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NAVAJO AND HOPI INDIAN RELOCATION COMMISSION AMENDMENTS OF 1978

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HEARINGS

BEFORE THE

UNITED STATES SENATE

SELECT COMMITTEE ON INDIAN AFFAIRS

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 3043

TO AMEND THE ACT OF DECEMBER 22, 1974 (88 STAT. 1712)
RELATING TO THE NAVAJO AND HOPI INDIAN RELOCATION
COMMISSION

AND

H.R. 11092

TO INCREASE THE AUTHORIZATION OF APPROPRIATIONS
UNDER THE ACT OF DECEMBER 22, 1974 (88 STAT. 1712)

JULY 25 AND 26, 1978

DOCUMENTS

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NAVAJO AND HOPI INDIAN RELOCATION COMMISSION AMENDMENTS OF 1978

TUESDAY, JULY 25, 1978

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10:35 a.m., in room 4232, Dirksen Senate Office Building, Senator Dewey F. Bartlett (acting chairman of the committee) presiding.

Present: Senators Abourezk and Bartlett.

Also present: Senator Dennis DeConcini; and Jack Murphy, administrative assistant to Senator Barry Goldwater.

Staff present: Alan Parker chief counsel; Karl Funke, assistant counsel; Mike Cox, minority counsel; and John Mulkey, legislative assistant to Senator DeConcini.

Senator BARTLETT. The hearing of the Select Committee on Indian Affairs will come to order.

I apologize for being late.

I have an opening statement which I will place in the record, without objection.

Also, without objection, we will insert the two bills, S. 3043 and H.R. 11092, in the record at this point.

[Senator Bartlett's opening statement and the bills referred to, follow:]

OPENING STATEMENT

OF

SENATOR DEWEY F. BARTLETT

JULY 25, 1978, HEARING ON H.R.11092 and S. 3043

THE PURPOSE OF THIS MORNING'S HEARING BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS IS TO HEAR TESTIMONY ON TWO BILLS, H.R. 11092 AND S. 3043. BOTH BILLS PROPOSE AMENDMENTS TO THE ACT OF DECEMBER 22, 1974, RELATING TO THE NAVAJO AND HOPI INDIAN RELOCATION COMMISSION.

UNDER THE PROVISIONS OF THE 1974 ACT, THE COMMISSION IS CHARGED WITH OVERSEEING THE RELOCATION REQUIRED AS A RESULT OF THE FEDERAL COURT DECREE PARTITIONING THE NAVAJO-HOPI JOINT-USE AREA. SPECIFICALLY, THE COMMISSION MUST PREPARE A REPORT FOR SUBMISSION TO CONGRESS IDENTIFYING THE PERSONS AND PROPERTY WHICH WOULD BE AFFECTED BY THE RELOCATION, AND MUST DRAFT A DETAILED PLAN FOR CARRYING OUT THE RELOCATION. THE COMMISSION MAY ALSO UNDERTAKE THE REMOVAL OF PERSONS SEEKING VOLUNTARY RELOCATION PRIOR TO THE SUBMISSION OF THE RELOCATION PLAN.

H.R. 11092, WHICH PASSED THE HOUSE ON APRIL 11, 1978, WOULD INCREASE THE AUTHORIZATION OF APPROPRIATIONS TO OPERATE THE NAVAJO AND HOPI RELOCATION COMMISSION FROM \$500,000 ANNUALLY TO \$1,000,000 ANNUALLY.

S. 3043, INTRODUCED BY SENATORS DeCONCINI AND ABOUREZK, WOULD MAKE COMMISSION MEMBERSHIP A FULL-TIME POSITION AT AN ANNUAL RATE OF GS-15 AND WOULD ALSO INCREASE THE FUNDING AUTHORIZATION FOR OPERATIONS OF THE COMMISSION FROM \$500,000 TO \$1,000,000 ANNUALLY. IN ADDITION, S. 3043 WOULD AUTHORIZE THE COMMISSION, SUBJECT TO THE APPROVAL OF THE HOUSE AND SENATE APPROPRIATIONS COMMITTEES, TO EXPEND UP TO \$400,000 OF THE APPROPRIATIONS OTHERWISE AVAILABLE TO THE COMMISSION FOR OPERATIONS AND ADMINISTRATION IN THE CURRENT FISCAL YEAR.

95TH CONGRESS
2D SESSION

S. 3043

IN THE SENATE OF THE UNITED STATES

MAY 5 (legislative day, APRIL 24), 1978

Mr. DeCONCINI (for himself and Mr. ABDOUREZK) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

A BILL

To amend the Act of December 22, 1974 (88 Stat. 1712) relating to the Navajo and Hopi Indian Relocation Commission.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) Section 12 (e) of the Act of December 22, 1974
4 (88 Stat. 1712, 1717) is amended to read as follows:

5 “(e) Members of the Commission serving on or after
6 ninety days from the date of enactment of the Navajo and
7 Hopi Indian Relocation Commission Amendments of 1978
8 shall devote full time to their employment with the Commis-
9 sion and shall be compensated at the rate of GS-15 under the
10 General Schedule contained in section 5332 of title 5 of the
11 United States Code and shall be reimbursed for travel, sub-

1 sistence, and other expenses incurred by them in the per-
2 formance of their duties. No member of the Commission,
3 while serving as a member of the Commission, may engage
4 in any other employment (whether as an employee or as a
5 self-employed individual), or hold any other position for
6 which he or she is compensated in an amount in excess of his
7 or her actual expenses in connection therewith.”.

8 (b) Section 12 (g) of the Act of December 22, 1974
9 (88 Stat. 1712, 1717) is amended by deleting the figure
10 “GS-18” therein and inserting, in lieu thereof, the figure
11 “GS-15”.

12 (c) Section 25 (a) (5) of the Act of December 22, 1974
13 (88 Stat. 1712, 1723) is amended by deleting the figure
14 “\$500,000” therein and inserting, in lieu thereof, the figure
15 “\$1,000,000”.

16 (d) The Navajo and Hopi Indian Relocation Commis-
17 sion is authorized, subject to the approval of the Appropria-
18 tion Committees of the House and of the Senate, to utilize not
19 to exceed \$400,000 of the appropriations otherwise available
20 to them for the fiscal year ending September 30, 1978, for
21 the administration and operations of the Commission under
22 the Act of December 22, 1974 (88 Stat. 1712).

23 (e) This Act may be cited as the “Navajo and Hopi
24 Indian Relocation Commission Amendments of 1978”.

95TH CONGRESS
2D SESSION

H. R. 11092

IN THE SENATE OF THE UNITED STATES

APRIL 12 (legislative day, FEBRUARY 6), 1978

Read twice and referred to the Select Committee on Indian Affairs

AN ACT

To increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 25 (a) (5) of the Act of December 22, 1974
4 (88 Stat. 1712, 1723) is amended by deleting the figure
5 "\$500,000" therein and inserting, in lieu thereof, the figure
6 "\$1,000,000".

Passed the House of Representatives April 11, 1978.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

II

Senator BARTLETT. We are very happy to have the distinguished Senator from Arizona, Mr. DeConcini, here. As I understand it, he will be sitting up here with us.

I certainly want you to feel free to ask any questions that you may have or make any comments you have. Do you have an opening statement?

Senator DeCONCINI. Mr. Chairman, I would just like to thank you very much for holding hearings on S. 3043.

I would also advise that Mr. Murphy of Senator Goldwater's staff, to my right, is here. I have asked him to join us because of the Senator's keen interest in this area.

I appreciate very much your time, also.

Senator BARTLETT. I thank the distinguished Senator.

Mr. Rick Lavis, deputy assistant secretary, Bureau of Indian Affairs, Department of the Interior, please come forward.

Do you have anybody with you, Mr. Lavis?

STATEMENT OF RICK LAVIS, DEPUTY ASSISTANT SECRETARY, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY WILLIAM BENJAMIN, ADMINISTRATOR, FLAGSTAFF PROJECT OFFICE; AND TED KRENZKE, DIRECTOR OF INDIAN SERVICES, BIA

Mr. LAVIS. Yes, Senator.

With me are Ted Krenzke, the Director of Indian Services for the Bureau of Indian Affairs; and Bill Benjamin who is the administrator of the Flagstaff office.

Senator BARTLETT. Thank you, Mr. Lavis. Proceed as you wish.

Mr. LAVIS. Thank you, Mr. Chairman and Senator DeConcini.

Mr. Chairman, I am pleased to appear before you today to give the views of the Department of the Interior on H.R. 11092 and S. 3043, the "Navajo and Hopi Indian Relocation Commission Amendments of 1978."

We support enactment of H.R. 11092 or subsection (c) of S. 3043 which contain the administration's proposal to increase the administrative expense appropriations authorization for the Commission from \$500,000 to \$1 million.

We also support enactment of subsection (d) of S. 3043. That provision would permit the reprogramming of up to \$400,000 of fiscal year 1978 appropriations available to the Commission for other than administrative expenses to increase the amount available for administrative expenses.

We are not taking a position on subsections (a) and (b) of S. 3043. Those provisions of the bill would amend the act that established the Commission by providing that the members of the Relocation Commission serve full time and be compensated at the rate for grade GS-15 rather than GS-18. The members would be prohibited from engaging in any other employment, including self-employment. The maximum rate of compensation for the Commission's staff would also be reduced from GS-18 to GS-15.

The Navajo-Hopi Relocation Commission is not a part of the Department of the Interior. The role of the Secretary of the Interior

has been to appoint the Commissioners and to provide general house-keeping services for the Commission.

The Commission ceases to exist when the President determines that it has fulfilled its duties.

The act has not provided any authority for either the Secretary or the President to remove any of the Commissioners prior to the expiration of the Commission.

These limited roles of the Secretary and the President are consistent with Congress intent to make the Commission a truly independent entity responsible primarily to Congress. Therefore, although we would not object to the Secretary being given greater responsibilities in connection with the Commission, we believe that such a decision rests with the Congress in the first instance.

At this time, I would be glad to answer any questions you may have.

Senator BARTLETT. Senator, do you have some questions at this point?

Senator DeCONCINI. No, thank you, Mr. Chairman.

Senator BARTLETT. Well, I will ask some questions, and please feel free to join in at any time.

Mr. Lavis, it is my understanding that Senate bill 3043 attempts to address two basic issues which are of concern, apparently, to Senator DeConcini and Senator Abourezk.

The first is the belief that the Commission's salary and travel expenses are excessive and unjustified for what is supposed to be part-time employment.

The second, apparently, is the belief that the Commission's responsibilities can best be carried out by requiring full-time rather than part-time employment.

Let us take the first one—the apparent belief that the Commission's salaries and travel expenses are excessive and not justified for what is supposed to be part-time employment.

Do you believe that is correct, or do you have any comments on it?

Mr. LAVIS. Mr. Chairman, that issue has been raised on a number of occasions, and I am not in a position to know whether they are excessive or not. I do know that they have had to spend a great deal of time on their duties, primarily because of the travel into the joint use area and meeting with various chapters. That takes a great deal of time in terms of the long distances they have to travel and the involvement they have to have.

But in terms of actually having an official position or an official review of whether they are excessive or not, I really do not have anything—in terms of an audit or financial review—to indicate that one way or the other.

Senator BARTLETT. Why would you not have an opinion on this?

Mr. LAVIS. Mr. Chairman, I think the difficulty lies in terms of the relationship of the Commission to the Department.

As you know, the law stipulates very clearly that we are to provide housekeeping functions. One might want to define or interpret "housekeeping functions" either broadly or narrowly, and I think that has been a bone of contention between the Commission and the Department over a period of time.

I think it is difficult for us to indicate to you whether it is excessive or not in terms of going in and auditing that situation.

Senator BARTLETT. What is your comment on the second question I raised—that the Commission's responsibilities can be best carried out by requiring full-time rather than part-time employment?

Mr. LAVIS. Again, I am a little reluctant to indicate clearly whether or not that ought to be the case. Again, my relationship to the situation is very limited.

Senator BARTLETT. Is there someone else who could come up from the Department whose relationship is not limited?

Mr. LAVIS. The Department, at this point in the game, at least in terms of relationship—the number of people who have been involved in the Department with the Commission, are at the Secretary's level, and not at the Bureau's level. As you remember, when this legislation was developed, it was very clearly the intent of Congress to keep this out of the Bureau's hands, or at least not to have the Bureau involved in operating the program.

Historically, Mr. Chairman, apparently there was at the beginning a relationship between the Commission and the BIA in terms of providing housekeeping functions, but there was some friction there and the inability of the Bureau to take care of those housekeeping functions on a timely basis.

The Commission, as I understand it, then recommended that the Secretary's office handle some of those issues.

Senator BARTLETT. Do you normally have two backup people to give you support when you testify and make no comment on the questions?

Do they have any position to take that would throw some light on this, inasmuch as your position does not, or inasmuch as you are not taking a position?

Mr. LAVIS. Mr. Chairman, Mr. Benjamin is here because he was requested by staff to attend. Mr. Krenzke is here because he acts as a staff assistant to me in my capacity as chairman of the BIA Navajo-Hopi Task Force which is established in-house.

Senator BARTLETT. Mr. Benjamin, what is your personal opinion?

Mr. BENJAMIN. My opinion would be this: I think the Commission, as set up, could and should certainly function.

I think there have been comments, probably, that the Commission and my office have not coordinated as they should.

I think that if we look at the bill, we find that we have been directed, in some sense, in different courses. My office has been told to immediately reduce livestock out there and restore the land, and immediately to survey and fence the new boundary.

We have been doing that, and that is not consistent, really, with the problems of relocation.

So, it is very true. I do not think that our efforts are coordinated. We are not preparing those people that have to be moved for the relocation that they face, and I think that therein lies the real problem.

I would say that it would be very difficult for me to point at anybody and say that they have done wrong. I think that we have been saddled with something that is, at best, a very difficult job. I think if it were done with all the resources available of the Government, it would still be a very traumatic event.

However, I will say that I do not believe that we are using all the resources, and we are not coordinating to the extent that we should.

Senator BARTLETT. Mr. Benjamin, do you believe that the salaries of

the Commissioners and the travel expenses are excessive and unjustified for what is supposed to be part-time employment?

Mr. BENJAMIN. I would say that I do not believe that they are excessive. When you talk about how much time they put in, that is another question. But I think that if we are going to get good people, and certainly we need the best talent we can find, and it was very difficult to arrive at and select these people, certainly we need to be able to offer them an incentive to come in and do this job which is certainly not a popular job.

The question of how much time they put in, of course, is something which you would need to review, I think.

Senator BARTLETT. What is your personal opinion of whether the Commissioners' responsibilities can best be carried out by full-time rather than part-time employment?

Mr. BENJAMIN. I do not believe that the Commissioners should operate on a full-time basis. It is my personal opinion that the Commissioners should be policymaking, that they should have a very capable staff to carry out the functions, and the Commission should operate as a policymaking commission and overseer.

Senator BARTLETT. Thank you.

Senator ABOUREZK?

Senator ABOUREZK. Thank you.

When you say that you believe they ought to continue to operate part time: What are the advantages to operating part time as opposed to full time, if any?

Mr. BENJAMIN. The way the Commission is now established—it is established with an executive director—and I think that therein is probably the crux of this thing.

If they have a very, very capable executive director and give him the direction and the policies, I believe this could operate very efficiently with one director running it.

I have some difficulty seeing two or three persons as the boss of a project or organization. I think that in my own case, I have been successful in my mission of stock reduction and land restoration in that I have had that ability to operate as a director and set my own priorities and carry them out.

Senator ABOUREZK. My question was, however: What is the advantage of a part-time over a full-time commissioner? I do not think I quite got an answer to that. You talked about something else.

Mr. BENJAMIN. Well, probably, because I do not know that.

Senator ABOUREZK. Then, why would you recommend a part-time commission over a full-time commission?

Mr. BENJAMIN. Again, perhaps I touched on it when I said that I think there should be one person that would have the responsibility of heading up an operation.

Senator ABOUREZK. Yes; but can you not have that if it is a full-time commission? It is not precluded, surely.

Mr. BENJAMIN. Yes; I would say this. If you have the right people, you can make anything work.

Senator ABOUREZK. I understand that, too.

Would it be possible for you to respond to the question? If it is not possible, I will quit pursuing it, but I just want to ask you that question: Is it possible for you to respond to the question?

Mr. BENJAMIN. Let me say that I think I am confused on that.

Senator ABOUREZK. Do you mean that you are confused on the question or your response? Which is it?

Mr. BENJAMIN. I guess I would say that I am confused on the issue.

Senator ABOUREZK. On the issue?

Mr. BENJAMIN. Yes.

Senator ABOUREZK. So, when you are asked if it ought to be a full-time or a part-time commission, what would your response be in light of your confusion?

Mr. BENJAMIN. OK. I started out by saying that I did support the Commission as it exists and the theory behind setting up a commission like this. I also said that I think they should be a policymaking group.

Now, I think that when you have a full-time commission, it seems to me that they go beyond the point of being policymaking and they become the people who are then actually doing the work.

As a Government employee, I feel that you need technicians who are very well trained to do the particular job they have. When you pick a commission, you pick them from the field.

Senator ABOUREZK. If they are part time, they can do a better job. I guess that is what you are saying, but I do not know. You have got me confused now.

If they are part time, they do a better job of running things than if they were full time. Is that right?

Mr. BENJAMIN. Well, I do not believe I actually said that. I think that what I am really saying is this. I think it could work—

Senator ABOUREZK. Part time could work?

Mr. BENJAMIN. I think that the way it is set up now—

Senator ABOUREZK. Wait a minute.

What do you mean by "it could work?" Part time, or what?

Mr. BENJAMIN. I think that the part time certainly could work.

Senator ABOUREZK. Is it working? It is on part time now. Is it working?

Mr. BENJAMIN. I would say that we are having problems.

Senator ABOUREZK. Then, you would say it is not working?

Mr. BENJAMIN. I would say that it is probably not working as well as it should or could.

Senator ABOUREZK. It could work better—is that what you are saying?

Mr. BENJAMIN. Yes.

Senator ABOUREZK. Then, how would you recommend that it work better?

Mr. BENJAMIN. I think that we probably need more coordination with all the resources of the Government which could be available to those people out there.

Senator ABOUREZK. What does that mean: "more coordination with all the resources of the Government?"

Mr. BENJAMIN. I think it means that we need somebody, it seems to me, that could go to the other branches of the Government who have resources and arrange for all those resources to be used.

Senator ABOUREZK. Who do you think that somebody should be?

Mr. BENJAMIN. I certainly think that the Commission should be coordinating.

Senator ABOUREZK. Do you think it ought to be the Commission or the executive director?

Mr. BENJAMIN. I think that the Commission, certainly, should be making the contacts.

Senator ABOUREZK. Are you saying that they have not been making the contacts?

Mr. BENJAMIN. No. I did not say that.

What I am saying is that they may have been making the contacts, but I do not believe that we are getting all of the resources that should be available out there to the people.

Senator ABOUREZK. How could that be done?

Mr. BENJAMIN. I would say that we need a coordinator.

Senator ABOUREZK. And you are saying that you do not have a coordinator now?

Mr. BENJAMIN. No; we do not.

Senator ABOUREZK. Do you suppose that the reason for that is that these people are doing other things besides working on the Hopi-Navajo Commission?

Mr. BENJAMIN. I do not know.

Senator ABOUREZK. Do you suppose that if they were full time people, they could, perhaps, do a better job of coordinating?

Mr. BENJAMIN. Possibly.

Senator ABOUREZK. Thank you.

I have some other questions, but I just wanted to follow up on that point, Senator.

Senator BARTLETT. Thank you, Senator Abourezk.

Mr. Benjamin, would you favor the present Commission system or a full time Commission system with all of the Commissioners full time, or would you favor one of the commissioners being full time?

Mr. BENJAMIN. I think you are giving me a choice between the two. Is that right?

Senator BARTLETT. I am giving you a choice between three.

Mr. BENJAMIN. Between three—OK.

Senator BARTLETT. Between three new Commissioners full time; the present Commission setup—part time; or one full time and the balance part time.

Mr. BENJAMIN. I would say, I believe, the present Commission part time; and I would like to hedge a little on that and add to it, I would say, with more oversight.

Senator BARTLETT. How would you provide more oversight?

Mr. BENJAMIN. I think the Congress could direct some person in the Government to have that authority.

Senator BARTLETT. Authority over the Commission?

Mr. BENJAMIN. Yes.

Senator BARTLETT. And what would be that person's responsibility, and what would the Congress tell him to do?

Mr. BENJAMIN. I would say, then, that that person would be in the position of directing the coordination, reviewing their progress and their operations, and having the ability to take whatever actions are necessary.

Senator BARTLETT. Is not the Commission supposed to be quasi-judicial in that they do make decisions on eligibility requirements?

Mr. BENJAMIN. Yes; they do.

Senator BARTLETT. Are you saying that someone should tell them what to do? Or should they do that on their own?

Mr. BENJAMIN. I think I was talking a little bit more about oversight, not directions.

Senator BARTLETT. But, on the determination of eligibility requirements, there should be arm's-length position, should there not, between everybody and the members of the Commission?

Is that correct?

Mr. BENJAMIN. Yes.

Senator BARTLETT. Thank you.

Senator ABOUREZK?

Senator ABOUREZK. I just want to follow up on that, if I might. I thank Senator Bartlett for yielding.

What is wrong with sending out a legislative mandate for the Commissioners we have got? Perhaps we need to make it a little more clear and require them to furnish us with a timetable on their plans.

What is wrong with the Congress conducting oversight and keeping the Commission fairly independent, with semiannual or annual oversight by the committee, and ask them to bring in a report every 6 months on what they plan to do?

Would that be a good way to oversee the operation?

Mr. BENJAMIN. I think it certainly could work, yes.

Senator ABOUREZK. I think what you are getting at, perhaps, is that you want the Secretary of the Interior to oversee the operation. I think the Commission and the tribes would see that as a loss of independence on the part of the Commissioners.

However, inasmuch as they were created by the Congress, they can also be overseen, much better, by the Congress on a twice yearly basis. I would like to have the views of all of you on that, if you would like to comment.

Mr. Benjamin?

Mr. BENJAMIN. I think that, certainly, there should be a system set up of reporting and reviewing. I think this has been one of our problems. Now, 3 years have gone by, and there is certainly frustration on the part of those residents waiting out there to be relocated. I think they feel that we all have abandoned them. Probably, this type of oversight would help to get us all in the right direction.

Senator ABOUREZK. Thank you.

Mr. Lavis?

Mr. LAVIS. Senator, I concur in that.

This is a creature of Congress. This was established by the Congress. That is why I am somewhat reluctant to indicate how you ought to do it—in terms of oversight.

But let me go back to an issue that I think you were raising in terms of oversight, and coordination as a matter of fact.

When I assumed my responsibilities with the Bureau, what I found was a very disjointed effort within the Department in terms of how we deal with the issues of those people at this point in time.

What we have, as you all well know, is a gap between the enactment of the law, reduction of livestock, land restoration, and the time in which the Commission is supposed to present its plan to Congress for carrying out the relocation and dealing with the socioeconomic impacts of that relocation.

What I was trying to do was this. We established a task force in-house with all of the program directors—Mr. Benjamin's office, the Solicitor, and the Secretary's office—to attempt to identify services we could provide in this interim period.

That is about the extent of what we can do in terms of coordination. We also recognized the tremendous sensitivity to the question of the Commission's independence—and they accept that.

Senator BARTLETT. I have a follow-on question to that.

Would you prefer the Congress, having those oversight responsibilities, reviewing the activities of the Commission, or would you want it to come under the direction of the Bureau?

Mr. LAVIS. Mr. Chairman, if we have one more problem with the Bureau, I do not think we can survive much longer. I do believe there is a role for both. I believe the Congress should exercise oversight, particularly with regard to this particular issue because the people's needs are so sensitive out there.

Second, in terms of the Department, yes: I think there ought to be some way to build a better relationship and coordination between the Department and the Commission. How that is done, I am not exactly sure.

Senator BARTLETT. In other words, you think that in some respects the Commission should have less independence from the Department and come more under the direction of the Department, and also that there should be periodic oversight hearings by the Indian Committee?

Mr. LAVIS. Yes, sir.

Senator BARTLETT. So, you are saying both, but you want to retain the independent aspect of the Commission as far as its quasi-judicial role is concerned.

Mr. LAVIS. No, sir, what I am trying to say is that I think there ought to be a better relationship between the Commission and the Department so that we can work together closely, because the Bureau has certain responsibilities assigned to it by the Secretary. The act assigns certain responsibilities to the Secretary. Also, the act assigns certain responsibilities to the Commission. All of these impact on the same people in the same area.

I know that I am not giving you a very clear-cut answer in terms of how that is to be done. I am not exactly sure how it should be done.

Senator BARTLETT. On the eligibility questions that the Commission decides: Do you believe that the Commission should be independent in its decisions there?

Mr. LAVIS. I guess I would prefer, personally, that those questions of eligibility, hopefully, would have been settled between the Department and the Commission.

As I understand it, there was a question of eligibility raised by the Commission in terms of the congressional intent. That question of eligibility was submitted to you, or to individual Congressmen, or to the Arizona congressional delegation for review and oversight by GAO.

Perhaps it could have been better handled at an administrative level between the Commission and the Department, but because of the way that the act structures the relationship of the Commission and the Department and because of the clear intent by the Congress that this Commission act independently, the Commission feels honorbound to come to Congress for oversight and, perhaps, guidance in terms of

those eligibility criteria. But, under the present act, they are almost obliged to come to Congress to seek assistance and clarification in terms of what the Congress intended those eligibility criteria to be.

Senator BARTLETT. But, as I understand it, the GAO was asked by the Commission for a study which is underway and has not been finished to provide this information. Is that your understanding?

Mr. LAVIS. I have no idea of what the relationship between the Commission and the GAO is on this issue. I do know that they apparently asked the GAO, through the Congress, to assist them on that issue.

Senator BARTLETT. Thank you.

Mr. Krenzke, Senator Abourezk asked a question a little bit ago—maybe you would like him to repeat it—of all three of you. I think he would like your response.

Mr. KRENZKE. I do not believe that my response would be any different from that which was indicated by Mr. Lavis.

I think it is a delicate kind of thing we are striving for in order that all of us, really, can, as effectively as possible, serve the needs of the people out in that area.

I, personally, think that closer oversight by the Congress could be very helpful in this situation. I think we have some sensitivity to the role of the Department in this matter. But, at this point in time, I would not be aggressively advocating a significant lessening of the independence of the Commission.

Senator BARTLETT. What would each of you think of a GAO study which would evaluate the overall performance of the Commission and its relationship with the Department, and what its relationship with the Department should be, and make recommendations about the future?

Mr. LAVIS. Mr. Chairman, we have no problem with that.

Senator BARTLETT. You have no problem with it. What do you think of it?

Mr. LAVIS. I think it would be helpful to clarify issues in terms of the lack of coordination between the Commission and Department and, perhaps, the role of the Bureau.

As I said before, in this effort to deal with this particular area, we have two particular groups doing the same thing for the same people in the same area. It is very difficult.

Senator BARTLETT. Mr. Benjamin, did you finish your commentary?

Mr. BENJAMIN. Would you repeat the question?

Senator BARTLETT. The question is this: What would you think of the GAO making a study evaluating the performance of the Commission, the coordination between the Bureau and the Commission, including the coordination between this committee and the Commission, and what recommendations they would have concerning the structure of the Commission, the membership on the Commission, and all aspects relating to their job—their responsibilities?

Mr. BENJAMIN. I think that that would certainly be very helpful.

It seems to me, also, that one of the considerations in an audit of this kind would be what is the true mission of relocation? I think that sometimes we think of relocation as merely moving the people and providing them with a house. I think that therein lie some of the problems of the Bureau and the Department. We still have to deal

with those people afterwards. This is one aspect which I do not believe is adequately being covered.

I support the idea of an audit. I would also like to see an actual description of the total mission of relocation.

Senator BARTLETT. Mr. Krenzke?

Mr. KRENZKE. I do not believe that I really have anything to add, sir.

I think that if GAO were to move forward on this, we would certainly be glad to work with them and share some thoughts and concerns that we have as to how we might all work together better to get this enormous task accomplished.

Senator BARTLETT. You say that you would cooperate with them. Do you think that this would be good, helpful, or just something you would cooperate on?

Mr. KRENZKE. I think it would be very helpful. I think that, as indicated in Mr. Lavis' testimony, in the Department it is something that, certainly, we recognize. This Commission has been established by the Congress, and it would seem to me that what you are suggesting is a furtherance of this responsibility on the part of the Congress.

Senator BARTLETT. Senator Abourezk?

Senator ABOUREZK. I wonder if I could ask Mr. Benjamin this question?

Do you know how many families have been settled, how many are yet to be settled, and in what time period this is all taking place?

Mr. BENJAMIN. I have been told that the number is 38.

Senator ABOUREZK. Thirty-eight families?

Mr. BENJAMIN. Yes; that 38 families have been relocated.

Senator ABOUREZK. During what period of time?

Mr. BENJAMIN. This has probably been within the last year or year and a half.

Senator ABOUREZK. How many remain to be relocated?

Mr. BENJAMIN. Well, I think that there, again, are some of the problems we have seen: Who is a resident and who is not a resident?

Now, our enumeration showed that there were approximately 3,500 people who would need to be relocated out of the Hopi side of the joint use area. I think the Relocation Commission has received applications for many more than that.

Senator ABOUREZK. For how many?

Mr. BENJAMIN. For many more. I do not have the exact figures.

Senator ABOUREZK. Could I ask the Commission if anyone could give me a figure right now?

Commissioner LEWIS. Up to date, Senator, we have had 1,773 applications.

Senator ABOUREZK. That is 1,773 families, Commissioner?

Commissioner LEWIS. Yes.

Senator ABOUREZK. And the actual figure that you have already relocated is 38?

Commissioner LEWIS. We have moved 62 families, Senator.

Senator ABOUREZK. You have relocated 62?

Commissioner LEWIS. Yes.

Senator ABOUREZK. And there are 1,700-plus more.

How long has it taken you to move these 62?

Commissioner LEWIS. We moved this number through 1976. We have not moved any more until the court decides on the appeals—the Ninth Circuit Court.

Senator ABOUREZK. When did you stop relocating families?

Commissioner LEWIS. We have stopped relocation, but we are not stopping the enumeration nor the processing.

Senator ABOUREZK. On what date did you stop the relocation?

Commissioner LEWIS. Let me check the record, Senator Abourezk. It was on May 15, 1978.

Senator ABOUREZK. You stopped relocating, essentially, 2 months ago?

Commissioner LEWIS. Yes.

Senator ABOUREZK. Thank you very much.

Senator BARTLETT. Senator DeConcini?

Senator DECONCINI. Mr. Chairman, I would like to ask Mr. Lavis a question.

With regard to the question of the chairman about GAO doing a study, it seems to me that that might take a couple of years, and already a few years have gone by.

Does the Department of the Interior have the capacity to do a high-level study or an analysis of the Commission? Is that feasible at all?

Mr. LAVIS. Yes; we have the capacity. Again, we will have the same time frame, I think, that the GAO people do. I think we can discuss that, I suppose, in terms of the scope of the study, itself, and how fast we can do it.

Senator DECONCINI. Let me ask you another question, Mr. Lavis.

Under Public Law 93-531, a report is to be submitted a couple of years after the Commission was formed. That is due soon, some time in February, I believe.

Is it your interpretation of that legislation, having been involved in the enactment of it, that Congress has anything to do with that report, other than just receive it?

Mr. LAVIS. I appreciate the compliment about my involvement. I do not really think that I want to say that I was involved in it, but—

Senator DECONCINI. I meant from the standpoint of being on the committee.

Mr. LAVIS. My interpretation is that when you receive the report, then that is almost pro forma.

Senator DECONCINI. It is pro forma without any veto power or anything that the Congress can do?

Mr. LAVIS. That is my understanding.

Senator DECONCINI. Mr. Benjamin, you discussed recommending that they maintain a part-time basis.

