

Comments on Draft Generic
Environmental Impact Statement
on Uranium Milling Regulations



October 19, 1979
Albuquerque, New Mexico

PROPOSED RULE
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PR-30 et al (44FR 50012)

My name is Joan Price. I am here as director of Colorado Plateau Project - a non-profit educational organization constituent to Taos Learn-in Centers, Arroyo Hondo, New Mexico. Colorado Plateau Project is dedicated to bringing about public awareness of natural forces of the Colorado Plateau in terms of high frequency of lightning activity and thunderstorm formation, and to identify the Colorado Plateau within a global and regional pattern of atmospheric electricity that is maintained by thundercloud formation.

Within this particular audience it is common knowledge that the Colorado Plateau registers more than twice the continental average in natural background radiation and that this is ionizing radiation. That is to say that this radiation is creating positive and negative ions in the atmosphere. Of course, of course you may be saying - we have spent hours and days discussing ionization. However, I have not heard one single reference and have read not one single statement in the draft GEIS about the role of ionization in thundercloud formation, lightning activity or a global system maintained by this process or the environmental impacts on regional moisture cycles in location of radioactive mills or tailings.

Lightning strikes concentrate on the high mountain peaks surrounding the Colorado Plateau. According to E.V. Komarek, Schultz Pass on San Francisco Peaks in Arizona register "the highest incidence of lightning in North America." (1) Dr. H. Kasemir of the National Oceanic and Atmospheric Administration, 1976, stated to me by telephone that the Front Range of the Colorado Rockies bordering the Northeast perimeter of the Colorado Plateau supported the highest number of lightning strikes on the North American continent. And Dr. C. Hyder of NASA, 1976, in a telephone interview stated that southwest Socorro, New Mexico supported the most thunderstorm formation. Seemingly contradictory separately but when taken all together, these statements clearly correlate to the volcanic perimeter of the Plateau illustrated in a tectonic map published by the American Association of Petroleum Geologists. (2)

Frequency of lightning does correlate with positive/negative ion levels. Charles Wallach, consultant to the U.S. Dept. of Defense and Federal Drug Administration, and President of the International Bio-Environmental Foundation in Silver Spring, Md., stated in a telephone interview that there is a definite correlation between ion levels and lightning activity, that there is "an enormous downpouring of positive ions days to hours before storm-cells, voltage gradient increasing dramatically resulting in spark triggering lightning."

In a telephone interview with Dr. C. Hyder, mentioned previously, he also equated lightning to ions in motion to neutralize atmospheric electric fields.

Both statements express commonly held understanding in climatology about ion fields and lightning activity, that can be found in any popular or professional literature.

Thus, the basis for the relationship of ions and lightning activity has been established. It is a researched and scientifically established fact that alteration of the landscape can alter microclimatic patterns including lightning and thunderstorm location.

Dr. H. Landsberg, Meteorologist at the University of Maryland, a specialist in the area of area of inadvertent weather modification from urbanization, researched and documented permanent changes of thundercloud formation and storm frequency with the increasing urbanization of St. Louis, Missouri. (3)

Use of timbering techniques and lightning suppression techniques to control forest fires were considered in 1969 at the Arizona Academy of Science, Tucson, Arizona. (4)

Problems of inadvertent change were dealt with at length in a 1970 conference near Stockholm, Sweden, sponsored by the Massachusetts Institute of Technology. It has resulted in the paperback publication "Inadvertent Climate Modification." (MIT Press)

Furt references are provided by the Weather Modification Advisory Board Final Report, June 1978. Chapter 4 - Unintended Weather Modification and Chapter 8 - Environmental Balance(5).

In the field pattern of the global electrical circuit that is mainly established by thunderstorms, as much as 20% of the global current may stream toward high mountain peaks. This current, supplied in part by natural background radiation, is channeled by mountains and thundercloud ion movements into the magnetosphere which is also highly ionized. This circuit is then completed or returned to the earth in fair weather areas, generally broad flat lands. (6)

The Colorado Plateau is surrounded by the highest number of high peaks on our continent outside of Alaska and carries currents supplied by ionization at over twice the continental average. Though simplified, I hope I have expressed the role this area fulfills in regional and global atmospheric electric systems.

I would like to read some questions and answers from an interview I held with Dr. R. Roble, who is employed by National Center for Atmospheric Research in Boulder, Colorado.

Price. There is a uranium belt coming down through the Front Range and as they mine it, they will be releasing a lot of ionizing particles. Theoretically, could this have an effect?

Roble. The conductivity over the surface of the ground is greater over land because of radioactive decay than it is over the ocean, so if, now, they start releasing more over the land it will increase that conductivity and perturb the electrical circuit in some way.

Price. In order to maintain an overall circuit all the time it might affect thunderstorm activity somewhere else?

Roble. If you change resistances here in this part of the global circuit - if you increase the resistance then the currents may have to flow in a different part and change the voltage between the earth and the ionosphere. If you decrease conductivity here...you might by all these perturbations change where these currents are flowing and you might change the electric fields a small amount. It is not clear how these small changes in the atmospheric circuit couple into the cloud micro-physics which is the real key to any understanding of these processes.

I hope that with this short introduction to natural forces intrinsic to the Colorado Plateau, you will understand the opportunity that the NRC has to assess environmental impacts with more comprehensive and effective data in order to fulfill its function in protection of public welfare which is dependent on moisture cycles. The NRC will also avoid unintended weather modification which in the words of the Report to the Secretary of Commerce from the Weather Modification Advisory Board in 1978 is a critical problem:

"Unintended weather modification" is the term applied to weather changes resulting from man's actions that were not taken with a view to altering the weather. Such modification can occur over areas ranging from one up to thousands of square miles and can last from minutes to days.

...we believe an integral part of atmospheric modification is that occurring unintentionally as a result of man's land use changes ... (and) clearly modify the weather, often dramatically, on local and regional scales. These unintentional effects are so important and pervasive that an analysis of their scale and nature, and their policy implications, is essential to judgments about a national policy and program for the management of weather." (7).

In terms of the Technical Criteria, page 50020, Federal Register, Vol. 44, No. 166, I would like to offer some suggestions to you on how your draft GEIS can be a truly comprehensive use of tax monies.

First of all, I would commend any direction on the part of the NRC towards a very conservative set of standards for regulation of uranium mining, milling and reclamation. The issue I am raising today has never

been addressed before and as research about natural forces continues will most assuredly not be the last. Only an extremely conservative set of standards anticipate a continued expansion of scientific knowledge and public education and awareness. Only an extremely conservative set of standards control an industry that fears this very same advance in knowledge about natural forces that increase uranium industry costs of mining, milling and reclamation and results in less profit to them.

Criterion 1. Your definition of remote sites is inadequate at this time. High mountain peaks carrying 20% of the global electric current are often remote from human population yet critical in the model. Location of radioactive waste sites without regard for these and other orographic features displays negligence on part of NRC in considering unintended ionizing effects on conductivity in thunderstorm buildup or decay that could result in intense flooding, tornadoes or droughts and dusting beyond present calculated expectations.

The NRC will have to take into account the relationship of a remote site to other atmospherically related sites. For example, 300 tons of daily particulate matter drifts from a Utah International power plant in northeast New Mexico reducing conductivity and would need to be taken into account should a remote site be located within the plume trail. Urbanization and dams are other perturbations that alter conductivity and natural processes, changing what Dr. Roble terms stress on orographic features.

Criterion 2. At the present time, your definition of natural forces, disruption and dispersion can be greatly expanded and much more inclusive. The regional and global model of high mountain peaks and broad flat plains is clearly a model of dispersion of ground-level radio-activity that couples into cloud micro-physics, moisture cycles and thundercloud formation. This has not been addressed in any way. In addition, disruption of the inter-relationship of this system has not been reviewed in any way.

Criterion 4. The NRC conception of above ground disposal is inadequate. In addition to effects that the draft GEIS does not address that I have already introduced, vegetative cover or riprap must be considered in the atmospheric electric current model because:

"The electric charge (of negative ions) released from the ground by point or corona discharge from pine trees, bushes and grasses underneath a thunderstorm plays a dominant role in the transfer of charge between the earth and thunderstorms." (6)

This must be considered in reclamation in addition to wind and water erosion in order to avoid inadvertent changes in ion current flows.

Criterion 8. Control of airborne effluents generated by the milling and transportation processes is inadequate as they stand. Airborne effluents or aerosols as they are termed in electro-dynamics create a measurable perturbation of atmospheric electric current systems by reducing mobility of ions(9) This should be incorporated into environmental impacts considered in the Final Impact Statement.

Finally, it is extremely important that the issue of jurisdiction of Native American lands is clarified as soon as possible. Uranium mines and tailing sites constitute over half the locations within the global electro-dynamics with essentially no public input or influence. Everyday that passes without attention to this is a day in which pressure from the uranium industry, bears on indigenous peoples whose culture and tradition is daily disrupted by highly sophisticated tactics often totally unacceptable when brought to light in a court of law. Please find enclosed Appendix A - "Energy Crisis Within the Navaho Nation" parts I, II, III and IV, by Winona La Duke Westgard in New Mexico Prime Times between Dec. 4, 1978 and Jan. 22, 1979. and Appendix B "U.S. Colonialism and the Hopi Nation," report from Indian Law Resource Center, in Akwesasne Notes 1979, p. 13 - p. 17. as part of this submittal to clarify this urgent situation, in which traditional representatives have not fully participated in public process. If they had had that opportunity, this issue of thundercloud formation would have been addressed years ago.

