quantities."

Section 396d provides that "All operations under any oil, gas, or other mineral lease issued pursuant to the terms of any Act affecting restricted Indian lands shall be subject to the rules and regulations promulgated by the Secretary of the Interior. * * *"

Section 396e provides "The Secretary of the Interior may, in his discretion, authorize superintendents or other officers of the Indian Service to approve leases for oil, gas, or other mining purposes covering any restricted Indian lands, tribal or allotted."

Regulations for the leasing of tribal lands for mining are contained in 25 CFR, Part 171, except for certain tribal lands that are covered by other parts of 25 CFR. We feel that Part 171 is adequate and needs no amendments or modifications to govern mineral leasing on the Navajo-Hopi lands. Section 171.2 is quoted here for ready reference:

§ 171.2 Leases to be made by tribes. Indian tribes, bands or groups may, with the approval of the Secretary of the Interior or his authorized representative, lease their land for mining purposes. No oil and gas lease shall be approved unless it has first been offered at an advertised sale in accordance with § 171.3. Leases for minerals other than oil and gas shall be advertised for bids as prescribed in § 171.3 unless the Commissioner grants to the Indian owners written permission

EXHIBIT 107a

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to negotiate for a lease. Negotiated leases, accompanied by proper bond and other supporting papers, shall be filed with the Superintendent of the appropriate Indian Agency within 30 days after such permission shall have been granted by the Commissioner to negotiate the lease. The appropriate Area Director is authorized in proper cases to grant a reasonable extension of this period prior to its expiration. The right is reserved to the Secretary of the Interior to direct that negotiated leases be rejected and that they be advertised for bids. All leases shall be approved by the Secretary of the Interior or his duly authorized representative."

In several sections of Part 171, as in 171.2, certain authority is delegated to the Superintendent or Area Director. The Commissioner has also been delegated such authority by Section 29 of Secretarial Order No. 2508 which reads as follows:

"Sec. 29. Authority in 25 CFR. The Commissioner may exercise any authority delegated to his subordinates by the regulation in 25 CFR."

The Commissioner has been delegated authority by Section 13 of Order 2508 to approve mineral leases and to take appropriate administrative action thereon. That authority has been delegated to Area Directors by Section 16 of Bureau Order 551. It will be necessary to determine if Notices of Sale, leases, bonds, assignments, etc., will be approved by both Area Directors, one or the other, or if such administrative action is to be performed by the Commissioner. We believe that such a determination would be purely administrative and no amendments would be needed to Orders 2508 or 551.

Chief, Branch of
Real Property Management

GDJones:eb 7-22-63

WHEREAS, the Hopi Tribe of Arizona has employed John E. Boyden of Salt Lake City, Utah as general legal counsel for a term expiring on the 31st day of August, 1963; and,

WHEREAS, it is deemed advisable to continue the employment of said attorney for a further period of three years.

NOW THEREFORE, BE IT RESOLVED by the Hopi Tribal Council for and on behalf of the Hopi Tribe of Arizona that John E. Boyden be engaged as general counsel for the Hopi Tribe for a period of three years commencing on the 1st day of September, 1963, to and including the 31st day of August, 1966; that compensation of \$9,000 per annum for general services and in the event of court litigation an additional amount to be later agreed upon by said attorney the Hopi Tribal Council and attorney, in light of the services rendered and results obtained and the Tribe's ability to pay such additional fees, shall be approved by the Secretary of the Interior, and in the event the Hopi Tribal Council and the attorney fail to agree, the matter shall be referred to and resolved by the Secretary of the Interior. The Tribe shall reimburse the attorney for telephonic, telegraphic and travel expenses, including air travel, bus or rail and parking costs, but excluding the general overhead expenses of the attorney in a sum not to exceed \$2500 in any one year unless a greater sum shall be authorized by a resolution of the Hopi Tribal Council and approved by the Secretary of the Interior or his authorized representative. Travel expenses for out-of-state travel shall be paid at the rate of 12 cents per mile. A time or distance record may be used at rates customary in the area where such an earlier schedule result in loss of time to the detriment and disadvantage of the attorney and the Tribe. Such compensation and expenses shall be paid out of the Tribal funds, if and when such funds shall become available in the Tribal treasury, or by other means of the Tribe.

The responsibility of the Tribe for unpaid compensation shall cease three years after the expiration date of the contract to the extent that the total available funds of the Tribe are insufficient on the date of the payment. All unpaid compensation of the attorney under previous contracts shall continue as just and valid obligations of the Tribe to the attorney until three years after the expiration date of the contract hereby authorized, unless sooner paid, notwithstanding any provision of the previous contracts to the contrary.