Is it your opinion that the Commissioners now are functioning in an administrative capacity or a policy capacity?

Mr. BENJAMIN. I think that they have functioned as both.

Senator DECONCINI. Is it your judgment that if you have part-time Commissioners they restrict themselves to the policy area?

Mr. BENJAMIN. I would think policy and oversight.

Senator DECONCINI. Policy and oversight.

If you did have a full-time Commission, would you then anticipate that the Commissioners would be, in your view, involved in both administration as well as policy?

Mr. BENJAMIN. I would say that he would be the individual who would direct the everyday activities of the relocation office.

Senator DECONCINI. Also, going to the point of the part-time Commission, it goes without saying, does it not, that if you have part-time Commissioners, you have to have a competent administrator/executive director that the Commission has confidence in?

Mr. BENJAMIN. That is very correct.

Senator DECONCINI. Once you have achieved that: Do you believe it is the duty and responsibility of the Commissioners to let that executive director handle the administration of the Commission except for policy decisions?

Mr. BENJAMIN. Yes.

Senator DECONCINI. Have you found that to be the case in your dealings with the Commission?

Mr. BENJAMIN. No.

Senator DECONCINI. Mr. Benjamin, does your Department now have the capacity to do any studies or assist the Commission in any manner in locating various people within the joint use area as to potential priority people who would move or actually want to move?

Mr. BENJAMIN. I think we certainly have the ability; yes.

Senator DECONCINI. Have you been asked to work with the Commission in that area?

Mr. BENJAMIN. Not particularly in that respect; no.

Senator DECONCINI. You would have no reluctance to do so, if asked?

Mr. BENJAMIN. Yes; I would do it.

Senator DECONCINI. Do you have any information that would lead you to any conclusion now that there are some people within the joint use area that would like to move?

Mr. BENJAMIN. Yes.

Senator DECONCINI. How do you get that information?

Mr. BENJAMIN. We did, of course, a house-to-house enumeration. Then, we carried on a livestock inventory where we visited with families. Also, when we have gone in on a land restoration and fencing of management areas, we visited with and talked to families.

Now, I think that those I am referring to are probably more the younger people. They have been confined, you might say, to living with parents because of the restrictions on new construction in the former joint use area.

The young people are quite anxious to have a life of their own and have a home of their own where they can raise their families and raise them as other citizens of our country do.

Senator DECONCINI. Thank you.

I have no further questions, Mr. Chairman.

Senator BARTLETT. Thank you.

Mr. Murphy, do you have any questions for Senator Goldwater?

Mr. MURPHY. No; Mr. Chairman.

Senator BARTLETT. Mr. Funke, you are recognized for a couple of questions.

Mr. FUNKE. Thank you, Mr. Chairman.

Any of you may respond to this question.

Do you think that the people in the relocation area are presently receiving adequate BIA, IHS, and other services?

Mr. LAVIS. Are they presently receiving BIA or IHS services?

Mr. FUNKE. Adequate services.

Mr. LAVIS. Adequate services? No, sir.

Mr. FUNKE. Why do you think they are not receiving adequate services?

Mr. LAVIS. Because the problem is that that area has been neglected for almost 20 years while we have been trying to settle this issue.

The problem is that you have a moratorium on construction, and there has been a reluctance to deal with those services. Roads have not been built adequately in that area. You have schools which have not been built because of this issue, or settling this issue. Electricity and utility lines have not been built in that area because of this issue. There is a whole host of services which have not adequately been addressed in that joint use area.

Mr. FUNKE. In terms of general assistance, there has been extensive livestock reduction going on out in that area. And, as we all know, the economy of most of the people in that area depends, in great part, on bartering their livestock.

Does BIA general assistance take into account livestock in terms of economy and increasing general assistance payments if the livestock is reduced?

Mr. LAVIS. Mr. Funke, I am not familiar enough, myself, with the determinations of general assistance in terms of that.

Mr. Krenzke is the head of our Indian services. He might be able to answer the question for you.

Mr. KRENZKE. I think the answer to that question is yes. The general assistance structure of the Bureau is such that when a resource is reduced, this is taken into consideration.

If livestock would normally be a resource that would be available to a Navajo family, at that point where the resource is no longer available, the general assistance regulations, and in this case the program is administered by the tribe through a contract from the Bureau, would take that into consideration.

Mr. FUNKE. Would you be able to provide the committee with any records that you might have which indicate an increase in general assistance payments to families who have had their livestock reduced?

Mr. KRENZKE. I think we can obtain that information. It will take a fairly considerable amount of research. We will have to go out and dig that out working with the tribe.

Mr. FUNKE. Thank you.

I understand that early on, when the Commission was first starting up, the Joint Use Administration or the Department of the Interior prepared rules and regulations for the operation of the Commission.

Were those regulations ever completed? And, if so, what happened to them?

Mr. LAVIS. Maybe Mr. Benjamin could answer that.

Mr. BENJAMIN. Well, my office first discussed this with Mr. Lewis who was the chairman at that time. I then assigned one of my staff to come up with, you might say, a proposed outline guide of regulations for the operation of the Commission.

This staff member then worked with the Field Solicitor's office in Phoenix, and we then presented this to the Relocation Commission.

Mr. FUNKE. What happened to the regulations after they were presented to the Commission?

Mr. BENJAMIN. I do not know.

Mr. FUNKE. Do you know if they are being utilized by the Commission at this time?

Mr. BENJAMIN. No; they adopted their own regulations.

Mr. FUNKE. Thank you, Mr. Chairman, I do not have any further questions at this time.

Senator BARTLETT. If there are no further questions of this panel, we will move on.

Thank you very much, gentlemen.

Mr. LAVIS. Thank you, Mr. Chairman.

Senator BARTLETT. Will the Commissioners, Mr. Robert Lewis and the Reverend Paul Urbano, please come forward?

They are accompanied by Mr. Leo Crowley, legal counsel to the Commission.

Please proceed as you would like.

STATEMENT OF ROBERT E. LEWIS, CHAIRMAN, NAVAJO AND HOPI INDIAN RELOCATION COMMISSION, ACCOMPANIED BY REV. PAUL URBANO, COMMISSIONER; AND LEO CROWLEY, LEGAL COUNSEL

Mr. LEWIS. Thank you, Mr. Chairman.

I am Robert E. Lewis, Chairman of the Navajo and Hopi Indian Relocation Commission. To my left is Father Urbano, one of the Commissioners; and to my right is Leo Crowley, our counsel.

Mr. Hawley Atkinson, the other Commissioner, due to prior commitments, could not be here today.

We have submitted prepared statements for review by the committee in regard to S. 3043, and we will do whatever the chairman suggests—either read them or expound on some of the things that have been brought up this morning.

Senator ABOUREZK. Could you summarize your prepared statement?

Mr. LEWIS. All right.

First of all, I would like to thank the committee for asking the questions that were presented to the preceding panel.

Senator ABOUREZK. Your prepared statements will be put into the record in their entirety.

Mr. LEWIS. Thank you, sir.

Our feelings about S. 3403, of course, are submitted in our statements for the record. Each of the Commissioners, separately, has submitted a statement.

If I may, I would like to read mine, as it is one of the shortest. Then we could get into any questions that you would want to ask.

Senator BARTLETT. That will be fine.

Mr. LEWIS. Mr. Chairman, thank you for extending to me the time to present my statement on S. 3043. I fully agree with the statements presented to you by my fellow Commissioners.

Since records of all of our activities up to this point in time have been turned over to you for the record. I, also, for the record, am attaching to this statement my letter of May 19, 1978, to the Honorable Dennis DeConcini objecting to his amendment in regard to making us full-time Commissioners at the GS-15 level, and briefly comment on several areas.

The concern of members of the committee since the Winslow field hearing of February 10, 1978, seems to be in two areas: (1) if we have over 1,500 applicants for relocation, why are we not moving them; and (2) the earnings of the Commissioners since formulation of the Commission.

In regard to the first concern, we all know that the Navajo Tribe has indicated the desire to obtain the 250,000 acres at House Rock Valley, Paria Plateau.

The Federal Government has not been moving fast enough on this matter, although we all realize that were this area turned over to the tribe to purchase, it would not hold all the people that will have to move.

Time is running short on the Relocation Commission to submit the report and plan. In it, we have to indicate where each family is moved.

The chapter groups have been working on plans to obtain set-aside lands within their areas for residential purposes, people's services facilities, and economic development which tie in with their comprehensive planning priorities.

A percentage of the relocatees will have available homesites in these areas, but the procedures for getting these lands take time.

The procedures for withdrawal of land by the Advisory Committee of the Navajo Tribal Council for commercial, residential, or industrial purposes are set in the Navajo Tribal Code, and the land-use plans must be approved by the Tribal Advisory Committee before it has the force of law.

We have indicated many times that although the chapters are working with their tribal councilmen and with us, because of the time it takes to finalize these matters, the Commission in no way can indicate to you that the land acquisition is definite. We would be overstepping the tribal government's authority, and this we will not do.

The second concern in regard to our salaries was because of an exaggerated statement.

The chairman's opening statement indicates to you how the Commission's duties will slack off as time goes on, and I am not going to say any more on this, except to say that news articles that came out in regard to our being questioned on this matter have brought out some unpleasant remarks which reflect on all three Commissioners.

Example: an FBI agent making a statement to people about me embezzling funds from our program. Flack is to be expected on a project of this type, and we certainly have been in a great deal of it, but it is part of the job.

We were sworn to uphold the Constitution of the United States and do the job to the best of our abilities. The Commissioners and staff are doing their best, but we alone cannot do all things because of limits with which we have to contend.

My personal feelings for this job stem back to a time around 1838 when the infamous Cherokee removal was enacted. My people, on my mother's side, were moved from Georgia to Oklahoma. Many perished, and no assistance was given them.

Thank you.

Senator BARTLETT. Thank you very much.

Without objection, your other statements and the letter to Senator DeConcini will appear in the record at this point.

[The material referred to follows:]



UNITED STATES GOVERNMENT

NAVAJO & HOPI INDIAN RELOCATION COMMISSION

2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

OPENING STATEMENT TO THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS AT
HEARING ON SENATE BILL 3043, BY CHAIRMAN PAUL D. URBANO

Mr. Chairman and members of the Committee:

The Navajo and Hopi Indian Relocation Commission appreciates this opportunity to appear before the Committee and to voice its opposition to certain provisions of Senate Bill 3043.

In this opening statement, comment is restricted to the proposed legislation, with the understanding that the Commission stands ready to answer any further questions the Committee considers pertinent.

First of all, the Commissioners would like to describe their personal feelings about this legislation. It would be natural for the Committee to assume that we oppose parts of this Bill simply because the Bill threatens our employment by the Federal Government. But the Committee would be mistaken in that assumption. We are all private citizens, otherwise gainfully employed. With all respect, we did not accept this task for the money and have not persisted in it for the money. We accepted this responsibility as a public service; and our objections to the proposed Bill spring from our concern over its predictably bad effects upon the Navajo and Hopi people who must be relocated.

To speak now to the Bill itself:

During the almost three years that we have been engaged in this work, we have carefully researched the long debate which resulted in Public Law 93-531. After such study, it is our opinion that this proposed legislation is in some significant respects at odds with the mind of the Congress as expressed during that debate.

Clearly, the Congress despaired of resolving this dispute through the federal agencies which had already been involved in it for nearly a hundred years, and pinned its hopes of success on a three-man Commission which should be allowed a degree of freedom uncommon in the Federal Government, so as to be relatively impervious to political pressure, together with sufficient rank and pay to assure the accessibility of those with whom the Commission would have to deal.

It may be argued that the proposed changes do not directly threaten the Commission's independence; but in fact they do.

It is proposed that the Commissioners work full time and that they be compensated at the rate of GS-15. The present Commissioners are not personally concerned over this reduction in rank and pay, since if this Bill

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Opening Statement to the Senate Select Committee on Indian Affairs at Hearing on Senate Bill 3043, by Chairman Paul D. Urbano

passes we will not continue in office. But we are concerned for successors operating under the new conditions, who, being full-time employees and therefore economically dependent upon their jobs, will not possess the independence which the Congress originally intended. And we respectfully suggest from our experience that if the Commissioners work full time, there should be no reduction in rank or pay.

Still pursuing the subject of full-time Commissioners:

We cannot grasp the logic of this proposal when we have been criticized for working too many days, and when, in consequence, it has been implied that we are too expensive. If we are working too many days, how can full-time Commissioners constitute an improvement? And if we are costing too much, how will the proponents of this Bill justify the easily-calculated fact that three full-time GS-15s will cost considerably more?

An examination of our Time and Attendance records will show that we began in 1975 with a rather modest investment of time (an average for the calendar year of 31 days per man), spent considerably more time in 1976 (an average of 93 days per man), and a great deal of time in 1977 (an average of 177 days per man.) At present, we are tapering off, all three of us, and do not expect to cost the taxpayers more than \$24,000 per man in 1978, with further reductions in 1979 and beyond.

We would like to interpret that. It means that we have this difficult project under control. We have earned a good measure of credibility with the people in the Navajo chapters and with the Hopi Tribal Council. All eleven Navajo chapters affected by the relocation have formed Relocation Planning Committees; and the Hopi relocatees have done the same. We have fixed policy on most important questions. We have put together a highly-competent staff. And we are not going to be so much needed from now on.

Is this, we ask, a time to replace us with full-time Commissioners? Or is it likely that the relocatees will benefit from a change in personnel charged with such a sensitive and complex task? At the very least, the proposed disruption will further delay relocation. This delay, in turn, will exacerbate the bad feeling between the two tribes.

This Commission, despite heavy sniping from many quarters and despite serious obstacles inherent in the circumstances, is carrying out the mandate of the Congress. We have nearly finished our enumeration. We have completed 21 percent of our appraisals. One thousand, six hundred ninety-nine heads of households have contacted us for voluntary relocation, a number far greater than anyone anticipated. The Navajo chapters are setting aside land for those of their members who wish to relocate within the reservation; and the plans of the Hopi Tribe to provide sites for their people are well advanced. We are on target with our Report and Plan: it will be delivered

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Opening Statement to the Senate Select Committee on Indian Affairs at
Hearing on Senate Bill 3043, by Chairman Paul D. Urbano

to the Congress in December of this year, two months before the deadline.
All of this we have tried to indicate at the hearings we have attended.
Apparently, we were not heard.

We respectfully submit that the amendments to our authorization proposed
in Senate Bill 3043 are not in the best interests of the Navajo and Hopi
people.

PDWU:ml



UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
 2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

STATEMENT OF HAWLEY ATKINSON, VICE-CHAIRMAN, NAVAJO AND HOPI INDIAN RELOCATION COMMISSION, AT THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS HEARING FOR SENATE BILL 3043

Mr. Chairman:

With due respect to the two distinguished Senators who introduced S. 3043, it is not comparable to H.R. 11092.

The following part of S. 3043 should be deleted:

"That (a) section 12(e) of the Act of December 22, 1974 (88 Stat. 1712, 1717) is amended to read as follows:

"(e) Members of the Commission serving on or after 90 days from the date of enactment of the Navajo and Hopi Indian Relocation Commission Amendments of 1978 shall devote full time to their employment with the Commission and shall be compensated at the rate of GS-15 under the General Schedule contained in section 5333 of Title 5 of the United States Code and shall be reimbursed for travel, subsistence, and other expenses incurred by them in the performance of their duties. No member of the Commission, while serving as a member of the Commission, may engage in any other employment (whether as an employee or as a self-employed individual), or hold any other position for which he or she is compensated in an amount in excess of his or her actual expenses in connection therewith."

Full-time Commissioners would be wasteful of Federal monies and would hamper the administrative operation of the Commission staff. The Commissioners working full-time in the Commission would be a serious obstacle to the every day operational functions. The principle responsibilities of the Commissioners are to carry out the intent of P.L. 93-531 by determining policies and creating an atmosphere of working relations with the relocatees and their Chapter officers.

In Senator DeConcini's introduction of S. 3043 he made the following statement:

"The purpose of this bill is to increase the efficiency of the Commission and its staff, and to permit the Commission to fulfill its primary responsibility of relocation in an expedited manner. Three goals would be accomplished by: First, requiring that members of the Commission devote full time to Commission business; second, establishing the full-time pay rate at the level of GS-15; and third, increasing

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Statement of Vice-Chairman Atkinson

the authorization for Commission expenses to \$1,000,000.

"By requiring a full-time Commission, each member will have sufficient time to meet with members of both tribes to describe the relocation process called for by law, and to explain the benefits that are available to relocatees. Continuous communication by the Commissioners will help to allay any fears or animosity that may be experienced by affected tribal members."

This statement is most perceptive, but it has already been accomplished. In the first thirty (30) months of the life of the Commission, the three Commissioners did principally devote themselves to that purpose. It was the Relocation Commission, through the Commissioners, who took the message of relocation to the relocatees. This was not done by tribal officials but by the Relocation Commission. (See Attachment A.)

Senator DeConcini, in the Senate hearing of the Navajo and Hopi Indian Relocation Commission on Tuesday, February 21, 1978, did, and certainly properly, comment on the monies paid to the Commissioners, which indeed did average nearly \$31,000. And at that hearing it was stated that the Commissioners estimated that their salary compensation for the calendar year of 1978 would be \$24,000 to \$25,000. We are pleased to report that based on the first six months of the year it is reasonable to assume that the above projection was accurate. (See Attachment B.)

We therefore respectfully suggest that the two principle reasons stated by Senator DeConcini for his support of full-time Commissioners are no longer valid.

We further suggest that the following part of S. 3043 be deleted:

"(b) Section 12(g) of the Act of December 22, 1974 (88 Stat. 1712, 1717) is amended by deleting the figure "GS-18" therein and inserting, in lieu thereof, the figure "GS-15."

The Congress spent many hours in writing P.L. 93-531. The prestigious grade of GS-18 for the Commissioners was reached in full deliberation and recognition of the difficult task before the Navajo and Hopi Indian Relocation Commission. To reduce the grade of the Commissioners would be demeaning and not in keeping with good business practice.

HA:ml

Attachments -

- A) Listing of Meetings
- B) Salary Projection



UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION

2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

COMMISSION ATTENDANCE AT GENERAL CHAPTER AND RELOCATION PLANNING COMMITTEE MEETINGS

1976

June 12, 1976	- Coalmine Mesa (Commissioners Urbano and Atkinson)
June 26, 1976	- Forest Lake (Commissioners Atkinson and Lewis)
June 28, 1976	- Hard Rock (Commissioners Atkinson and Lewis)
July 11, 1976	- Red Lake (Commissioners Urbano and Atkinson)
September 21, 1976	- Low Mountain (Commissioner Atkinson)
September 22, 1976	- Jeddito (Commissioner Atkinson)
November 7, 1976	- Teestoh (Commissioners Urbano and Atkinson)
December 13, 1976	- Oraibi (Commissioner Atkinson)

1977

January 5, 1977	- Hard Rock (Commissioner Lewis)
January 9, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
January 24, 1977	- Hard Rock (Commissioners Atkinson and Lewis)
January 27, 1977	- Oraibi (Commissioner Atkinson)
January 30, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
February 27, 1977	- White Cone (Commissioners Atkinson and Lewis)
March 5, 1977	- Teestoh (Commissioners Atkinson and Lewis)
March 10, 1977	- Oraibi (Commissioner Urbano)
March 13, 1977	- Coalmine Mesa (Commissioners Lewis and Atkinson)
March 21, 1977	- Tolani Lake (Commissioner Lewis)
March 24, 1977	- Pinon (Commissioners Lewis and Atkinson)
April 3, 1977	- Tolani Lake (Commissioners Lewis and Atkinson)
April 5, 1977	- Low Mountain (Commissioner Lewis)
April 7, 1977	- Jeddito (Commissioners Atkinson and Lewis)
April 16, 1977	- Forest Lake (Commissioners Urbano and Lewis)
May 7, 1977	- Teestoh (Commissioner Lewis)
May 15, 1977	- Low Mountain (Commissioner Lewis)
May 21, 1977	- Red Lake (Commissioner Atkinson)

ATTACHMENT A

Page Two
Commission Attendance at Meetings

(1977 Continued)

June 12, 1977	- Tolani Lake (Commissioner Atkinson)
July 9, 1977	- Forest Lake (Commissioner Lewis)
July 15, 1977	- Forest Lake (Commissioner Lewis)
July 21, 1977	- Sand Springs (Commissioners Urbano and Lewis)
July 24, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
August 5, 1977	- Pinon (Commissioner Atkinson)
August 6, 1977	- Teestoh (Commissioner Lewis)
August 7, 1977	- Coalmine Mesa (Commissioner Lewis)
August 13, 1977	- Shonto (Commissioners Lewis and Atkinson)
August 17, 1977	- Teestoh (Commissioner Lewis)
August 21, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
August 26, 1977	- Red Lake (Commissioner Lewis)
August 27, 1977	- Jeddito (Commissioner Lewis)
August 28, 1977	- White Cone (Commissioner Lewis)
September 2, 1977	- Pinon (Commissioners Urbano, Atkinson and Lewis)
September 10, 1977	- Oraibi (Commissioners Urbano, Atkinson and Lewis)
November 10, 1977	- Oraibi (Commissioner Lewis)
November 12, 1977	- Pinon (Commissioner Lewis)
November 27, 1977	- Coalmine Mesa (Commissioner Lewis)
November 30, 1977	- Big Mountain (Commissioners Lewis and Atkinson)
December 11, 1977	- Tolani Lake (Commissioner Lewis)
December 15, 1977	- Sand Springs (Commissioner Lewis)
December 15, 1977	- Oraibi (Commissioner Lewis)

1978

January 10, 1978	- Keams Canyon (Commissioner Lewis)
January 13, 1978	- Sand Springs (Commissioner Atkinson)
January 14, 1978	- Pinon (Commissioner Lewis)
January 15, 1978	- Low Mountain (Commissioner Lewis)
January 22, 1978	- White Cone (Commissioner Lewis)
January 25, 1978	- Jeddito (Commissioner Lewis)

Page Three
Commission Attendance at Meetings

(1978 Continued)

January 29, 1978	- Tolani Lake (Commissioner Lewis)
February 12, 1978	- Coalmine Mesa (Commissioner Atkinson)
February 27, 1978	- Red Lake (Commissioner Lewis)
April 6, 1978	- Red Lake (Commissioners Urbano and Lewis)
April 11, 1978	- Oraibi (Commissioner Lewis)
April 29, 1978	- Flagstaff (Chapter Planning Committees) (Commissioners Atkinson and Lewis)



UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

ACTUAL SALARIES RECEIVED BY COMMISSIONERS, JANUARY THRU MAY 1978

Chairman Paul Urbano	\$ 8,770.56
Vice-Chairman Hawley Atkinson	\$ 11,145.90
Commissioner Robert Lewis	\$ 12,061.52

PROJECTED ANNUAL AVERAGE -
CALENDAR YEAR 1978:

\$ 24,000.00

ATTACHMENT B



UNITED STATES GOVERNMENT

NAVAJO & HOPI INDIAN RELOCATION COMMISSION

2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

STATEMENT OF ROBERT E. LEWIS, COMMISSIONER, NAVAJO AND HOPI INDIAN RELOCATION COMMISSION, AT THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS FOR SENATE BILL 3043

Mr. Chairman:

Thank you for extending to me the time to present my statement on S. 3043. I fully agree with the statements presented to you by my fellow Commissioners.

Since records of all our activities up to this point in time have been turned over to you for the record, I also, for the record, am attaching to this statement my letter of May 19, 1978 to the Honorable Dennis DeConcini objecting to his amendment in regard to making us full-time Commissioners at the GS-15 level, and briefly comment on several areas.

The concern of members of the Committee since the Winslow field hearing of February 10, 1978, seems to be in two areas:

- 1) If we have over 1500 applicants for relocation, why are we not moving them; and
- 2) The earnings of the Commissioners since formulation of the Commission.

In regard to the first concern, we all know that the Navajo Tribe has indicated the desire to obtain the 250,000 acres at House Rock Valley, Paria Plateau. The federal government has not been moving fast enough on this matter, although we all realize that were this area turned over to the Tribe to purchase, it would not hold all the people that will have to move. Time is running short on the Relocation Commission to submit the Report and Plan. In it we have to indicate where each family is moved. The Chapter groups have been working on plans to obtain set-aside lands within their areas for residential purposes, people's services facilities, and economic development which tie in with their comprehensive planning priorities. A percentage of the relocatees will have available home sites in these areas but the procedures for getting these lands take time. The procedures for withdrawal of land by the Advisory Committee of the Navajo Tribal Council for commercial, residential or industrial purposes are set in the Navajo Tribal Code and the land use plans must be approved by the Tribal Advisory Committee before it has the force of law. We have indicated many times that although the Chapters are working with their tribal councilmen and with us, because of the time it takes to finalize these matters, the Commission in no way can indicate to you that the land acquisition is definite. We would be overstepping their tribal government's authority, and this we won't do.

The second concern in regard to our salaries was because of an exaggerated

Page Two

Statement of Commissioner Lewis

statement. The Chairman's opening statement indicates to you how the Commission's duties will slack off as time goes on and I am not going to say any more on this, except to say that news articles that came out in regard to our being questioned on this matter have brought out some unpleasant remarks which reflect on all three Commissioners. Example: an FBI Agent making a statement to people about me embezzling funds from our program. Plack is to be expected on a project of this type and we certainly have been in a great deal of it, but it is part of the job.

We were sworn to uphold the Constitution of the United States and do the job to the best of our abilities. The Commissioners and staff are doing their best but we alone cannot do all things because of limits with which we have to contend.

My personal feelings for this job stem back to a time around 1838 when the infamous Cherokee removal was enacted. My people on my mother's side were moved from Georgia to Oklahoma. Many perished and no assistance was given them.

Thank you.

Attachment - Letter to Senator DeConcini, May 19, 1978

P.O. Box 10
 Zuni, NM 87327
 May 19, 1978

The Honorable Dennis DeConcini
 4104 Dirksen Senate Office Building
 Washington, D. C. 20510

Dear Senator DeConcini:

I understand that on May 5, 1978, you introduced S. 3043, a Bill to amend PL 93-531, Sec. 12(e), changing the working status of the Navajo and Hopi Indian Relocation Commission from part time to full time and placing the Commission members on grade level GS-15, topping it off (at this late date) with a 'command' in regard to the Commission members on other, or self-employment with related compensatory provisions therewith.

This is to inform you, Senator, that I for one will absolutely not agree with this portion of the amending Bill. Ours was tied in with the authority to reprogram our funds for FY 1978 and also to obtain \$1,000,000 operating funds for FY 1979, for very justifiable reasons, and that is all we were asking for.

I do not know how my fellow Commissioners, Chairman Paul Urbano and Vice-Chairman Hawley Atkinson feel about this, I do not speak for them, but if the Bill is passed with your additional amendment, I will resign from the Commission.

The Congress in its wisdom enacted PL 93-531 in such a manner that it enables the Relocation Commission to handle the complex problems of this particular relocation program if left as is. Only in two areas did we run into some difficulty: eligibility, and our operational fund. We understand that not always can some things be done without mistakes the first time.

The independent status that the Act gives the Relocation Commission, and which the people we work with understand now to a point where trust in us and the United States Government to do what must be done for them is more evident, will dissolve if your amendment passes.

Being the only Indian member of the Relocation Commission I believe through experience that I recognize more the bureaucratic ways of the Federal Government than my colleagues. Being put on as permanent GS-15 employees will immediately "tie our hands" to a great extent because within the framework of the bureaucracy grade levels provide a basis for interaction and the Commission would be deprived of relating to high enough levels of authority to accomplish their mission. We are a policy-making Commission. We will have to sit as a review board when appeals

ATTACHMENT TO COMMISSIONER LEWIS' STATEMENT

Page Two
Ltr to Senator DeConcini
May 19, 1978

from the people start coming in.

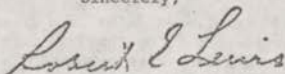
I want to do the best I can for my Indian people of both tribes but in doing so I want a free hand to do the job. I do not want to be placed in a position where as a Commissioner I am not able to come to you or anyone else for the help we need to do our job, and I am positive that my fellow Commissioners feel likewise.

There are perhaps a lot of career GS-15's in both Interior and BIA, three of which could have been composed into a commission such as ours if the Congress deemed to go that way in formulating PL 93-531.

We now will have to go out to the people and explain to them what is going on. They have a right to know.

With best regards, I am

Sincerely,

A handwritten signature in cursive script that reads "Robert E. Lewis". The signature is written in dark ink and is positioned above the typed name.

Robert E. Lewis
Commissioner



UNITED STATES GOVERNMENT

NAVAJO & HOPI INDIAN RELOCATION COMMISSION

2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

SUBMISSION FOR THE RECORD AT THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
HEARING FOR SENATE BILL 3043

Current Status Report on Relocation Commission Operations.

The following summarizes the Relocation Commission's work for the period
October 1, 1977 to June 19, 1978:

-- Five hundred ninety-one (591) interview and application preparation appointments have been scheduled; four hundred twenty-three (423) of these appointments have been kept. There have been two thousand one hundred and forty (2,140) non-scheduled walk-in requests for information, services, etc., and six hundred ninety (690) applications have been received.

-- Two hundred seventy-six (276) case files have been reviewed for certification, one hundred fifteen (115) certification field inspections have been made, and thirty-nine (39) applicants certified as eligible. Two hundred thirty-seven (237) applications are being held in abeyance pending clarification of Congressional intent.

-- Two hundred forty-one (241) appraisals have been made.

-- Six (6) on-reservation homesite leases have been obtained, and twelve (12) more are in the process of being obtained.

Since the beginning of the program, one thousand six hundred ninety-nine (1,699) applications have been received. In addition, sixty-two (62) families have identified and have moved into their replacement homes. Fifty-nine (59) of these families have elected to move to an off-reservation community, and three (3) have elected to remain on-reservation.

Beyond the above, the Relocation Commission's "grass roots" operations are functioning very well. Local relocation planning committees have been organized by the Hopi relocatees and at all of the Navajo Chapter Houses affected by P.L. 93-531. Sites for relocatee housing and community development are under consideration by all of the committees, and formal requests have been made by Teestoh and White Cone Chapter committees, and by the Hopi relocatees, to withdraw sites for relocation community development.

Congressional Rationale for an Independent Commission.

An independent Relocation Commission which would effect the actual relocation of people affected by a judicial partitionment of the land was chosen by Congress as the most viable way of carrying out the intent of Public

Law 93-531. This choice was largely due to the intense friction between the Navajo and Hopi Tribes and the historical record of Federal involvement. Both of these factors resulted in a sense of distrust by the Tribes towards established federal agencies.

A review of the Law's legislative history reflects that both the House and the Senate recognized the complexities of relocation, and perceived an independent Commission as a vital facet of the program needed to cope with these complexities.

In Committee, the deliberations of the Senate were governed by eleven guiding principles, the ninth of which admonished:

"That any...division of the lands of the Joint Use Areas must be undertaken in conjunction with a thorough and generous relocation program to minimize the adverse social, economic and cultural impacts of relocation on affected tribal members and to avoid any repetition of the unfortunate results of a number of early official Indian relocation efforts."
120 Cong. Rec. S 20321, Dec. 2, 1974.

Sections 12 to 15, of P.L. 93-531 are the results of that guideline. A substantial difference between the House and Senate versions of the relocation provision for settling the dispute was the Senate's recognition of the need for an independent Relocation Commission. Senate deliberations indicated that because of the long history of the failure of the Bureau of Indian Affairs and the Department of Interior to resolve this problem that any body created to solve this problem must be independent of the Department of Interior and any political pressures that the two tribes could bring to bear.

"Section 12 establishes a three-member Independent Navajo and Hopi Indian Relocation Commission to administer any relocation of tribal members required by the resolution of the land disputes. It is hoped that the independent nature and focused responsibilities of the Commission will insure that the settlement implementing authority will be sufficiently expert and possess all the requisite authority to develop a relocation program which will minimize the inevitable adverse social, economic and cultural impacts."
Senate Report 93-1177, p. 21.