My experience is that only traditional spiritual elders of the Native Americans have raised and consistently noted this issue of disruption of thundercloud formation over mountains. They call these mountains "sacred"

and to be the spine or backbone of our continent, in other words, the underlying structure to a body of natural forces. This has an accuracy within the regional and global model of atmospheric electricity and considering the moisture cycle essential here in the arid Southwest to our collective life and sense-of-well-being, I commend the indigenous religion of this continent in their early and continued reference in public hearings of all types to this crucial issue. I hope that our ways of knowledge come into phase with theirs as quickly as possible for all life, not just human life but plants, animals and even the tiny insects and reptiles.

The National Environmental Policy Act requires investigation of all significant impacts. Alteration of weather patterns, with related effects appear to be well enough established in scientific research to qualify as a significant impact requiring research before the GEIS is adequate.

Additionally NEPA requires review by all interested Federal Agencies. National Center for Atmospheric Research conducts research in atmospheric and climatological change in the region. Review of climate impacts should be undertaken by NCAR before the GEIS is adequate.

Thank you for your consideration.

Sincerely,
Joan Price/Director
3220 Bonne Vista
Colorado Springs, Colo. 80906

REFERENCES

1. Komarek, E.V., "Fire and Man in the Southwest," Proceedings of the Symposium on Fire, Ecology and the Control and Use of Fire in Wildlife Management" Arizona Academy of Science, Tucson, Arizona, 1969.
2. Tectonic Map of United States, 1962, Pub. American Association of Petroleum Geologists, P.O. Box 979, Tulsa, Ok. 74101.
3. Private interview with Dr. Landsberg in November 1978.
4. Komarek, op. cit.,
5. The Management of Weather Resources Vol. 1; Proposals for a National Policy and Program: Report to The Secretary of Commerce 1978, U.S. Government Printing Office, Stock Number 003-018-00090-3, p. 75 and 139.
6. Middle Atmosphere Electrodynamics: Report of the Workshop on the Role of the Electrodynamics of the Middle Atmosphere on Solar Terrestrial Coupling, ed. N.C. Maynard, NASA CP-2090, June 1979, p.90.
7. The Management of Weather Resources, op. cit., p.75.
8. Middle Atmosphere Electrodynamics, op. cit., p.90.
9. Private interview with Dr. Ray Roble in September 1979.

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U.S. COLONIALISM AND THE HOPI NATION

PART ONE: A History of Dishonor



The following is the first part of a report prepared by the Indian Law Resource Center in Washington D.C. on the status of the Hopi claim to their ancestral lands. The Indian Law Resource Center is a law firm based at 1101 Vermont St. N.W., Washington, D.C. ILRC is a leading advocate of the rights of the Native peoples in the Western Hemisphere and is, we feel, the most effective law firm in the assertion of the rights of the Native peoples.

INTRODUCTION

In the spring of 1977, a delegation of traditional Hopi leaders came to Washington, D.C. and asked for our assistance in their fight against a claim which was coming to a conclusion in the Indian Claims Commission. Speaking on behalf of the Hopi Kikmongwis (the traditional Hopi spiritual leaders of the various Hopi villages) they asked for legal help in stopping the claim proceedings. They had heard about similar legal work we had undertaken on behalf of the Navajo Nation, the Confederacy of Lakota (Sioux) and the traditional Seminoles, who likewise were attempting to stop payment of claim payments in order to preserve the underlying Indian land rights.

At first blush it may seem strange that these Indian peoples want to receive the United States from giving them money in payment for loss of just wronged taking of their lands. The logic of their resistance becomes apparent only when it is understood that under United States law the payment of these claims is in effect a sale of the right to the return of the lands. In legal parlance, the payment threatens to "extinguish" Indian title to these lands. A particularly insidious and usually discriminatory doctrine of United States law gives the government the authority to extinguish Indian title to lands without due process and without any compensation whatsoever. The Supreme Court of the United States has recently upheld this extinguishment doctrine in the case of Tee-Hit-Ton Indians v. United States.

After consulting with the Hopi representatives in 1977, we agreed to seek funding for research on behalf of the Hopi Kikmongwis concerning the claim which is known as the "Docket 196 Claim." We also agreed to investigate the work of the attorney who has prosecuted the Docket 196 claim in the name of the Hopi Tribe. Support from foundations and churches has permitted the Center to carry out this work.

Steven M. Fullberg, a Center attorney, has been primarily responsible for the coordination of the research and writing of the report. Brinton Dilloughan, a Center investigator, was a principal researcher. They and other members of the Center's staff have spent many hours preparing this report. They have examined hundreds of files from the National Archives, the Bureau of Indian Affairs, and court repositories. They have studied a broad variety of primary and secondary source materials and interviewed a number of people familiar with the Hopi situation. Some materials were obtained through the Freedom of Information Act, and others were supplied by friendly sources. Through all of these efforts, one new information was brought to light. Needless to say, many fruitful avenues were explored. More remains to be investigated and our research is continuing even at this time.

Our report to the Hopi Kikmongwis is written in that it reflect largely on materials obtained from U.S. government files. Throughout the report there are



references to exhibits which are the source documents for quotations and factual statements. The exhibits are in effect documentary footnotes. These exhibits have been compiled into a bulky appendix which will be helpful to those who want to examine in depth the matters discussed in the report.

The report is a chronicle of abuse which the traditional Hopi leaders have suffered at the hands of United States governmental officials and others. It graphically demonstrates the consistent and dogged opposition to the Docket 196 claim which the Kikmongwis and other traditional Hopi leaders have mounted over the past thirty years, and it explains the danger of extinguishment which payment of the \$5 million claim award presents to the Hopi people. In sum, our report concludes that the Docket 196 case was initiated, pursued, and settled without any legitimate authority of the Hopi people.

In addition to the need to stop payment of the Docket 196 claim award, the report highlights a number of other fundamentally important issues. One of these issues is the continuation of the role of the Hopi Tribal Council, an organization representing the so-called "progressive" faction of the Hopi which was first created through a fraudulent election conducted by the Bureau of Indian Affairs. Faced with a traditional Hopi leadership which was unwilling to do the bidding of the U.S. government, the BIA deliberately subverted and undermined the authority of the Kikmongwis and other traditional leaders by establishing the Council and giving exclusive recognition to this alien governmental structure. The report makes clear that the United States government's desire to exploit Hopi mineral resources is the primary motive for the creation and maintenance of the Hopi Tribal Council, an organization which has, as requested, signed the leases authorizing the massive strip-mining of Black Mesa coal at unthinkably massive to traditional Hopi leaders. The same Council has agreed to the \$5 million settlement of the Docket 196 claim.

A second issue highlighted in this report concerns the continuation of the strip-mining by Plainsville Coal Company which has already created much destruction to Black Mesa, an area sacred to traditional Hopis and to many Navajos. The Hopi Tribal Council, its attorney and

the BIA have agreed to sell these valuable coal reserves at a fraction of their true value to a far-off electrical generating station which supplies power to Los Angeles, Los Vegas and other parts of the Southwest. Billions of gallons of precious Hopi water are simultaneously being "mined" from aquifers deep below the surface of Hopi country in order to flush the pulverized coal to Nevada in slurry pipelines. Only the mineral companies, the lawyers, the U.S. government, and a small Hopi elite dominated by the "progressive" faction have made any gain from this destruction and waste.

A third issue demanding special attention involves the work of John S. Boyden, the attorney who has also been the BIA-approved general counsel for the Hopi Tribal Council. He worked with the BIA to create and sustain the Hopi Tribal Council over the past twenty-five years. This report documents that Mr. Boyden was in fact working for the very mineral companies strip-mining Black Mesa during the same period that they were doing business with his Hopi clients. The report documents an apparent conflict of interest so gross as to cry out for immediate investigation and action by all appropriate governmental and law enforcement agencies. If this apparent conflict of interest is conclusively established, there is even more reason why the traditional Hopis' demand to stop the strip-mining must be heeded.

These issues are among the most important of the many issues discussed at length in the report. They are part of the pattern of BIA colonialist policies and practices which a federal judge in a similar case has labeled "bureaucratic imperialism." Hopi complaints to Washington about such BIA mistreatment have repeatedly fallen on deaf ears.

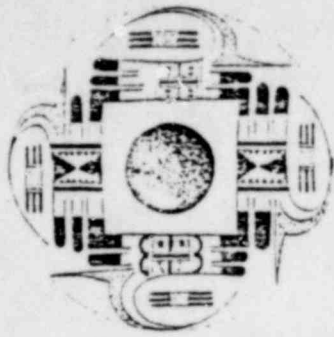
It is the hope of those who worked on this report that the detail and documentation which are synthesized and provided to the Kikmongwis for the first time in this report might help stimulate a fresh look at the problems facing the Hopi people. The Center will continue providing legal assistance to the Hopi Kikmongwis in an effort to help rectify the past and ongoing abuses. It is our hope that the Hopi people may in the near future find themselves in a new era in which the Hopi Nation regains its full measure of sovereignty within the international community, including its right to self-determination, the right to control its own territory and resources, and the full protection of the human rights to which the Hopi people are entitled.