That John E. Boyden, who hereby resigns and quits his job, on behalf of the Hopi Tribal Council, be and they are authorized to enter into a contract with John E. Boyden embodying the terms of this resolution and such other terms as may be necessary or advisable.

This resolution is adopted pursuant to the authority of the Tribe as set forth in the Constitution of the Tribe.

HOPI INDEPENDENT NATION
Hotevilla, Arizona
September 18, 1963

TO: H. E. O'HARRA, Supt. Keams Canyon Agency, Arizona
ABBOTT SEKAQUAPTEWA, Chairman, so-called Hopi Tribal
Council, Oraibi, Arizona

THIS IS TO DECLARE TO YOU AND TO THE WORLD THAT WE, THE UNDER-SIGNED, HOPI PEOPLE, WITH OUR TRADITIONAL AND RELIGIOUS HEADMEN, DO HEREBY, ON THIS DATE, SEPTEMBER 19, 1963, DECREED THAT ALL FURTHER ACTIONS OF THE SO-CALLED HOPI TRIBAL COUNCIL BE STOPPED NOW IN MATTERS WHICH INVOLVES OUR VERY LAND AND LIFE, PENDING A FULL INVESTIGATION OF ALL ACTIVITIES OF THE SO-CALLED HOPI TRIBAL COUNCIL, BUREAU OF INDIAN AFFAIRS AND ATTORNEY, JOHN S. BOYDEN BY THE HOPI PEOPLE, PROPER OFFICIALS OF THE GOVERNMENT OF THE UNITED STATES AND OTHERS. ANYONE FOUND GUILTY OF WRONG DOING SHALL BE PUNISHED BY EITHER THE HOPI TRADITIONAL LAWS OR BY THE LAWS OF THE GOVERNMENT OF THE UNITED STATES OR BY OTHER GOVERNMENTS OF THE WORLD.

SIGNED: Mathehwa, (Ch)
Loyce A. Ahtewa
Ralph Redman
Maria Lanza
Ross A. Ahtewa
Chansel
Herman Ahtewa
Rudolph Ahtewa
Richard Ahtewa
Delethal Ahtewa
Otis Potloman
Wayne A. Ahtewa

SPOKESMAN, HOTEVILLA:
ACTING HONORARY, MUCCHOCLOVI
SPOKESMAN, SHUNGOPAI
ACTING HONORARY, ORAIBI
Morongo
Levendehewa
Talweh
Pong-yesva
Dan K. E. Ahtewa
Masimotewa
Paul A. Ahtewa
Spencer Keina

September 18, 1963, Flagstaff, Ariz.
Say Tribal Council Can't Speak for them

Hopi Traditionals Blast Land Talks

A group of Hopi Traditional leaders say that the Hopi Tribal Council cannot speak for them in negotiations with the Navajo Tribe aimed at settling problems arising from the recent court-mandated joint administration of reservation lands in disputes between the two tribes.

The Traditional chiefs of four Hopi villages—Mishongnovi, Shungopavy, Oraibi, and Hotevilla—have so informed Navajo Tribal Chairman Raymond Nakai in a series of letters, the chiefs have informed the SUN.

The Traditional leaders, who head a faction long opposed to the so-called Hopi Progressives, gathered in Hotevilla over the weekend for a two-day meeting to which Nakai, as well as other Navajo leaders and white officials, was invited. Nakai did not attend.

The meeting was, in effect, a strategy session called in advance of a scheduled Navajo-Hopi negotiating meeting held in Flagstaff Monday and yesterday between the Navajo and Hopi Tribal Councils on points raised by the court ruling in the land issue.

Four protest statements — by leaders representing Traditionals in the villages of Hotevilla, Oraibi, Mishongnovi and Shungopavy — emerged from the meeting and were sent to Nakai.

Informed of the protests, Hopi Tribal Council Chairman Abbott Sekaquaptewa, who headed a Hopi delegation of some 20 members at the Flagstaff meeting, said the Traditionals "have every right to express themselves.

"It is a problem to which the solution must come from the Hopis themselves," Sekaquaptewa added.

The Hotevilla statement to Na-

kai, signed by 10 Traditional leaders, declared "to all the world that:

"1.-The Hopi Committee you are meeting with in Flagstaff are not speaking on our behalf. We have never given them our recognition nor authorization and therefore will consider all actions or decisions to be made (at the Flagstaff meeting) to be illegal and void.