In its section by section analysis of the Bill, the Senate Committee expressed the belief that:

"The (Commission) charged with implementing the program is structured and the program is funded in a manner which gives strong assurances of honoring the guiding principle of minimizing the social, economic and cultural disruptions which are normally associated with relocation efforts and which are particularly likely among the tribal members in the dispute areas who are so closely tied to the land in a cultural and economic sense."
Senate Report 93-1177, p. 34.

When attention on P.L. 93-531 finally focused on relocation itself, instead of the partition of land that would lead to it, the Senate Committee determined that leaving the administration of relocation to the Secretary, as contemplated, would be unwise. Instead, it chose a Commission composed of persons who would develop expertise and possess the independent authority needed to accomplish the delicate task of relocation.

"The bill also creates a Commission which is empowered to study the anticipated resettlement problems and affords an opportunity to the tribes to avoid contemplated difficulties."

Sen. Bible, 120 Cong. Rec. S 20319, Dec. 2, 1974.

The importance of the Relocation Commission's independence, in light of its statutory responsibilities to prepare a report to Congress, to minimize the adverse impacts of relocation, to disburse funds to purchase replacement homes and improvements, and to disburse incentive payments cannot be underestimated. The Relocation Commission's sensitive discretion and judgment are required by the duties with which it is charged.

The Senate fully recognized that the Relocation Commission must be able to perform its duty and be free from compromising political pressures which ultimately might emanate from agencies with a vested interest within the federal establishment and from strong opposition to the intent of the law from without.

The Relocation Commission has, as anticipated by the Congress, from time to time become the target of criticism. Notwithstanding this criticism, the record clearly shows that the Navajo and Hopi Indian Relocation Commission continues to effectively carry out its legislative mandate in an effective, fair and humane manner.

Critical Analysis of S. 3043.

A language change in P.L. 93-531 increasing the Relocation Commission's authorization for operating expenses and allowing the programming of funds was introduced and passed the House (HR 11092). These changes are vitally necessary to the continued operation of the Relocation Program. The language change was introduced in the Senate in amended form (S. 3043) which dramatically changed the Commissioners' status.

It is the position of the Relocation Commission that the changes proposed by S. 3043 are inconsistent with the intent and spirit of P.L. 93-531. There are two major reasons for this assertion:

- 1) Full-time Commissioners would result in an unnecessary expenditure of Federal monies.
- 2) Full-time Commissioners would likely hamper the day-to-day administrative and program operations of the Commission staff, and thus also have a negative impact on the relocatees.

The principle responsibilities of the Commissioners are to carry out the intent of P.L. 93-531 by determining policies and creating positive relationships with the relocatees and their Tribal officers. A full-time effort in this area is no longer necessary because this work has already been accomplished. In the first thirty (30) months of the Relocation Commission's operations the three Commissioners devoted themselves principally to this work. In fact, it was the Relocation Commission, through the Commissioners, rather than tribal officials, who took the "relocation message" to the relocatees.

In addition, the anticipated future funding requirements of the Commissioners appear to be substantially lower than the salary requirements associated with the full-time grade of GS-15. Based on the first four months of this year, it is reasonable to estimate that the average Commissioners' salary for 1978 will be less than \$25,000.

In view of the above, it is respectfully suggested that two of the principle reasons advanced in support of full-time Commissioners are not valid.

It is difficult to understand how full-time Commissioners, of grade GS-15, would increase the efficiency of the Relocation Commission, and it is likely that the opposite could occur. It seems probable that the full-time presence of the three Commissioners would create a situation in which there would be excess capacity in the senior administrative area, and thus hamper the Relocation Commission's operations through the presence of administrative diseconomies of scale.

In addition, the Commissioners must sit as an impartial hearing board on questions of eligibility and the appraisal of the fair market value of relocatees' dwellings and other improvements. It is likely that the Commissioners' full-time presence would not increase their knowledge of particular cases, but would, instead, place them in such close proximity to individual family situations that the net results would be a compromising of the objectivity necessary for due process.

Role of S. 1714 and the Commission's Accountability.

It appears that S. 3043 has been introduced as a response to the Winslow, Arizona field hearings on S. 1714. That is, when the Relocation Commission was informed of S. 3043, it was asserted that at the Select Committee field hearing on S. 1714 the Committee received testimony and other material regarding the need for full-time Commissioners. While the Relocation Commission has not been given an opportunity to review the transcript of the Winslow hearing in its entirety, it is nonetheless of the opinion that this is a misinterpretation.

At the Select Committee's hearing, several specious accusations were made by a disgruntled former employee. Specifically:

- 1) The eligibility criteria had been changed by the Commissioners; and
- 2) Since the inception of the Commission, an average of \$35,000 per year had been paid to each of the Commissioners and an average of \$10,000 per

year per Commissioner had been expended in travel.

As were entered into the record that day by two Commissioners and their staff:

- 1) The eligibility criteria have not been changed since being published in the Federal Register on November 12, 1976. However, the Commission's Application Form, which is used in the determination and certification/denial of eligibility was changed in 1977.
- 2) The asserted salary figures were erroneous, and the implication that the Commissioners hold lucrative sinecures was declared to be profoundly false.

The Relocation Commission's accountability was also discussed at the Winslow hearing, and thus deserves attention. The Relocation Commission has taken steps to insure its accountability in a variety of ways:

Fiscal and programmatic accountability is insured by Commission involvement in program activities as well as policy making and by conducting the Relocation Program in a fiscally responsible manner. This involved codifying the Relocation Commission's operation procedures into a Management Manual. In addition, the Commission requested and was granted a review by the GAO in 1977. This audit recommended areas that could be strengthened. The recommendations having been implemented, the Commission requested another GAO review of the following fiscal year's operations.

Accountability to the relocatees is insured via Commission attendance at meetings and via the Local Relocation Planning Committees. Most importantly, the provision of administrative housekeeping services by the Office of the Secretary of Interior is considered to be a vital step in insuring fiscal responsibility.

Programmatic accountability is also facilitated by providing timely information to both the Tribes and the Executive and Legislative branches. Information is provided in a variety of ways: by appearing at Tribal meetings and making presentations; participating in workshops, etc.; and by providing reports to concerned persons. (An attached Exhibit contains a summary of the dates of the Relocation Commission's major briefings and reports, as well as the Program Update distribution list.) The distribution of the Program Update reflects the Commission's efforts to keep all concerned parties adequately informed of the status of Relocation Program activities. Finally, the Commission has asked the President to designate a liaison officer to whom it may report.

Because of its apparently pivotal role, a more detailed analysis of the Winslow hearing might be fruitful. Unfortunately, this isn't possible since it not only took over three months for the Relocation Commission to receive an incomplete copy of the transcript, but also because this copy was limited to the Relocation Commission's testimony.

Conclusion.

With due respect to the two distinguished Senators who introduced S. 3043, the intent and spirit manifested by Congress in P.L. 93-531 would be best served by the Select Committee acting positively on the language change as provided for in H.R. 11092, and preserving the integrity of the Commission as established in P.L. 93-531.

EXHIBIT - Briefings and Reports
Program Update Distribution List

BRIEFINGS AND REPORTS

<u>Material</u>	<u>Date Presented/Published</u>
First Annual Report	October 31, 1976
Quarterly Report	November 3, 1976
Briefing of DOI Field Committee	November 18-19, 1976
Quarterly Report	January 27, 1977
Washington Briefing of OMB	February 3, 1977
Washington Briefing	March 21-24, 1977
Quarterly Report	April 28, 1977
Report to Federal Regional Commission (IX)	May 10-12, 1977
Washington Briefing	May 18-20, 1977
Field Briefing of Undersecretary Joseph	May 23, 1977
Washington Briefing	June 9-10, 1977
Field Briefing of Acting Commissioner Butler	June 16, 1977
Quarterly Report	July 28, 1977
Field Briefing of DOI Chief of Finance, Novick	August 1-4, 1977
Report for July 1977	August 16, 1977
Budget and Program Presentation to OMB	August 18, 1977
Report for August 1977	September 19, 1977
Washington Briefing	November 3, 1977
Second Annual Report	November 3, 1977
Field Briefing of Byron Neilson, Administrative Assistant to Congressman Yates	November 19, 1977
Report on Commission Activities, October and November 1977	December 9, 1977
Report on Commission Activities, December 1977	January 23, 1978
Washington Briefing	January 19-20, 1978
Washington Briefing	January 25-27, 1978
Presentation to Senate Select Committee on Indian Affairs Field Hearing, Winslow, Arizona	February 10, 1978
House Appropriations Hearings, Washington	February 15, 1978
Senate Appropriations Hearings	February 21, 1978

EXHIBIT

(Briefings and Reports - Continued)

Supplemental Material to Senate Select Committee	March 3, 1978
Report on January and February 1978 Commission Activities	March 16, 1978
Program Update and Report for March 1978	April 13, 1978
Washington Briefing	April 24-27, 1978
Program Update and Report for April 1978	May 11, 1978
Field Briefing of Senate Select Committee's Assistant Counsel, and Senator DeConcini's Assistant for Constituent Services	May 31, 1978
Program Update and Report for May 1978	June 16, 1978

PROGRAM UPDATE DISTRIBUTION LIST

Senator Howard Metzenbaum	Congressman Manuel Lujan, Jr.
Senator John Melcher	Congressman John Rhodes
Senator Dewey Bartlett	Congressman Robert Stump
Senator Mark O. Hatfield	The Hon. Cecil D. Andrus (Secretary of the Interior)
Senator James Abourezk	The Hon. James A. Joseph (Undersecretary of the Interior)
Senator Jake Garn	Mr. Wallace S. Green (Special Assistant to the Undersecretary)
Senator Henry Jackson	The Hon. Forrest Gerard (Asst. Secretary for Interior for Indian Affairs)
Senator Dennis DeConcini	Mr. Rick Lavis (Deputy Assistant Secretary for Indian Affairs)
Senator Barry Goldwater	Mr. Frank Ducheneaux (House Interior Committee)
Senator Harrison Schmitt	Mr. Byron Neilson (House Appropriations Committee)
Senator Pete V. Domenici	Mr. Dwight Dyer (Senate Appropriations Committee)
Senator Orrin Hatch	
Congressman David Marriott	
Congressman Eldon Rudd	
Congressman Morris Udall	
Congressman Gunn McKay	
Congressman Harold Runnels	
Congressman Sidney Yates	

(EXHIBIT - Page 2)

(Program Update Distribution List - Continued)

Mr. David Gilbert
(Department of Interior)

Mr. Matt Novick
(Department of Interior)

Mr. Howard Borgstrom
(Budget Examiner, Office
of Management and Budget)

Mr. Bob Bauerline (Office of
Management and Budget)

Chairman Peter MacDonald
(Navajo Tribal Council)

Chairman Abbott Sekaquaptewa
(Hopi Tribe)

Director of Navajo-Hopi Land
Dispute Commission (Navajo
Tribe)

Mr. Anthony Lincoln
(Western Federal Regional Council)

Mr. LEWIS. I would like to make a few remarks in regard to the questions that were asked of Mr. William Benjamin in regard to our coordination with the Bureau of Indian Affairs.

We do have two statements that we would like to present to the chairman in regard to this matter, and we would like to inform you at this time that we are getting to the point with the work of the chapter planning committees doing their own comprehensive planning with staff help from our departments of getting these lands set aside, obtained, and also to do their planning with the priorities that they require in individual chapters.

We also have the planning committee of the Hopi Tribe with whom we have been working.

In the process of doing this, we will be coordinating more and more with the Bureau of Indian Affairs because their departments, in many areas, will be needed to implement the plans that these folks are making out there for their needs.

We all know that for many years they have been cut off from construction, repairs, or remodeling, or building anything that would be to their own use.

But, at this time, we feel that the chapters doing their own planning, with our assistance, are doing a wonderful job.

We did have a training period scheduled for training the groups at the end of this month, but it was postponed until later because of unforeseen incidents that have occurred in the past week.

But we have contacted all the Indian desks in Washington with representatives of both tribes on two previous visits to Washington. By Indian desks, I mean those agencies who are sources of funding: EDA, HEW, HUD, and the whole group that can assist and will assist when these plans are completed.

We also have indicated to them that when each chapter has completed its comprehensive plans and the packages are ready to submit, we will be coming back up with the tribes to, hopefully, obtain financial help from the sources that we just mentioned.

But, in the meantime, we have formed an advisory committee at the BIA which has been working diligently with us until 4 months ago when travel restrictions were set down on them. Only recently did we meet with the area director and the superintendents of the area to try to recoup lost time.

We know that the interest of the Bureau is there. The Superintendent of Chinle, the Superintendent of Fort Defiance, and the Superintendent of Tuba City are on this committee because most of the areas that we work in come under their jurisdiction.

Above them, of course, is the area director of the Navajo Area Office, Mr. Dodge. His interest is there. He wants to participate in the training sessions that the planning groups will be having whenever we set the date.

I just wanted you to know, Mr. Chairman, that we have not been losing any contact with the Bureau of Indian Affairs. In fact, they will be an important and integral part of the implementing portions of the chapter plans when they are completed.

We have informed them that the cost estimates and all the plans are being completed and will be given to indicate who can help and where.

We are glad to say that we do commend the chapter people for formulating their comprehensive relocation planning groups and getting the assistance that we can give them in some way to try to obtain these set-aside lands where homes will be furnished to some of the relocatees.

Until then, because of the process it takes to obtain these lands, it takes time. There is no way that we, as a Commission, can rush them.

So, I am ready for any questions now, Senator.

Senator BARTLETT. Thank you.

Without objection, your statements concerning the Bureau of Indian Affairs will be inserted in the record at this point.

[The statements referred to follow:]



UNITED STATES GOVERNMENT

NAVAJO & HOPI INDIAN RELOCATION COMMISSION

2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION COORDINATION WITH THE
BUREAU OF INDIAN AFFAIRS

Since its inception, the Navajo and Hopi Indian Relocation Commission has worked very closely with the Bureau of Indian Affairs. An effective working relationship between these two agencies is necessary for successful fulfillment of the intent of P.L. 93-531.

Operationally, the Relocation Commission has frequently worked closely with the Bureau on all levels. The Commission has met on several occasions with Bureau Central staff in Washington, D.C., and maintained close contact at Area and Agency levels.

The Relocation Commission has established a BIA Advisory Committee which, until hampered by Bureau budget restraints, met on a regular basis.

The Bureau of Indian Affairs cooperated with the Commission by providing appraisal services for them. The Relocation Commission has two career staff people assigned to them, one from the Office of the Secretary and the other a very competent social worker from the BIA Tuba City Agency.

Staff from the Joint Use Office have cooperated by providing the Relocation Commission with technical assistance in archaeological assessments and have freely provided their mapping and inventories of the area.

Presently the Relocation Commission is represented on the BIA Joint Use Area Task Force created by the Under-Secretary for Indian Affairs.

The Relocation Commission recognizes that ultimately the Bureau of Indian Affairs will inherit on-going responsibility for the former Joint Use Area after relocation is complete.

The Relocation Commission feels that it has developed an excellent working relationship with the Bureau of Indian Affairs. The attached represents a chronology of our activities with the BIA.

Attachment - Chronology

CHRONOLOGY OF ACTIVITIES WITH BUREAU OF INDIAN AFFAIRS

<u>Date</u>	<u>Activity</u>
6-5-78	Meeting with Planning Committee Officers to Plan Training Workshop (Tuba City) (BIA Participation)
5-5-78	Meeting with BIA and Land Dispute Commission re: Needs Assessment (Window Rock)
5-3-78	Meeting with BIA Advisory Committee in Flagstaff
4-25-78	Meeting with Navajo and Hopi Land Use Task Force, Washington, D. C.
4-18-78	Meeting with Hopi Tribal Chairman, BIA Operations Officer and Relocates re: Land Site Assignment Procedures
3-30-78	Joint Committee Meeting re: Land Assignments for Relocates (New Oraibi) (BIA Participation)
3-29-78/ 3-30-78	Bureau of Indian Affairs, Roads Department Meeting
3-23-78	Hopi Ad Hoc Committee Meeting re: Land Assignments for Relocates (New Oraibi) (BIA Participation)
3-16-78	Hopi Ad Hoc Committee Meeting re: Land Assignments for Relocates (New Oraibi) (BIA Participation)
3-7-78	Meeting with Chinle Roads Agency, Chinle
3-6-78/ 3-7-78	Meeting with Tribal Officials and BIA (Window Rock)
2-15-78	Joint Committee Meeting re: Land Assignments for Relocates (New Oraibi) (BIA Participation)
2-14-78	Meeting with Richard Lavis, BIA
1-26-78/ 1-27-78	Construction Project at Upper Dinnebito Wash
1-24-78	Construction Project at Upper Dinnebito Wash
1-20-78	Meeting with OMB and BIA Officials in Washington, D.C.

Page Two
Chronology of Activities with Bureau of Indian Affairs

1-16-78	JUA Roads Committee Meeting, Window Rock
1-12-78	Meeting on Roads Improvements in the JUA, Chinle Roads Agency
1-10-78	Meeting with BIA, IHS and Tribal Officials, Window Rock
1-10-78	Meeting on the Needs of the Hopi Relocateses, Keams Canyon
1-4-78	Meeting with BIA, Keams Canyon Agency, Discussion of Surveying and Planning for Hopi Relocateses
12-1-77	Symposium at Window Rock - BIA Participation
12-1-77	JUA Needs Assessment (Window Rock) (BIA Participation)
11-30-77	Big Mountain Chapter Meeting - BIA Participation
11-14-77	Meeting with DOI and BIA Officials, Washington, D.C.
10-26-77	Meeting on Program Planning for Budgeting for Indian Health Services for Relocateses
9-12-77	BIA Agency Staff Meeting, Chinle, Arizona
9-11-77	Meeting with Chinle Agency Superintendent and BIA Staff at Chinle, Arizona
9-10-77	Meeting with Indian Health Service/Land Dispute Commission
7-8-77	Appraisal Task Force Meeting (BIA Staff Participation)
6-16-77	Meeting with Navajo Division of Education and BIA Education Staff in Window Rock
6-16-77	Field Briefing of Acting Commissioner Butler (BIA)

Page Three
Chronology of Activities with Bureau of Indian Affairs

1-21-77	Meeting with BIA Advisory Committee
11-11-76	Meeting with BIA Agency Area Social Worker
9-23-76	Department of Interior - Field Committee Meeting
3-27-76	Meeting in Phoenix Field Solicitors Office (BIA Participation)
2-18-76	BIA Operations, Albuquerque, New Mexico
1-5-76/ 1-9-76	Meeting in Washington, D. C., Assistant Secretary John Kyl and staff; Assistant Secretary James Clarke and staff; Bureau of Recruiting and Examining, Civil Service Commission
9-16-75	Meeting with JUA staff and Field Solicitor Support Services Briefing
7-1-75	First Official Meeting of Commission - Meeting with Maurice Thompson, Commissioner of Bureau of Indian Affairs, and staff (Phoenix, Arizona)



UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
 2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

SITE IDENTIFICATION FOR RELOCATION

The Navajo and Hopi Indian Relocation Commission, on numerous occasions, has been asked if it was not one of their responsibilities to identify sites to which those eligible for relocation assistance could move.

It is a fact that P.L. 93-531 was formulated and enacted into law before any replacement lands could be made available to the Navajo Tribe to be used as relocation sites for those who would be required to move. Bluntly, this was putting the cart before the horse.

Although P.L. 93-531 does indicate that the Navajo Tribe would be given the option to purchase 250,000 acres of BLM lands, the Secretary of the Interior has asked for an Environmental Impact Statement which has caused a lag in the acquisition of the House Rock Valley, Paria Plateau, which is the first choice of the Navajo Tribal Council.

Meanwhile, the Navajo and Hopi Indian Relocation Commission has identified possible sites for relocatees. In doing so, the Commission has not touched on BLM lands because it is not the Commission's intention to usurp tribal authority.

The Commission can only submit recommendations to the tribal government on possible sites. In regard to the Chapter officers and their working directly with their local Chapter Comprehensive Relocation Planning Committees, the Relocation Commission through staff assistance to these groups can only support their requests on land set-asides which will provide homesite leases for relocatees as well as others, plus people services facilities as well as economic development sites (community development.) The total plans must be approved by the Economic Development and Planning Committee of the Navajo Tribe and the Tribal Program Development before it gets to the Advisory Committee of the Navajo Tribal Council.

All other land matters involve the Advisory Committee, the Navajo Tribal Council, the Navajo Tribal Land Administration, the Bureau of Indian Affairs, and the Bureau of Land Management. The Relocation Commission has NO JURISDICTION in these areas of the Tribal governmental operations. (See Procedures, attached.)

Attachments -

- 1) Off Reservation Land Acquisition Procedures
Concerning the Navajo Tribe
- 2) Navajo Tribal Reservation Land Withdrawal
Procedures

OFF RESERVATION - LAND ACQUISITION
PROCEDURES CONCERNING THE NAVAJO TRIBE

1. The Navajo Tribe must identify the land,
2. The Navajo Tribe must make an application to the Bureau of Land Management or other lands (state - fee simple),
3. The Bureau of Land Management will ask why, purpose, objective, appraisal or land exchange,
4. Objection -- Public Hearing, or approval from the Bureau of Land Management,
5. The Navajo Tribe must approve site selection,
6. Resolution to the Budget and Finance Committee; they make recommendation to:
7. The Navajo Tribal Council to appropriate money,
8. Monies appropriated for land purchase by the Navajo Tribal Council,
9. Survey made, necessary documents drawn up by legal counsel,
10. Signatures acquired from necessary agencies, including the Navajo Tribe.

Attachment 1

NAVAJO TRIBAL RESERVATION
LAND WITHDRAWAL PROCEDURES

1. The Navajo and Hopi Indian Relocation Commission has organized the local chapters' Relocation Comprehensive Planning Committees (this committee works under the local chapter.)
2. The local chapter works with the Planning Committee to secure the approval of the overall plan and acquires the consent of the local grazing permittees who have a grazing right on the land.
3. A Resolution concerning site selection must be approved by the local chapter.
4. Grazing Committee approves Comprehensive Plan.
5. A Resolution concerning the Comprehensive Plan approved by the local chapter.
6. Economic Development and Planning Committee of the Navajo Tribe must approve the above Comprehensive Plan.
7. Advisory Committee of the Navajo Tribal Council approves the chapters' Comprehensive Plan.
8. Program Development and the Navajo Tribal Land Administration submits above resolution to the Bureau of Indian Affairs Realty Department with a certified survey.
9. Approval or rejection by the Bureau of Indian Affairs.

Attachment 2

Senator BARTLETT. Mr. Urbano, do you desire to make a statement?
 Reverend URBANO. If I may get to something rather specific, Mr. Chairman.

The real nut of this discussion seems to be the question of evaluating the performance of the Commission to date. My reaction to that question is that it would be nearly impossible, even for the Commission, properly to evaluate the progress.

I am only speaking for myself, but I suspect that the other two Commissioners will agree with me when I say that we would welcome an audit and recommendations from the General Accounting Office. We would consider that an appropriate method of oversight.

Senator BARTLETT. Thank you.

Mr. Crowley?

Mr. CROWLEY. I have no statement to make at this time, Mr. Chairman.

Senator BARTLETT. I have several questions, Senator DeConcini, and then, if it is all right with you, I will turn the gavel over to you for your questions and comments. And then, perhaps, you could call on the minority staff, Mr. Funke, as well as Mr. Cox for their questions. I think each of them has some. They probably should not carry on indefinitely. They can submit some of them, but I think they could ask the more pertinent ones. This also goes for Senator Goldwater's staff.

Is that agreeable?

Senator DeCONCINI. That is fine, Mr. Chairman.

Senator BARTLETT. Thank you.

Mr. Lewis, I think I would direct this question to you. When do you anticipate that your overall plan will be ready?

Mr. LEWIS. We have indicated in our progress report that we would be submitting our report and plan to the Congress in December of this year.

Senator BARTLETT. Have you had more voluntary applications for relocation than you anticipated?

Mr. LEWIS. Yes, sir. That is the reason we requested the amendment in our log for reprogramming our funds and also for the supplement that is necessary to do the job, sir.

Senator BARTLETT. What has the additional load of voluntary relocations necessitated as far as your personnel are concerned? Has it increased the load? And, if so, by how much?

Mr. LEWIS. Yes, sir; it has, very much.

Senator BARTLETT. Could you give some idea of the amount?

Mr. LEWIS. Due to the fact that the tremendous number of voluntary applications that came in was unexpected, and due also to the fact that we were not in a position when all this heavy load came in to do the job right, we got concerned about the proper staffing.

We certainly do have it now, but it has taken us time to get where we are in staffing.

I am also submitting to the Chair a status report on our staff capabilities which will enable us to assume the full responsibilities in the relocation process at a time when the Commission work will be slackening off.

Senator BARTLETT. Without objection, it will appear in the record at this point.

[The status report follows:]



UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
 2708 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

SUBMISSION TO THE SENATE APPROPRIATIONS COMMITTEE

Current Status Report on Relocation Commission Operations.

The following summarizes the Relocation Commission's work for the period October 1, 1977 to June 19, 1978:

- Five hundred ninety-one (591) interview and application preparation appointments have been scheduled; four hundred twenty-three (423) of these appointments have been kept. There have been two thousand one hundred and forty (2,140) non-scheduled walk-in requests for information, services, etc., and six hundred ninety (690) applications have been received.
- Two hundred seventy-six (276) case files have been reviewed for certification, one hundred fifteen (115) certification field inspections have been made, and thirty-nine (39) applicants certified as eligible. Two hundred thirty-seven (237) applications are being held in abeyance pending clarification of Congressional intent.
- Two hundred forty-one (241) appraisals have been made.
- Six (6) on-reservation homesite leases have been obtained, and twelve (12) more are in the process of being obtained.

Since the beginning of the program, one thousand six hundred ninety-nine (1,699) applications have been received. In addition, sixty-two (62) families have identified and have moved into their replacement homes. Fifty-nine (59) of these families have elected to move to an off-reservation community, and three (3) have elected to remain on-reservation.

The Relocation Commission's "grass roots" operations are functioning very well. Local relocation planning committees have been organized by the Hopi relocatees and at all of the Navajo Chapter Houses affected by P.L. 93-531. A major workshop for planning committee members, and other concerned persons, will be held in mid-July. Sites for relocatee housing and community development are under consideration by all of the committees, and formal requests have been made by Teestoh and White Cone Chapter committees, and by the Hopi relocatees, to withdraw sites for relocation community development.

Congressional Rationale for an Independent Commission.

An independent Relocation Commission which would effect the actual relocation of people affected by a judicial partitionment of the land was chosen by Congress as the most viable way of carrying out the intent of Public Law 93-531. This choice was largely due to the intense friction between the Navajo and Hopi Tribes and the historical record of Federal involvement. Both of these factors resulted in a sense of distrust by the Tribes towards established federal agencies.

A review of the Law's legislative history reflects that both the House and the Senate recognized the complexities of relocation, and perceived an independent Commission as a vital facet of the program needed to cope with these complexities.

In Committee, the deliberations of the Senate were governed by eleven guiding principles, the ninth of which admonished:

"That any...division of the lands of the Joint Use Areas must be undertaken in conjunction with a thorough and generous relocation program to minimize the adverse social, economic and cultural impacts of relocation on affected tribal members and to avoid any repetition of the unfortunate results of a number of early official Indian relocation efforts."
120 Cong. Rec. S 20321, Dec. 2, 1974.

Sections 12 to 15 of P.L. 93-531 are the results of that guideline. A substantial difference between the House and Senate versions of the relocation provision for settling the dispute was the Senate's recognition of the need for an independent Relocation Commission. Senate deliberations indicated that because of the long history of the failure of the Bureau of Indian Affairs and the Department of Interior to resolve this problem that any body created to solve this problem must be independent of the Department of Interior and any political pressures that the two tribes could bring to bear.

"Section 12 establishes a three-member Independent Navajo and Hopi Indian Relocation Commission to administer any relocation of tribal members required by the resolution of the land disputes. It is hoped that the independent nature and focused responsibilities of the Commission will insure that the settlement implementing authority will be sufficiently expert and possess all the requisite authority to develop a relocation program which will minimize the inevitable adverse social, economic and cultural impacts."
Senate Report 93-1177, p. 21.

In its section by section analysis of the Bill, the Senate Committee expressed the belief that:

"The (Commission) charged with implementing the program is structured and the program is funded in a manner which gives strong assurances of honoring the guiding principle of minimizing the social, economic and cultural disruptions which are normally associated with relocation efforts and which are particularly likely among the tribal members in the dispute areas who are so closely tied to the land in a Senate Report 93-1177, p. 34.

When attention on P.L. 93-531 finally focused on relocation itself, instead of the partition of land that would lead to it, the Senate Committee determined that leaving the administration of relocation to the Secretary, as contemplated, would be unwise. Instead, it chose a Commission composed of persons who would develop expertise and possess the independent authority needed to accomplish the delicate task of relocation.

"The bill also creates a Commission which is empowered to study the anticipated resettlement problems and affords an opportunity to the tribes to avoid contemplated difficulties."

Sen. Bible, 120 Cong. Rec. S 20319, Dec. 2, 1974.

The importance of the Relocation Commission's independence, in light of its statutory responsibilities to prepare a report to Congress, to minimize the adverse impacts of relocation, to disburse funds to purchase replacement homes and improvements, and to disburse incentive payments cannot be underestimated. The Relocation Commission's sensitive discretion and judgment are required by the duties with which it is charged.

The Senate fully recognized that the Relocation Commission must be able to perform its duty and be free from compromising political pressures which ultimately might emanate from agencies with a vested interest within the federal establishment and from strong opposition to the intent of the Law from without.

The Relocation Commission has, as anticipated by the Congress, from time to time become the target of criticism. Notwithstanding this criticism, the record clearly shows that the Navajo and Hopi Indian Relocation Commission continues to effectively carry out its legislative mandate in an effective, fair and humane manner.

The Relocation Commission is very sensitive to the need to be accountable. A variety of steps have been taken to insure this accountability:

Fiscal and programmatic accountability is insured by Commission involvement in program activities as well as policy making and by conducting the Relocation Program in a fiscally responsible manner. This involved codifying the Relocation Commission's operation procedures into a Management Manual. In addition, the Commission requested and was granted a review by the GAO in 1977. This audit recommended areas that could be strengthened.

The recommendations having been implemented, the Commission requested another GAO review of the following fiscal year's operations.

Accountability to the relocatees is insured via Commission attendance at meetings and via the Local Relocation Planning Committees. Most importantly, the provision of administrative housekeeping services by the Office of the Secretary of Interior is considered to be a vital step in insuring fiscal responsibility. (Attached Exhibit #1 lists Commission attendance at general Chapter and Relocation Planning Committee meetings.)

Programmatic accountability is also facilitated by providing timely information to both the Tribes and the Executive and Legislative branches. Information is provided in a variety of ways: by appearing at Tribal meetings and making presentations; participating in workshops, etc.; and by providing reports to concerned persons. (Attached Exhibit #2 contains a summary of the dates of the Relocation Commission's major briefings and reports, as well as the Program Update distribution list.) The distribution of the Program Update reflects the Commission's efforts to keep all concerned parties adequately informed of the status of Relocation Program activities. Finally, the Commission has asked the President to designate a liaison officer to whom it may report.

Budget Needs.

The large response to the relocation program was totally unanticipated. Because of this, the \$500,000 program management appropriation has proved to be inadequate and an increase necessary. An appropriation of \$1,000,000 will allow the Relocation Commission to enhance its operations beyond the minimum level of service allowed by the present budget, and thus implement P.L. 93-531 in an effective and humane manner.