Robert T. Conner
Executive Director
Indian Law Resource Center

A HISTORY OF DISHONOR

Although Docket 196 of the Indian Claims Commission was not officially begun until the filing of the petition in 1951, an understanding of the significance of this matter to Hopi people today requires some knowledge of earlier Hopi history.

The hold of the Hopi Kikmongwis (the traditional Hopi religious leaders) and the Hopi people on their land and way of life reaches far back into time. Perhaps no other inhabitants of this continent have sunk deeper roots into their homeland. There is firm archaeological evidence that the Hopis have been continuous inhabitants of their land for well over a thousand years, and that the Hopi villages of Oraibi and Shungopavi may be the oldest continuously inhabited villages in North America. Hopi rights to their homeland clearly antedate the rights of all others who lay claim to it.



The first serious threat by outsiders seeking to dominate and subjugate the Hopis was presented in the early sixteenth century by the Spanish. The arrival of Coronado in 1540 signaled the beginning of 140 years of Spanish colonial rule. The Spanish Franciscan missions which were established in Hopi country in the early seventeenth century operated under the same brutal and repressive policies as those which characterized the Spanish Inquisition against the Muslims and Jews of Spain. The Spanish authorities sought to suppress Hopi religion and culture.

The Spanish lost their colonial hold on the Hopis when the Hopis joined the Pueblo Revolt of 1680 and drove the Spanish regime back into Mexico. In the 1690s, the Spanish renewed their effort to establish dominion over the Hopis and other Pueblos through the efforts of conquistador Don Diego de Vargas. De Vargas, together with other conquistadors and priests, successfully reasserted the authority of the Catholic Church in much of the territory of New Mexico. De Vargas was primarily a military leader, but the military authority of Spain was tightly fused with the religious authority of the Catholic Church at this period of Spanish history. This union of military and religious authority is demonstrated in a written plea for additional troops which de Vargas made to his superiors in 1693: "You might as well try to convert Jews without the Inquisition as Indians without Soldiers." Raw military power would be needed and used to convert the Pueblo Indians into Catholic colonial subjects.

The Hopis were the most successful of the Pueblos in resisting the return of Spanish Catholic rule. They managed to maintain their traditional culture, religion and government through the following century during which the Spanish asserted dominion over much of the surrounding territory of New Mexico. Catholic missions and schools were never again built in Hopi country. In 1700, when the Hopi village of Awatubi permitted the return of Catholicism, it was sacked by the other Hopi villages. The Hopis would not allow the "slave church" back into their country. (At about this same time in history, the Hopis invited the Tewa Indians, who were fleeing from Spanish oppression along the Rio Grande, to live on First Mesa in Hopi country.) Despite continuing pressures for conversion and occasional depredations by the Spanish military, the Hopi people held fast to their religion, culture, and sovereignty.

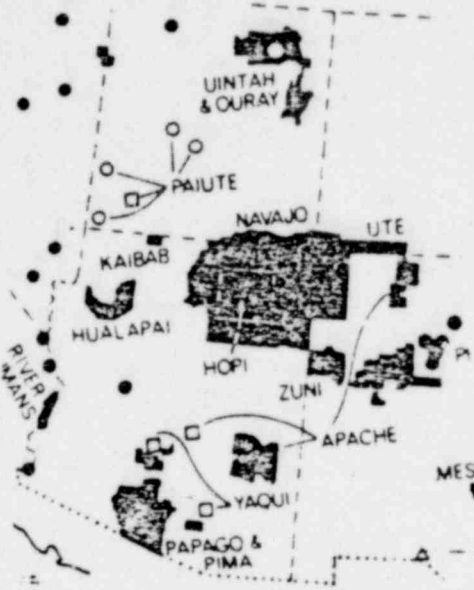
Hopi land rights during this early colonial era were never seriously threatened since Spain acknowledged Pueblo Indian land rights and recognized the title which the Hopis and other Pueblo Indians had in their lands. Neither did the transfer of European claims to the territory of New Mexico from Spain to Mexico in the early nineteenth century pose a threat to the title which the Hopis held to their land. The treaty between Spain and Mexico respected the property rights of all the Pueblo Indians, including the Hopis.

Likewise, there was no immediate repercussion in Hopi country when the European colonial claims to the territory passed from Mexico to the United States pursuant to the Treaty of Guadalupe Hidalgo (9 Stat. 922 [1848]) which ended the Mexican War in 1848. This treaty also guaranteed Hopi land rights. From the beginning of its asserted jurisdiction over the territory, the United States was legally bound by the engagements of the Treaty of Guadalupe Hidalgo to respect and protect the rights of the Hopi Indians to their land.

After the 1848 Treaty of Guadalupe Hidalgo, there was no immediate attempt by the United States to interfere with the independence which the Hopi people had enjoyed since the Pueblo Revolt of 1680. Not until

the 1860s and 1870s did the first agents of the Bureau of Indian Affairs (BIA) begin to work in earnest in Hopi country. It was only then that the Hopi people were subjected to efforts of the United States to undermine Hopi self-government. From that time to the present, the United States government has carried on a systematic campaign to uproot Hopi culture, religion and traditional authority, as had the Spanish before.

In one most significant respect the role of the United States government would prove to be even more callous and ruthless than that of the Spanish and Mexicans, for the United States would be the first colonial power to threaten the rights of the Hopis to the land which had been theirs for over a thousand years. This threat first became clear in the 1840s and 1850s when the United States authorized a massive invasion by its citizens of the Indian country west of the Mississippi River. After the discovery of Western gold and fertile soil, the United



States government declared that it was God's will, Manifest Destiny, that virtually all lands and natural resources from the Atlantic to the Pacific be taken for its white citizens and incorporated into the United States.

The Hopis were not spared the pressures which these white settlers and prospectors created on all Indian lands. Mormon settlers and other whites moved onto land which for centuries had belonged to the Hopis. Friction developed between these newcomers and the Hopis as some of the best Hopi farmlands were appropriated by the whites. The BIA agents became concerned that the white intrusion might cause trouble, that the Hopis might be "driven to the wall."

This direct white threat to Hopi lands was compounded by Navajo relations with the United States. While Hopi resistance to white intrusion was generally passive, their neighbors to the East, the Navajos, resisted the expansion of the United States with military force. To terminate this Navajo resistance, General James Carleton, Kit Carson, and the U.S. Cavalry began in the 1860s a military campaign which resulted in the capture of about eight thousand Navajos who were marched to a concentration camp near Fort Sumner, New Mexico. Here the survivors of the "Long Walk" were confined for about four years. However, thousands of Navajos avoided capture and internment by dispersing to lands further west, toward Hopi country. Thus, as a direct result of the military campaign, there was a dramatic increase in the number of Navajos in and around Hopi country.

When the imprisoned Navajos were finally released in 1868, they were left by the United States in a state of dire poverty. They were given only two sheep per person with which to support themselves and reconstruct their nation's economic base. The only government-approved land holding for them was a small, infertile reservation established by Executive Order of 1868 in northeast Arizona. Almost immediately, the Navajos survived this ordeal and rapidly grew in number.

The military campaign against the Navajos, their

growing movement westward into Hopi country, their dire economic condition upon release from confinement, and their expanding population increased tensions between Hopis and Navajos. These problems were aggravated by the fact that the Hopis were primarily farmers who cultivated the soil while the Navajos were primarily herdsmen whose sheep were prospering. There was some competition among them over limited grasslands and water supplies, as there was among non-Indian dirt-farmers and ranchers throughout the West.

Despite these pressures and strains, relations between the Hopis and Navajos appear to have been generally friendly, characterized by both social intercourse and commercial trade. An 1884 report by the BIA Hopi Agent points out some of the elements of competition and cooperation which existed between these two Indian peoples at that time:

Quite frequently trifling quarrels arise between members of the two tribes; these are usually caused by careless herding of the young Navajos, who allow their herds to overrun these outlying Moki [Hopi] gardens. The best of good feeling generally exists between these tribes; they constantly mingle together at festivals, dances, &c... [The Hopi] hatters his surplus melons and peaches with his old pastoral neighbors for their mutton.

Although traditional Hopi leaders occasionally called upon the BIA to assume some responsibility for the growing Navajo presence in Hopi country, they were most immediately concerned about the increasing white settlements on prime Hopi farmland and the increasing interference of the United States government in Hopi affairs.

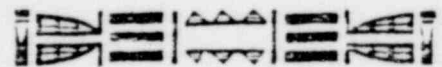
THE EXECUTIVE ORDER HOPI RESERVATION OF 1882

In 1882, the President of the United States designated by Executive Order a reservation for the "use and occupancy of the Moqui [Hopi] and other such Indians as the Secretary of the Interior may see fit to settle thereon." This order withdrew from white settlement and sale a rectangular-shaped reservation, about 70 miles long and 55 miles wide, within the boundaries of the present state of Arizona. It has been estimated that 1,800 Hopis and 300 Navajos lived within the boundaries of the Hopi Reservation when it was established in 1882. Its eastern boundary was the western boundary of the Navajo reservation as it had been extended by Executive Orders of 1878 and 1880 to accommodate Navajo expansion. The Executive Order creating the 1882 Hopi Reservation is the first of many laws which the United States would make over the next century to regulate and interfere with the affairs of the Hopi people and their land.