"2.-We, the Hopi Traditional Chiefs...have never accepted the so-called Hopi Tribal Council...

"3.-Any land matter to be dealt with must be taken up with the Hopi Traditional Headmen in their own villages for they are the only ones vested with power and authority over land and life.

"4.-We do not recognize any so-called Hopi Traditional leaders such as Peter Nuvamse and Viets Lomattewa of Shungopavy village for they do not represent anyone but themselves.

"We have informed you and the general public of this truth and fact and if you disregard them and work with the Hopi Committee, the illegally appointed ones, you will be marked down as one of them," the statement to Nakai concluded.

It was signed by leaders Monongye, Sachongva, Sekayama, Kursgowva, Tevaquaptewa, Katchongva, Tawangyawma, Loloma, Sewemaenewa and Masanimpewa, all of Hotevilla.

Three other statements generally voiced the same points.

Earl Pela, spokesman for the Shungopavy Traditionals, said he was voicing the stand of "our Highest Hopi Traditional Chief, Kuwan Yawma," who "does not want any land settlement to be made anywhere but in the Hopi village for he is still holding on

to his own Ancient Instructions and therefore still waiting for a proper one to come to him and sit down face to face to deal in Hopiland."

"It has been understood by us that you and your Navajo Committee will meet with the Hopi Committee which the so-called Hopi Tribal Council appoints," Oriabi's statement to Nakai, signed by Mrs. Nina Lanza and Ross Macaya, began.

"Any act or decision by your committee and the Hopi Committee concerning the partitioning of our homeland will NOT be binding on the Hopi Chiefs and the majority of the Hopi Tribe," the letter said. "We will not recognize any act or decision that has been made, or will be made by the government of the United States, which has not been approved or consented to by us."

The statement to Nakai by the Mishongnovi Traditionals blasted the Bureau of Indian Affairs and its "representative, namely, the agent and the so-called tribal council."

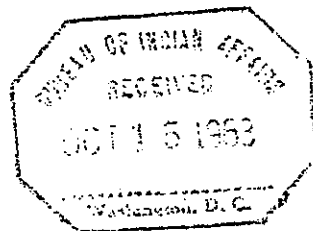
"Since the inauguration of the tribal council in 1934 without the consent of the Traditional leaders, it has misrepresented the Hopi people, committed fraudulent transactions and crimes...The primitive, democratic government was conceived by the aborigines of this land. They are known as the Pueblo Indians in New Mexico and Arizona...We of the Hopi people will protect and perpetuate the cherished, valuable heritage for us and our children..."

The statement added that the Mishongnovi Traditional leaders reserve the right to:

"1.-Disrecognize or sanction the self-appointed tribal council or a self-appointed chief, Hopi Indian agent or any lawyer or legal advisor to represent us.

"2.-We will not be held liable for any unauthorized debts, or loans to the Hopis, contracts in the name of the Hopi, made in the past and those of the future by the so-called tribal council and imposters...on their own volition, without the written consent of the tribal leaders of the Mishongnovi village..."

EXHIBIT 109a



② Winslow Mail
ACTION - Sept. 20, 1963 Friday

Hopi Traditional Leaders Not Happy Over Navajo Land Talks

All is not peaceful among the Peaceful Ones!

The Traditional Leaders of the Hopi Indians are moving again to protect their "lives, lands and religion" from what they consider unauthorized and dictatorial actions of the Hopi Tribal Council and the federal government through the Bureau of Indian Affairs.

Delegations appeared at Flagstaff on Monday of this week to enter their official protest at the meeting of Navajo and Hopi tribal leaders with Bureau advisors

regarding what is to be done with mutually held lands surrounding the Hopi Indian Reservation.

These delegations claimed to represent the Hopi Traditional Leaders in Hotevilla, Mishongnovi and Shungopavy villages as well as others who did not make formal protest but let those attending make their protests for them.

The delegation visited the editorial office of the WINSLOW MAIL on their return from Flagstaff to their home villages, and told of their efforts to protect

their way of life, their lands, and their native religion against encroachments and illegal actions of unauthorized leaders.

Although not invited to the Flagstaff meeting, they went there armed with written protests. During a break in the proceedings on Monday, they presented these writings to the people in charge of the session so as to be on record with their protest.