Attachments:

Exhibit #1 - Commission Attendance at General Chapter and Relocation Planning Committee Meetings

Exhibit #2 - Listing of Briefings and Reports



UNITED STATES GOVERNMENT
NAVAJO & HOPI INDIAN RELOCATION COMMISSION
 2709 N. FOURTH ST. SUITE E-1 FLAGSTAFF, ARIZONA 86001

COMMISSION ATTENDANCE AT GENERAL CHAPTER AND RELOCATION PLANNING COMMITTEE

MEETINGS

1976

June 12, 1976	- Coalmine Mesa (Commissioners Urbano and Atkinson)
June 26, 1976	- Forest Lake (Commissioners Atkinson and Lewis)
June 28, 1976	- Hard Rock (Commissioners Atkinson and Lewis)
July 11, 1976	- Red Lake (Commissioners Urbano and Atkinson)
September 21, 1976	- Low Mountain (Commissioner Atkinson)
September 22, 1976	- Jeddito (Commissioner Atkinson)
November 7, 1976	- Teestoh (Commissioners Urbano and Atkinson)
December 13, 1976	- Oraibi (Commissioner Atkinson)

1977

January 5, 1977	- Hard Rock (Commissioner Lewis)
January 9, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
January 24, 1977	- Hard Rock (Commissioners Atkinson and Lewis)
January 27, 1977	- Oraibi (Commissioner Atkinson)
January 30, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
February 27, 1977	- White Cone (Commissioners Atkinson and Lewis)
March 5, 1977	- Teestoh (Commissioners Atkinson and Lewis)
March 10, 1977	- Oraibi (Commissioner Urbano)
March 13, 1977	- Coalmine Mesa (Commissioners Lewis and Atkinson)
March 21, 1977	- Tolani Lake (Commissioner Lewis)
March 24, 1977	- Pinon (Commissioners Lewis and Atkinson)
April 3, 1977	- Tolani Lake (Commissioners Lewis and Atkinson)
April 5, 1977	- Low Mountain (Commissioner Lewis)
April 7, 1977	- Jeddito (Commissioners Atkinson and Lewis)
April 16, 1977	- Forest Lake (Commissioners Urbano and Lewis)
May 7, 1977	- Teestoh (Commissioner Lewis)
May 15, 1977	- Low Mountain (Commissioner Lewis)
May 21, 1977	- Red Lake (Commissioner Atkinson)

Page Two
Commission Attendance at Meetings

(1977 Continued)

June 12, 1977	- Tolani Lake (Commissioner Atkinson)
July 9, 1977	- Forest Lake (Commissioner Lewis)
July 15, 1977	- Forest Lake (Commissioner Lewis)
July 21, 1977	- Sand Springs (Commissioners Urbano and Lewis)
July 24, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
August 5, 1977	- Pinon (Commissioner Atkinson)
August 6, 1977	- Teestoh (Commissioner Lewis)
August 7, 1977	- Coalmine Mesa (Commissioner Lewis)
August 13, 1977	- Shonto (Commissioners Lewis and Atkinson)
August 17, 1977	- Teestoh (Commissioner Lewis)
August 21, 1977	- Coalmine Mesa (Commissioners Atkinson and Lewis)
August 26, 1977	- Red Lake (Commissioner Lewis)
August 27, 1977	- Jeddito (Commissioner Lewis)
August 28, 1977	- White Cone (Commissioner Lewis)
September 2, 1977	- Pinon (Commissioners Urbano, Atkinson and Lewis)
September 10, 1977	- Oraibi (Commissioners Urbano, Atkinson and Lewis)
November 10, 1977	- Oraibi (Commissioner Lewis)
November 12, 1977	- Pinon (Commissioner Lewis)
November 27, 1977	- Coalmine Mesa (Commissioner Lewis)
November 30, 1977	- Big Mountain (Commissioners Lewis and Atkinson)
December 11, 1977	- Tolani Lake (Commissioner Lewis)
December 15, 1977	- Sand Springs (Commissioner Lewis)
December 15, 1977	- Oraibi (Commissioner Lewis)

1978

January 10, 1978	- Keams Canyon (Commissioner Lewis)
January 13, 1978	- Sand Springs (Commissioner Atkinson)
January 14, 1978	- Pinon (Commissioner Lewis)
January 15, 1978	- Low Mountain (Commissioner Lewis)
January 22, 1978	- White Cone (Commissioner Lewis)
January 25, 1978	- Jeddito (Commissioner Lewis)

Page Three
Commission Attendance at Meetings

(1978 Continued)

January 29, 1978	- Tolani Lake (Commissioner Lewis)
February 12, 1978	- Coalmine Mesa (Commissioner Atkinson)
February 27, 1978	- Red Lake (Commissioner Lewis)
April 6, 1978	- Red Lake (Commissioners Urbano and Lewis)
April 11, 1978	- Oraibi (Commissioner Lewis)
April 29, 1978	- Flagstaff (Chapter Planning Committees) (Commissioners Atkinson and Lewis)

BRIEFINGS AND REPORTS

<u>Material</u>	<u>Date Presented/Published</u>
First Annual Report	October 31, 1976
Quarterly Report	November 3, 1976
Briefing of DOI Field Committee	November 18-19, 1976
Quarterly Report	January 27, 1977
Washington Briefing of OMB	February 3, 1977
Washington Briefing	March 21-24, 1977
Quarterly Report	April 28, 1977
Report to Federal Regional Commission (IX)	May 10-12, 1977
Washington Briefing	May 18-20, 1977
Field Briefing of Undersecretary Joseph	May 23, 1977
Washington Briefing	June 9-10, 1977
Field Briefing of Acting Commissioner Butler	June 16, 1977
Quarterly Report	July 28, 1977
Field Briefing of DOI Chief of Finance, Novick	August 1-4, 1977
Report for July 1977	August 16, 1977
Budget and Program Presentation to OMB	August 18, 1977
Report for August 1977	September 19, 1977
Washington Briefing	November 3, 1977
Second Annual Report	November 3, 1977
Field Briefing of Byron Neilson, Administrative Assistant to Congressman Yates	November 19, 1977
Report on Commission Activities, October and November 1977	December 9, 1977
Report on Commission Activities, December 1977	January 23, 1978
Washington Briefing	January 19-20, 1978
Washington Briefing	January 25-27, 1978
Presentation to Senate Select Committee on Indian Affairs Field Hearing, Winslow, Arizona	February 10, 1978
House Appropriations Hearings, Washington	February 15, 1978
Senate Appropriations Hearings	February 21, 1978

Exhibit 2

(Briefings and Reports - Continued)

Supplemental Material to Senate Select Committee	March 3, 1978
Report on January and February 1978 Commission Activities	March 16, 1978
Program Update and Report for March 1978	April 13, 1978
Washington Briefing	April 24-27, 1978
Program Update and Report for April 1978	May 11, 1978
Field Briefing of Senate Select Committee's Assistant Counsel, and Senator DeConcini's Assistant for Constituent Services	May 31, 1978
Program Update and Report for May 1978	June 16, 1978

PROGRAM UPDATE DISTRIBUTION LIST

Senator Howard Metzenbaum	Congressman Manuel Lujan, Jr.
Senator John Melcher	Congressman John Rhodes
Senator Deway Bartlett	Congressman Robert Stump
Senator Mark O. Hatfield	The Hon. Cecil D. Andrus (Secretary of the Interior)
Senator James Abourezk	The Hon. James A. Joseph (Undersecretary of the Interior)
Senator Jake Garn	Mr. Wallace S. Green (Special Assistant to the Undersecretary)
Senator Henry Jackson	The Hon. Forrest Gerard (Asst. Secretary for Interior for Indian Affairs)
Senator Dennis DeConcini	Mr. Rick Lavis (Deputy Assistant Secretary for Indian Affairs)
Senator Barry Goldwater	Mr. Frank Ducheneaux (House Interior Committee)
Senator Harrison Schmitt	Mr. Byron Neilson (House Appropriations Committee)
Senator Pete V. Domenici	Mr. Dwight Dyer (Senate Appropriations Committee)
Senator Orrin Hatch	
Congressman David Marriott	
Congressman Eldon Rudd	
Congressman Morris Udall	
Congressman Gunn McKay	
Congressman Harold Runnels	
Congressman Sidney Yates	

Exhibit 2 - Page 2

(Program Update Distribution List - Continued)

Mr. David Gilbert
(Department of Interior)

Mr. Matt Novick
(Department of Interior)

Mr. Howard Borgstrom
(Budget Examiner, Office
of Management and Budget)

Mr. Bob Bauerline (Office of
Management and Budget)

Chairman Peter MacDonald
(Navajo Tribal Council)

Chairman Abbott Sekaquaptewa
(Hopi Tribe)

Director of Navajo-Hopi Land
Dispute Commission (Navajo
Tribe)

Mr. Anthony Lincoln
(Western Federal Regional Council)

Senator BARTLETT. Once you have completed the plan, do you anticipate that the relocations will take place at the current rate, a faster rate, or a slower rate?

Mr. LEWIS. Well, this will also depend a great deal on the eligibility problem which we hope to get some assistance on through the work of the GAO and what they are doing to help us in this.

Senator BARTLETT. Do you anticipate that once the plan is completed, the relocations will go at a faster rate, a slower rate, or the same rate?

Mr. LEWIS. It will probably increase, especially if the set-aside lands are obtained.

We do not know, right at this time, when we will be able to start in that area for relocating the folks who do not want to go off reservation.

But, when the sites are set aside and site development takes place and these home site leases are located and the people have the choice of obtaining a lot there, then we will get into a pretty good sized construction period in all chapters.

Senator BARTLETT. Mr. Lewis, what is your opinion of having a complete GAO audit and recommendations?

Mr. LEWIS. We have no objections to having a GAO audit, sir. We did request one in regard to the handling of the eligibility question, but they preferred to work it out up here. So, we brought up the points that were set down with the help of our counsel, in order to have something for them to use in resolving that question.

Senator BARTLETT. Would you favor having the study that I talked about and the audits and recommendations that Mr. Urbano commented on? Would you favor that, or would you just have no objection?

Mr. LEWIS. I do not think I would have any real objection to anything that would—

Senator BARTLETT. Do you think it would be helpful, or not?

Mr. LEWIS. It can be helpful, sir.

Senator BARTLETT. Mr. Urbano, do you think that once your plan is finalized, you would anticipate that relocations would speed up, or slow down, or go at the same level?

Reverend URBANO. I would have to say, first, Mr. Chairman, that nobody knows any longer, under the law, where the former joint use area is. The district court order was vacated by the Court of Appeals of San Francisco. We are now waiting for a new boundary line.

When we do know where the line legally is, I would anticipate that relocations would proceed at a faster rate.

Senator BARTLETT. Mr. Urbano, why do you favor a Commission made up of Commissioners of temporary tenure?

Mr. URBANO. Part time, sir?

Senator BARTLETT. Yes; part time.

Reverend URBANO. For several reasons.

First of all, because it is my fear that full-time Commissioners would result in a surplus of personnel at the top executive level and would, in fact, impede the administration of the Commission.

Just in passing if I may, let me comment on the question of the executive director.

Mr. Benjamin, in his statements, which I thought, by and large, were extremely fair, pointed out, which is true, we have not always left the administration entirely to the executive director. We had some bad luck in our executive directors, but we have now, we feel sure, settled upon a very competent person with whom we are entirely satisfied, and we are now leaving the administration to him.

The Commission feels strongly that although it is necessary for the Commissioners to be somewhat involved in programing, in a situation where the Commissioners must constantly keep up contact with chapter leaders and people and, of course, with other Federal agencies, nevertheless, in principal, the Commissioners should deal with policy largely, certainly not with actual administration.

I would not consider any one of the Commissioners really competent as an administrator to any degree.

That would be my chief objection to full-time Commissioners, I believe.

Senator BARTLETT. OK: let me ask the same question of Mr. Lewis.

Mr. LEWIS. I believe, Mr. Chairman, when Public Law 93-531 was worked on by Congress, the Commission was designed to be part time. Perhaps discussions were held on the reasons why it should be, but the most important thing is the independent status that was given this Commission.

I feel that the fact that it is an independent Commission, and the folks we are working with out there know this, makes them more confident in the fact that whatever their needs are, we can assist them in implementing their plans in regard to their needs, and we can do much better as an independent Commission.

As far as the progress which has been made, which we have been informing folks about, it is being accomplished.

As I mentioned before, there is the interest of the chapter areas, themselves, who want to make their own plans, which is commendable.

As we have indicated on several occasions, the first 3 years, to me, will be the hardest. This includes the first year of implementation after the report and plan have been submitted to Congress when more of our time would be required in working with staff and the folks out there.

But, as that year slips by, and maybe even before it ends, our duties out in the field will definitely slow up. And, at a point in time, there is no reason for the Commission to meet, except on their regular monthly meetings.

Perhaps, if appeals cases come up when the Commission sits as an appeals board, these could be handled in a day, and maybe, at the most, 2 days.

Those are the areas that would require some of our time, except for unforeseen events which may come up where we would have to call special meetings.

Our work, with the capable staff we have gotten, will definitely not be requiring as much of our time. So, I think that part-time Commissioners for this project are much better in the way we stand at present.

Senator BARTLETT. Mr. Lewis, would you be able to continue to serve as Commissioner if the position were to become full-time?

Mr. LEWIS. Personally, sir, I would not be able to serve on the Commission full time because, at present, I am the only Commissioner who

does not have any other job. I have been the general manager for one of the tribal enterprises at no pay, so that I have been able to be pretty flexible in working with the chapters when the other two Commissioners have not been able to do so.

But, at any rate, we have all been able to get out to some of the meetings together.

I feel that with things of a personal nature coming up, I could not serve as a full time Commissioner, Senator.

Senator BARTLETT. It has been proposed that the total compensation for all three Commissioners be limited to approximately \$30,000 in the upcoming year, based on your meeting no more than 3 days a month.

How do you feel this would affect your operation?

Mr. LEWIS. I do not feel that it would affect our operation any.

Do you mean \$30,000 for all of us?

Senator BARTLETT. Yes; for all three.

Mr. LEWIS. That would certainly be something else.

As I have mentioned, the unforeseen are oftentimes coming up at times when we least expect them. These are the times when we may be required to put in more time than that amount could take care of in doing the job right.

Senator BARTLETT. That would be effective October 1.

Commissioner Urbano, would you comment, first, on your desire to continue work as a Commissioner if the position became full-time?

Mr. URBANO. I regret to say, Mr. Chairman, I would not continue.

Senator BARTLETT. And it has been proposed that the total compensation for all three Commissioners be limited to approximately \$30,000 in the upcoming fiscal year, based on your meeting no more than three times a month. How do you believe that this would affect your operations?

Mr. URBANO. I am convinced that would hamstring us, sir.

I think the Commission would happily accept a reasonable limit, and I would, if you wish, put our figure of a reasonable limit forward. That would be about \$25,000 each.

Senator BARTLETT. Mr. Lewis, would you consider that to be a reasonable limit, or do you have some other figure to suggest?

Mr. LEWIS. I would agree with that, sir.

Senator BARTLETT. Senator DeConcini, I have finished my questions. I may have some more that I would want to submit for the record.

We are very pleased to have you here, and I will now turn the gavel over to you.

Senator DeCONCINI. Thank you.

Are we under any time restraints here?

Senator BARTLETT. Staff will check on that.

Senator DeCONCINI [acting chairman]. Thank you.

Mr. Lewis, regarding the administration of the Commission, Mr. Benjamin indicated that he felt that it was his observation, at least, that the Commissioners were deeply involved in the administration.

Is it your interpretation of Public Law 93-531—and also, Reverend Urbano, if you would care to comment on this—that the Commissioners should be the administrators of the program or only the policy setters and deciders?

Mr. URBANO. I do not think, Senator, that the Commissioners think at all that they should administer the program.

As I mentioned earlier, it is necessary for the Commissioners to be deeply involved in the program because of the peculiar nature of this task. I think it is our responsibility to give oversight to the whole program because we are ultimately responsible to the Congress and, through the Congress, to the people, but I think not one of us would maintain that the Commissioners are to administer the program.

Senator DeCONCINI. Is it your testimony that, in fact, because of the problem with the past executive director, that is what the Commissioners did do—at least the Chairman of the Commission?

Mr. URBANO. Actually, even during a time like that, it would be misleading to say that the Commissioners or the Chairman, in particular, engaged in actual administration.

What we did at that particular time was to select a senior staff member and to make him chiefly responsible in the interim and to extend the degree of oversight. But, once again, even at that time, we did not personally administer the program; no, sir.

Senator DeCONCINI. Have you appointed a new executive director?

Mr. URBANO. We call him the acting executive director. This has a very simple explanation. We have had such bad fortune with two others that we were inclined to wait a while before making the position permanent.

Senator DeCONCINI. What are his duties, authorities, and responsibilities?

Mr. URBANO. He is responsible to the Commission for the total functioning of the entire staff. He has oversight over the entire staff.

The responsibility for the prosecution of the total project, according to policies developed by the Commission, is his.

Senator DeCONCINI. What is the status of the eligibility question for relocation benefits at this time, Mr. Lewis, or Mr. Crowley?

Mr. CROWLEY. Senator, the General Accounting Office has not responded to our request. We met with the General Accounting Office approximately a month ago. They expected a letter to be coming out, they said, in 4 to 6 weeks from that date.

They told us that clearly some of the proposals we had submitted concerning eligibility are not correct, and that they had not formulated an answer at the time we did meet with them. But we do expect a response shortly.

Senator DeCONCINI. Why did you submit them to the GAO in the first place? Is that in the statute?

Mr. CROWLEY. No, sir; it is not in the statute, but the statute is very vague on the question of eligibility. In our interpretation, and the General Accounting Office agreed with that, we felt that we simply had to have some guidance to follow as far as paying these benefits is concerned. We have had people applying for benefits who have physically been off the reservation for quite some time.

Senator BARTLETT. Senator DeConcini, would you yield? I am very sorry but we do not have a waiver, and so we will have to abide by the rule of only having the hearing go 2 hours after the session started on the Floor. We will check to see if we can have this room in the morning. If not, we will have another hearing room.

The hearing will start at 10 o'clock. I am cognizant of the fact that we do have other witnesses, and so we will have to divide the time. Can you three gentlemen remain overnight so that we can continue this in the morning, and you would be the starting witnesses?

Mr. LEWIS. Yes; Mr. Chairman.

Senator BARTLETT. Then, I think it would probably be best to split up the time some way so that everyone can be heard.

Can Mr. Percy Deal be here tomorrow?

Mr. DEAL. Yes; Mr. Chairman.

Senator BARTLETT. Thank you.

Mr. Daniel Peaches?

Mr. PEACHES. Yes; Mr. Chairman.

Senator BARTLETT. Thank you.

George Vlassis?

Mr. VLASSIS. Yes; Mr. Chairman.

Senator BARTLETT. Thank you.

And representatives from the Hopi Tribe?

Mr. SEKAQUAPTEWA. Mr. Chairman, it is very difficult.

If possible, we would like to be able to be heard today.

Senator BARTLETT. Well, we thank you very much.

There is no way that you can be heard today. We are proceeding into the illegal time period right now, just in trying to work it out for tomorrow.

The hearing must terminate, according to the rules of the Senate. I am sorry, and I apologize to everybody for my arriving here late, but I had a couple of things that I had to do.

Senator DeCONCINI. Mr. Chairman, I understand that Alan Parker, chief counsel of the committee, is trying to find a room now. So, we might ask these witnesses to stay here for a few moments so that they would all know at the same time.

Senator BARTLETT. All right.

Senator DeCONCINI. Mr. Parker, do we have a room?

Mr. PARKER. It is room 1202 at 9 a.m.

Senator DeCONCINI. Room 1202?

Senator BARTLETT. Does that create a problem for you?

Senator DeCONCINI. I cannot be there at 9 a.m.

Mr. PARKER. We can have it until 11. We could probably extend it.

Senator DeCONCINI. Could we get it until 12 o'clock?

Mr. PARKER. I am fairly certain we could.

Senator DeCONCINI. Is that satisfactory? I could be there by 10 a.m.

Senator BARTLETT. Yes; I think that is fine. I cannot imagine a hearing starting at 11. It would be 9:30 or 10 a.m.

Senator DeCONCINI. Mr. Chairman, are you going to be there?

Senator BARTLETT. I will have to double check on that.

Senator DeCONCINI. All right. If you wanted to start at 9:30, I think we could get there by 10 o'clock, and someone else could chair it to begin with.

Senator BARTLETT. Let me check on that right now.

Senator DeCONCINI. In any event, the meeting will be in room 1202.

Senator BARTLETT. The meeting will be in room 1202 starting at either 9:30 or 10 o'clock. We will ascertain the hour in just a moment.

Mr. LEWIS. Thank you, Mr. Chairman.

Senator BARTLETT. I will make every possible effort to be there, and possibly Senator Abourezk will be there also.

Let us count on getting somebody.

I may have a complication. I have a bill coming up, but I do not know exactly at what hour, but I will certainly be here if the bill does not take me to the Floor, and, if it does, I am sure we can get someone for half an hour.

So, let us count on 9:30 a.m., in room 1202 in this building, on the first floor. It is, more or less, under this one.

Senator DeCONCINI. Thank you, Mr. Chairman.

Senator BARTLETT. The hearing is recessed until 9:30 a.m. tomorrow in room 1202.

Thank you very much, and we are very sorry about the inconvenience in the layover tonight.

[Whereupon, at 12:05 p.m., the hearing was recessed until 9:30 a.m. the following day in room 1202, Dirksen Senate Office Building.]

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION AMENDMENTS OF 1978

WEDNESDAY, JULY 26, 1978

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to recess, at 10:15 a.m., in room 1202, Dirksen Senate Office Building, Senator James Abourezk (chairman of the committee) presiding.

Present: Senators Abourezk and Melcher.

Also present: Senator Dennis DeConcini of Arizona; and Jack Murphy, administrative assistant to Senator Barry Goldwater.

Staff present: Alan Parker, chief counsel; Karl Funke, assistant counsel; and Michael Cox, minority counsel.

Chairman ABOUREZK. The hearing of the Select Committee on Indian Affairs will please come to order.

The members of the Navajo-Hopi Relocation Commission had not completed their testimony yesterday.

Would you like to all come forward?

STATEMENTS OF GOV. ROBERT LEWIS, CHAIRMAN; REV. PAUL D. URBANO, COMMISSIONER; AND LEO CROWLEY, LEGAL COUNSEL, NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Mr. FUNKE. We will just pick up on the questions that we did not get completed yesterday, unless you have any further statements you would like to make.

Governor LEWIS. I do not have any comments to make at this time. Perhaps Commissioner Urbano has something to say.

Reverend URBANO. I have a concern which is about the question of the Commission's having its own legal counsel.

The Department of the Interior apparently has never been able to come to a firm decision on this particular question; yet the solicitors in the Interior Department have maintained to us from the beginning that they have a built-in conflict of interest and, therefore, cannot represent us.

To cut this knot, we finally went to the Comptroller General for an opinion.

As we interpret this opinion, he, in effect, said that we might employ our own attorney.

But even after that decision, the Department of the Interior Solicitor said that no; we might not.

My concern stems from the fact that the House committee has now reported out legislation which, if passed, will require us to use the Department of the Interior Solicitor.

I would like to point out that our fiscal officer is already supplied by the Department of the Interior and that is perfectly proper and according to the public law.

Moreover, Mr. Goodrich from the Department of the Interior has done an excellent job for us.

But in addition to providing our fiscal officer, if the Department of the Interior supplies our legal counsel, we fear that Interior will have achieved what amounts to control.

In addition, a legal opinion can be written from many different points of view. We feel that we need a lawyer who is thoroughly familiar with and sensitive to the problems of the Indian people with whom we deal.

We also need a lawyer who is highly accessible on short notice.

The Department of the Interior Solicitor would meet none of these necessary qualifications.

Thank you.

Mr. FUNKE. Can you tell me what pay rate you are presently paying your attorney?

Chairman ABOUREZK. What is the GS equivalent for the salary for the attorney?

Reverend URBANO. I would have to ask our attorney if he knows.

Mr. CROWLEY. Mr. Chairman, right now I am a GS-18 equivalent, which is an hourly rate of about \$22 per hour.

I do maintain my own practice—with my office and my own secretary.

That is the only system that we have been able to work out at this point.

Chairman ABOUREZK. That is somewhat below the rate that you usually charge; is it not?

Mr. CROWLEY. Yes, sir; that is less than half of what I usually charge. I usually charge \$50.

Chairman ABOUREZK. Where are you from?

Mr. CROWLEY. Flagstaff, Ariz.

Chairman ABOUREZK. How do you bill then? Do you make it up by billing practices, or are you satisfied with \$22 an hour?

Mr. CROWLEY. That is really not adequate; but under the current system, it is the only way that I can be employed, according to the Solicitor's opinion.

Chairman ABOUREZK. Do you pad your billing or anything like that?

Mr. CROWLEY. No, sir; I bill per hour for each hour worked.

Chairman ABOUREZK. You bill only for the work that you do for them?

Mr. CROWLEY. Yes, sir.

Chairman ABOUREZK. I wouldn't work for \$22 an hour if I were an attorney.

Mr. CROWLEY. Mr. Chairman, we have been trying to get this matter resolved.

Chairman ABOUREZK. I would either work free or charge them \$50—one or the other. [Laughter.]

Mr. CROWLEY. For a long time I did work free. I was not paid for over a year.

When I first started out, I had a contract at \$50 an hour. The second year the Department of the Interior said that we cannot do this. It was a long and drawn-out process.

Finally, a little more than a year later, they said: "You cannot be paid."

So we submitted a request for payment through the General Accounting Office, and they have approved it and it is being processed now.

Chairman ABOUREZK. I understand the House Appropriations Committee has told you you cannot use your appropriation for hiring an attorney from now on; is that correct?

Mr. CROWLEY. Yes; that is correct.

Mr. FUNKE. What is the status of the Senate appropriations with regard to your hiring?

Mr. CROWLEY. I do not know what went on in the markup, as far as that is concerned. I have not been able to talk to anyone on the staff to find out whether that is included in the Senate appropriation or not.

Mr. FUNKE. How many people in the relocation area are slated for relocation at the present time?

Governor LEWIS. Mr. Chairman, I would like to make a correction on a statement I made yesterday in regard to a date.

We were asked when these relocations had been put into effect, and I said in 1976. I meant to say after the court set up the date on February 10, 1977.

In regard to recent accomplishments: as of July 17, 1978, a total of 262 appraisals have been completed; enumeration is 90 percent completed; a total of 1,773 applications from potential relocatee heads of household have been received—764 this fiscal year.

The certification officer has conducted 127 field investigations and certified 39 persons as eligible for benefits under Public Law 93-531.

As of July 17, 1978, a total of 62 families have been relocated—28 during this fiscal year.

Senator DeCONCINI [acting chairman]. Mr. Funke has a question.

Mr. FUNKE. Could you explain why the rules and regulations that were developed by the Joint Use Administration were not utilized by the Commission?

Reverend URBANO. The story on that, sir, is as follows:

To the best of my knowledge, the regulations which were proposed for the use of this Commission by the Joint Use Area Administration Office in Flagstaff, Ariz.—which is Bill Benjamin's office—were written by a member of his staff named Doosenberry.

I believe they were written in the law library at Bill Lavell's office. He is the field solicitor in Phoenix for the Department of the Interior.

But after we had looked at them and had talked to Bill Lavell, Bill Lavell said that he had never seen these regulations.

In our opinion, they were totally inadequate; and so our attorney proceeded to write our regulations for us.

That is the story.

Mr. FUNKE. There have been some allegations made that the present procedures of the Commission are not adequate. I am wondering what your feeling is with regard to the procedures you have instituted at the present time: the job descriptions, line authority, the way your executive director operates, your appeals process on eligibility questions, and so forth.

Reverend URBANO. Our operations have been a matter of public record in our manual which has been sent to most of the people who need it, I think. They have been a matter of public record for a long time. I would have to ask you to be more specific. Obviously, we do not feel our procedures are inadequate.

Mr. FUNKE. Do you have an appeals procedure for eligibility questions? If so, what is the procedure?

Reverend URBANO. The eligibility requirements are part of the regulations. As we said yesterday, we have requested further definition of those problems from the General Accounting Office.

Mr. FUNKE. Who makes the initial determination on eligibility?

Reverend URBANO. The initial determination, if I understand you correctly, was made by our lawyer interpreting Public Law 93-531.

Mr. FUNKE. That is not what I am getting at.

If somebody comes into the Relocation Office and says they want to be relocated, who determines whether that particular individual—

Reverend URBANO. We have a certification officer who makes the initial decision. There is, of course, a method of appeal.

Mr. FUNKE. What is the method of appeal?

Reverend URBANO. The Commission will also sit as a review board.

Mr. FUNKE. All three Commissioners?

Reverend URBANO. Yes; and then, of course, the person has recourse to the courts.

Mr. FUNKE. How long did it take for you to develop your own set of regulations?

Reverend URBANO. I will have to ask our attorney that.

Mr. CROWLEY. I don't recall the exact dates; but shortly after I came on board in February of 1976, the regulations were prepared and adopted. I would have to review the record to give you that date. I could later in writing if you so desire.

Mr. FUNKE. We would appreciate it.

Mr. CROWLEY. Mr. Funke, if I may, I would like to make one comment on the appeals process.

When a person is notified that they are not eligible, there is a spot on the form for them to request a hearing. Because of the education of many of the people we are dealing with, we have left this very informal and very unstructured, and we have allowed a person to represent himself or have any other person represent him at the appeals, including an attorney but not limited to an attorney.

We felt it best not to get a highly structured appeals process. We don't want to make it difficult for these people to come in and tell their stories and present their case to the Commissioners. They should be just as free and open as possible. So our appeals structure is very informal and it is designed to do justice to these people.

Mr. FUNKE. Is there any written record of an appeal?

Mr. CROWLEY. We have not had an appeal process to date, but there will be a written record of it; yes.

Mr. FUNKE. Did any of the present Commissioners have any experience in functioning or operating a Federal agency prior to their coming to the Navajo and Hopi Relocation Commission?

Reverend URBANO. The other two Commissioners had considerable experience, sir. I did not.

Governor LEWIS. My experience with the Federal Government was at the time when I was the tribal governor for 10 years.

In 1970, we took over all Bureau of Indian Affairs programs and personnel under the 1834 law, which placed us in the superintendent's position. We operated with over 200 employees working in our administration.

Mr. FUNKE. But you had no specific experience in operating a Federal agency?

Governor LEWIS. No.

Mr. FUNKE. Did you bring anybody on board who had that kind of experience when the Commission first began operations?

Governor LEWIS. Yes; we did.

Mr. FUNKE. Who was that?

Governor LEWIS. That was our first executive director.

Mr. FUNKE. He had experience in setting up the Federal agency?

Governor LEWIS. As a program officer, he had varied experience in that field.

Mr. FUNKE. What was his name?

Governor LEWIS. John Gray.

I would like to comment a little more on your previous question in regard to certifying.

During a typical interview, program benefits and requirements are explained to the family in a general way to avoid specific and sensitive questions which are more properly handled by the trained social workers at the Commission's headquarters in Flagstaff, Ariz. This interview, in most instances, is the first contact or approach the Commission makes to the relocatee. It is complicated by the area's vastness, in some cases, and by the local political climate.

The Commission's seven field offices provide a base—not only for remuneration but also for all other activities in the partitioned area. For example, as the remuneration is completed, the staff members are being trained to work in the appraisal program and the offices become relocation counseling and information centers.

Now as to the certifications to insure impartiality and objectivity: The certification program operates as an independent section. It is staffed by three persons—a certification officer, a certification aide, and a clerk-typist. The task of the certification program is to determine the applicant's eligibility for benefits under Public Law 93-531.

To accomplish this: An officer reviews each case filed and the substantiating documents contained therein and conducts investigations as necessary to determine if the applicant has complied with eligibility requirements and, if so, to certify eligibility on the appropriate Commission form.

Mr. FUNKE. Governor Lewis, because of the shortness of time, if you would just cite whatever you are reading from, then we can get on to more pressing questions.

Governor LEWIS. You have these documents, and we hope that you will be informed through these to the extent that your questions fall into place along these lines, sir.