Although there are those who argue that the 1882 Hopi Reservation was created to resolve Hopi-Navajo disputes, this argument does not hold up when the historical facts are examined. Historical documents demonstrate that the 1882 Hopi Reservation was created at the urging of BIA officials who needed to have the area declared a formal reservation in order to give them legal authority over whites who were moving into the area and interfering with BIA programs.

In the 1870s, the BIA field office responsible for Hopi affairs became increasingly concerned by the fact that Mormon settlers were moving onto some of the best Hopi farm land to the south and west of the principal Hopi villages. This concern is expressed in a report by BIA Agent W.B. Truax in a letter he sent to the Commissioner of Indian Affairs on September 25, 1876:

2. The Mormons are also encroaching upon them [the Hopis] in the West and South West. About five hundred of them have settled not far from the lands claimed by the Moquis [Hopi] & they are a peaceable, inoffensive tribe of Indians, their rights will be invaded with impunity, unless protected by an Agent. They would soon drive these Indians to the Wall.





Another report on Mormon encroachment was written by BIA Agent William R. Mateer to the Commissioner of Indian Affairs on May 1, 1879. His report asked for information about legal authority to take action to control this white intrusion.

2. Tubee, formerly a chief of the Oraibi Village, [Traditional Hopi leaders disagree with the suggestion that "Tubee" was a former chief of Oraibi. The encroachment of Mormon settlers on Hopi lands is, however, established historical fact.] is here and complains that the Mormons are intruding upon their farming lands on Moon Kappi and interfering with their planting. He states that his father planted there when he was a boy as well as many other Oraibis and that it is their ground. At Moon-avee eight miles above, the same Canyon they had another place of planting where they lived during the summer. A few years ago Jacob Hamlin, one of the Mormon Apostles, came in there and asked permission to plant that season and water his stock, which was granted. In the spring when the Indians returned to plant, as usual, they found other Mormons in possession and when they attempted to go to work the Mormons said, oh no! we have bought this place from Mr. Hamlin and you can't plant here... I would respectfully inquire whether there is not some law by which the Indians can be protected in their rights to lands, which they have cultivated for a century or more?

The Commissioner of Indian Affairs wrote back to Agent Mateer on August 14, 1879. In his letter he outlined the government's view of the relevant United States law: Since the Hopis had no recognized legal rights to their land under United States law, their lands had the legal status of "public lands." The Indian Agent had no legal authority to control, arrest, or evict whites found on these "public lands" unless and until the lands were designated as Indian reservation lands pursuant to United States law:



At the Moquis [Hopi] Indians occupy the public lands without any authority of law, the provisions of the statutes enacted by Congress for the protection of Indians in their occupancy of lands within a reservation, cannot be invoked to protect the Moquis, and remove and punish white settlers.

Thus only thirty years after having agreed to protect Hopi lands in the Treaty of Guadalupe Hidalgo, the United States government took the position that it could not control its own citizens who were abusing Hopi land rights because those rights were not protected by law? It need not be emphasized that treaties have always been the supreme law of the land under the United States Constitution.

It is also clearly implicit that the United States asserted absolute political sovereignty over the entire area ceded by Mexico in the Treaty of Guadalupe Hidalgo. The United States asserted general governmental authority over the territory, though the Hopi people had not assented to that authority nor

ceded any of their own governmental authority by treaty or otherwise. Thus, the asserted legal authority of the United States over the Hopi territory was a bare arrogation of power, unsupported by any legal agreement, treaty, or other authority.

There were other whites besides the Mormon settlers who were vexing the BIA Agents in Hopi country. A few whites were living among the Hopis and supporting Hopi opposition to government programs. One of these programs to which many Hopis were openly hostile was a program for the education of Hopi children in boarding schools which were to be found as far away as Albuquerque, over 175 miles from the nearest Hopi village.

In a letter written by BIA Agent J.H. Fleming on November 11, 1882, an urgent plea was made for authority to evict the whites who were sabotaging the BIA's programs. The whites he specifically named were Dr. J. Sullivan and E.S. Merritt. According to Agent Fleming's letter, the BIA Agent had threatened Dr. Sullivan with arrest unless he ceased all dealings with the Hopis. Dr. Sullivan apparently obtained legal counsel and informed Agent Fleming that the government had no power to arrest or remove him from the Hopi villages since the Hopis were not, according to United States law, on Indian reservation land. It soon became apparent to the Hopis that Dr. Sullivan and Mr. Merritt could thumb their noses at Agent Fleming with impunity. This loss of face was more than Agent Fleming could tolerate.

In Agent Fleming's letter to the Commissioner of Indian Affairs, he states that the Hopis "seem to regard [Dr. Sullivan] as a bigger man than the Agent, and my influence over them will be greatly weakened if not destroyed, unless this man can be effectually prevented from all intercourse with them." Fleming then recounts how Dr. Sullivan and Merritt had been undermining his compulsory boarding school program by allying themselves with hostile Hopis:

The Moquis [Hopi], now, say they do not want a school, and it is of no use to try to induce them to send their children to Albuquerque at present. They say the white men tell them the goods here were sent for them and not for the school, and, because I do not give them these goods, they believe they are being cheated out of them.

At the end of this letter Agent Fleming stated that unless he is given authority to evict these whites from Hopi country, he would have "no hopes of accomplishing anything." He threatened to summarily resign if not given the authority he demanded.

This letter brought an immediate response from Washington. The day it was received, a reply telegram was sent to Agent Fleming requesting a description of

proposed boundaries for a Hopi reservation. One month later the proposed boundaries submitted by Fleming were accepted and became the boundaries of the Executive Order reservation approved by President Chester A. Arthur on December 16, 1882.

Five days later, on December 21, 1882, the Commissioner of Indian Affairs sent Fleming a telegram which reads as follows:

President issued order dated sixteenth, setting apart land for Moquis [Hopi] recommended by you. Take steps at once to remove intruders.

In a confirming letter sent the same day, the Commissioner included his directive about the newly gained power to evict unwanted whites from Hopi country:

The establishment of the reservation will enable you hereafter to act intelligently and authoritatively in dealing with intruders and mischief-makers, and as

instructed in telegram before mentioned, you will take immediate steps to rid the reservation of all objectionable persons.

As soon as he had this supposed legal authority in hand Agent Fleming asked the commanding officer of Fort Wingate to evict the unwanted whites from the Hopi villages.

The history of these events shows that there is little support for the notion that Hopi-Navajo problems were behind the creation of the 1882 Hopi Reservation. The BIA wanted the area to be formally declared an Indian reservation in order to give the BIA agent legal authority over unwanted white intruders and "mischief-makers." Since the government already took the position that there was no authority under United States law to handle disputes between Indian peoples before the reservation was established, the settlement of Hopi-Navajo problems was in no material way affected by the creation of the 1882 Hopi Reservation.

The BIA made no effort after the creation of this reservation to in any way reduce or restrict the number of Navajos on this reservation. In fact, Agent Fleming resigned and the Hopi Agency was closed up in a matter of weeks after the 1882 Reservation was created. The United States government continued its policy of favoring an increase of the Navajo population on the 1882 Hopi Reservation until, only fifty years later, the Navajos outnumbered the Hopis three to one.



Throughout the early decades of United States administration, the BIA adopted many hopeless stopgap measures for handling legitimate Hopi and Navajo needs. For example, in the 1870s BIA agents toyed with the idea of moving all Hopis from their mesa villages to a reservation along the Colorado River. In the 1880s and later in the early 1900s, there were several abortive attempts by the BIA to segregate Hopis from Navajos by creating a small, exclusive enclave for Hopis within the 1882 Hopi Reservation. The many other Hopi-Navajo measures which would be undertaken by the United States would all prove to be failures as a continuing (and some would say growing) controversy continues today between some factions of the Hopi and Navajo Nations.

The 1882 Hopi Reservation did offer the Hopis the benefit of legal restriction of further white settlement in part of their country, but the net effect of the creation of that reservation was a significant loss to the Hopis. The United States Indian Claims Commission would later rule in Docket 196 that the creation of that reservation "effectively terminated and extinguished, without the payment of any compensation to the Hopi Tribe, its aboriginal title claims to all lands situated outside of said reservation." Under United States law the Hopis suffered in 1882 a dramatic loss of at least 2,000,000 acres of land and a severe blow to their sovereignty. The BIA, on the other hand, gained additional legal authority under United States law to promote and control its program without opposition from whites who might interfere. In sum, the 1882 Hopi Reservation was not primarily intended to reserve and protect Hopi rights, but to augment United States power over the Hopis and their land.

The United States took this action despite the fact that the Hopis were never at war with the United States, were never conquered by the United States, and never signed a treaty with the United States. The Hopis never agreed to the creation of the 1882 Hopi Reservation and never authorized the United States to take any action which would in any way impair Hopi land rights or the right of the Hopi people to govern their own affairs.





FROM 1882 TO 1934 THE UNITED STATES INTENSIFIES ITS EFFORTS TO UNDERMINE HOPI SOVEREIGNTY

After the creation of the 1882 Hopi Reservation, the United States government intensified its efforts to influence and control all aspects of Hopi life. Some of the most important of these efforts are those pertaining to compulsory schooling, allotment, and Hopi-Navajo disputes.