The message from Hotevilla said in part:

"We, the undersigned Hopi
(Continued On Page Six)

(Continued From Page One)
Traditional Leaders in Hotevilla Village, in accordance with the decision made during the two-day meeting in our village to which you were invited (the latter was addressed to Raymond Nakai, chairman of the Navajo Tribal Council) to attend and had promised to send a delegation; but did not, have now agreed among ourselves and in order to carry out the decision of the All Hopi Traditional Chiefs who met in Hotevilla Sept. 14-15, 1963, hereby declare to all the world that:

"1. The Hopi Committee you are meeting with in Flagstaff are not speaking on our behalf. We have never given them our recognition nor authorization and therefore will consider all actions or decisions to be made illegal and void.

"2. We, the Hopi Traditional Chiefs of Mishongnovi, Shungopavy, Oraibi, Hotevilla, and Lower Moencopie Village have never accepted the so-called Hopi Tribal Council. Neither have we hired John S. Boyden. (Mr. Boyden is attorney for the Hopi Tribal Council.)

"3. Any land matter to be dealt with must be taken up with the Hopi Traditional Headmen in their own villages for they are the only ones vested with power and authority over land and life.

"4. We do not recognize any so-called Hopi Traditional Leader such as Peter Nuvamsa and Viet's Lomastewa of Shungopavy Village for they do not represent anyone but themselves.

"We have informed you and the general public of this truth and fact and if you disregard them and work with the Hopi Committee, the illegally appointed ones, you will be marked down as one who is such."

The paper was signed by Monongyo, Sachongva, Sekayawma, Kurgowa, Tevaquaptewa, Katchongva, Tawangyawma, Loloma, Sewemaenewa, and Masonimp-tewa.

The letter from Mishongnovi Village was addressed "To Whom It May Concern" and was signed by Lamayaktewa, Honyaktewa, Seletstewa, Koldraftewa, Masayeva, Quavehema and Lomakvyia, representatives of the Tribal Leaders of that village.

Here is the message:
"Here in our Hopi Land disrespect of dignity, self government, religion and the pursuit of happiness for all is threatened by the representatives of the B.I.A., namely the agent, and the so-called tribal council.

"Since the inauguration of the tribal council in 1934, without the consent of the traditional leaders, it has misrepresented the Hopi

people, committed fraudulent transactions and crimes

"The primitive, democratic government was conceived by the aborigines of this land. They are known as the Pueblo Indians in New Mexico and Arizona. It was enhanced so highly by the great American, Abraham Lincoln, to be worth his endorsement. We of the Hopi people will protect and perpetuate the cherished, valuable heritage for us and our children; and hereby make it known that we reserve the right to:

"1. Disrecognize or sanction self-appointed tribal council or a self-appointed chief, Hopi Indian agent or any lawyer, or legal advisor to represent us.

"2. We will not be held liable for any unauthorized debts; or loans to the Hopis; contracts in the name of the Hopis; made in the past and those of the future by the so-called tribal council and imposters; Hopi Agent; lawyer or legal advisor; on their own volition; without the written consent of the Tribal Leaders of the Mishongnovi Village; which we the undersigned represent."

The letter from Shungopavy Village, on behalf of Chief Kawan Yawma and signed by Earl Pela as spokesman, was along similar vein. - OVER -

EXHIBIT 109b

Traditional Leaders Seeking Solution To Hopi Problems

Traditional Hopi leaders of several of the Hopi Villages north of Winslow are seriously considering taking action to force the Hopi Tribal Council and other parties who are acting contrary to the wishes and beliefs of the Traditionals, to cease such actions, and to have previous actions declared illegal.

This is the essence of a message brought to Winslow this week.

Members of a delegation told of an important meeting held at Hotevilla Village on Saturday and Sunday, September 14 and 15.

It was called for Indians and their non-Indian friends to discuss the lands, life and religion of the Hopi people.

The delegation visiting Winslow on Monday told what transpired on behalf of the 75 Hopis who attended and many of their Indian and non-Indian friends numbering more than 100.

The delegation was composed of Thomas Banyacya, David Monongye, Jack Pongyeva, R. Ralph Tawangyawma, and Dan Nasingotewa.

They said at the weekend meeting Mishongnovi was represented by six tribal leaders and associates. There were four from Shungopavy, three from Oraibi, ten from Hotevilla, and two from lower Moencopi. Many other interested Hopis attended but not in official capacities.

The traditional Hopi leaders "compared instructions from this day, especially on land matters," that they had received from their

for additional information or background material, contact Thomas Banyacya, Box 112, Oraibi, Arizona

chiefs and clan leaders down through the years.