Mr. FUNKE. What type of cooperation or cooperative agreements or coordination is the Commission presently involved in with the Joint Use Area Administration or the Bureau of Indian Affairs?

I just want a brief statement on that.

Governor LEWIS. As we mentioned yesterday, we have been working on a consistent basis—consistent enough to inform them of the areas that they will have to assume some responsibility for as part of the team through the superintendents and the area office.

The Joint Use Area Administration has been wonderful in cooperating with us in the areas of getting archeological clearances. Their archeological team has been wonderful in assisting our staff, and there is really no problem. But as we get into more of this, we can see that we will be using one another and helping each other.

Mr. FUNKE. One of the things that Mr. Benjamin stated yesterday was that there was not enough coordination of activities between the Commission and the Joint Use Area Administration and the Bureau of Indian Affairs in terms of provision of services and planning for relocation.

Governor LEWIS. The Joint Use Area Administration has specific responsibilities. The people in the area have often mixed us up with the relocation agency and the Joint Use Area Administration.

They ask the Joint Use Area Administration questions regarding relocation. Sometimes they ask us those questions which refer to livestock reduction, upgrading the land, and also about the fencing area. These are separate responsibilities given to the separate agencies.

I do not really know what Mr. Benjamin was driving at—that we were not cooperating—because our executive director has often contacted his office, perhaps when Mr. Benjamin was away, for information that could help us in our program.

We are specifically set up to assist the relocatees in every way possible in that line of work, and the Joint Use Area Administration has their responsibility in the livestock permit business and things like that.

Mr. FUNKE. Once a person is relocated: What types of followup services are provided—either by the Commission, the Bureau of Indian Affairs, or the Indian Health Service?

Mr. CROWLEY. Mr. Funke, before that is answered, may I make an additional comment to the last question just briefly?

Mr. FUNKE. Surely.

Mr. CROWLEY. The Commission has been coordinating very closely with the area director of the Bureau of Indian Affairs.

Mr. FUNKE. Which area director?

Mr. CROWLEY. Mr. Dodge.

Mr. FUNKE. That is the Navajo area.

Mr. CROWLEY. Yes; and also the director at Phoenix—Mr. Artichoker—and the field staff.

Mr. Benjamin's functions are limited. He has four jobs. He has limited police power, livestock reduction, range restoration, and fencing. Those are really not social programs, and in that area, we have not been coordinating with him.

I would like to point out that Mr. Lewis testified yesterday that he had set up a task force of everyone in the Bureau that had any activity in the joint use area to coordinate programs.

The Relocation Commission was not invited to become a member of that task force or attend the meetings. In fact, it has only attended one

meeting because we knew of it in advance and insisted on coming. But we don't know when they meet, where they meet, or anything else. The lack of coordination has been a problem through the Department of the Interior—less than through this Commission.

Mr. FUNKE. What types of facilities are going to be established on the reservation for relocatees? Is it going to be clustered housing? Is it going to be scattered housing, such as they live in now? Would you elaborate on what kinds of plans you have in that regard?

Governor LEWIS. Under tribal law, each family is allowed to have a 1-acre homesite lease.

In the development of the areas they have in mind to develop, we feel that the 1-acre-per-family homesite lease would not cluster them as closely as ordinary housing projects are clustered.

In regard to your first question, after the relocatees have moved, our human resources department takes them in hand. Monthly visits are made to the relocatees who, up until now, are mostly off reservation. But they are kept in touch with our office through this department, and they are assisted in any problems that arise. They are assisted in every way that they need in line with being citizens of an urban community.

We feel that after the life of the Commission, the Bureau of Indian Affairs will have to have some type of system to keep in contact with these people.

Mr. FUNKE. But there is no followup service by the BIA, IHS, or the Relocation Commission once somebody is relocated off the reservation; is that correct?

Governor LEWIS. Right. At this time, the BIA has no contact with these people.

Mr. FUNKE. And you said you are going into cluster development on the reservation?

Governor LEWIS. I would not call them real close clustering with the 1-acre homesite leases that the tribe provides for each household.

Mr. FUNKE. But it would not allow for a grazing economy.

Governor LEWIS. This would not allow for a grazing economy. This probably will have to be worked out by the tribe.

Mr. FUNKE. Thank you.

Senator DeCONCINI. Governor Lewis, one of the things which troubles me is that based on the expenses and the time that the present Commissioners have had to devote to implementation of Public Law 93-531, it occurs to me that some thought should be given to restructuring of the Commission—certainly in lieu of the authorization request to increase it to \$1 million.

Some suggestions have come. Yesterday you both testified you did not think that full-time Commissioners would be the right approach, and neither one of you would be interested in that.

What is your reaction to one full-time Commissioner with two part-time Commissioners?

Governor LEWIS. In regard to Commissioners, I think that perhaps we are at the point of discussing something which should have the input of both tribes, since we are dealing with people.

I recall Congressman Manuel Lujan's words in the debates that were held before Public Law 93-531 was finalized, that we are dealing with

humans and not animals. It is to their advantage that we are working to assist all we can. If it needs changing, I think we should get some direction and maybe a mutual agreement on how the tribes would like to have it.

Senator DeCONCINI. I intend to ask those tribal representatives who are here today. I wanted to know your opinion.

In lieu of the tremendous amount of work that the present Commissioners have put in—especially those who have served as chairman—whether you felt there was any plus side in considering one full-time Commissioner and two part-time Commissioners, realizing that the full-time Commissioner was going to devote the entire time to not only policy but to administration, which apparently the three full-time Commissioners have had to do.

Would you or Reverend Urbano care to comment on that approach?

Governor LEWIS. Would you like to comment on that, Reverend Urbano?

Reverend URBANO. Yes; we have several times pointed out that there is no reason to anticipate we will be working anything like the amount of time in the future that we have had to do in the past. So we honestly do not anticipate that the expense of the Commissioners will be what it has been in the past. That would be my first reaction.

Senator DeCONCINI. Thereby coming to the conclusion that you do not need a full-time Commissioner.

Reverend URBANO. I think that we do not, partly because, as I did mention yesterday, we now have an extremely competent executive director.

The second comment I would have to make is that, as would be the case if you had three full-time Commissioners, although the case would be a little less extreme, I really do not think that placing a Commissioner full time in, for example, the Flagstaff office a good deal of the time would do anything but impede the administration.

Senator DeCONCINI. Why do you come to that conclusion?

Reverend URBANO. I think it is simply bad business management if you have an entirely competent executive director administering staff work to put in over him, on an everyday basis, somebody who outranks him. I think there might be some question as to whether that would work as efficiently.

Senator DeCONCINI. In the past, prior to your present acting executive director, I take it that you feel that you had lacked some quality and some things you felt were necessary in an executive director.

Is that the main reason why the Commissioners, particularly the chairman as it rotated, had to spend so much time in the administrative functions of the Commission?

Reverend URBANO. I would say the answer is yes.

Senator DeCONCINI. So your testimony, or your observation, is that if you have a very competent executive director, the amount of time of administration that the Commissioners and the chairman would have to do would be significantly less.

Reverend URBANO. Yes, sir.

Senator DeCONCINI. Is that what you are finding to be the case, say, in the last 2 months?

Reverend URBANO. Yes, indeed.

Senator DeCONCINI. Has that also been affected by the circuit court decision? Has that lessened the amount of time that the Commissioners have put in?

Governor LEWIS. Yes, sir.

Senator DeCONCINI. Father Urbano, in the statement that you submitted to the committee, you indicated that the Commission's report to Congress would be submitted in December.

Reverend URBANO. Yes, sir.

Senator DeCONCINI. Does the Commission expect to know where the 250,000 acres are located that the Navajos may acquire before December?

Reverend URBANO. No, sir.

Senator DeCONCINI. You do not think that it is necessary for you to have at least a strong indication prior to submitting your report?

Reverend URBANO. We reached the conclusion that it was not practical to hope that that question, and some others, would be decided before the submission of the report and plan.

Senator DeCONCINI. Has your date to submit the report in December been altered by the recent circuit court decision?

Reverend URBANO. Of course.

Senator DeCONCINI. Are you still planning to submit it in December?

Reverend URBANO. I would have to ask legal counsel.

Mr. CROWLEY. Senator, there is a real problem. The report cannot be submitted if the Commission does not know the boundary line. It would be impossible to give an enumeration of the people who would have to be moved or make an appraisal of their property.

Senator DeCONCINI. So then the statement is not quite accurate.

In view of the Ninth Circuit Court decision, you do not intend to submit a report in December unless the boundary line would be established prior to that. Is that fair to say?

Mr. CROWLEY. That is correct.

Reverend URBANO. I acknowledge the inaccuracy.

Senator DeCONCINI. That is all right. I just wanted to know if you are really going to go ahead and submit it anyway.

Reverend URBANO. It reflects our state of mind before the Ninth Circuit Court decided.

Senator DeCONCINI. Governor Lewis, in your statement yesterday, and in the law, it states that the Commission is authorized and directed to proceed with voluntary relocations as promptly as practical. Yesterday you indicated that some 62 families have been voluntarily relocated.

I was not here during the first part of this testimony, and I don't know whether or not the staff, or Senator Abourezk, asked it, but when did the first voluntary relocation take place; do you know?

Governor LEWIS. It was shortly after Judge James Walsh set the first boundary line in February of 1977.

I made a correction. I said 1976 yesterday, but it was in 1977, after the boundary line had been set.

Senator DeCONCINI. And when was the last voluntary relocation?

Governor LEWIS. The last 28 were made during this fiscal year.

Senator DeCONCINI. The 1978 fiscal year.

Can you tell us a little more specifically when that occurred?

Mr. CROWLEY. Senator, I don't believe we have the exact date, but we can certainly submit that to you.

Senator DeCONCINI. If you would please.

Mr. CROWLEY. The last relocatee was moved shortly before the decision from the Ninth Circuit Court of Appeals, but we will give you the exact date.

Senator DeCONCINI. Has the Commission placed a freeze on voluntary relocations?

Mr. CROWLEY. Yes, sir.

Senator DeCONCINI. When did that occur?

Mr. CROWLEY. That occurred as soon as we got word that the Ninth Circuit Court of Appeals had vacated the decision of Judge James Walsh.

Senator DeCONCINI. What has the Commission been doing since the decision of the Ninth Circuit Court of Appeals?

Governor LEWIS. We, of course, have been continuing the enumeration. We have not stopped accepting the people who are coming in and applying for relocation benefits. We are working continuously with the chapter relocation planning groups.

Senator DeCONCINI. Governor Lewis and Father Urbano, there have been countless concerns brought to my attention from some Hopis and from numerous Navajos that the Commission lacks credibility with the Indians. I would like to have you respond as to what you feel your credibility is with the Indians, and how you feel it could be improved.

Reverend URBANO. It seems to be, by its very nature, a question that has to be answered entirely subjectively.

I think, in view of the extreme social and economic trauma necessarily involved in an operation of this kind, that it is the past record of relationship between the Federal Government and the Indian people which has been foremost in the minds of the people most concerned and not, in fact, a personal distrust of the Commissioners.

I also believe that as time goes by and as we continue to show our real interest, and as we acquire a deeper understanding of the problems of the people, our stature will improve in their eyes.

I really think that this particular aspect of it is somewhat exaggerated in view of the fact that in all probability anyone prosecuting a task of this kind would receive very much the same sort of comment. That is about all I can say.

Governor LEWIS. I would like to continue comments on your question.

The folks out there with whom we work in the area and the folks that we have to move to another site at one point in time, look upon the Commission as one that seems to have an unlimited source of funds at times.

They request us to do certain things which are not in line with the proper expenditures of our budget; but, nevertheless, we try to assist them in any other way.

I would like to give an example.

The road from Pinion to Forest Lake has one big deep arroyo. There are two on the other side. On the road which goes to the Peabody coal operation—not very far apart—if someone was to get up there during flash floods and get caught in between, they would have to wait several hours for the flood to recede. The tribal councilmen

and chapter officers requested that we try to fix that road. We were informed that Peabody would furnish the machinery if the Bureau of Indian Affairs would furnish the culverts.

We got these agencies together with the tribal people and arrangements were made by the area director to get the culverts. Within 2 months, they had 8-foot culverts there ready to install. Bad weather hit us, but when it cleared up—the roads are crossable now.

There is an advantage to the Commission's operation.

Heavy loads of construction material had to come down through the Peabody operation and down to Forest Lake and Pinion, and the twists and turns were kind of hard for heavy trucks to maneuver. But now things can be hauled over these improved roads.

We try to take up the ball whenever necessary. Things have to be worked out by getting other agencies involved.

Senator DeCONCINI. I compliment you for that effort. I was unaware of that particular effort, and I am pleased to know that you are attempting to coordinate some of the needs within the area. I don't get that feeling from talking to a number of the people I have talked to out there.

The Bureau of Indian Affairs school in Pinion was a good example. One of the classrooms, and maybe more, has been condemned.

I realize the prohibitions under Public Law 93-531, but have you done anything in that particular area or are you aware of it?

Governor LEWIS. We are aware of it. Our appeal coordinator with the planning committees is trying to work something out. He does keep us informed on these things.

Senator DeCONCINI. So you continue at least to have someone monitor these problems; is that correct?

Governor LEWIS. Yes, sir.

Senator DeCONCINI. What are you going to do about the school in Pinion? Do you know?

Governor LEWIS. They were surveying for a paved road in that area not too long ago. They had to make some changes because of the design not being sufficiently good enough.

The coordinator was informing us that they are thinking about a new school there.

Senator DeCONCINI. Excuse me; I was talking about the school primarily. Are you aware that one of the classrooms has been condemned and the school is cracking and sliding very badly?

Governor LEWIS. Yes, sir.

Senator DeCONCINI. Are you doing anything specific?

Governor LEWIS. We hope we can get some data on that with some solution to fix that up.

Senator DeCONCINI. Father Urbano?

Reverend URBANO. Mr. Atkinson and I did, in fact, meet with the principal of the school there to discuss his plans and learned a great deal about the needs.

He asked us, if he could get the Bureau to go along with the new plans, if called upon we would support this idea. We said that, yes, we would.

Senator DeCONCINI. When did you meet with him?

Reverend URBANO. About a year ago.

Senator DeCONCINI. And what has been done since then?

Reverend URBANO. I really don't know of anything very practical that has been done.

Senator DeCONCINI. Is your field person still working on the problem?

Reverend URBANO. He is still aware of it and keeping track of it.

Senator DeCONCINI. Has he briefed you on it recently?

Reverend URBANO. No; not for several months.

Senator DeCONCINI. Could I suggest that, perhaps, you take that problem up?

Reverend URBANO. Yes, indeed.

Senator DeCONCINI. Thank you.

Reverend URBANO. I did mention that problem to the House Appropriations Subcommittee a few months ago.

Senator DeCONCINI. Thank you for doing that. It is a very, very evident need.

Governor Lewis, in your special briefing to the Commission, you state that the record clearly shows that the Navajo and Hopi Indian Relocation Commission continues to effectively carry out legislative mandates in an effective, fair, and humane manner.

Could you tell me whose records you are referring to in that statement that the record clearly shows? What record are you referring to that clearly shows that? I would like to see that record.

Governor LEWIS. I think I am referring to the actual accomplishments.

Senator DeCONCINI. The 62 or some relocatees; is that the record you are talking about?

Governor LEWIS. Not only that but our contact with all the other applications that have come in, and our contact with the chapter areas and the planning people who have grouped up to do their own thing, as far as plans are concerned.

I think we have been out there enough to realize and know that these folks are taking the ball in hand with the assistance of our staff. We have attended these planning committee meetings many times—which are different from chapter meetings.

Chapter meetings are held on either Saturday or Sunday, and the planning committee meetings are held any time from Tuesday through Friday. These are strictly planning committee meetings that we have been working with.

We have a gentleman here from the Navajo side who has been working with us in getting these planning groups ready to have a special training course. That has been postponed because of unforeseen events, but we hope to get together about the middle of August to have a workshop where these planning sessions will come to a point of really starting in on the priorities which will be put up in sequence and to eventually get the cost estimates of the things they need out there as their priorities.

Senator DeCONCINI. Your statement that really concerns me is the reference to effectively, fairly, and humanely.

Have you met with some of the people who live in the Big Mountain area and the Black Mesa area, and have you realized that they are not too humanely being treated—at least as they see it under that law?

They leave me with the distinct impression that the Commission has failed to assist them—and I don't mean in building them a new home—but that they have not communicated with them.

First of all, have you met with some of the people who live there?
Governor LEWIS. We have met with them when they attended the chapter meetings.

Senator DeCONCINI. And did you talk to them?

Governor LEWIS. Yes, sir; they have made statements on the floor.

Senator DeCONCINI. Did you see the tears in their eyes and the real human concern that they have?

Governor LEWIS. We have, sir.

Senator DeCONCINI. And how have you responded to that?

Governor LEWIS. At the particular times that we have been there and listened to these folks, most, I guess, were in the early stages of the Commission's starting to work. All we did was to listen, because we, too, were familiarizing ourselves with the bill that we had to work under.

We could not at that time make any commitments, because we were not certain of areas where legal opinions had to be obtained, but we know the emotionalism and have seen it. We understand the situation.

We were out there when Rick Lavis came out to visit Big Mountain, and we heard the same things that were told to him.

This is an area that is one of the last areas in the enumeration process that the field staff is getting into, but we understand their problem.

Senator DeCONCINI. Is there any provisions, Governor Lewis, in Public Law 93-531 that prohibits the Commission from modifying its eligibility criteria for relocatees?

Governor LEWIS. In the formulation of Public Law 93-531 and in our search for any bit of evidence where eligibility was discussed, we did not find any.

That is the reason why we feel that we have our own ideas as a Commission—perhaps more on the liberal side.

We feel that there are many people who are eligible of the 1,700 applications that we have already received, but we could also be wrong. We also respect the honesty of the chapter officers who certify these people as members of that community and within the Hopi side. The thinking on this is varied.

What we think, and maybe could set up in the regulations as far as the eligibility, may not jive with what the U.S. Government would think.

Senator DeCONCINI. Doesn't the Commission have the responsibility to develop these criteria?

Governor LEWIS. We have, I hope, the full responsibility to develop it; but, then again, would we be right according to the governmental structure in looking into these things? Would we be misusing funds if we did go ahead and set up our eligibility criteria?

Senator DeCONCINI. If you are not willing to take that responsibility on and then face the consequences, you may never get it done.

Governor LEWIS. As we indicated, time and again, in the process of assisting these people, we all have to be a part of the team. Any expertise that we can gain from other areas to assist us, we would certainly appreciate.

Mr. CROWLEY. May I add one comment to that, Senator?

In developing our criteria for relocation benefits, to answer your question, the Commission is not prohibited by Public Law 93-531 from changing those standards, but many of the things were not anticipated by the Commission nor by Congress.

An example that we face—and they grow almost daily—is the traditional feeling of the Indian people for their homeland. We may have people who have been away from the joint use area for 30 or 40 years and living in Los Angeles, for instance. These people have applied for benefits. They say: "Look, you are taking away my homeland, and you have taken away the land where I had intended to return after I quit working." Now is that person eligible for relocation benefits or not?

We feel that if he is eligible, it was not anticipated by Congress by looking at the authorization that was approved. Yet it is such a significant thing to this individual that we felt we should go to Congress or some congressional agency to get a clarification and assistance in this process.

We considered going to the committees and ended up with the General Accounting Office instead.

Senator DeCONCINI. It seems to me that you are abrogating your responsibility if you are not willing to make those decisions.

I realize, and you realize, that you may be criticized for making them; but if you just pass it on to the GAO and the committees up here, I don't think that was the intent in the creation of the Commission. The Commission was created to enact the law. If you have the responsibility and the authority to do it, it seems to me that you ought to proceed with it. That is one Member's opinion.

We are going to have some other questions to submit to you, particularly to you, Mr. Crowley, and your involvement with the Commission.

I would like to defer to Mr. Murphy of Mr. Goldwater's staff.

Mr. MURPHY. Thank you very much, Senator.

I would like to follow up on the question you just asked.

The question of humane treatment toward some of the potential relocatees has been raised, and it is my feeling, from hearing some of this conversation, that in some instances the only solution toward humane treatment might be not to relocate some of these people.

Does the Commission have such an option under the interpretation of the law? In other words, if people are in the joint use area, must they be relocated or is there an option that the Commission can exercise in that regard?

Mr. CROWLEY. There is no option at this particular point.

There are pending matters before Judge Walsh concerning life estates. If the judge renders a decision, there may be an option for certain people, but at this time there is no option. If a person lives in the area apportioned to the other tribe, he must be relocated.

Mr. MURPHY. So that then, I would think, would create a major problem as far as humane treatment.

Mr. CROWLEY. Most certainly—particularly in the eyes of the people that have to be relocated.

Mr. MURPHY. Would you comment—either Father Urbano or Governor Lewis—on the quality and degree of cooperation you have received from the Hopi and the Navajo tribal authorities—both at the beginning of the Commission's activities and as the relocation activities got underway?

Reverend URBANO. This is a difficult question on which to be fair. I will do my best.

Our greatest cooperation among the Navajo people, candidly, has come not from the top tribal leadership, as chairman and council, but

from the chapter houses in these relocation planning committees which, of course, were set up to give people input required by the public law.

You have to bear in mind, however, that this is an election year on the Navajo reservation, and that relocation is a pretty sticky situation for chairmen and members of the tribal council.

In the case of the Hopi people, I would say that the cooperation we have received from the chairman and council from the start has been excellent.

Mr. MURPHY. What has been the attitude on either side, since the boundary line decision was handed down by the court?

Reverend URBANO. We have heard very little from either on that.

Mr. CROWLEY. Mr. Murphy, may I make one additional comment?

The Navajo Tribe has, while taking an official position, perhaps contrary to the Commission, because it is their people who are having to relocate, have, in many instances, helped. One example, is that they provided quite a number of CETA slots to the Relocation Commission so that the enumeration could take place and we could staff our field offices.

In ways of that nature, we have received a considerable amount of cooperation.

Mr. MURPHY. That is all I have for the moment.

Senator DeCONCINI. Would you like to submit some questions also?

Mr. MURPHY. If I may, please.

Thank you.

Senator DeCONCINI. Due to the time restraints, Mr. Cox, would you submit your questions so that we can go ahead with the Indian representatives?

Mr. Cox. Yes.

Senator DeCONCINI. We appreciate your answers to these questions and your answers today and the forthrightness of your testimony in these hearings.

We would like to call the balance of the witnesses at this time to all join us at the table: Percy Deal, Daniel Peaches, George Vlassis, and the representatives of the Hopi Tribe.

If you will all join us at the table, we will do this in a panel because of our time constraints.

STATEMENTS OF DANIEL PEACHES, ADMINISTRATIVE ASSISTANT TO PETER MACDONALD, CHAIRMAN; GEORGE P. VLASSIS, GENERAL COUNSEL; AND PERCY DEAL, EXECUTIVE DIRECTOR, NAVAJO-HOPI LAND DISPUTE COMMISSION; NAVAJO TRIBE, WINDOW ROCK, ARIZ.; AND STATEMENTS OF ABBOTT SEKAQUAPTEWA, CHAIRMAN, TRIBAL COUNCIL; AND WAYNE OWENS, LEGAL COUNSEL, HOPI TRIBE

Mr. VLASSIS. Senator DeConcini and members of the staff, my name is George Vlassis. I am the general counsel for the Navajo Tribe.

In view of the shortness of the time, Mr. Peaches and I would like to submit our prepared statements for the record and hold ourselves available for questions.

Senator DeCONCINI. Your prepared statements will be included in the record.

[The prepared statements follow:]

STATEMENT OF CHAIRMAN PETER MACDONALD BEFORE
THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
HEARINGS ON S.3043 WASHINGTON, D. C. JULY 25, 1978

Mister Chairman, Members of the Committee:

Recently, Judge James Walsh sitting in federal court in Tucson, Arizona addressed the attorney for the Navajo-Hopi Relocation Commission. The Judge summed up the relationship between the Relocation Commission and the Navajo people it was created to serve as follows: "Apparently the difficulty is you don't have any satisfied customers here." This is one of those rare occasions where I find myself in complete agreement with the federal court which is attempting to resolve the Navajo-Hopi Land Dispute.

I speak today on behalf of the Navajo people in the Joint Use Area whose future depends so critically upon the care and attention which you focus upon their problems here today. These are the people the Navajo-Hopi Relocation Commission is supposed to serve. These are the people the Relocation Commission has failed.

The people in the Joint Use Area lived peacefully for generations on their land. Now the federal court has taken away their land. Now, the federal government is taking away their sheep. Now, the Hopi chairman says they must be

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pushed from their homes to make way for his cattle. But they have no place to go.

The Navajo-Hopi Relocation Commission was established by Congress to provide the expertise and assistance necessary to help refugees find new land, build homes and piece together the remnants of their shattered communities. Far from accepting its responsibilities, the Commission has shirked its duties, violated the trust of Congress and alienated the very people it was expected to serve.

We hear constant reassurances that plans are being made to acquire land for the relocation of thirty-five hundred Navajo people but nothing of substance has ever happened. It is little wonder that we are not "satisfied customers".

The bill the Senate is now considering, S.3043, will place the Navajo-Hopi Relocation Commission under the direction and control of the Secretary of the Interior. The Navajo people support this change for we have seen what commissioners without a sense of direction or control can do, or more truthfully, what they can fail to do.

Four years ago when the Navajo-Hopi Relocation Commission was created by the Congress as part of Public Law 93-531,

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it was clear to all that the Commission was intended by Congress to soften the pain and suffering caused by the uncertainties of forced relocation -- a pain especially sharp for the Navajo people who for generations have lived on this land.

Congress expected that the traditional Navajo people whose lives have been spent on the land as sheepherders would benefit from the assistance of Navajo-Hopi Relocation Commission in locating new land, building new homes, establishing new community services and moving household goods and livestock. The results are plain. What Congress expected to happen did not happen. Three-thousand Five Hundred Navajo people may soon be forced from their homes. Where is the land they will move to? Where are the homes they will live in? Who are the doctors who will serve them? Who are the teachers who will educate their children? What are the jobs that have been found for them? I hear these questions every day. There are no answers. Will there be answers to these questions in the future? I believe that depends upon you. If you rely upon the Commissioners as they have performed in the past, the answer is "no." There will never be answers to these difficult questions from people who serve part time, and who are responsible to no one.

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All people want to plan for the future. The Navajo people are no different. For the people who live in the Joint Use Area, life is a day-to-day matter. One cannot plan a future when all that seems certain is that one's past will be destroyed.

It is clear from Public Law 93-531 that Congress did not intend the Navajo refugees to wander the face of the earth, did not intend for these people to live without shelters, did not intend for the people to live the rest of their lives without jobs, without schools, without doctors. Why then in four years has no land been found? The answer is simple. To find land for the Navajo refugees, the Navajo-Hopi Relocation Commission would have to devote considerable time and energy to the task. It might perhaps be necessary to reach a decision that the search for new land is the Number One priority of the Commission. Until the Commission makes such a decision -- or until such a decision is made for them -- it is painfully clear that no land will be found.

The testimony of my people in the court has shown that even were land found for them and homes built for them they would be greatly saddened to leave the land of their birth. To ask them to leave old homes for new homes which do not exist would be futile. To force them to leave old homes for new homes which do not exist is cruel.

What then is the job of the Navajo-Hopi Relocation Commission? It is to find land for the refugees, find homes and

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jobs. It is to ease suffering by providing certainty to counter terrifying fears of life without land, without friends, without meaning. This job has not been done in the past. If the present Commission has failed because its members have no training for the job, and no guidance from more experienced persons, then the bill you are now considering S.3043 may help. And help is desperately needed. If the present Commission has failed because its task is impossible--if no land exists upon which 3,500 Navajos can make their new homes--then perhaps the Commission should be frank to admit the problem in order that Congress can amend PL 93-531 to prevent the tragedy of thousands of homeless refugees without hope of a decent future.

To ask that people should carry on their lives in new homes without the friends, the land and the livelihood that they have had for over a hundred years is to risk disaster. To demand that people forsake their friends, land and livelihood and set forth on a journey to a new home that does not exist on land that has not been chosen is not to risk disaster but to make it a certainty.

The only hope the Navajo people have lies with the Congress. If the Navajo-Hopi Relocation Commission is to be an angel of mercy, then it must be effective in carrying out the tasks given it by the Congress in PL 93-531. If the Commission is not effective the Congress must exert its power to bring about a change. S.3043 is a signal to present and future com-

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missioners that the federal government has not and will not forsake its trust responsibilities to the thousands of Navajo people whose future is now so gravely in doubt.

As you consider the future of the Navajo-Hopi Relocation Commission we ask that you consider the future of the Navajo refugees as well. Is the primary goal of the Congress to ease the burdens of the Commissioners, or to ease the burdens of the refugees? We hope and pray it is the latter.

STATEMENT OF GEORGE P. VLASSIS, GENERAL COUNSEL
FOR THE NAVAJO TRIBE, BEFORE THE SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS HEARINGS ON S. 3043
WASHINGTON, D. C. JULY 25, 1978

Mister Chairman, Members of the Committee:

If there is a single word which can sum up the world-wide experience with forced relocation of rural populations with a strong attachment to the land, that word is "failure." The word isn't mine, or the Navajo people's, but rather comes from the researcher who has the greatest experience in the field, and who testified before the Committee on Interior and Insular Affairs in July 1974 -- Thayer Scudder, Professor of Social Anthropology at the California Institute of Technology.

If the actions of the "part time" Relocation Commission to date are any indication of the outcome of the Navajo Relocation Project, then the word "failure" must be changed to "disaster." Given a difficult task, the carrying out of the mandate of this Congress and the District Court, those who had this responsibility were compelled to attempt to alleviate the suffering and harm which relocation has caused and will continue to cause on a some time basis of commuting some 300 miles from Phoenix to the Joint Use Area.

The Relocation Commissioners have no experience in dealing with the Navajo people; no experience in community development; no experience in relocation, and, in fact, with the exception of Governor Lewis, no qualification for their job.

They have brought to this task that dangerous combination of arrogance and ignorance which is a sure prelude to disaster. They represent the diametrical opposite of an Administration which began by asking, "why not the best?"

The legislation before you will not solve the basic problem, but it may well alleviate the steady deterioration in relations between affected Navajo people and the administrators who have been appointed to serve them, minister to their needs, and alleviate their suffering and hardship.

By requiring full-time personnel, there is at least some hope that Relocation will be something other than a hobby for those otherwise engaged.

There is some hope that a competent full time Commission with a competent staff might be able to undo the mistrust and suspicion that the present incumbents have created.

There is some hope that the tragedy which relocation will cause may be alleviated by a wise and caring Commission.

There is some hope that a wise and caring Commission might recommend to you the Congress that as Disraeli said about war, relocation is an aggravation, not a solution.

The present situation in which the problem is treated like a Phoenix or Southern California or Virginia subdivision problem must end.

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The Navajo people are patient. The Navajo people are used to incompetent bureaucrats. The Navajo people like a good joke, but the existing Commission tries their patience, goes beyond incompetence, and has, I submit, produced a situation utterly devoid of humor.

It is you the Congress which has determined that we should have a Relocation Commission to lighten the burden which has been placed on the innocent victims of 100 years of government bungling. It is now long past time that the burden be lightened rather than aggravated.

A step in that direction would be the passing of S. 3043.

Mr. VLASSIS. Mr. Deal, the executive director of the Navajo-Hopi Land Dispute Commission, a tribal organization, however, would like to make a short formal statement in view of the fact that he is the only person to date who has appeared in this hearing who actually lives in the joint use area.

Senator DECONCINI. Mr. Deal?

Mr. DEAL. Thank you.

My name is Percy Deal. I am the executive director of the Navajo-Hopi Land Dispute Commission of the Navajo Tribe.

I am here today to present to you the views and concerns of our Commission in connection with S. 3043 and with the entire relocation program. Before beginning, however, I think it appropriate to give you a better idea of who I am and what my background is.