COMPULSORY BOARDING SCHOOLS FOR HOPI CHILDREN

An important part of the United States government program to subjugate Indians was its program of compulsory attendance at government-sponsored boarding schools for Indian children. This program was put into effect for Hopis as it was for many Indian children throughout the continent. The purpose of having the schooling of Indian children take place at boarding schools, far away from Indian homes, was to minimize parental influence and thereby facilitate the "Americanization" of the children. This motivation is made evident in an 1884 report from the BIA Hopi Agent to the Commissioner of Indian Affairs:

Keams Canyon is 12 miles east from the Moki [Hopi] village. The children, being removed to school at this place it would preserve them from the annoyance and interruption of daily visits from parents and relatives.

Although Keams Canyon was not as far from parents as the proposed Albuquerque school which Hopi parents had resisted with the assistance of Dr. J. Sullivan and Mr. Merritt in 1882, it was far enough removed in that pre-automotive age to allow the government teachers a fairly free hand.

The Keams Canyon boarding school was opened in 1887. It was a boarding school designed to strip Hopi children of their culture. They were forbidden to speak the Hopi language, to wear Hopi clothes, and to keep their traditional long hair styles. They were given English names to replace their Hopi names and were not allowed to practice Hopi customs. Taking up where the Spanish priests had left off, the school officials forced the Hopi children to undergo religious indoctrination conducted by Christian missionaries who had been approved by the United States government.

The tradition of resistance to such policies which had begun under Spanish rule continued under this threat from the United States. Passive resistance to school attendance was widespread and the BIA took severe measures. To overcome the resistance, United States Cavalry units were sent into Hopi villages. Children were literally torn from the arms of their parents by soldiers who were assigned to haul the captive children

to the boarding school. Resisting parents were assaulted and, in some cases, given criminal punishment. In 1894, nineteen Hopi men were imprisoned for eight months for refusing to agree to the surrender of their children to the United States school system. From 1890 to 1911, United States troops were periodically called upon to enforce the compulsory schooling edict. Within the next two decades, more convenient and less oppressive day schools were established for Hopi children and most resistance to schooling ended, although the boarding school policy remained a central part of the BIA's general policy well into the 1930s.

Using divide-and-conquer tactics, the U.S. government officials of the BIA labeled as "Hostiles" those Hopis who resisted the government's policies and practices. Those Hopis who were willing to cooperate were labeled "Friendlies." Government patronage, support, and favors went to the "Friendlies," but not to the "Hostiles" (who not infrequently were jailed). These tactics created serious rifts in Hopi society. Perhaps the most dramatic and well-known of these rifts is the confrontation between "Hostiles" and "Friendlies" which resulted in the split of the village of Oraibi in 1906. Countless other disputes erupted as the United States routinely required Hopis to choose between allegiance to United States programs and fidelity to traditional Hopi authority and values. In later years, the labels "Hostiles" and "Friendlies" would be replaced by the labels "Traditionals" and "Progressives."

THE ALLOTMENT ACT

Moving into an area of colonial rule which the Spanish and Mexicans had left untouched, the United States soon began to assert dominion and control over Hopi property rights. As already discussed above, the very act of creating the 1882 Hopi Reservation has been deemed by some U.S. governmental authorities to constitute under U.S. law a taking and extinguishment of all Hopi aboriginal lands lying outside the reservation boundaries.

In 1892 the United States government began to move against Hopi land holdings within the 1882 Hopi Reservation. In that year, officials of the BIA sent out their survey crews to implement the infamous Allotment Act of 1887, also known as the "Dawes Act," named after its sponsor, a congressman who favored "breaking up the tribal mass" of all Indians by forcibly dividing up all communally-held Indian lands into small, individually held Indian homesteads. The theory was that these individual Indian land owners would become small farmers who would learn the value of competitive selfishness which would make them better Americans.

The allotment policy was a direct assault on the sovereignty and unity of all Indian governments. Its impact on many Indian tribes and nations was devastating. Because of the Allotment Act, over two-thirds of all Indian land was lost to whites. This loss was principally due to the fact that under the Act, all Indian lands not allotted to Indians in individual, 160-acre parcels was labelled "surplus" and sold to whites by the federal government.

When the United States finally abandoned the allotment policy in 1934, the Commissioner's report to Congress (which called the Allotment Act the "backbone of Indian law" from 1887 to 1934) included these specifics on the effect of allotment in the Indian community:

The total of Indian landholdings has been cut from 130,000,000 acres in 1887 to 48,000,000 acres in 1934. Furthermore, that part of the allotted lands which has been lost is the most valuable part of the residual lands, taking all Indian-owned lands into account, nearly one half, or nearly 20,000,000 acres, are desert or semidesert lands.



In Hopi country, the government attempted to survey and allot land to individual Hopi families from 1892 to 1911 when the effort was finally abandoned. During these two decades, the Hopi people almost uniformly refused to cooperate in the surveying and parcelling out of their land. The Kikmongwis all opposed allotment. Their resistance was too strong for the United States to overcome. When the allotment surveyors, the Hopis pulled their survey stakes out of the ground. Forced allotment proved to be an unworkable policy in Hopi country because communal land tenure was tightly interwoven in the fabric of traditional clan structures and religious beliefs. That traditional fabric of Hopi culture remained too strong to be destroyed despite the best efforts of the BIA, and the Hopis were spared the disaster of allotment.

One commentator notes that other Indian peoples shared the benefits of the Hopis' successful resistance to allotment:

The Third Mesa Hopis' resistance appears to have saved not only the Hopi but also the other Pueblos, the Navajo, the Mescaero, White River and San Carlos Apache, and the Papago, from allotment and its disastrous consequences [Laura Thompson, Culture in Crisis (New York: 1950), p. 197].

THE HOPI-NAVAJO ISSUE

Again, there are those who argue that the United States interference in Hopi affairs was motivated by a good faith desire to resolve Hopi-Navajo differences. The historical record does not support these arguments. Policies of the United States have exacerbated Hopi-Navajo problems rather than resolving them. The United States met the need for more land for the growing Navajo nation by extending Navajo reservation lands in a series of Executive Orders which increased Navajo pressures on Hopi land. Presidential orders of 1878, 1880, 1884, 1900, 1901, and 1907 expanded the Navajo nation until it almost completely surrounded the 1882 Hopi Reservation. By 1934 the 1882 Hopi Reservation was an island in the Navajo Nation. The lands which the United States designated for the Navajos incorporated all of the aboriginal Hopi land which was found outside the Hopi Reservation and which has been said to have been taken at the time the reservation was created in 1882.

Hopi aboriginal land which lies outside both the 1882 Hopi Reservation and the Navajo Reservation was given over to white settlement by the United States government, again without the consent of the Hopis and without any compensation.

As the white population of the southwestern United States expanded, there was a growing demand to stop the "return" of lands to Indians, including the Navajos. This demanded the United States Congress in 1918 to enact a law forbidding the creation of any additional Executive Order reservations in New Mexico or Arizona. Henceforth, only Congress could designate Indian reservation land in this area. [25 U.S.C. 211. In 1927 Congress prohibited the creation of Executive Order Indian reservations anywhere within the geographical boundaries of the United States. 25 U.S.C. 398(d).] Since any new Indian reservation would require the approval of Congress, it became less and less politically acceptable for the United States government to meet Navajo needs for more land. Rather than continue the past practice of adding more lands to the Navajo reservation, the United States found it more expedient





INDIANS HOPE TO SHIFT MORMON VIEW OF THEIR SKIN COLOR

by John Dart
Los Angeles Times
Italics

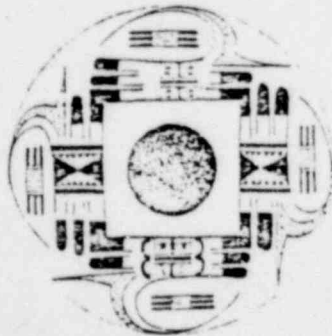
to relieve some of the pressure of the expanding Navajo population by encouraging Navajos to move onto the 1882 Hopi Reservation.

Despite the fact that the 1882 Executive Order explicitly gave the Secretary of the Interior the legal authority and complete discretion under United States law to approve or disapprove the settlement of "other Indians" on the Hopi Reservation, it was not until 1936 that further Navajo settlement in the 1882 Hopi Reservation was in any way officially curtailed. By that time the number of Navajos in the area had exceeded the number of Hopis. It is estimated that by 1930 some 3,319 Navajos resided in the 1882 Hopi Reservation, a total eleven times greater than the number of Navajos who lived there in 1882.

Traditional Hopi leaders were convinced that the United States would not resolve Hopi-Navajo problems, and they were fearful that United States intervention in this problem would further undermine Hopi sovereignty. Accordingly, they gave little cooperation to BIA programs which were ostensibly designed to alleviate Hopi-Navajo disputes. Rather, Hopi leaders argued that they would themselves eventually be able to reach a just settlement with the Navajos on the basis of agreements which had been made between Hopi and Navajo leaders after the release of the Navajos from Fort Sumner in 1868. It would not, however, be possible to come to a just settlement if the United States continued to exacerbate the problem by encouraging further Navajo settlement on Hopi land.

A more thorough history of Hopi resistance to United States efforts at domination during the fifty-year period after 1882 would include discussion of more than Hopi resistance to compulsory boarding schools, allotments, and intervention in Hopi-Navajo affairs. Since the BIA program pervaded almost every aspect of Hopi life, including prohibitions on Hopi religious beliefs and practices, there were repeated instances where Hopi leaders were imprisoned for refusing to follow the dictates of the various U.S. Indian officers. Their offenses included everything from general insubordination to refusal to submit to induction into the United States military service.