They discussed the suit that the Hopis had brought against the Navajos and was decided by the three-man court in Prescott and agreed that the Hopis involved in the suit were not representing the Hopi people.

They talked of ways to dissolve the "illegal council which is acting on many things, and claiming to represent the Hopi people."

They stressed the point that they had not hired John S. Boyden, counsel for the Hopi Tribal Council, and criticized Herman E. O'Harra, superintendent of the Hopi Agency as a representative of the Bureau of Indian Affairs which has been supporting the Tribal Council in its actions "which are about to destroy our land, life and religion," without knowledge or approval of the traditional leaders.

They reviewed some of the ways in which they say the Hopi Tribal Council is taking "illegal actions." They said the Council is "now acting as dictators, pushing people around, suppressing freedom of speech and assembly, denying use of tribal funds in the villages," but are using such funds for tribal council members for paying of the tribal attorney, paying the council members salaries, paying transportation for the members, and buying food for meeting days.

"They seem to have no respect for the traditional chiefs or the people they are supposed to represent," said a spokesman about the Tribal Council.

The Winslow delegates said it appeared that since the Traditional Chiefs and Leaders had no part in the deal between the Hopis and Navajos over the land controversy, the Traditionals may be

forced to bring some action against the Tribal Council in order "to correct the illegal activities on Hopiland."

They said there would be another meeting in a few days, and at that time they plan to take steps to test the legality of the Tribal Council actions.

Thomas Banyacya, spokesman for the delegation, said that "during the meeting at Hotevilla the leaders expressed concern because the ancient prophecies say that when the people start to deal in Hopi matters, that will be the sign that the 'Hopi White Brother' or Purifier is to come with two helpers, one with the sign of the swastika, the sun symbol, and one with the red cap or red cloak." When these come, they will destroy all the wicked and wrongdoers. "Instead of destroying everybody, they will weed out the good parts to be saved and to go into the real peace and everlasting life," he related.

Banyacya said that "since the keeper of the sacred tablets, supposed to be the chief at Hotevilla, had not fulfilled his duty to call for his White Brother to come, now Acting Chief Dan Kachongva, leader of the Two-Horn Society, is going to seek out the 'White Brother' or Purifier. First he will search all available publications for some sign of him, and then he may be obliged to go traveling to see if he can be found.

This situation has been brought about because "no one seems to want to help the real Hopi leaders in preserving their way of life, their land, and their religion."

- OVER -

information copy

September 24, 1963
2103 Victoria Avenue
Los Angeles 16, Calif.
RE 2-3903

Dear Attorney

Enclosed with this letter is a photocopy of newspaper accounts of a recent meeting held in Hopiland and one of the results of that meeting - an organized protest to Bureau of Indian Affairs officials and "puppets" in Flagstaff.

A group of more than 50 Hopi Leaders, men and women, then went to Keams Canyon Agency and talked with Superintendent (Indian Agent) O'Harra and Abbot Sequaptewa, an official of the so-called "Hopi Tribal Council".

"We demanded stoppage of all illegal activities of the Council pending a full investigation by the Hopi People, proper officials of the Government of U.S., and others..." writes Thomas Banvacya, Interpreter for Hopi Leaders.

He adds, "Now we ask you and others who attended our meeting (of September 14-15) to help us by writing up an injunction to stop all movements of the illegal Tribal Council NOW - no more signing anything or meeting with anyone. We believe if an order is filed from both sides (Hopi and U.S.) they will have to stop. We will do everything possible to have proper officials look into all the records and activities of the Council, Bureau of Indian Affairs and Boyden. We would like to come to Los Angeles with Hopi leaders and meet with anyone who might help us to write an order stopping the Council on their tracks now. Let us know right away and in the meantime we will dig up evidences, facts and anything required to expose the corruption on Hopiland. The people are now anxious to act!"

As an attorney would you be interested in meeting with Hopi leaders in Los Angeles for purpose of discussing possibilities of filing an injunction against the Indian Bureau dominated, and illegal, Hopi Tribal Council? In a manilla envelope I am sending you documentation which might prove useful in filing an injunction. Hopi are gathering additional information now. Enclosed is a self-addressed postcard for your reply.

Please excuse this mimeographed letter but with the time limit involved we knew of no other way to reach the attorneys who might be interested in such an action, AND the 40 odd whitepeople who would be needed to actively endorse and finance it.

Sincerely yours,

EXHIBIT 110