Unlike any of the Commissioners, or their executive staff, I am an enrolled member of the Navajo Tribe. Unlike the Commissioners, or any of their executive staff, I come from the joint use area. I grew up in the Hard Rock area which is located in the northwest part of the joint use area. My parents come from the same area—the Big Mountain area—and their parents came from this area as well.

I graduated from Eastern Arizona College with an associate of arts degree and have an additional 64 hours in elementary education from Northern Arizona University in Flagstaff, Ariz. I have been a preschool teacher at Twin Lakes which is a community located along highway 666 north of Gallup, N. Mex., and within the Navajo nation.

Following my work as a preschool teacher, I worked with the Navajo Foster Grandparent Program, which is part of the Office of Navajo Economic Opportunity. I was employed by this program, both in Fort Defiance and Tuba City, Ariz. From the Foster Grandparent Program, I went to the Navajo Leadership Planning and Management Training Program, also administered by the Office of Navajo Economic Opportunity. Most recently, I have been a consultant to the Relocation Commission of Flagstaff in setting up a workshop for the joint use area.

As I stated, I am from the Hard Rock community. This is where my family lives, and this is the place I call home. I am vice president of the Hard Rock chapter, secretary of the Land Management District 4 Council, member of the Chinle Agency Executive Council, and member of the Board of Directors of Diné Cooperatives, Inc., a division of Chinle.

Our Commission and the people of the joint use area have never believed that forced relocation is the appropriate way to solve the land dispute between the Navajo and Hopi governments. To inflict hardship on over 3,500 people because of past inequities to Hopi legal rights is not a solution but only a continuation of a wrong.

Nonetheless, we recognize that as long as Public Law 93-531 is the law, and as long as it remains interpreted as it has by the Federal courts, that mandatory relocation will take place. Thus, we turn our attention from the question of whether there should be relocation to how that relocation should be accomplished.

In 1974, when you approved Public Law 93-531, you required that the Relocation Commission, in engaging in their work and in developing a relocation plan for presentation to the Congress, should work "to the maximum extent feasible in consultation with the persons involved in such relocation and appropriate representatives of their tribal councils."

You also directed that this relocation plan should take into account adverse social, economic, cultural, and other impacts of relocation.

To date, this has not been done. The relocation Commissioners are part-time officers supervising a staff which is largely ignorant of the nature of the problem they face and largely unable to communicate with the people they have been hired to serve.

For example, while the Relocation Commission has established some five or six field offices throughout the affected area, with a single exception, they are headed by people whom the relocation program will not affect.

Similarly, the supervisory person at the Flagstaff headquarters of the Relocation Commission is another Anglo, and she simply cannot communicate with the Navajo people who have traveled long distances in order to deal with the Commission which holds their fate in its hands.

This leads to another concern: Why is the Relocation Commission headquartered in Flagstaff, Ariz., when the people it seeks to serve live many miles away?

The only answer I can think of is that it is more convenient for three part-time Commissioners to travel to Flagstaff than it would be were the Commission headquarters located in the area which is affected by the relocation program.

Do you think it fair that the convenience of three part-time officials should outweigh the needs of over 3,500 people?

The relocation program provided for in Public Law 93-531 was designed to be a long-term program providing for relocation over a 5-year period after congressional approval of the relocation plan.

Yet despite this, all of the field workers and even some of the secretarial staff and others at the Relocation Commission headquarters are CETA employees.

It is the policy of the CETA program that persons may be employed in this program, or any other program, for only 6 months.

Thus, instead of building up a group of trained people who benefit from their experience so that they can better serve the relocatees, what we have instead is a revolving door in which the relocatees must deal with an ever-changing set of new people and must communicate their problems and needs again and again and again.

Our Commission supports the goal of S. 3043 to create a full-time Commission. We are hopeful that persons can be appointed to the Commission who have the dedication to realize that relocation cannot be a hobby.

We are hopeful that people will be chosen for the Relocation Commission based upon their qualifications and experience, rather than on who they happen to know.

We are also hopeful that the new Commissioners will be able to attract a staff composed of people who know about the problems of relocation, who know about the needs of community development, and who are capable of communicating with the people they are supposed to serve.

Let me close by indicating to you that while I have only been on the job as director of the Land Dispute Commission for a week and a half, in this short time I have already received complaints from the Coal Mine Mesa chapter and from a joint use area resident that they have been ignored by the Commission, and that the Commission is unqualified to carry out its responsibility.

Yesterday you and I both witnessed the testimony of Mr. William Benjamin, Mr. Rick Lavis, and the Commission members—Governor Lewis and Reverend Urbano.

I have no disagreement with them when Mr. Benjamin testified to the effect that the Commission's role is not working as outlined in Public Law 93-531.

And the cooperation and coordination by and between agencies responsible for the Navajos and the joint use area is at a minimum level.

I agreed with them when Governor Lewis testified that the Commission has only relocated 62 families in approximately 2 years, and that two of the three Commission members are full-time employees of other employers.

The chapter described in Public Law 93-531 is only an interference to them, and they are hampering the total relocation operation.

I agreed with them when Rick Lavis testified that the joint use area is behind 20 years in development and, as a result, the chapter leadership in the joint use area has lost the art of planning.

However, on the other hand, the Commissioner will claim that you will receive a plan in the near future regarding how they can be relocated.

I agreed with them when Commissioner Urbano testified that it is presently impossible to evaluate the effectiveness of the Commissioner's role. How true that is when there is almost nothing to evaluate.

I also would like to point out other reasons why there should be full-time Commission members. The present Relocation Commission has testified that their priority is community development, which is wonderful for educated and employed families who can easily adjust to the rural cluster-type communities.

However—and you heard this morning—there is no plan for families whose lives depend on livestock. There is no plan for the elderly and the traditional people who refuse to move. There is no plan for families evicted from district 6—the Hopi Reservation—in 1972, and there is no plan for young adults who may not be eligible for benefits. As a result, how many of our people have given up on the Commission and have stopped complaining, I cannot tell you.

I began by saying that we believe the relocation is a bad thing. If it must be, we call upon you as our trustees to at least see to it that this program is administered by people who are willing to look upon the job as a full-time one and who are willing to bring to the program the necessary skills and concern to get the job done.

I know that the relocation Commissioners and their staff will point to their supposed success in relocating a few families, but this is because they cannot communicate with, and have not dealt with, the grassroots older Navajo people who have only the vaguest understanding of this program which is being imposed upon them. In order to stop an even greater disaster than relocation is sure to be, I ask that you see to it that the Commission, with which my family and our people must deal, is up to the task which confronts them.

Thank you.

Senator DeCONCINI. We are trying to get an extension of time, but I do want to hear from Chairman Sekaquaptewa of the Hopi Tribe.

Mr. DEAL. I would like to submit two letters that I refer to in my statement.

Senator DeCONCINI. Without objection, they will be included.

[The letters referred to follow:]

July 20, 1978

Mr. Percy Deal, Executive Director
Navajo-Hopi Land Dispute Commission
Window Rock, Arizona 86515

Dear Mr. Deal:

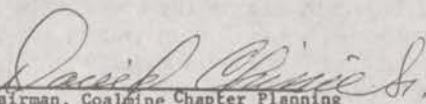
We have received a copy of the "tentative" workshop agenda for the Chapter Planning Committee members to be held at Rocky Ridge Boarding School on July 29, 30, and 31, 1978.

The Coalmine Mesa Chapter Planning Committee would like to request a change in the agenda which is to delete the time set aside for service providers (7-31-78 a.m.) and change that to a joint discussion on problems, recommendations and future planning between the three Commissioners (Mr. Atkinson, Mr. Urbano and Governor Lewis), the Navajo Tribal Chairman and all Tribal Councilmen serving on the Navajo-Hopi Land Dispute Commission.

The reason we are requesting a change is because we feel much of the relocatees' problems regarding any planning process are being hampered by the relocatees' unfamiliarity with the requirement of the Navajo Tribal Government's role vs. the Navajo-Hopi Relocation Commissioner's role. This can obviously be seen from the community standpoint by the difficulties stemming from not knowing who has what authority and or responsibility to carry out what portion of P.L. 93-531. Again, from the Coalmine Mesa community standpoint, the relationship that we see between the Navajo Tribal Government and Navajo-Hopi Relocation Commission is that of total confusion. There is no communication and coordination between the two bodies and instead we see them playing a contradictory kinds of avoidance games, while the relocatees see their problems as being very complex, intense and intimate in many ways.

We are merely requesting that each of the individuals charged with the responsibility of working with the relocatees be more sensitive and responsive than they have been in the past and eventually begin having a meaningful communication.

Sincerely yours,


Chairman, Coalmine Chapter Planning
Committee

July 6, 1978

Chairman Peter Macdonald
 Navajo Tribe
 Office of the Chairman
 Window Rock, Arizona 86515



Dear Sir:

My letter to you is in regard to RL 93-531. I filed an application in reference to this law in April of 1977 and after 15 months of waiting for a reply, I (my family) decided to visit the Relocation Office in Flagstaff, to my surprise they had not done much in my case even though I had gotten all the necessary papers in.

Although I am not bitter, but I am rather upset about how my case has come to a stand still. I understand red tape, but I believe we were one of the first families to agree to move out and therefore I think the waiting is getting out of hand. I (my family) would appreciate it very much if you would check out our case to see if we meet the qualifications for re-location benefits.

I haven't lived in the Joint Use Area (JUA) in a number of years because I had a job with the Navajo Tribal water works. My family moved to Milcon School Campus (on Navajo Reservation) due to transportation problems for my wife, who started working there in 1963. We are presently still there running a BIA house, but at the same time we have always kept our house up. Especially livestock, gardening and family dwelling. The Navajo Tribe put a stop on all construction in the JUA in 1960 so I did not finish the addition to our house. Since then I waited for the settlement of the land disputes.

On February 10, 1977, we were told to move out of the Joint Use Area and were also told to look for another place to live. My wife's grandmother pointed out a place outside the Joint Use Area to build a house. That place has been surveyed, our house appraised and all the necessary forms notarized and turned in on January 13, 1978 for certification.

On June 2, 1978, we were told our application was still pending, because we were not physically living there. We were working away from our home and our children were in bordertown schools. (Holbrook Public Schools). In fact our oldest daughter is teaching at Milcon School.

We were also told we may not have to move out due to the shifting of the boundary line. This uncertainty is getting to me and is a set back of approximately 18 years. Example: Building an addition to our house, and leaving our productive gardens. Besides my health is not good and I have been unable to work for eight years. I (my family) would rather settle in the new location.



i get the idea that many Navajos don't want to go off the reservation for employment and education because they are afraid they might lose any of these benefits. But we were willing to work anywhere to further our economic situation. i hope us taking that chance will not be counted against us and our benefits will not be taken away.

after my wife's retirement we had hoped to go back to my home and live out our last years there. But now if our home is taken by the Hopi Tribe and if we are not compensated, how would we finance the building of a new house at my wife's homeland.

sir, i just don't believe America would let this happen. i have been living there since 1930. i believe you are a just man and hope you will help us not to lose our rightly deserved benefits.

thank you

John Neg SR

r.s. Wilson School is located 35 miles north of Winslow approximately 15 miles away from our original home. A copy of this letter is being sent to Senator Dennis DeConcini.

Senator DECONCINI. Thank you very much, Mr. Deal.

Chairman Sekaquaptewa, we are running out of time. I have asked the floor leader for permission to meet after the 2-hour limit, and we are waiting to hear. If we do, we will have ample time to hear from everyone.

If not, I will take whatever testimony you would like to give us now while we are still waiting.

Mr. SEKAQUAPTEWA. Thank you, Mr. Chairman.

My purpose today is to speak primarily on two issues with respect to S. 3043, which are of vital importance to us.

The first one is the establishment of the Navajo and Hopi Indian Relocation Commission as a full-time commission.

Although S. 3043 does not specifically provide for it, judging from the testimony that has been given, it seems to be a foregone conclusion that if S. 3043 passes in its present form, the Navajo and Hopi Indian Relocation Commission will fall under the administrative control of the Department of the Interior.

This makes the Hopi people very apprehensive and suspicious; because based on the history of this case, having the Department of the Interior solely responsible for the resolution of this problem will not enhance the early settlement of it.

More recently, the Hopi Tribe's inability to cope with the continuing power of the joint use area office in Flagstaff, Ariz., in the control of former joint use lands makes it abundantly clear to us that making the Navajo and Hopi Indian Relocation Commission a full-time commission as part of the Federal Interior bureaucracy constitutes virtual assurance that the frustration and inequities for the Hopi in the Navajo-Hopi issue will pass on to another generation—if not more generations—of Hopi people.

We, as a tribe, have no influence in the Joint Use Administration office. We have very little influence in the Department of the Interior save for what we have with the Hopi agency and the Phoenix Area Office of the Bureau of Indian Affairs.

If the Navajo and Hopi Indian Relocation Commission is placed under the administrative control of the Department of the Interior, as is apparently planned, and thereby loses its autonomy, it is certain that we will have no effective voice in the determination of relocation policy.

This is not a question of the Navajo and Hopi Indian Relocation Commission working as a full-time commission so much as it is a question of creating a permanent agency that will soon make its purpose for existence that of perpetuating itself.

I say this because this is the nature of bureaucracy and, in this case, it would be accomplished by not carrying through on the implementation of the relocation program under the Navajo-Hopi Settlement Act. The establishment of the Navajo and Hopi Indian Relocation Commission as a full-time entity under the Department of the Interior or any other established agency, for that matter, devoid of its independent status, is totally unacceptable to the Hopi tribe. I cannot overemphasize that.

Moreover, despite the dissatisfaction we have had with it in attempting to look at the Navajo and Hopi Indian Relocation Commission objectively, I think it is fair to say that they really have not been

in existence long enough for us to evaluate them on a truly sound basis. I am unwilling to pass final judgment on them at this time, especially in view of the information given in their testimony at this hearing. At the same time, I am not so naive as to believe that they will satisfy either tribe, given the nature of the difficult task that they have been assigned, because the circumstances will not permit it.

The next issue of most concern to us is the appropriation authority for the annual operating budget of the Commission. Public Law 93-531, the Navajo-Hopi Indian Settlement Act of 1974, provides that relocation be accomplished in such a way as to minimize the adverse impacts of relocation. Based, again, on the testimony that has been given by the Commission and based on personal observations of their operations at this time, it seems self-evident to me that this important task cannot be reasonably and adequately carried out without the financial support necessary to do the job. To this end, there is no doubt in my mind that the appropriation authority for the operating budget of the Commission should be increased from \$500,000 to \$1 million annually.

Obviously, we, as a tribe, have many concerns regarding the relocation program. The foregoing, however, covers our major concerns with respect to what we have under consideration today.

Thank you.

Senator DeCONCINI. Thank you very much.

You mentioned that this would place it under the administrative control of the Department of the Interior, as is presently planned. I want to point out to you carefully that if you read S. 3043, I don't see where you come to that conclusion.

Maybe your counsel could explain where that fear derives from. That is not the intent of S. 3043—to place it under the Department of the Interior. The intent is to have consideration of full-time Commissioners.

Mr. OWENS. We have carefully read the law, Mr. Chairman, and it is a concern, stemming not so much from the wording of the law as the conversation with staff and members of the committee that that is the intent to bring that about. The Chairman is simply addressing the concern of that problem. As a history of the Navajo-Hopi dispute will show, he finds that the Department of the Interior control of the Relocation Commission could then be disastrous.

We simply want to underline how important we believe protecting the integrity and independence of the Commission is.

Senator DeCONCINI. You don't assert then that the legislation puts it under there? You are asserting an overall concern that that will eventually happen.

Mr. OWENS. We understand very clearly the three points of the Senator's legislation.

Senator DeCONCINI. Mr. Vlassis, we would like to hear from you, although we are hampered right now by Senate rules. But we will proceed until we hear otherwise.

Mr. Vlassis?

Mr. VLASSIS. Senator, I would like to make just a few points here.

One of the reasons that the position of the Hopi Tribe is so different from the Navajo Tribe with relation to S. 3043 is the fact that there are only 36 Hopis who may be relocated during the process of this relocation plan, as opposed to 3,500 Navajo people.

It is important to understand, in view of the testimony of the present members of the Relocation Commission, that the Navajo tribal council has come to the conclusion that the Commission has been so ineffective in dealing with the Navajo people that the council appropriated this year an additional \$80,000 to obtain separate legal representation for the Navajo residents of the joint use area in order that they might deal with the Commission.

In other words, the communications between the representatives of the Commission in the joint use area have been so strained and so subject to misunderstanding that the local people have requested this assistance from the Navajo tribal council.

The council, in fact, appropriated \$80,000 and, within the month, there will be separate legal representation—not from my office—for those people who are dealing with the council, which to me indicates that there is a certain ineffectiveness in communication.

I would like to also point out clearly that there are 2 full years available to develop this plan of relocation. There seemed to be some confusion from time to time on that issue. Under section 640(d) (3) and (12) of Public Law 93-531, there is a 2-year period from the time that the judge issues his final order of partition. He has yet to issue that order because of the reversal from the Ninth Circuit Court of Appeals. So there is no confining period of December 1978 to submit a partial report at a time when no one knows when the new land, provided under Public Law 93-531, of 250,000 acres, will be available to the tribe.

I would also like to point out that the performance of the Commission can be ascertained very easily by looking at their own reports. Nothing needs to be said past that. These reports start off with the first interim report in which there is a long discussion as to what kind of IBM typewriters should be purchased. Then the next question is: Should we have Victor adding machines or Monroe calculators.

Subsequent reports have not improved the overall view with relation to this terrific problem.

I would like to close on this note. There is another relocation problem pending before the Congress and before the Department of the Interior. This is a very small one. It only involves 500 people and 446 acres of land. That is in the Bikini Atoll in the South Pacific. That relocation has been going on since 1946. The House Appropriations Committee, in May of this year, came to the conclusion that they had better get together and get up another \$15 million for this problem, in addition to the moneys that have already been put together. That is from 1946 to 1978.

We are in a situation where we have 3,500 people and over 1 million acres of land, and we have a lot of consternation being expressed that this thing must move faster. The fact of the matter is that there have been a number of expressions in Congress already that hindsight with relation to the Bikini problem is a lot better than the foresight, and that this should not have been done. I would hate to see that kind of hindsight judgment repeated with relation to a greater and larger number of people.

Those are the points I have to make.

Senator DeCONCINI. Representative Peaches?

Mr. PEACHES. Senator DeConcini, members of the staff, and ladies and gentlemen, I just want to reemphasize that the relocation which

the Navajo people in the former joint use area are facing is a very difficult and frightening experience for them. To this day, many people have actually suffered much in terms of emotional and economic loss. I think we almost have to come to the conclusion that relocation will never be a fair way of solving this problem.

I think it is within the power of the Relocation Commission to come back to Congress and say that, based on our study and our experience, we hereby report to you that relocation is not the solution.

Thank you.

Senator DeCONCINI. Thank you, Representative Peaches.

Senator Melcher?

Senator MELCHER. George, did you help prepare this testimony of Chairman Peter MacDonald?

Mr. VLASSIS. My office did, yes.

Senator MELCHER. Does S. 3043 in one of these sections—or in something I have missed—place the Commission under the direction and control of the Secretary of the Interior?

Mr. VLASSIS. No; I think we are inaccurate in that respect. In fact, it is independent.

Senator MELCHER. George, you represent the Navajos as general counsel. Is the feeling among the Navajos widespread to your knowledge that relocation is not necessary?

Mr. VLASSIS. Yes; that is the general feeling.

Senator MELCHER. Am I correct that relocation was ordered through a series of lawsuits that resulted in an order to relocate and abandon the land, or am I inaccurate in that?

Mr. VLASSIS. No; the understanding of the people is—

Senator MELCHER. Am I inaccurate on that?

Mr. VLASSIS. No; you are accurate, Senator.

Senator MELCHER. Then the understanding of the people is that that suit and that Federal judge's order, even though not appealed—did the tribe appeal that at the time?

Mr. VLASSIS. Yes.

Senator MELCHER. To where?

Mr. VLASSIS. To the Supreme Court of the United States.

Senator MELCHER. What did the Supreme Court say?

Mr. VLASSIS. Cert denied.

Senator MELCHER. It left it in place; did it not?

Mr. VLASSIS. That is correct.

Senator MELCHER. And still there is a great preponderance of the Navajo people who feel that that should not be followed?

Mr. VLASSIS. Yes, Senator.

Senator MELCHER. That should not be followed.

Mr. VLASSIS. No; not that it should not be followed.

Your initial question was: Do the Navajo people feel that relocation was necessary?

In trying to respond to your question, I tried to respond in the idiom—

Senator MELCHER. Let me rephrase that—necessary under the law.

Mr. VLASSIS. It is mandatory under the law.

Senator MELCHER. This Government is not so big yet that when a small group of people—and I don't know whether it is hundreds or

thousands in this case—cannot approach this Government for redress and correction of something that has been decided in their favor, I am disturbed.

I am disturbed that the general attitude at this time among the Navajo is that this long series of appeals to get into court and to go through the lengthy process that it takes in court and then have that followed up by congressional action does not lead to some sort of circumstance that the Navajo people can work out.

I am very much for going on with the Commission. I am surprised that the results are not good and are hard to measure. I think all of us who have participated in this through the years—I am only middle ground on that, because I have not participated in it all that much—have been very, very understanding of both sides.

The decision was made for relocation under the terms of this Commission. If we can't work it out, what are we supposed to do?

What would you recommend for us to do, George?

Mr. VLASSIS. I would like to point out that in 1971, when the present tribal government came in and that tribal government went out in the joint use areas, we found a widespread misunderstanding with respect to *Healing v. Jones*.

Both sets of lawyers for both tribes had represented to both tribes that they had both won the lawsuit. Now that is an extremely difficult position to explain away, because that had been going on since 1962.

So there was 9 years' worth of two sets of lawyers who won the same lawsuits. In a way they did, because they both got very substantial fees based on winning—contingent fees.

That was dispelled by over 300 trips to the joint use area explaining what *Healing v. Jones* was, and that if anything was to happen in that respect, it would have to happen at the hands of Congress. It certainly would not happen by any new proceedings in that particular litigation. Great time and great effort went into that.

The reason that the Navajo people hold the expression that is so bothersome is a very simple one. It is the way that Indians have been treated at the hands of whites since the early 1700's. When Indian land has been taken by whites, the traditional way of redress is to provide them with money.

If the conclusion of the Congress and the courts was that the Navajos somehow took this land, which they do not feel that they did, their question is: Why aren't they treated like the rest of the country and afford the Hopis the money for the taking of the land? Why, in this situation, do we have a singular approach?

They do not understand that. As a matter of fact, I don't understand that. But I respond to that and in dealing with the people, I explain: You, Navajos, are an exception to history. I can't explain it to you. I understand why you don't feel it is fair.

Now that feeling has flared up again in connection with the recent land claims in the eastern United States—in Maine and Massachusetts and the Southern States. Once again, the solution that is being put forth with the whites taking of Indian land is: We will give a little land back to the Indians but we will make up for the rest with dollars.

This is the only situation extant in which we are talking about the land itself, and there is no reasonable explanation for it. The solution

that we have tried to provide and have suggested to Congress over the years is one, to date, which has not been acceptable. That is a combination of the Hopis receiving a substantially smaller land area than what was actually divided in *Healing v. Jones*, and that the difference be made up with an allocation of money.

The Navajos, unlike everyone else I have ever heard testify in this community, have said that they would provide the money. They did not ask Congress to provide the money. Nevertheless, that was rejected. I think there was a great deal of wisdom in that proposal, but it was rejected.

Even today, I think the real solution to this problem does not lie on whether you have a full-time Relocation Commission or a part-time Relocation Commission. The question is: Wouldn't it reasonably satisfy, on an equitable basis, everyone to reduce the land mass involved, reduce the relocation, and provide an additional award to the Hopi Tribe with money and, if necessary, Navajo money.

That is the Navajo position.

Senator MELCHER. George, it was rejected by the Hopis; was it not?

Mr. VLASSIS. It was.

I might point out that the Indians have always rejected those dollar awards that have come from the Indian Claims Commission. Nevertheless, they get them anyhow.

Senator MELCHER. You are talking about two tribes. The Hopis rejected that offer from the Navajo Tribe; is that correct?

Mr. VLASSIS. I think it does, but I do not understand the difference as to why the Hopi rejection is so much more significant than the Maine Indians, for instance, who want to reject money.

Senator MELCHER. In my home county of Rosebud in Montana, the Northern Cheyenne Reservation is located. That reservation is adjacent to the Crow Reservation. The Crow Reservation is a great deal better. It is larger and has more assets on it than the Northern Cheyenne Reservation.

Yet the line established there has not become a battleground of physical or through the courts or through squatting by one tribe against the other.

It has been litigated. After the litigation, a final, more acceptable arrangement was made by Congress after hours of time of both the House and the Senate.

The Commission was that solution. It was not agreed to as preferable by the Navajo Tribe. It was not liked too well by the Hopis, as I recall, too; but it was the best deal they could get.

We took the advice of the representatives from Arizona—I was in the House—as this being the best method available to avoid any undue physical harm to anybody and to attempt to avoid as much trauma as possible. I recognize it is trauma for Navajos who have lived several generations on some land to be relocated.

It was less harsh than the court, admittedly; was it not, George?

Mr. VLASSIS. It was.

Senator MELCHER. Much less harsh, and it was a compassionate attempt by Congress to rectify an error or wrongdoing.

I think it is about time that we see some results of this Commission to bring about what has been the final determination of justice.

Senator DeCONCINI. Would the Senator yield a moment?

Senator MELCHER. Yes.

Senator DeCONCINI. Senator Melcher, this bill, of course, is the authorization to increase from \$500,000 to \$1 million the money for the Commission and to consider full-time commissioners versus part-time commissioners, based on the fact—from this Senator's point of view—that the Commission has not been able to relocate as humanely and effectively and fairly as was the intent of Congress.

I don't know that full-time commissioners would make any difference, or raising it to \$1 million would make any difference.

That is really the purpose of S. 3043—not to eliminate or abolish or repeal Public Law 93-531.

Senator MELCHER. I understand that, and I am in favor of giving the additional funds.

What I am voicing is the obvious and also looking at what has been accomplished since the act was passed in the 93d Congress. It has not been satisfactory is what I am saying.

Mr. VLASSIS. Could I respond to that, Senator?

Senator MELCHER. Yes.

Mr. VLASSIS. I would like to point out that there are two factual flaws in this situation that are not the fault of Congress or the fault of either tribe or the fault of the courts. The two factual flaws which continue to exacerbate this situation are that as far back as 1971 we were trying to explain that the joint use area has not been accurately defined.

We all look at a map that shows a big rectangle. It became clear to us when we became involved in the case that no matter what that rectangle was, the fact of the matter was that, the boundaries of the joint use area were unknown.

In spite of the fact that *Healing v. Jones* went all the way to the Supreme Court and back, we still did not know what that rectangle was. Now in order to talk about how it is you are going to divide the rectangle of land, you simply have to have the boundaries. It was just 2 months ago that the Ninth Circuit Court of Appeals said that was true and that, in fact, there was confusion with relation to what the boundary line was.

It is extremely difficult to deal with one's client to explain that their land is going to be divided but I can't describe it to them because I don't know what the boundaries are and neither does anyone else in the world.

That is one of the flaws in trying to get this situation resolved. The other flaw is a very, very basic one which involves the Relocation Commission which we have been talking about this morning. That flaw is: In order to induce people to move somewhere else—part of the humane aspect of Public Law 93-531, which the Navajo Tribe is truly grateful for—is the provision that provides for 250,000 acres of land.

The Relocation Commission and the Federal Government, meaning the administration of the Federal Government, have done little or nothing with relation to the 250,000 acres of additional land, except to oppose the efforts of the Navajo Tribe. That, again, makes it very, very difficult to explain to people that they are, in fact, going to move somewhere but we cannot tell them precisely where because at the

present time everyone is opposing the land that they picked. We can't tell them what land will, in fact, be available.

I don't know whether this has ever been turned in in final form by the Relocation Commission. It is called a Preliminary Study of Potential Site Identified for Relocation.

In this study, they are talking of potential sites of such places as: Albuquerque; Blanding, Utah; Cortez; Farmington, N. Mex.; Holbrook; Page; Phoenix, Winslow; and a variety of other sites.

The one thing that is not contained in here is the thing that the people have been thanking Congress for and pinning their hopes on, which is: Where is this 250,000 acres?

Now that is a problem we all share, and that is what makes life very difficult in trying to move along in connection with the relocation.

Senator MELCHER. Who is charged with finding this land—the Bureau of Indian Affairs or the Department of the Interior?

Mr. VLASSIS. Actually, the Department; but the main opposition is coming from the Bureau of Land Management within the Department.

Senator MELCHER. We can direct the Department.

Furthermore, unless there is some agreement on it, we can direct the Department of the Interior that that is the end of the negotiation and we will take the recommendation for whatever it is. But I think it is a pertinent point and would be glad to direct the Department to end this.

Abbott, what do you have to say?

Mr. SEKAQUAPTEWA. I just wanted to have the opportunity to make a statement with regard to the reservation.

With all due respect, I have to disagree with Mr. Vlassis that the boundary of the reservation was unknown. It was only the portion of the western boundary and the south boundary of the 1882 reservation which is in question. It was due to an inaccurate survey that was conducted in 1914, and that affects only 50,000 acres out of 1.8 million. As far as I am concerned, it is something that has been found to, once again, delay the implementation of the intent of Congress.

Senator MELCHER. This Commission, I assume, has plenty of funds to hire any outside help they need in carrying out their function. I don't think there is any question about it—at \$1 million a year—is there?

Mr. OWENS. The Commission has had an extremely sensitive situation with which they are charged solving as both the Senators know that are here. The Senator from Montana has had a long-time association with this problem, and I know that the Senator from Arizona has in another capacity as well. It seems to me that it is extremely early to judge that as a failure at this point, and that there is a great deal of information that is not available.

I know one of the options that the committee is considering is a GAO report. I know that the chairman of the Hopi Tribe subscribes to the concept of a GAO investigation and report which could be directed to be completed, I supposed, within a few months' time. We would like to submit that before drawing a conclusion that this Commission has failed and, therefore, ought to be replaced, that perhaps such a report from our point of view would be extremely helpful in that evaluation. Just from our point of view, we might submit to the committee the possibility that that be ordered and that a question or determination

on the Commission ought to be postponed until after that report has been received.

From our viewpoint, the Commission has performed its function fairly. Although members of the tribal council have not always been completely in accord, as I understand it, with the Commission, nevertheless they feel that they are men of good will attempting to solve an extremely sensitive and difficult position. As the chairman of our tribe mentioned earlier, it is one which is probably predestined to be unsatisfactory to both sides. But the fact that their performance might be unsatisfactory to both sides is probably an indication that they are, in fact, accomplishing something of worth.

Senator DECONCINI. Chairman, what is your response to the suggestion of one full-time commissioner and two part-time commissioners? Do you prefer to leave it like it is with three part-time commissioners?

Mr. SEKAQUAPTEWA. As I have already indicated, I think that there really is not a solid basis on which we can come to a really sound evaluation of the performance of the Relocation Commission at this time. There just has not been enough time which has gone by that we can reach that decision properly.

I think that we are amenable to it.

Senator DECONCINI. You think it should stay like it is until we have reached—

Mr. SEKAQUAPTEWA. I think that might be more appropriate until the first part of the year. At that time we may have a report submitted to Congress.

Senator DECONCINI. Mr. Vlassis?

Mr. VLASSIS. It would seem to me that from the Navajo point of view it is, in fact, an affront that their lives are being determined by part-time personnel. This is a little too serious for someone to be doing in connection with some other activity.

Senator DECONCINI. What about one full-time and two part-time?

Mr. VLASSIS. I think that could be acceptable, because it is really necessary to have a person on a permanent basis. Supplemented by two part-time people that would be reasonable.