The lesson which these early confrontations with the United States taught to traditional Hopi leaders was clear: The United States was prepared, willing, and even eager to treat the Hopi people as colonial subjects and to completely ignore Hopi governmental and property rights. These Hopi leaders determined to maintain their culture and sovereignty by mounting sustained resistance whenever new efforts were made to interfere with Hopi affairs. This determination set the stage for Hopi resistance to the new United States Indian program of the 1930s, a program which would have direct relevance to Docket 196 of the Indian Claims Commission.



And he had caused the cursing to come upon them, yea, even a sore cursing, because of their iniquity... wherefore, as they were white, and exceeding fair and delightful, that they might not be enticing unto my people the Lord God did cause a skin of blackness to come upon them. (2 Nephi 5:21)

And the Gospel of Jesus Christ shall be declared among them... and their scale of darkness shall begin to fall from their eyes, and many generations shall not pass away among them, save they shall be white and delightful people. (2 Nephi 30:5-6)
from the BOOK OF MORMON

The Mormon Church, second only to the Roman Catholic Church in winning American Indian converts, has had success in that area despite its scriptural assertion that as members the "curse" of the Indians' dark skin is removed and they become "white and delightful."

The Book of Mormon passages above, which also seem to equate dark skin with loathsomeness and filth, are embarrassing to some Mormons, including many of the 45,000 Indian members.

Unlike Mormons of black African descent who were denied the male priesthood of the church until last year, the American Indian members have always been eligible for positions in the church hierarchy.

Navajo elder George P. Lee, appointed three years ago to the First Quorum of the Seventy, is proof of that. At 35, he is the youngest of about 60 "general authorities" of the Salt Lake City-based church.

Lee said he has seen his own people "get upser" over the skin-shading teachings. "The Indian people who belong to the church really don't want to have their skin color changed; they like being brown," Lee said in an interview. "So we try not to teach them that."

Lee said his own interpretation of the Mormon scriptures is that while an Indian resurrection into the "celestial kingdom" that one's skin color changes to white, a dazzling white borne by all.

However, the man who has headed the church since 1973 as prophet and president, Spencer W. Kimball, 83, long has held that there is a physical change occurring in Indian members.

Son of a missionary to Indians in Arizona, Kimball directed the church's Indian committee for a quarter century. He helped start the adoption-like Indian Student Placement Program. Today more than 2,700 Indian children (at least 8 years old and baptized Mormons) live off reservations with white Mormon families and attend public school.

Kimball told the church's fall conference in 1960 that, "The children in the home placement program in Utah are often lighter than their brothers and sisters in the hogans on the reservations."

For support, Kimball cited photographs showing skin color differences and anecdotes of foster parents.

Kimball reaffirmed his belief during an interview last year. He suggested the alleged transformation results from the care, feeding and education given to Indian

children in the home placement program.

"When you go down on the reservations," he said, "and see these hundreds of thousands of Indians living in the dirt and without culture or refinement of any kind, you can hardly believe it. Then you see these boys and girls playing the flute, the piano. All these things bring about a normal culture."

Kimball said he did not know of any scientific studies to examine his claim. "You need scientists to prove it, I guess," the church leader said.

A faculty member at Mormon-run Brigham Young University, who would permit himself to be identified only as a "scientist at BYU," said:

"It's a problem we ignore and have very little occasion to address. My suspicions are that it would take an unusually credulous person to even bring up the subject in a science class."

The assertion that Indians become "white and delightful" applies to all the people the Mormons call Lamanites — Mexicans, Latin Americans, Hawaiians, and Polynesians as well as American Indians.

The Book of Mormon says early inhabitants of the Western Hemisphere were immigrants from Israel about 600 B.C.. A rebellious leader named Laman incurred the wrath of God, and his descendants were cursed with a dark skin.

Some who believe in the Book of Mormon — scriptures said to have been delivered on metal plates to Joseph Smith in 1827 — interpret the "white-dark" verses figuratively — that converts become "enlightened."

However, the meaning of the text appears to be literal. A passage describing a time when some Lamanites repented of their sins, for instance, says: "And their curse was taken from them, and their skin became white..."

Stewart A. Durrant, of Salt Lake City and director of the Mormon Church's Lamanite and minority program, said he thinks Lamanites in the church are becoming lighter but he added that he is not sure it is not simply his imagination.

"I think you can be delightful and not white in skin color," Durrant said.

He conceded that the Book of Mormon verses do bother some American Indians. "They don't want to be light," he said. "But I've never found this to be a factor (in mission work). It's brought up by people who want to say something controversial."

American Indian membership in the Mormon Church in the United States and Canada has risen by about 1,000 annually in the last half dozen years. The latest figures from Salt Lake City showed 43,680 Indian members in 1976 and an estimated 44,900 by the end of 1977.

A recently completed survey of Christian missions among Indians placed the Catholic population at 177,000. The largest memberships, after the Mormons, were Southern Baptists (36,000), Russian Orthodox in Alaska (22,000), Episcopalians (19,674), and Methodists (14,360), according to the Native American Christian Community, published by World Vision International.

In an open society, one can hold whatever thoughts one has about other persons, races, or colors of people, even if such thoughts could accurately be labeled "racist." But when policies which reflect racism are actively and aggressively enacted through programs and institutions — such as the Indian Student Placement Program — then such actions are, and should be viewed as potentially genocidal acts. While it is true that the Mormon Church is one of the few remaining forms of Christianity that still openly adheres to ancient racist doctrine, it should not be considered acceptable, even though it supposedly comes through "In one revelation," or because it comes from a Church. Such attitudes and practices should be openly criticized and challenged. — The Editors

(continued from p. 1)

Most leases as negotiated by the BIA, are for "as long as the ore is producing in payable quantities." Often native American lessees may be bound by a contract which does not provide for the rise in the market price of uranium.

The July 1978 issue of *Nuclear Fuel* quotes 1978 uranium prices much higher than the \$30 a pound quote in 1975. Canadian estimates are \$36 to \$45 a pound for uranium. Uranium in the United States may go as high as \$69 a pound. At latest estimates, Indians are receiving less than 1% of the value of their uranium etc.

The multinational energy corporations who mine Indian land have altered their negotiating practices. Many companies now elect to negotiate only with Indians who are living on the BIA leased land, rather than negotiating with the Indian governing bodies.

It is reported the Mobil Oil Corporation used this method in negotiating for energy development rights. That company currently holds leases on 12,470 acres of the Crownpoint area of the Navajo reservation. The land includes 10,230 acres of Navajo allotments (individually owned lands) and 1,280 acres of Navajo tribal land. The initial lease was negotiated by the BIA. Mobil's new proposal is to pay individual Navajo: \$16,000 initially, for each 160 acre allotment, plus an annual rental fee of \$5 per acre and a minimum annual royalty of \$20 per acre. According to *Pay Dirt*, a mining trade magazine, the lease negotiated by the BIA prior to this one called for \$1 per acre annual rental and a \$4 minimum annual royalty.

A few Navajos will have more money than they had after receiving the initial \$16,000 per allotment plus \$4,000 annually. Mobil expects the mine to produce 900,000 pounds of uranium a year at \$69 a pound after processing.

If Mobil pays the minimum annual royalty, the maximum they are projected to make is roughly \$60 million in one year.

In May of this year, the residents of the Mobil lease area (Crownpoint and Dalton Pass) passed a resolution stating, "We have become increasingly alarmed at the present and planned uranium mining activity in our community and are most fearful of its effects on our health, welfare, property and culture,

as well as the well-being of future generations... We are unalterably opposed to all uranium exploration in our boundaries." That was the unanimous vote of the 32 members of the Dalton Pass Chapter of the Navajo nation.

Mobil is attempting to circumvent the people's decision by dealing with the few Navajos who own land. The allottees only own the land which was already leased away by the BIA. Caught between the BIA and the energy corporations, the Navajo lessees must make the best of a difficult situation.

Energy Crisis --

part II Dec 18 -- Jan 8

In the second part of this four part series, Prime Times looks at the problems of pollution, reclamation and relocation on the Navajo reservation: problems brought by energy development. Lawsuits, protests and court trials multiply as the day for the inevitable confrontation between the energy corporations and the Navajo people nears.

The history of energy exploitation on the Navajo reservation serves as an appropriate "case study" of energy development on Indian lands. The circumstances, which made an "energy colony" of the Navajo nation, are fast becoming a reality on other energy resource rich Indian nations, such as the Spokane, Ojibwa, Crow and Cheyenne.

Navajo resources supply oil, natural gas, uranium and coal which is used to generate electricity for urban centers throughout the West, but get little in return.

Utah International's Navajo mine supplies the coal for the Four Corners power plant, the largest power plant of its type in the western hemisphere. Navajos are able to buy back some of this electricity for use on the

reservations but costs are high. Currently, about 80% of Navajo households have no electricity.

Navajos are showered daily with the emissions from the Four Corners power plant, which according to NASA scientists was the only manmade landmark visible from outer space. The Gemini 12 astronauts noticed it because of the pollution. Each day, Four Corners pumps out tons of particulates, including lead, mercury and arsenic: three lethal substances which are becoming more and more common in Navajo air.