Senator DECONCINI. Mr. Deal pointed out in his testimony that he felt some problems because the Commission was located in Flagstaff, Ariz. Do you really believe it would make any difference if it were located in the joint use area or some other place than Flagstaff?

Mr. VLASSIS. I do, personally. I believe that the problem is within the boundaries of the reservation, and a meeting in Flagstaff has nothing to do with the reservation.

The most important thing for this Commission is to validate itself with the people who inhabit the joint use area.

Senator DECONCINI. Chairman, how do you respond to that? Do you think the Commission would be more functional if it were located within the joint use area?

Mr. SEKAQUAPTEWA. Yes; I think it would. And I think the Department of the Interior would be more functional if it were located in Arizona too. [Laughter.]

How far can you carry that?

Senator DECONCINI. Would you like the Department of the Interior located in Arizona? [Laughter.]

Mr. SEKAQUAPTEWA. I think that would be more functional as far as the tribe is concerned. But I think these are peripheral matters.

Our main concern right now is to maintain the integrity of the Relocation Commission so that they are able to retain their autonomy and independence.

As I indicated before, there is no way in the world that they are going to make either tribe happy. How can they do it?

Senator DeCONCINI. I concur with you that it should remain independent.

Mr. SEKAQUAPTEWA. I hate to have to say this again, but I think we have all been down this road before. I really do not feel any compunction to attempt to respond to all the things that have been said today.

About all I can say is that several Congresses and the United States District Court have heard all of these arguments before. Based on their findings, they have made their decision. I think our job is to carry through on the decisions that have been made.

I am just tired of going through all this rhetoric over and over again. I think we have a job to do. Get this behind us, and that is what we should be doing.

Senator DeCONCINI. Of course, that is part of the whole process.

If the Ninth Circuit Court of Appeals had not taken the action it took recently, at least it would expedite this effort. It would not make it any easier on anyone. But we have to address the problems that are before us. The problem here is whether or not to increase the appropriation double for the Commission.

I have a feeling, Mr. Chairman, that we are continuously going to ask for your opinions. We appreciate you coming here. We know it is a great sacrifice to you and your people. But if we don't get that information in testimony, we certainly cannot make any judgments—particularly when the Commission is asking for an increase of 100 percent.

Mr. SEKAQUAPTEWA. As I indicated earlier, I fully support that increase because of the work that they are doing which they have reported to this committee.

Senator DeCONCINI. It is very important to us to have your testimony in support of it.

Senator Melcher, do you have any other questions?

Senator MELCHER. I want to make two comments, and then I am going to have to go to the floor.

I don't know that a GAO investigation of this situation would improve anything. At least the committees of Congress which have dealt with this subject know the background and I think they know the facts.

You mentioned a new Ninth Circuit Court decision; what is that?

Senator DeCONCINI. Mr. Vlassis, would you like to explain that? I can, but I think you can do it much better.

Mr. VLASSIS. Mr. Chairman, that decision was one I referred to earlier rather opaquely. The decision is a vacation. Judge Walsh's order in Tucson of partition has been vacated pending his holding a proceeding to find out what the boundaries of the joint use area are. That is what the decision is limited to.

We will have a hearing shortly, although we intend before having the hearing to see if we can make an offer between the tribes to settle that without having the hearing.

If we can, then the judge will reinstitute his order of partition and the time will start to run again with relation to when the final report of the Relocation Commission has to be submitted to Congress. That is a relatively fresh decision. It is about 2 months old.

Senator MELCHER. I assume the legislation described here in the 93d Congress addresses that problem anyway; does it not?

Senator DeCONCINI. It told the court to draw the boundaries. They drew them, and the Ninth Circuit Court said we have to do it again.

Senator MELCHER. And that is your point about the boundaries?

Mr. VLASSIS. Yes, Senator.

Senator MELCHER. Abbott has said that they think the 1914 boundary is accurate and properly describes the area?

Mr. SEKAQUAPTEWA. The 1914 boundary survey was erroneous, but it was corrected in 1965 prior to the judgment in this case.

Senator MELCHER. At any rate, the GAO can sift through all this again and sift through everything that has been litigated to the ultimate and could report on whatever the Ninth Circuit Court decided and what that means. But I hardly think that the GAO can come up with a report that we generally look for on whether or not an act of Congress is working properly. We can gage that for ourselves. If it is working properly, it is not working very quickly. I am just responding to Wayne on that point.

I think at this time a GAO report will not be very helpful.

On the point of whether or not relocation lands are made available and a definite location of 250,000 acres, why that has not become more definite and a solution of the outright designation of 250,000 acres we can find out from the Department and effectuate a resolution of that hangup that you mentioned. I think it is our responsibility to do that.

Those are the only two comments I wanted to make.

Senator DeCONCINI. Mr. Owens, do you want to respond?

Mr. OWENS. I was just going to say that the Ninth Circuit Court order left to Judge Walsh, as I understand it, the power to grant interim orders in order to permit the continuation of the relocation. There appears to be an indication that there is hope that that would continue. As Mr. Vlassis has said, the assumption is that perhaps that can be resolved and the relocation should go on.

There is no indication in the court's order, in other words, that they want the relocation to stop. It is just a determination of the boundary.

Senator DeCONCINI. Mr. Murphy?

Mr. MURPHY. Thank you very much, Mr. Chairman.

I have a couple of questions on the point of the boundary line.

The boundary problem, as I recollect, is the southeastern section of the joint use area; is that correct?

Mr. VLASSIS. Southwestern.

Mr. MURPHY. So that the other areas of the boundary line are not in contention.

So there is no reason that the people who are on either side of the line in those other parts of the joint use area would not continue to be relocated without the question being fraught with problems from the court's decision: is that correct?

Mr. VLASSIS. I think that is correct.

Mr. MURPHY. Referring earlier to the 250,000 acres: Am I correct that there are areas outside of the reservation that are not in conten-

tion where people can indicate a desire to move—to some of those cities that you mentioned awhile ago? That if people wish to move into some area that is predetermined by their own desires, they can do that. Is that correct?

Mr. VLASSIS. That is exactly what has been happening until the last couple of months.

Mr. MURPHY. Why has that stopped in the last couple of months since the decision was handed down?

Mr. VLASSIS. You will have to ask the Commissioners and Mr. Crowley. We don't have anything to do with that. That is their activity.

There has been no edict from the Navajo Tribe, saying: "Stop moving," in view of the Ninth Circuit Court decision. That is a voluntary choice of the Relocation Commission.

Senator DeCONCINI. Would you like to ask the Commissioners, since they are still here, and we have the exemption on the time?

Mr. MURPHY. If I could, Mr. Crowley might be able to respond to that.

Mr. CROWLEY. Apparently, Mr. Vlassis and I have a different interpretation of the order of the Ninth Circuit Court of Appeals.

The way I read the order—the order of Judge Walsh of February 1977—it would vacate. Therefore, the Commission does not have a line and does not have any direct knowledge or authority of who is eligible and who is not eligible until an interim line is drawn or a new line is drawn.

I, personally, feel very confident that there is not going to be a great change in most of the lines drawn. We don't know that until the court makes its ruling. The court has language in the decision to the effect that no action taken prior to vacating this order is valid. But the order is vacated.

My interpretation of that would be that it would be foolish for the Relocation Commission to move people and probably in violation of the act.

Mr. MURPHY. Mr. Vlassis?

Mr. VLASSIS. My response to that is that it is foolish to turn off the people who are coming in to apply to relocate in the meantime.

If, in fact, there are people who voluntarily are interested in relocating, there is no reason why the doors of the Commission should not remain open as this particular aspect of the case is resolved.

It is not necessary to reach the conclusion that Mr. Crowley has—that you must take final action and move someone. There is no reason why the application cannot be processed.

Mr. MURPHY. It is my understanding, from previous testimony by Commissioner Urbano and Governor Lewis, that the Commission is continuing to process applications, and that they have taken no action to stop the processing procedure, other than actually making a final decision of physically relocating somebody. Is that correct, Father Urbano?

Reverend URBANO. We are continuing to process people just as before. We simply have not actually moved anyone since the Ninth Circuit Court of Appeals decision.

Senator DeCONCINI. Would you yield a moment?

Mr. MURPHY. Yes, sir.

Senator DECONCINI. Except, Father Urbano, you have put a freeze on the criteria of the voluntary relocatee; right?

Reverend URBANO. We are awaiting the decision of the GAO.

Senator DECONCINI. So you have stopped something since the court decision; is that correct?

Reverend URBANO. The cases in which we need the advice of the General Accounting Office are cases which have already been processed and on which we already have full files.

Senator DECONCINI. Have you put a freeze on those?

Reverend URBANO. We put a freeze on the ones which are questionable under the present regulations.

Senator DECONCINI. When did you do that? Right after the decision; is that correct? Isn't that the testimony Mr. Crowley gave?

Reverend URBANO. We froze a great number of those we considered questionable before this last decision.

Senator DECONCINI. I thought that Mr. Crowley testified—when I asked Commissioner Lewis when the Commission placed the freeze on voluntary relocations—that he did that as a result of the Ninth Circuit Court of Appeals decision.

Reverend URBANO. That is true of all of them. But I was responding to the question of whether there were not some which we would hold up anyway because of other reasons that are questionable.

Senator DECONCINI. But you did put the freeze on after the decision on the voluntary relocation; is that correct?

Reverend URBANO. Yes, sir.

Senator DECONCINI. And as a direct result of that decision?

Reverend URBANO. Yes, sir.

Senator DECONCINI. Thank you.

Mr. MURPHY. I will move to another point.

In both the statements of Mr. Deal and Mr. Vlassis there was a complaint about the incompetence and lack of compassion, and other terms, of the Commissioners.

I wonder if the Navajo tribe has done anything at all to attempt to offer criteria for qualification for people to serve in the position as Commissioner, since there has been nothing, I have been able to gather from anything that has been stated, other than criticism of the present Commissioners?

I have seen no indication that there are criteria that could be set forth that would be satisfactory to the Navajos and the Hopi Tribes.

Mr. VLASSIS. We have provided something besides criticism. We have provided advice to the Commissioners from the first day that they appeared on the reservation.

We stopped providing that advice when they followed none of it.

The first bit of advice was at the appearance at Coal Mine Mesa, which was one of the initial appearances. That they should express concern to the people with relation to this new land of 250,000 acres.

Instead of following that advice, the expression—not of the gentlemen who are here today but of the other Commissioners—was that it was none of our business; we don't have anything to do with that.

Mr. MURPHY. None of the tribe's business?

Mr. VLASSIS. None of the Relocation Commission's business. Their business was limited to moving people, but they didn't know where, and their business was not to find a place.

We differed with them, and we say that the statutory scheme requires them to be involved in site selection. Site selection includes the 250,000 acres.

As you well know, in Arizona, that is not a popular decision of the Navajo tribe to pick up that land on the Arizona side of the boundary.

So immediately the Relocation Commission got themselves in a position in which suspicion and distrust of the Navajo people became paramount. "You people are going to move; we are going to help you move." The next question is: "Where are we going to move?" Well, we don't know.

That is the way that started.

As far as criteria is concerned: We provided that to both the Congress and to the Commission.

Professor Thayer Scutter from the California Institute of Technology is, without a doubt, the world's leading authority on relocation. There have been accomplished more than one conversation with representatives of the Commission and Professor Scutter.

So we did provide more than criticism.

Mr. MURPHY. Then that criteria is available to the committee in the event that they should make a determination to change the present makeup of the Commission?

Mr. VLASSIS. That is correct, Mr. Murphy.

Mr. MURPHY. Since the basic testimony I have heard this morning has been in support of S. 3043: Has the Navajo Tribe done anything to take a position in the past to support before the Congress the needs of the Commission for additional money or additional staff to help them carry out their work?

Mr. VLASSIS. Not during the period of time in which we have part-time Commissioners.

Mr. MURPHY. In other words, you feel that the basic solution is to avoid part-time Commissioners and have only full-time Commissioners?

Would you support the request for more money and better-qualified staff?

Mr. VLASSIS. We think that someone has to be full-time—whether it be all three or not. And in the absence of having someone full-time on this situation, it is a waste of money to put in additional moneys.

Mr. MURPHY. May I ask another question that is probably somewhat philosophical. I have two on different points.

You were discussing earlier the problems of taking land away from the Navajos, and that there should be some method that the Hopis give up their land in exchange for some kind of financial remuneration.

My question is: Why is it acceptable for the Navajos to retain land that they feel belongs to them and not equally acceptable for the Hopis to have the same right?

Mr. VLASSIS. It would seem to me that in any civilized community—whether it be in the United States or some other country—that the real equities of the situation have to be taken into consideration.

I have a great deal of sympathy for the Hopi position myself, but not to the point where the real equities are distorted.

On the one side, you are dealing with a relatively uncrowded reservation of a group of people somewhat under 6,000.

On the other side of the situation, you are dealing with a very, very crowded reservation—it looks big, but it is crowded—of 150,000 people.

Any reasonable assessment of Hopi needs, aspirations, and hopes on any criteria that you and I understand indicates that their needs do not require 1 million acres of land but require something in the vicinity perhaps of 250,000 to 300,000 acres of land.

The rest of the acreage, quite frankly, has become a political football. It is not supportable socially, culturally, or economically in the present state of affairs.

Mr. MURPHY. I have to concur and agree with the last part of your statement.

The question is: Where do we make a determination of how much land per person is acceptable to a Navajo or a Hopi?

Mr. VLASSIS. I cannot remember the calculations offhand, so I may be wrong factually and I would like to correct this if I am.

In the present state of affairs, I believe the way this works out is that the Hopis are coming out of a situation on an aggregate basis of about 400 acres a person, and the Navajos about 110. I don't understand that.

Mr. MURPHY. Neither do I, and that is why I was wondering if you could shed some light on that.

I have no other questions at the moment. I might have some for the record, based on testimony, if I may, Mr. Chairman.

Senator DeCONCINI. Mr. Cox?

Mr. Cox. Can those Navajo relocatees who wish to remain on the reservation be absorbed within the present Navajo Reservation, including an additional 250,000 acres of land?

That is, those Navajos who wish to remain on the reservation.

Mr. VLASSIS. Mr. Simpkin, the mediator, has a more realistic view of the situation. We think that at least an additional 250,000 acres outside the reservation would have to be provided.

In that fashion, perhaps a combination of 500,000 acres and some absorption within the reservation could handle this situation.

The current scheme will not allow for that.

Mr. Cox. The Navajo selection, I understand, is the House Rock Valley for their 250,000 acres; is that correct? That is their first choice?

Mr. VLASSIS. That is correct.

Mr. Cox. It is our understanding that that area could only support perhaps 20 families—give or take some—is that correct?

Mr. VLASSIS. That is what the Bureau of Land Management says. I am not sure that is correct.

Mr. Cox. Does the Navajo Tribe have any other idea as to the number of families that could be moved into that area?

Mr. VLASSIS. No.

Mr. Cox. Was the purpose of the tribe being able to select 250,000 acres of land to try to help ease the impact of relocation?

Mr. VLASSIS. Yes.

Mr. Cox. Are there any other sites that have been identified that would be less than a block of 250,000 acres that might be able to house more Navajo relocatees?

Mr. VLASSIS. Every real estate broker west of the Mississippi has lots they want to sell the Navajo Tribe on a broken basis.

Mr. Cox. Let's say around the reservation.

Mr. VLASSIS. That is what I am talking about. They are already buying up land around the reservation.

Mr. Cox. Are you saying there is no land available at a reasonable price?

Mr. VLASSIS. I am saying not only is there nothing available at a reasonable price, but there is no reasonable checkerboard situation to which the tribe could accommodate itself.

This issue has been substantially confused by the Bureau of Land Management which has been busy explaining in Washington and in New Mexico and in Arizona that the 250,000 acres of new land was actually intended to consolidate the east side of the Navajo reservation.

Until that subsides a bit, it is very difficult to get on with the site selection process.

Senator DeCONCINI. Would counsel yield for a moment?

Mr. Cox. Certainly.

Senator DeCONCINI. Is it the Navajo tribe's position that it has to be a block of land of 250,000 acres?

Mr. VLASSIS. To the extent feasible. That is not final. It is preferable.

Senator DeCONCINI. In other words, if you cannot get 250,000 in one block, like House Rock or whatever else you may come up with, then it is not the position that you would not take 100 here and 150 there, or something like that?

Mr. VLASSIS. No; there is just a certain abhorrence to that.

One of the main businesses of the Navajo tribal government at the present time is consolidating other checkerboard areas. They probably have more experience in trying to get land assembled in one piece than almost anybody in our part of the country.

So if they could avoid that by getting a contiguous single piece, that would be preferable.

Senator DeCONCINI. But if they had five contiguous pieces?

Mr. VLASSIS. That is a solution that could be acceptable.

Senator DeCONCINI. Has the tribe sought other potential locations—other than the whole one piece of 250,000?

Mr. VLASSIS. The tribal position has been dictated in good part by the conduct of the State office of the Bureau of Land Management. They felt that they got ambushed in that connection without honestly coming forth and saying what it was that was their first choice.

The position since then—until their first choice is determined one way or another—that they have nothing else to say.

Senator DeCONCINI. Thank you.

Mr. Cox. Do you see this problem of land as a serious defect in the public law?

If the Commission is charged with the responsibility of trying to identify sites for individuals—both on the reservation and off the reservation—if there is not a sufficient amount of land, then that really is a defect of the law rather than a defect in the Commission.

Making the Commissioners full-time, part-time, or whatever perhaps is only a part of the problem—a very small part—if we don't identify additional acres of land for the Navajo tribe. Would you agree with that?

Mr. VLASSIS. No; I would not agree with that.

With relation to the way the law is drafted at the present time, it strikes me that the Commissioners do have obligations with relation to the land that would be available under Public Law 93-531 as it now stands. They have shucked these obligations deliberately.

Mr. Cox. Are you saying that they don't support the Navajo tribe receiving the 250,000 acres of land?

Mr. VLASSIS. I am saying that they are doing nothing of any substantial nature to support the tribal position. That is correct.

Mr. Cox. They have testified before this committee and have urged Congress to assist in any way possible to help expedite the Navajos being able to receive those additional acres of land. They think that is critical to their operations as well.

Mr. VLASSIS. This is a little more favorable climate to talk that way than it is in Flagstaff, Ariz.

The fact of the matter is that the position of the Relocation Commission in the Flagstaff community is not the same as it has been represented to be here.

Senator DeCONCINI. Can you substantiate that, Mr. Vlassis, with newspaper articles or anybody who can testify?

Mr. VLASSIS. It is the usual problem of proving a negative.

I can produce all of the clippings in connection with the House Rock Valley dispute and only show you the absence of any communications from the Relocation Commission.

Mr. MURPHY. Has the tribe any responsibility?

You stated they have made their first selection—the 250,000 acres in the House Rock Valley.

That is under an EIS. Among other things, the obstruction is the attitude, as you describe it, of the Bureau of Land Management. But has the tribe done anything on its own to try to locate other pieces of land to give the Commission another direction to go to help assist the tribe in finding land?

Mr. VLASSIS. I think the general conclusion is that in making this first application, the idea was that the tribe assumed that they were acting in accordance with what Congress had awarded them. They did not expect any resistance from the administration side of the Federal Government. That was a substantial setback.

At the point where we began to have the administrative resistance, then a good part of the communication, that might have otherwise taken place, stopped.

Mr. MURPHY. Is there any opportunity for the tribe to reinstitute or reinitiate that kind of communication? In other words, to say: "We realize there are problems. We want to get on with the relocation, because it is mandated by law. And here are other sites that we would like the Commission to look into and see if they could be acquired."

Mr. VLASSIS. That is exactly what the Bureau of Land Management would like to have happen, and that is a very poor position for the tribe to take at the present time.

Mr. MURPHY. All or nothing at all is the attitude of the tribe at the moment then?

Mr. VLASSIS. At the moment. Certainly not permanently.

Mr. MURPHY. So your criticism of the Commission in its not doing anything should or could be equally shared by the tribe in not desiring

to make another site selection until a final determination is made on the land?

Mr. VLASSIS. No; I don't think that is an accurate portrayal of the situation.

Even before there was a dispute with the Bureau of Land Management about House Rock Valley, at least one member of the Commission publicly at a chapter meeting explained that site selection was none of their business, no matter where the site was.

Mr. MURPHY. It could be that that man made a mistake in making that statement. He might have recanted that position. But from what you are telling me, the tribe has done nothing to give the Commission any kind of alternative.

Other people have taken this position. It is the Commission's fault that the Bureau of Land Management and other citizens have opposed the position that the tribe has taken.

Mr. VLASSIS. No; it is not the Commission's fault that the Bureau of Land Management and the Outdoor Riders in Arizona and a number of other people have taken this position. It is the Commission's fault that they have done nothing to support the tribal position.

The tribe is entitled, under Public Law 93-531, to make a choice. They have made a choice. Now why in the world would not the Relocation Commission support that choice?

Mr. MURPHY. I am not in a position to answer for the Commission, but I also am aware that the Department of the Interior, which includes the Bureau of Land Management and the Bureau of Indian Affairs, does not seem to have taken a very strong attitude in support of the tribe either.

Mr. VLASSIS. The Bureau of Land Management has never taken a position in support of any tribe about anything.

Mr. MURPHY. Has the Bureau of Indian Affairs come forward in strong support of the tribe's selection of the House Rock Valley area?

Mr. VLASSIS. No. They are under constraints within the Department of the Interior at the present time.

As both you and I know, Mr. Murphy, the Department of the Interior is a very difficult place to work when it comes to Indian affairs.

Mr. MURPHY. Having worked there, I know exactly what you mean.

Apparently no one has supported the tribe's position—whether it is the Commission or the Department of the Interior or any of its elements.

It would indicate that possibly some other consideration should be given to considering other locations. Whether that is considered to be a position of weakness on the part of the tribe, I cannot say.

Mr. FUNKE. Mr. Murphy, I had discussions with the Department of the Interior about a month ago and again last week.

They have just completed an environmental impact statement on about 11½ million acres in Arizona, New Mexico, and Utah for alternate sites, including the House Rock Valley area.

The Department plans on holding hearings on the various areas that they have surveyed in September in Flagstaff, Winslow, and Phoenix. At that point the tribes will be given an opportunity to comment on which land is most suitable for them through purchase of 250,000 acres—whether it is in scattered tracts or a single contiguous tract.

Mr. MURPHY. Thank you.

So there is a possibility of other lands being made available which could conceivably be acceptable to the tribe.

Mr. FUNKE. Yes; I guess so. [Laughter.]

Mr. MURPHY. I emphasize "could conceivably," but not probably.

Mr. VLASSIS. I forgot something here in answer to Mr. Murphy's question and in answer to Senator DeConcini's earlier question.

Section 640(d)-10 of title 25, which is a codification of Public Law 93-531, states: "The Secretary is authorized and directed to transfer not to exceed 250,000 acres of land under the jurisdiction of the Bureau of Land Management."

All that land that the real estate brokers want to sell the tribe, you see, is not under the jurisdiction of the Bureau of Land Management.

Senator DeCONCINI. Unless the Bureau bought it.

Mr. VLASSIS. Correct.

Mr. MURPHY. Or trades.

Senator DeCONCINI. Or traded for it.

Mr. VLASSIS. Right.

Mr. Cox. I just want to get one point clarified, Mr. Vlassis. That is on the adequacy of the amount of land available.

Are you saying that if the tribe had the option to purchase an additional or receive an additional 250,000 acres of land in addition to the 250,000 acres that they can select right now, that those Navajo relocatees would be able to be absorbed, in your opinion, into the reservation area?

Mr. VLASSIS. Let me put it this way. I don't think that would be cause for celebration, but I do think the relocation would become feasible at about that level.

Mr. Cox. But the present level right now is inadequate; is that correct?

Mr. VLASSIS. That is correct.

Mr. Cox. Thank you.

Senator DeCONCINI. Mr. Funke?

Mr. FUNKE. I think Chairman Sekaquaptewa has addressed these points, but I don't think you have, Mr. Vlassis, on points 2 and 3. If the chairman wants to respond in addition after you have finished, he is free to do so.

Do you have the various alternatives to restructuring the Navajo and Hopi Indian Relocation Commission?

Mr. VLASSIS. Yes.

Mr. FUNKE. Can you comment on option 2 and option 3?

If you would like, I can give you a minute to look them over.

Mr. VLASSIS. I think that would be good, because what I am about to say is something that three people are going to say.

So if we could take just a minute.

Mr. FUNKE. Surely. [Pause.]

Mr. VLASSIS. As a result of our short caucus here, the Navajo expression would be this.

They would appreciate, with item 2, very much the aspect of an investigation with relation to the effectiveness of the present Commissioners.

It is the Navajo position that the Commissioners who are here—Father Urbano and Governor Lewis—are, in fact, men of good will

who are attempting to handle something on a part-time basis that we don't believe can be handled adequately by anyone on a part-time basis.

We think the way to handle that without any undue acrimony is to have an independent investigation of the situation.

So, we would prefer to have the investigation be made. If there were a choice, I suppose we would say almost anybody except Interior to do the investigation.

Mr. FUNKE. Let me make some comments, and then I would like your further response to them.

The Commissioners testified today that there are plans for somewhat clustered housing, although widely separated housing, within the reservation or within the additional 250,000 acres.

First of all, am I correct in stating that most of the people in the joint use area that are slated for relocation, or likely to be slated for relocation, are dependent upon a grazing economy?

Mr. VLASSIS. That is correct.

Mr. FUNKE. Second, do you know of any plans made by the tribe, the Bureau of Indian Affairs, or the Relocation Commission to provide for the economic development of this cluster development or for the livelihood of people that would be relocated into these developments?

Mr. VLASSIS. Those plans stopped about 5 years ago.

There was a little white-haired man—I am trying to think of his name—from San Antonio who was deliberately assigned by the Bureau of Indian Affairs—Irvig Schwartz. He was brought in deliberately to make efforts for a substitute economy.

Mr. Schwartz turned out to be a very energetic elderly man who was a pretty good businessman. As a result, he was terminated.

Since then, I know of no serious efforts made for an alternate economy to be developed.

Mr. FUNKE. Has the tribe made any plans in that regard? Are they making provisions for what will happen to the relocatees once they are moved into these types of communities?

Mr. VLASSIS. I think the relocation Commissioners were a little optimistic in talking about all these wonderful tribal plans to get 1-acre plots in other parts of the reservation. There is quite a process involved in connection with doing that.

The local communities in which these refugees would be moved have a very substantial say as to whether anyone else is going to be moving into their already overcrowded backyards. As you mentioned, a good portion of these people depend on a livestock economy.

It is a matter of record that since 1951 the reservation has been unable to support the Navajo on a livestock economy. So I don't know exactly where we are going with this one-acre farm approach.

Mr. FUNKE. I want to get back into that issue of the tribe's plans to assist relocatees in a minute, but let us go on.

On option 2: Do you support the investigation by GAO, as opposed to Interior?

Mr. VLASSIS. Yes.

Mr. FUNKE. You support the one full-time commissioner, at GS-15, and two part-time commissioners?

Mr. VLASSIS. We made a combination here of really two and three and thought it might be appropriate to have two independent com-

missioners, at least one of which would be full time, and that one of those commissioners would be the director of the Joint Use Administration.

Mr. FUNKE. So you favor option 3(b) ?

Mr. VLASSIS. Yes.

Mr. FUNKE. Can you give us some reasons as to why you support 3(b), as opposed to the other options?

Mr. VLASSIS. In the first place, although you could not tell by Mr. Benjamin's testimony here yesterday, he is probably the most knowledgeable official in the Federal Government with relation to the current situation in the joint use area.

We think that Mr. Benjamin has been substantially frustrated in a number of ways in carrying out his duties in dealing with this situation. And a lot of those frustrations might disappear if the same man were acting in a different capacity.

That is one reason why we think that it would be helpful to have one member of the Commission be the Director of the Joint Use Administration.

On the other hand, we believe that at least one person simply has to be a full-time policymaker with relation to a relocation program of this size and scope.

In good conscience, I cannot explain with a straight face to the Navajos in the joint use area that their lives are being determined by three people on a part-time basis. It just does not go together.

Mr. FUNKE. Could you comment on the concern that has been raised about the independence of the Commission if one of the Commissioners was the Director of the Joint Use Administration?

In other words, do you think that the operation of the Commission would be facilitated by coordination or cooperation, which might be facilitated by having the Director of the Joint Use Administration as one of the Commissioners? Or do you think destruction of the total independence of the Commission would be more detrimental?

Mr. VLASSIS. I don't view the Director of the Joint Use Administration as being anything but independent at the present time. He certainly does not do what we want him to do.

He has been effective in reducing 80 percent of the livestock in the joint use area over every vociferous objection we can make. So I don't think that his addition as a Commissioner would somehow jeopardize the independence of this group.

Mr. FUNKE. The independence I am referring to is independence from the Department of the Interior under option 3(b).

At least one of the Commissioners would be within the Department of the Interior.

Mr. VLASSIS. He would, but he could obviously be outvoted very easily by the two independent commissioners.

Mr. FUNKE. Mr. Sekaquaptewa, would you like to comment?

Mr. SEKAQUAPTEWA. Yes; I would.

I think I have made my position pretty clear as to the alternatives that have been offered in the restructuring of the Navajo and Hopi Relocation Commission.

I am very concerned that there seems to be a distinctive pattern that runs through the different alternatives that have been proposed.

It seems to me that they all lead to getting rid of two Commissioners

and putting the Relocation Commission under the control of the Joint Use Administration.

I have already said that we have no forum with the Joint Use Area Administration.

The position of the tribe is that the Joint Use Area Administration office be dissolved and the function of that office be transferred to the Phoenix Area Office of the Bureau of Indian Affairs, Department of the Interior. That is what would be satisfactory to the Hopi Tribe.

I think that alternative 3(b) which has been proposed is intended to only put the control of the Joint Use Area Administration project officer in control of the Relocation Commission, which is like nailing the last nail in the coffin as far as we are concerned.

I can speak to a number of things which have happened in the past which illustrate this.

The Joint Use Area Administration at the present time is mandated to do three things, primarily under the district court order. They are responsible for the mounting and fencing of a partition boundary. They are responsible for livestock reduction, and they are responsible for the land restoration program. That is the status of their functions.

Yet, in the transfer of jurisdiction following the court order, the Bureau of Indian Affairs, rather than transferring jurisdiction to the tribe, as the court had said, transferred jurisdiction to the Hopi agency instead.

I feel safe in saying that that was recommended by the Joint Use Area Administration office by Mr. Benjamin.

In the assumption of law and order jurisdiction, which was ordered by the district court, we have had people cited by our police department and have had the Joint Use Area Administration come out and conduct a civil rights investigation which had no basis whatsoever, in spite of the fact that civil rights investigations are the duty of the Federal Bureau of Investigation.

That was done by inducing the FBI office in Phoenix to come out with a memo that said that in any matter of that nature if in the opinion of the FBI at Phoenix it was important enough to be prosecuted by them, they would do it, and if they did not think it was a big enough case, then the Joint Use Area Administration would do it. These are the kinds of things that we are subjected to constantly.

I can cite other matters which may not be important to you but which when you really look at it are a continuation of the constant put-down of our right as a sovereign Indian tribe to exercise control and jurisdiction over our lands of these rights that we have an inherent right to exercise.

We are talking about a GAO audit regarding the Relocation Commission. We are talking about the statement that most of the people in the joint use area who are going to be relocated are dependent on a grazing economy.

I think it is more than appropriate that any GAO investigation look into that, in view of the fact that there have been millions of dollars going into the Navajo reservation for various types of services to the Navajo people, including general assistance.

It has been going on since before the Navajo Resettlement Act was enacted into law.

I would like to know where that money is going—when over \$400 million per year goes into the Navajo Reservation from the Government—and why these people are totally dependent on a grazing economy on land that can't support sheep any more.

For some reason, 14 to 15 million acres of Navajo tribal land which has gas, oil, timber, and rivers cannot support its people when the Hopi Reservation, which has no gas, oil, rivers, or timber is expected to support its people better than the Navajo tribal lands can support its people.