In 1978, the Navajo Tax Commission, tried to exercise Navajo sovereignty by levying an emissions tax on the Four Corners power plant. The tax would force the Arizona Public Service Co. (APS), which operates the plant, to pay for the pollutants emitted. APS, however, is attempting to sidestep Navajo regulation through a BIA agreement which was negotiated without the emissions tax. APS contends Navajos do not have the right to tax the company. While all this is tied up in court, pollution continues to spread.

All the coal for this and other proposed power plants in the area comes from coal mines operating on the Navajo nation. In 1976 a lease was approved by the Navajo Tribal Council (the federally recognized Navajo government) for 40,000 acres of coal stripmining by El Paso Natural Gas. The area targeted for stripmining is in the Burnham Chapter of the Navajo reservation, where a majority of the residents are opposed to the project.

The mining would force the relocation of 90 Navajo families who have been living on the land for over 400 years. The coal will be used in the first United States coal gasification plant, also to be built in the area.

The Navajo people of the Burnham Chapter have opposed coal stripmining and gasification since 1973, but the BIA and the Navajo Tribal Council approved the lease anyway.

To protest the approval of the El Paso Natural Gas coal lease, about 75 Navajos from the Burnham Chapter occupied the Tribal Council chambers on August 24, 1976 in an unsuccessful attempt to talk to the Council members, including their own Council representative who had arbitrarily approved the lease, despite their opposition.

The next day, 18 Navajos were arrested outside Council chambers by tribal police and charged with unlawful assembly. The protesters went to court in a case which lasted over one year. In the final decision, all 18 were acquitted of charges. One of the protesters was 55-year-old Marie Smith, a planned relocation victim, who said "I do not want my land given up for the proposed gasification. Giving up my land is like giving up a part of me, my heart and soul. If I approve of gasification I am less than human."

In 1973, the National Academy of Science released a study on the "Rehabilitation Potential of Western Coal Lands." The report found that reclamation would be hard-to-impossible in areas that received less than ten inches of rainfall a year. According to the National Indian Youth Council (NIYC), the Four Corners area receives about seven inches a year.

No mining operation which has continued for over 20 years in this area has successfully returned the mined land to its original state, according to the NIYC. After a mining company scoops up 250 feet of soil, coal and water, the prospects of returning the land to a usable form are severely limited. For these and other reasons, the National Academy of Sciences classified other areas like Four Corners as a "National Sacrifice Area."

Lucy Keeswood, a member of the Coalition for Navajo Liberation summarized the concern for the Navajo future:

"Where will we all be 20 or 25 years from now when the coal has all been consumed and the companies operating these gasification plants have cleaned up and all the resources and moved away. There will be nothing there; they will be working elsewhere, and we will be sitting on top of a bunch of ashes with nothing to live on. This is what the white man is driving us to..."

The will of the Navajos and the will of the energy corporations are in direct conflict. Navajos have lived on the land for thousands of years, and intend to stay. The mining corporations seek non-renewable energy resources which will be finished in a generation. Something has got to give.

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Energy crisis within the Navajo nation

by Winona La Duke Westgard

POOR ORIGINAL

Prime Times

Dec 4 - 18

The Navajo nation is located in the area where a hundred years ago the governor of the New Mexico Territory drew two intersecting lines and arbitrarily defined the borders of New Mexico, Arizona, Colorado and Utah.

The Navajo nation transcends borders, encompassing a territory approximately 17 million acres: the size of West Virginia. Navajos have retained their culture, religion and language -- the identity of a nation of people, but times have been hard and continue to be.

In 1975, the United States Commission on Civil Rights completed its report on the Navajo nation. The report stated: "The quest for economic development on the Navajo reservation begins with the staggering fact that Navajo per capita income, at about \$900 per year, is less than one-fourth the per capita income of the United States as a whole." In 1971, Navajo unemployment rate was 54%. These and other health and environmental factors combined to put the Navajo life expectancy at about 50 years, infant mortality at about 10 times the national average, and resulted in malnutrition and alcoholism being prevalent on the reservation.

The Navajos live in an arid climate where only the hardiest of plants and animals survive. The population, estimated at 155,000, lives off limited farming and maintains herds of sheep for food and clothing. Their cash supply comes mainly from textiles and jewelry production.

In the past few years, the Navajo lifestyle has undergone drastic changes as an "energy boom" sweeps the area. The Navajo nation sits upon what is called the "Grants Mineral Belt," which contains coal, uranium, copper, oil and many precious minerals.

The Navajo nation possesses approximately 100 million barrels of oil, 23 billion cubic feet of natural gas, four billion tons of economically recoverable coal, 80 million pounds of uranium and water rights presumably adequate to irrigate five million acres of land.

Native Americans are deeply involved in the energy crisis. Provisions of the National Energy Policy (NEP) call for a massive increase in coal and nuclear-generated electricity. According to *Nuclear Fuel*, that industry's trade magazine, nuclear power capacity will increase at the rate of 16% per year through 1985, and 7.3% from 1985-2000. In 1976 the United States consumed 42,000 megawatts of nuclear generated electricity. By 1985, nuclear power is expected to supply 127,000 megawatts, and by 2000, 380,000 megawatts.

Nuclear Fuel also quoted the National Electrical Reliability Council as projecting an additional 352% rise in nuclear generation and a 168% increase in coal-generated electricity by 1985.

Federal energy plans put native Americans in a precarious position as far as control of Indian land and resources are concerned. According to the American Indian Movement, Indians control about one-third of all low-sulphur coal, and over one-half of the uranium in the United States. Surprisingly, this is contained on 3% of the total U.S. land area. Indians who seek to retain their land in good condition for use by future generations are faced with the country's need for non-renewable energy sources.

The NEP has resulted in a conflict of interest in the management of Indian lands. The Department of the Interior, through its subsidiary, the Bureau of Indian Affairs (BIA), controls Indian lands. When the Department of Energy calls for coal and uranium, the Department of the Interior is obliged to provide what it can.

Indians who own their own land and resources often have limited influence in the federal government's dealing with private energy corporations who seek to maximize all available resources. The Department of the Interior has resolved this conflict by leasing Indian lands at the mining industry's request. As the Council on Economic Priorities reported in 1974, concerning coal resources, "By 1970 there were nearly four times the number of acres under lease as there had

been in 1960. At the mining industry's request 64% of oil leases were issued between 1960 and 1970."

The federal government, through the BIA, exercises "trust control" over Indian lands. Through trust control the federal is charged with managing these resources for the short and long term economic benefit of the Indian nations.

An unpublished study from the BIA (June 1976) reported that in 1976, there were approximately 339,870 acres for Indian tribal and Indian allotted land under lease for uranium exploration and development. Of this land, 325,570 acres were located on Navajo lands.



By 1978, at least 462,000 more acres of Navajo land were under lease for uranium exploration and development, bringing the grand total to a minimum of 787,570.

The amount of public and private land under lease for energy development is dwarfed by the Indian holdings. In 1975, The Federal Trade Commission completed a report on "Mineral Leasing on Indian Lands" which provides insight into the degree to which native American resources have been exploited. The Federal Trade Commission notes: "There are 380 uranium leases on Indian lands, as compared to only four on public and acquired lands. 36% of the Indian

coal leases are producing while only 11% of the public land leases are in production."

The largest uranium strip mine in the world is located at Laguna Pueblo (east of the Navajo reservation) and is operated by Anaconda, a division of ARCO Oil.

The largest coal strip mine in the western hemisphere is located in the Navajo nation. The mine is operated by Utah International, a fully-owned subsidiary of General Electric.

In 1976, the American Indian Policy Review Commission reported that in 1974, 100% of "U.S. uranium production" came from Indian lands, placing Indians at the very center of the nuclear fuel cycle.

Hypothetically, the Indian nations, rich with natural resources, should be among the wealthiest peoples in the world. But in practice, Indians are and continue to be among the most destitute.

Royalties are the payments made by a mining company to the "host country" for resources. Indians, like other developing nations, are paid for these resources by energy companies.

However, Indian leases and royalties are under the control of the Bureau of Indian Affairs. The BIA, in its enthusiasm to ease the energy crisis, has kept Indian royalties miniscule, to make coal and nuclear generated electricity an inexpensive reality.

In the *American Indian Journal* (Oct. 1978), it was reported that in four out of five Navajo coal leases let between 1957 and 1965, the royalty was fixed from \$0.15 to \$0.375 a ton. Since 1968 the national average value per ton has risen from \$4.67 a ton to \$19.24 a ton in 1975. Indians, however, under the guardianship of the BIA continue to be paid pennies; an average of 15¢ a ton for coal.

According to Rich Nafziger, a researcher for Americans for Indian Opportunity, in 1975, Indians were paid an average of 60¢ a pound for their uranium. The same uranium was quoted at a price of \$30 a pound on the open market. Indians received 2% of the market value.

part I (continued on p. 2)

The energy wealth of the Indian nations is divided up between a select group of companies. There are ten coal leases on Indian lands, controlling thousands of acres. Peabody Coal Company (formerly owned by Kennecott Copper) owns over one-third of all Indian coal land under lease. General Electric, parent of Utah International follows closely behind. Then comes Consolidated Coal (owned by Continental Oil Company), Gulf Oil, El Paso Natural Gas, Westmoreland Resources and Shell Oil, according to Jim Cannon of Citizens for a Better Environment, in San Francisco.

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Navajo energy crisis -- part 4

One for me, one for you and none for you...

by Winona La Duke Westigard

The Council on Economic Priorities found in 1974 that the average Indian coal lease encompassed 23,523 acres, or nine times the size permitted by Bureau of Indian Affairs regulations (2,560 acres). According to the Council, the BIA is only supposed to approve large leases if more land is necessary to "permit the construction of thermal electric power plants or other facilities, near the reservation." The power plants are clearly in sight.

The group of uranium leaseholders is also very select. In 1975, according to the Federal Trade Commission, the top five Indian uranium leaseholders controlled 60% of the leases. The companies included Kerr McGee, Mobil Oil, Gulf Oil and a few others. By 1978, the situation had not changed much; the companies have only changed positions on the production scale.

According to a study by the Oil Chemical and Atomic Workers International Union, released in April, 1979, nine oil companies control 74.5% of the uranium reserves. Kerr McGee and Gulf Oil control about 52% of the reserves between them. The other reserve owners include United Nuclear Corporation (about 10%), Conoco (6%), Getty Oil, Exxon, Arco-Anaconda, General Electric and Phillips Petroleum.

According to the Jan 10, 1979 edition of *The Albuquerque Tribune*, foreign interests are now coming after Navajo resources. According to the story, Mitsubishi Oil Co. and Mitsubishi Corp. will join with Getty Oil Co. to develop uranium deposits in the Four Corners area, near Chaco Canyon.

The "authority" to officially lease Indian lands, subject to BIA approval, comes from tribal council. The Navajo Tribal Council was formed in 1921 when Standard Oil (forerunner of Exxon, Socal, Mobil, Conoco and Phillips) discovered oil resources within the Navaho reservation. Standard Oil went to the BIA and asked for some lease signers. The BIA went to the Navajos and found five ready lease signers, who were then appointed as the tribal council.

The Navajo Tribal Council continued to function under this philosophy, with the assistance of consistently poor advice from the BIA. The BIA, for example, promises increased employment from energy employment. But today, after hundreds of thousands of acres have been leased and stripped away, Navajos remain unemployed, poor and victims of a shrinking land base.

Peter McDonald, the tribal chairman of the Navajo nation realizes the status of Navajos in the United States. On Feb. 25, 1975, he made this statement in Albuquerque, at a National Engineering Week Luncheon:

"If all the Navajo nation is an energy resources were converted to electrical power, each year the Navajo nation would be supplying 339,343,000,000 kilowatt hours. This is enough electricity to meet the needs of New Mexico, and Arizona combined, for 16 years. And these figures do not include the proposals for coal gasification..."

At the inauguration for his third term recently, McDonald said that coal, oil and mineral leases on the reservation would be reviewed and renegotiated. "This means...we shall enforce all promises to preserve the land, the water, the air -- if need be, by taking physical possession of the wells, the mines, the land and resources, even by asserting our right under the treaty of 1868 to exclude outsiders from our lands."

McDonald was the guiding force behind the formation of the Council of Energy Resource Tribes which is promoting the idea of having various Indian groups share money and technology to develop energy resources.

It's obvious the Navajo nation is an energy colony. The colony has been so successful that the BIA recently released excerpts from a study which indicates that there could be as many as 100 uranium mines, and 10 uranium mills in the Four Corners area by the year 2000. The phenomenon is spreading. Soon Sioux lands, Ojibwa lands and whatever other native territory contains precious energy sources will become energy havens.

Convinced by talk of an "energy crisis": that there will be no fuel to heat their homes, run their vehicles or power their factories, Americans, willingly or not, pay for this development with their tax dollars. Meanwhile, Kerr McGee is saving millions of dollars by using tax money appropriated by the Labor Department to finance their uranium miner training program at Churchrock.



Because the Carter administration has placed so much emphasis on nuclear power, oil and coal, while giving projects such as solar energy low priority, the demand for Indian resources will continue to increase. Indians in turn, are forced to supply. Unless some action similar to what McDonald has suggested is implemented, it will be the end of Indian resources and development.

POOR ORIGINAL

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Nuclear technology puts Navajos in bind

part III by Winona La Duke Westigard

The nuclear fuel cycle is the forte of modern technology. Nuclear technology has evolved from two simple atom bombs dropped on Japan, to a full array of nuclear reactors and nuclear weapons. The nuclear fuel cycle includes eight steps of processing for electrical generation, plus nuclear waste disposal.

Most of these steps affect Indian nations in some way. The most significant impact is felt in the first two steps of the cycle; the mining and milling of uranium for use in the nuclear fuel cycle. Uranium mined on Indian lands, is also milled (processed from ore into "yellowcake") in the same area.

In the 1950's, Kerr McGee (a diversified energy corporation) opened up a series of uranium mines and a uranium mill in Shiprock, New Mexico. Shiprock is the largest population center in the Navajo nation. For years, Navajos were paid as little as \$1.60 per hour to remove the uranium and haul it to the surface. After 16 years, when the ore stopped "producing in payable quantities," the mines were shut down and the mill abandoned by Kerr McGee.

During the early 1970's, the uranium miners learned they had been stricken with a type of lung cancer which affects only uranium miners and workers, according to an article by Amanda Spake in the June 9, 1974 edition of the *Washington Post*. This particular type of cancer, she added, resists early diagnosis.

As of 1978, 25 Navajos uranium miners have died from radiation-induced lung cancer, and 20 more now have lung cancer according to John Redhouse of the National Indian Youth Council. He adds that an estimated 95% of those with this type of cancer will die from it.

Kerr McGee has refused to take responsibility. They have given no aid to the miners or the miner's widows. The federal government and the nuclear industry continue to be evasive on the subject of the effects of radiation on uranium workers.

When uranium is removed from the rock, five major types of radiation escape -- radon 222, lead 210, bismuth 214, polonium 218 and lead 214. This radiation does not disappear. Radon 222 for example, remains in gas form for 3.8 days. Lead 210 lasts for 20.8 years in radioactive form. The uranium mines emit levels of radiation 6.5 times the levels allowed by the Nuclear Regulatory Commission (NRC) according to Tom Barry, writing on "Navajo Resource Development" in the *Akwesasne Notes* in the summer of 1978.



When Kerr McGee pulled out of Shiprock, the company also left the radioactive mill and 71 acres of highly radioactive uranium mill tailings according to an article in the May 19, 1978 *Albuquerque Journal* by Phil Niclaus. Victor Gillinsky of the NRC, says the mill tailings are considered "wastes" by the companies, but continue to retain 85% of the original radioactivity: enough to constitute a serious health hazard.

Kerr McGee's wastes have been left untreated and exposed to the elements. The tailing piles rest 60 feet from the shore of the San Juan river, the water supply for Navajo agriculture, livestock and people.

Since radiation-induced cancer and other side effects such as genetic mutations, take years to appear, the total effect of Kerr McGee's uranium mining can only be theorized.

No portion of the Navajo reservation is exempt from uranium development. Kerr McGee moved out of Shiprock in the northwestern portion of Navajo to Churchrock in the southeast corner of the reservation. By 1975, Kerr McGee had developed Churchrock mine no. 1, with a production of 900 tons of uranium ore a day. For reference, Anaconda's uranium stripmine in nearby Laguna (the largest in the world) can only produce 500 tons a day.

Churchrock no. 2 and no. 3 are under construction with a combined capacity planned at 500 tons a day, according to the Nov. 1977 edition of *Albuquerque Industrial*

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Development Service. This uranium is processed at Kerr McGee's local uranium mill which is the largest in the western hemisphere.

Aside from Shiprock, uranium mining continues to grow in the Four Corners area. In January of 1977, the Secretary of the Interior, approved a lease for Exxon uranium exploration on 400,000 acres of Navajo land. The secretary had to waive thirteen regulations of the department in order to approve the lease.

One of the waived regulations would have limited the lease area to 2,560 acres, while another would cancel the lease if Exxon did not abide by their agreement with the Navajo nation. The leased area encompasses 625 square miles, as well as thousands of people who have lived within the area for generations.

In 1978, the Bureau of Indian Affairs (BIA) approved another lease to Exxon for 92,000 acres of the Canonicito-Navajo reservation. The lease includes the entire reservation, and the Canonicito's have voiced opposition.

The BIA also approved a lease this year to Mobil Oil Corporation for the Ute Mountain reservation. The lease is for 162,000 acres, the entire land base of the people on this reservation.

Despite this expansion, Navajo employment problems have not been solved by the energy boom. One reason is that many of the workers are imported. Now, the Labor Department is financing a \$2 million program at Kerr McGee's Churchrock mine. The program is designed to train Navajo uranium miners, and will turn out 100 miners annually, according to an article titled "Manpower Gap in the Uranium Mines" in the Nov. 7, 1977 issue of *Business Week*.

Nevertheless, economic problems remain. The federal government bases Navajo economic development on energy development. The revenue for operating the Navajo nation is becoming increasingly dependent on coal and uranium mining, and long term planning for economic self-sufficiency remains ignored. Energy booms only last for "as long as the ore is producing in payable quantities," and at the rate the federal government is leasing Indian lands, the resources will be gone very soon.

In the final installment of this series, *Prime Times* looks at the large corporations which control most of the mineral rights. Also, the formation of the Tribal Council, which has come under fire for approving the leasing of Navajo lands, is discussed. Look for it in the Jan. 22 issue of *Prime Times*.

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