There has to be something wrong somewhere.

I think it is the wrong time to try to restructure the Navajo and Hopi Indian Relocation Commission. If we do that at this point in time, all we have done is to lose 3 years of effort. We just washed it down the drain.

It simply means we are going to have to start all over again. I don't think it is right that a body which is intended to be impartial and is intended to be in between two groups of people that are at odds with each other should be constituted of people who are handpicked by one side only. We will never agree to that.

Mr. FUNKE. Why do you feel that any restructuring of the Commission at this point would delay the process for 3 years?

Mr. SEKAQUAPTEWA. Because of these people who would be going in. That is where these alternatives point to. New people will be coming in. They will have to go in and study and learn about the act and all of its provisions all over again.

Senator DeCONCINI. What if the three Commissioners decide—if they want the option of one of them being a full-time Commissioner; one of them could decide to be full-time and the other two part time. That would not throw it all down the drain.

Mr. SEKAQUAPTEWA. As I indicated before, I think that may be a little premature.

As I said, we are amenable to that; but I have also said it would be more appropriate if it is to be done that it should be done at the beginning of next year when we have had a better chance to take a good look at it.

Senator DeCONCINI. I appreciate that testimony, and I take notice of it, but it does not seem fair to say that if you did alter the Commission, without abolishing it, that necessarily you would change everyone on it and that it would be all down the drain, as you said. I don't think that is liable to happen.

I think any new Commissioner, if there were a new one, and the three that are on there—if one became a full-time Commissioner—would only use the resources they have, good or bad, to attempt to continue to develop the program that they are working on.

Mr. SEKAQUAPTEWA. The reasoning behind the things that I am saying is that the way it is proposed to be done and the various alternatives would put the Commissioners in a position of having to choose between one or the other. They obviously would opt out to leave the Relocation Commission in order to retain their employment elsewhere.

Senator DeCONCINI. Yes, if you made them all full time. They did testify that they would not take full time, and I think that has to be considered in this bill. It may be disruptive to force them out, because they cannot go full time.

That is what I think these other alternatives are about. So you do keep some cohesiveness there.

Mr. SEKAQUAPTEWA. I am speaking to the alternatives—other than what would make them full time. My feeling is that the Commission, like a board of directors, is a policymaking body. I don't think it is their business to get involved in the daily routine of administration.

Senator DeCONCINI. That is exactly what they have testified they have had to get involved in—the daily routine of administration.

Mr. SEKAQUAPTEWA. As I recall from their testimony, they have reached the point now where they have what they feel is an able administrator who is relieving them of all those processes at this point in time.

Senator DeCONCINI. But past performance has not been that way.

I am going to have to leave the hearing. Counsel is here, and you are welcome to stay and ask any further questions you may have. Please adjourn the meeting at the appropriate time.

Thank you very much for your testimony.

Mr. MURPHY. I have one question.

Mr. VLASSIS, you made reference earlier to the stock reduction program having been in effect, I think you said, since 1951.

Mr. VLASSIS. No; I said that since 1951 the Bureau of Indian Affairs has taken the position that there is not enough grazing land on the reservation to support the Navajo economy agriculturally.

Mr. MURPHY. Out of that, then, did come a stock reduction program; is that correct—over the period of years since that determination was made?

Mr. VLASSIS. The Federal Government has come on the reservation on several occasions and killed and burned the livestock, even prior to 1951.

Mr. MURPHY. Is that currently ongoing?

Mr. VLASSIS. Only within the joint use area.

Mr. MURPHY. There has been reference to the fact that the stock reduction programs are underway.

Mr. VLASSIS. Yes.

Mr. MURPHY. Currently, who is responsible for that activity—the administrator of the joint use area?

Mr. VLASSIS. Mr. Benjamin's operation; yes.

Mr. MURPHY. So if he were brought in at one of these positions, as one of the alternatives suggest, would he not face a somewhat similar problem that the present Commissioners are facing and being split between two areas of responsibility?

In other words, one of the concerns has been that they have not been able to devote enough time. Another indication is that they have devoted too much time to the job.

It seems to me that if Mr. Benjamin or the person who would hold his position were brought into the Commission, it would not alleviate the concerns that people have had.

Mr. VLASSIS. Perhaps it would not, but it would seem to me that the fact of the matter is we are dealing with one set of problems, having to do with a set of people, and the closer we can draw all of the people to work in coordination with each other, but still keep the independence of the Relocation Commission, that would be far and away the best solution.

I happen to agree 100 percent with Chairman Sekaquaptewa, and I am sure Mr. Peaches and Mr. Percy do too, that we have little or no faith in the independence of the Bureau of Indian Affairs of the Department of the Interior in a situation like this.

That is one thing we can all agree on.

Mr. MURPHY. The possibility would exist of pressure being brought to bear in some fashion against the person who was wearing two hats.

Mr. VLASSIS. Correct.

Mr. MURPHY. Thank you.

Mr. FUNKE. Would that indicate then that you would reject option four, where the Secretary would have the appointment and removal power over the Commissioners?

Mr. VLASSIS. Yes.

Mr. FUNKE. In terms of alternate locations within the existing boundaries of the Navajo Reservation: What progress has been made with the chapter houses in terms of allowing additional relocatees to move into those areas?

Mr. DEAL. The tribal council, which is directly responsible for the 1882 areas, has made a number of attempts and has presented to their constituent members from their respective areas the possibility in the future that a family might be moving into the area. But families already living in that area have been told, as stated by Mr. Vlassis, that there is no more room in that area for any more grazing.

For that reason, as the Commissioner has testified earlier this morning and yesterday, they are mainly concentrating on the cluster-type communities. In very few chapters, this is in process right now.

Mr. Cox. Mr. Deal, I have a question with regard to the chapter planning committees that have been formed in many of the different chapters.

I know that you have only been in your position for a couple of weeks now, as I think you said in your testimony, but have you had a chance to observe any of these planning meetings and can you comment on whether you think those people who have to relocate are participating in those and do they seem to be functioning?

Mr. DEAL. Yes; I have witnessed a number of meetings. More recently, we have established an executive order to all the chapters which have planning committees.

Their complaint was, on a meeting that we had on April 29, 1978, that they were very vague and very confused on the total operation from the legislative side, the Federal court side, and also the programs that are responsible for them. They are very confused.

This is a direct conclusion that we had on the meeting we had on April 29.

Mr. Cox. Who were you meeting with on April 29?

Mr. DEAL. The planning board which was established through the Relocation Commission.

Mr. Cox. This is a planning board for one chapter or for all?

Mr. DEAL. All the chapters.

Mr. Cox. What exactly is going to be your role? You said to monitor or assist the Relocation Commission. What exactly are your responsibilities?

Mr. DEAL. My responsibility would be to assist and interpret the families who would be the target people, as well as people outside the mediator's proposal who are still within the joint use area.

As the Commissioner has testified, I think there should be more coordination between the different agencies. I feel that my office, as well as all the other offices, should take on the position of directing more coordination and cooperation.

Mr. COX. So you see your role as assisting the planning chapters and educating the people as to what is required in the law and just generally assisting the Commission and the Agencies that have to assist in this relocation effort; is that correct?

Mr. DEAL. My role would not necessarily be assisting to organize a relocation plan, which is already in the hands of the Relocation Commission anyway. If I were to do that, I would be taking on their job.

Mr. COX. But you see yourself as assisting those people who have to relocate?

Mr. DEAL. Yes; I think Mr. Vlassis has testified to that fact already.

Mr. COX. Thank you.

Mr. MURPHY. I would like to refer back to Mr. Deal's testimony where he was discussing the problems of the Relocation Commission staff, indicating that they were largely ignorant of the problems that they face.

I am wondering if the Navajo tribe has done anything of a positive nature to help locate qualified people and people who are willing to serve in the areas that would resolve some of these problems.

I say "qualified people willing to serve" who are acceptable to more than one of the parties in the issue.

Mr. DEAL. When Government positions become available, it is required to have a number of applicants. I am pretty sure if we were to go through those applications, there would be Navajo applicants among all the applications submitted.

We have expressed our concern, time and time again, about the communication gap we have with certain departments with the relocation offices.

There have been recommendations made from the tribal council, which counsel is aware of.

Mr. MURPHY. Mr. Vlassis?

Mr. VLASSIS. As a matter of fact, I can give you two specific names of people who, in effect, were provided by the Navajo tribe. They are James Atcity, a full-blooded Navajo, and Roy Scribner, an Anglo who has had long experience working in the Navajo land and tribal matters.

Those people were, in fact, provided. They were, in fact, hired. There has been assistance provided in that respect.

Mr. MURPHY. Are they currently being utilized by the Commission?

Mr. VLASSIS. Presumably, so; but I think you had better ask the Commissioners.

Mr. MURPHY. As far as you know, they are still employed by the Commission?

Mr. VLASSIS. Yes.

Mr. MURPHY. So there is some indication then that there are qualified Navajo-speaking or Navajo-knowledgeable people working with the Commission at the present time.

Mr. VLASSIS. Those are the two people we are aware of.

Mr. MURPHY. Are there any other names that might have been submitted for some of these jobs? It was indicated that of the five or six field offices only one can apparently communicate with the relocatees.

Mr. VLASSIS. I have to answer your question this way. Substantial efforts were made to recruit Navajo personnel to work with the Relocation Commission.

The general attitude of the people I have talked to, and other people I have been working with, is that they choose not to work with these Commissioners—which is their free choice.

Mr. MURPHY. Could it be that they choose not to work with these Commissioners or with the Commission?

Mr. VLASSIS. No; it is expressed in terms of the activities that have taken place to date in the joint use area. You could look at it institutionally and say it is the Commission, or you could look at it individually and say it is one or more of the Commissioners.

Mr. MURPHY. It is true then that there have not been any great number of qualified people willing to serve with the Commission.

Mr. VLASSIS. Not the ones that I have contacted.

I cannot supply the answer to you as to how many Navajos of the 150,000 available may have, well, applied for jobs with the Commission and were rejected. I don't know the answer to that.

Mr. MURPHY. Possibly we can ask the Commission to address that in a later submission.

May I ask Mr. Deal another question?

There was great concern about the fact that the Commission is located in Flagstaff. Others have indicated that this is not a very suitable situation.

Has there been any offer on the part of the Navajo Tribe to try to locate office and/or living accommodations within the joint use area that would be suitable and satisfactory for a staff of this size to operate?

Mr. VLASSIS. From the time of the 6-month negotiation with the mediator, Mr. Simpkin, the tribal position has been that land would be made available if, in fact, the Commissioners choose to use it.

Mr. MURPHY. Land is one thing. A facility of some nature—building and proper accommodations—is something else.

Are there proper accommodations or a proper facility? Again, that might be a subjective response required. But are there facilities available for the staff to work and live in an area that everybody seems to feel would be required to do the job?

Mr. Peaches?

Mr. PEACHES. I think they could do what the public schools on the reservation do. If they run out of classroom space, they buy mobile offices or classrooms. Half of the Navajo reservation is cluttered with mobile classrooms and offices.

The Office of Navajo Economic Opportunity, located in Fort Defiance, had offices scattered throughout the reservation. Most of those offices are mobile-type things. So I guess if they want facilities, they could set them up overnight with telephones and utilities and what have you.

Mr. MURPHY. Getting into substantial dollar requirements to do that, there is apparently a Federal facility available in Flagstaff for offices for them. That might be one of the reasons it was chosen; I don't know.

But would the Navajo Tribe be willing to underwrite this kind of operation, or would it be a requirement to the Federal Government to supply the funds for these kinds of facilities—mobile or otherwise?

Mr. PEACHES. I am not aware of any request that came from the Relocation Commission for such a facility. Apparently, Flagstaff has an airport and it facilitates the Commission member to fly into Flagstaff and fly out, forgetting that the people have to drive or hitch a ride from the reservation to Flagstaff.

People may have to spend the night there because the people they want to meet have gone out on a field trip or to Phoenix or somewhere else, and they have to spend the night there at their own expense waiting for some kind of an application, review, or what have you.

So the inconvenience is on the people.

Mr. MURPHY. Regardless of where the Commission offices are located, the Commissioners, if they were on a part-time basis, would still have to fly to Flagstaff and drive.

Apparently, they now fly to Flagstaff and drive out to the joint use area to meet with the chapters and so forth. So the fact that there is an airport in Flagstaff doesn't seem to be the reason that they chose to locate there. There certainly must be some other reason.

Mr. PEACHES. I don't think everytime they meet that they have to go out to the field.

I think most of the time they just meet in Flagstaff, and maybe 10 percent of the time they go out to the field. Governor Lewis and the other two Commissioners rarely go out to the reservation.

Mr. MURPHY. Getting back to the original part of that question, the tribe has not made any overt action or offer of assistance to try to get the Commission located on the joint use area or within the boundaries of the reservation; or have they?

Mr. PEACHES. You mean provide facilities?

Mr. MURPHY. Yes, that; and/or offer it to the Commissioners to even give them an opportunity to make a decision as to whether they could operate within the boundaries of the joint use area or the reservation.

Mr. PEACHES. The Navajo Tribal Council's budget is about \$24 million a year. Requests from the Navajo chapters and agency come to \$35 million a year.

So the tribal council has to find ways to reduce that discrepancy of \$10 million to make it within the tribal income of \$24 to \$25 million a year and not the \$400 million a year Chairman Sekaquaptewa has mentioned.

Mr. MURPHY. So that is one of the reasons why the Relocation Commission has had to be in Flagstaff and not on the reservation? It is not the fault of the Commission necessarily?

Mr. PEACHES. I am just saying that the Navajo Tribe would be hard-put to come up with the money to provide facilities for an organization that is supposed to have the responsibility and funds to provide all aspects of the relocation office.

Mr. MURPHY. Mr. Vlassis?

Mr. VLASSIS. I think, although I don't know this for certain, that they are not really in a Government facility in Flagstaff. I think they pay rent for where they are.

It is not a question of being in Flagstaff to save money. It is a question of there being a free choice to be in Flagstaff, and they are paying for the privilege of being there.

Mr. MURPHY. You will find that in a location in a Federal building, somebody gets charged for it—whether it is the Bureau of Land Management or the Forest Service or what have you. They still have to pay rent in a Federal building.

So if that were to come out of the Commission's finances, I would still raise the question as to whether the Navajo Tribe has done anything to try and assist the Commission in locating suitable facilities and then charging them rent.

Mr. VLASSIS. I can tell you that in a variety of cases and instances, it has been suggested that an appropriate site would be provided within the joint use area if the Relocation Commission chose to take advantage of that opportunity. As far as I know, nothing has ever transpired past that.

Mr. MURPHY. Might I suggest that that offer again be made?

Mr. VLASSIS. I will make it right now.

Mr. MURPHY. In a more formal fashion—from the tribal council in some fashion, so that there is an up and down, yes or no, we can or cannot locate there because of finances or because of whatever other reason might be used.

Mr. VLASSIS. I can make the representation now without recourse to the tribal council that we can relocate the Commission within a week on the reservation on the same terms and conditions that they are located in Flagstaff.

Mr. MURPHY. I would appreciate having that presented to the Commission in such a fashion that they can make an observation and a decision.

Thank you.

Mr. FUNKE. I have just one brief question for both Mr. Sekaquapewa and Mr. Vlassis.

Do you feel that the authorizing legislation for the Commission is broad enough in scope? In other words, do you feel that it gives the Commission enough leeway and enough authority and responsibility to effectively deal with relocation? Or do you think their hands are tied too much by just simply being a Relocation Commission rather than a comprehensive planning commission tied in with the relocation?

Mr. VLASSIS. I think that the legislation would have been more appropriate in this sense.

The Relocation Commission should have—and I think it does have, but not only implicitly—the explicit authority to be able to report back to Congress that relocation was not an acceptable solution.

The way it stands now, I think Public Law 93-531 actually covers that implicitly, but it makes whoever is on the Commission very timid about looking into that aspect of the problem.

Mr. FUNKE. What about other aspects of the scope of jurisdiction and responsibility of the Commission, assuming the fact that relocation is going to take place?

Mr. VLASSIS. I think, on balance, the legislation is adequate for the Commission to perform, as it now stands.

Mr. FUNKE. Mr. Sekaquaptewa, would you like to comment on whether you think the scope of authority of the Commission is adequate, in terms of dealing with the comprehensive problems of relocation?

Mr. SEKAQUAPTEWA. I think that their scope of authority is adequate to do the job. There are problems with the fact that parts of it may be not that clear, so there needs to be some work done there. What they need right now is support and cooperation to get the job done.

Mr. FUNKE. Thank you.

Mr. MURPHY. May I ask one more question of Mr. Vlassis?

Does the Navajo Tribe support the Commission's requests for additional funding, as outlined in the bill?

Mr. VLASSIS. Yes.

Mr. MURPHY. Do you support that request for additional funding, Mr. Sekaquaptewa?

Mr. SEKAQUAPTEWA. Yes; I do.

Mr. MURPHY. Thank you.

Mr. FUNKE. I think at this time we will dismiss Chairman Sekaquaptewa and Mr. Owens and call the Commissioners back up for just a few more questions.

We would like the Navajo representatives to stay for just a minute. [Pause.]

I would just like to make an observation and then have your response to it.

It seems to me that if the relocation effort is going to be effective, both within the existing boundaries of the reservation and the additional 250,000 acres, wherever that is going to be, there is going to have to be very comprehensive coordination and planning between the Relocation Commission, the Navajo Tribe, the Bureau of Indian Affairs, and perhaps the Indian Health Service.

At this time it seems as though there are plans being made to relocate people into clustered communities throughout the reservation, although there has not been any assurance that the chapter houses are going to accept that.

Second, there does not seem to be any effective planning or coordination between the Commission, the tribe, and the BIA in terms of what these people will do if they are, in fact, relocated in these clustered communities.

I am just wondering, at this point, what has happened in the past, in terms of that type of coordination, and what are the plans for the future, in terms of that type of coordination? Either one of you can lead off.

Mr. VLASSIS. Factually, I would say that at the outset of the Relocation Commission's activities, at the direction of the tribal council, representatives of the tribal administration did appear at some chapter house meetings in connection with one or more of the Relocation Commissioners.

After several outings like that, it became clear that it was impossible for the tribal representatives to meet with the chapters at the same time the Relocation Commission was there, because all that was going

to do was create an angry argument with relation to the approach that was being taken at the outset.

So to my knowledge, after trying that several times at the outset, the tribal officials no longer appeared at most of the outings of the Relocation Commission or their staff.

From the inception of the Relocation Commission—of course, the Navajo-Hopi Land Dispute Commission precedes that, it was organized in 1972—the idea has been to convey to all Federal officials, including the Relocation Commission that that part of the tribal government is available for consultation and to work in any direction that might be of assistance to any group which is trying to resolve the problems in the joint use area.

The Benjamin operation over the years has worked in closer coordination with the Navajo-Hopi Land Dispute Commission, I think, than the Relocation Commissioners. Why that is I can't tell you, other than that first part, which I experienced personally, in which the approach to the people was so divergent from what would be a realistic approach in dealing with this problem that we had no way of working together in front of Navajo groups.

What has transpired since then, I think, is sort of a voluntary seclusion. The tribe proceeds independently; the Relocation Commission proceeds pretty independently.

Mr. FUNKE. Do you feel that is going to be a successful operation if the two groups are not working together?

Mr. VLASSIS. No; it is not a very good recipe to get anything done.

Mr. FUNKE. Reverend Urbano, would you like to comment on that?

Reverend URBANO. May I first comment on something that Mr. Vlassis has spent some time on, namely, the attitude of the Commission toward the acquisition of House Rock Valley and Perrier Plateau.

In our views, there was a principle involved here.

To our minds, that was—and this was very important to us—that we are not advocates for either tribe; we are advocates for the people who must relocate.

This is why we did not wish to come down on one side or the other for this particular choice of land.

We did, however, some months ago, write Secretary Andrus, urging him to prosecute the House Rock Valley matter—not urging yes or no, of course—but urging that the business be prosecuted so that the Navajo people would receive an answer—yes or no—on that particular piece of land. And if the answer should be no, they could go on to some other site selection. I just wanted to make that point.

Your large question is a very large question, and I will need some help from Chairman Lewis on it.

But, first of all, when I referred to the fact that the cooperation of the Navajo Tribal Council has been somewhat impeded, in our opinion, by political realities—as, for example, we have never in all our time been able to set up a meeting with that council—I did not mean to insinuate that we don't have any cooperation within the formal structure of the tribe.

As has been mentioned, we have had provisions for CETA slots which have been very important to our work. These are Navajo-speaking people. We have had good cooperation from planning and from development sectors of the tribal government and so forth. I

have rather more difficulty when it comes to the question of the clusters. I can comment as follows, however.

The chapters within which there are many people who must move have been very cooperative—most of them—in considering the possibility of planning sites within those same chapters, so that many of the people in the chapters concerned who will have to move may move within their present chapters. This sort of plan, we hope, would account for most of the so-called clusters.

Now there are, of course, economic reasons for the clusters, which I am sure are obvious. If we are going to fulfill the requirements of the Uniform Relocation Act, for example, and we are bound by those requirements—

Mr. FUNKE. May I interrupt you for just a moment?

Are you referring to the requirement that the new housing have water and electricity?

Reverend URBANO. With certain modifications, those will have to be followed. We can get waivers, I imagine, to an extent; but in those cases, we will have to supply septic tanks, holding tanks for water, and so forth. But, wherever possible, we would like to bring in water, of course. We would like to bring in power. That is economically feasible only if you cluster the people somewhat. So that has always been a consideration.

The big question is: What sort of economic development can we contrive which will, at least to some degree, compensate for the loss of the grazing economy which we consider, by the way, no longer a viable consideration?

We don't believe, from what we know, that grazing as a way of life has been a viable form of life for these many years really—at least not for most of the people.

The question of what sort of work can be offered these people is a question that is plaguing us. I won't pretend we have solved it.

Perhaps Governor Lewis would like to comment at this point.

Governor LEWIS. Before I go into that, I would like to make a comment in regard to our cooperation in the past with the Land Dispute Commission of the Navajo Tribe.

Until 3 or 4 months ago, the liaison from that group which had been meeting with us on a regular basis and would carry information back, in regard to whatever came out of our get-togethers, was very good. But all of a sudden, nobody came, although word was sent out.

Then, of course, the turnover in their own structure—in the directorship especially—we understood the former director resigned and now we have Percy directing that organization.

Hopefully, we will resume our relationship in regard to working with the Navajo and Hopi Land Dispute Commission. We feel that things can resume on a good level.

In regard to the first comment that Father Urbano made, he and I both went to Governor Castro's office in the early days of the Commission's work. We inquired about his feelings on House Rock Valley.

Of course, at that time, there were organizations that were being set up to oppose the tribe's purchase of this.

He informs us that he, because of the opposition that was being brought in from different directions and private citizens, looked upon his constituents first.

This we carried up to Secretary Kleppe's office in one of the early times that we came up to this city. We talked to then-Under Secretary John Kile and informed him of the things that were transpiring in regard to House Rock Valley.

We urged that perhaps, if it could be possible, the Secretary would be able to make a decision to turn that land over to the Navajo Tribe.

In regard to the opposition, we were informed that regardless of this opposition, it would be up to the Secretary to make the decision on giving the land to the tribe, and the turnover in that area came about.

Then we got up to the letter that we wrote to Secretary Andrus about 6 months ago.

In regard to the economic development purposes or proposals that each chapter is designing, the law says that we should move people to or near public service facilities.

Time and again we have commented on the fact that because of the freeze there are hardly any public service facilities in most of the chapter areas.

We feel that in the process of planning for these communities, our chapter will be stating their priorities on what would be first in their needs.

In line with this, we have submitted suggestions to the liaison sometime back in regard to a nucleus of job opportunities within the chapter areas, using their own capabilities in implementing their plans to have an administrative force and an accounting department and those things which would take care of expending funds that will eventually be coming in to create these needs: Health workers, school teachers, teacher aides, maintenance men, and whatever.

I think these can be accomplished as they go along, because new structures have to be set up in some areas. In other places, perhaps they want to remodel—or whatever it is that they want.

This is where we get into the multiagency type of implementing a comprehensive plan.

No one agency can fund such a plan. It has to be a direct input and have every available source of funding that can come in to assist these people.

Essentially, the formulating of their plans is pointed toward this: Area of people, services, facilities, and whatever is feasible in direct line with economic development.

A community is generally based on whatever job opportunities can be implemented. Certainly, in many areas, the younger people are going to Tempe, Tuscon, and so on.

Some in Flagstaff University are obtaining degrees in various walks of life, whom we feel can be assisted in obtaining jobs right on the reservation working for and with their people.

Again, I want to commend these folks. We don't necessarily encourage all the relocatees to remain in these chapter areas; but we must look at some of the older folks who have come out in statements at the chapter meetings who say: "We have sold all our stock; we were forced to sell all our stock. Now we have nothing. What can be done to assist us to make a living?"

This is a tough problem to answer, because we know and we are seeing it being done. The folks that have been used to herding as a way of life—this is being diminished.

So, whatever alternatives can we turn to, but perhaps make alternate plans—not only a community development process but some other things that perhaps can tie in with assisting these people in the best way possible. The law advocates us to consider all the impacts that we have to try to minimize.

It is a very hard job, but we feel that in the setting aside of these lands if some of these folks are perhaps frustrated with the idea that they cannot have any more livestock—or at least whatever can be provided—it is a very important thing to be thinking about. You cannot do these things without the proper plans.

Alternate plans, even for House Rock Valley, perhaps could be put on the drafting board at this time to give some indication of how many people would move out there.

There was an organization that made it a point for some time to attend all our meetings. I am talking about our American Legion Post.

They were telling their people: There is nothing out there. What do you want that land for?

Of course, something like that in a statement catches on. Many of the folks have commented that they don't want to move up there. At one time one whole chapter wanted to go up there as a chapter, but then the impact statement was requested by the Secretary's Office. It is being worked on now. It is taking a long time to even to get to the first meetings before it is finalized. After that, how long will it take for a decision to come through? We do not know. I think this is something that we have not been entirely neglecting.

I would like to make a comment in regard to the \$80,000 that the Navajo tribe put up for legal services assistance for relocatees. I, personally, worked with a representative of both tribes to set up a proposal which we submitted. They hand-carried it up to one of the foundations which was willing to go along. At that time we were told about the input that the tribe wanted to make in regard to this. We were informed by that particular agency that they were funding Indian tribes in their fight against backlash and no more wanted to consider our proposal to get legal services to assist these relocatees.

We informed the then-director of the dispute commission, who was our liaison, that we wanted to get together later on because we had other avenues that we might be able to look into to get these services, and they do need it. There is no other agency which has come forth to suggest anything that would give them this service which we would need as time went on.

As far as facilities are concerned, we have had many of our relocatees, from way out there in the reservation, come down to the headquarters at Window Rock specifically to gain information in some areas with regard to their needs and for information. They would go to one office and would be sent to another and another and another and come back to where they started. They had no place to stay, and they had to drive clear back.

So we tried to get a facility there where we would establish an office. We have been told that there is no place that we could put up an office.

We wanted to install a really knowledgeable person to this office who knew his way around the whole operation; so when our relocatee families went there, he could personally take them in hand and go to the very office they needed to get information.

There was a BIA organization we were told which might be able to move into Gallup and we could have that facility, but it never materialized.

All in all, our efforts and desires to have these folks get into gear to set up their plans so that we could get the proper cost estimates to submit to the Indian desk up here—that is all they were waiting for in our last meeting with these groups.

They asked us how much, and we told them that when the plans are finished we will be able to tell you just exactly what the needs of the chapter areas are. Both tribal representatives were with us at that time, and we had a good meeting.

So the getting together of all agencies that can possibly help in any way—the groundwork has been set down. All we have to do now is firm it up a little more, as the folks make their plans.

But the needs out there are immense. They have a massive catchup program to do. Priorities may differ from chapter to chapter. But as long as they are in sequence and we find out what amounts of money it would take to implement the plan to meet their needs, this is what the intent of the whole planning committee setup is concerned with. Certainly we are more than glad to assist with our knowledge.

The reason we have confidence in the comprehensive plan is because we designed one for the Zuni Tribe and it worked. At one time we were told by the OMB that any comprehensive plan will be looked at.

This is an encouragement, because cost figures are there. Nobody gets one lump sum to do everything in one wad but a steady flow of money can come in on a yearly basis to implement their projects at their speed to accomplish the things that the folks need out there.

Mr. FUNKE. Do you view the responsibility of the Commission to insure that there will be economic development in these areas before you move people into those areas so that there is something for them to do?

Governor LEWIS. We hope that this can be done in line with other things that are the most priority, as far as their needs are concerned. But, here again, it is the decision of the folks back at the chapter level to set up whatever plans they want in line with economic development. Then we give them an assist.

Mr. FUNKE. It seems to me that any comprehensive plan and economic development in that area would have to be closely coordinated with the tribal council, since you would be utilizing tribal resources—irrigation and watersheds and so forth.

It just strikes me that we are heading for disaster, and we are wasting all of our time. You are wasting your time; the Navajo tribe is wasting its time; BIA is wasting its time; and this committee is wasting its time, unless we can get the tribe and the Commission and the BIA working very effectively in this comprehensive plan and economic development.

Governor LEWIS. That is correct.

I think, right now, the individual that Mr. Vlassis mentioned awhile ago who had previously worked for the tribe and who we have out in the field constantly working with these groups is knowledgeable in the procedures that go into acquiring the land.

Of course, the different tribal segments of the tribal government have to approve the plans before they will be accepted.

I think that we submitted to the committees some of the procedural steps that go into acquiring on- and off-reservation lands both. There is quite a bit in getting things done in that direction.

Mr. FUNKE. Mr. Vlassis, I understand that the Navajo Irrigation Project has been allocated—500,000 acre feet per year—for irrigation purposes to irrigate 110,000 acres of land. Approximately 20,000 acres of land are presently under irrigation; is that correct?

Mr. VLASSIS. That is correct as far as it goes. The statute authorizes 508,000 acre-feet.

The Department of the Interior in its wisdom, however, has said that in spite of what the statute says, now that you have put together a pretty efficient plan for irrigation, you are only going to get 300,000 acre-feet. That dispute has been going on for better than 2 years.

Mr. FUNKE. Is that in litigation?

Mr. VLASSIS. We haven't gotten quite to the point of not speaking to each other yet.

Mr. FUNKE. But you are now using the full 300,000 acre-feet at this point?

Mr. VLASSIS. No. The third block will be completely developed shortly, and the fourth block has already started to become underway at the present time.

Mr. FUNKE. Has the tribe or the Commission given any thought to the possibility of utilizing some of that acreage for growing forage and other livestock feed for people in the relocation area where the livestock has been reduced and setting up feedlots?

Mr. VLASSIS. Yes; but that is a very difficult situation to deal with because, among other things, there are a number of Navajos who have allotments who are located in the irrigation project.

Since the irrigation project, which is 17 years behind in its Federal development, there has been a great deal of rhetoric—by both the Federal Government and the tribal government—that has been delivered to the Navajo people, indicating that the purpose of the irrigation project is, in fact, to try to be a breadbasket for certain aspects of the livestock economy on the reservation.

But it has been abhorrent in every discussion I have ever had with any tribal member, no matter where he is located, that somehow that is going to be turned into a refugee camp because it is totally incompatible with the planning for the last 17 years.

Mr. FUNKE. I am not suggesting that the entire project be turned over to meeting the needs of people in the relocation area, but at least some of that acreage could conceivably be developed for that purpose—at least in the short term, until people are relocated and have other means of livelihood.

Has that been considered by the tribal council?

Mr. VLASSIS. Yes; it has.

I am really pretty much in agreement with you. It seems like that is a reasonable position to use for some of that land which is presently not under cultivation.

But I think the tribal elders, who have a lot more wisdom than I do in connection with these matters, point out quite clearly to me that if you plant people from the joint use area there on a temporary basis, you just grow a permanent crop.

Mr. FUNKE. Whether or not they are relocated into that area, the feedlots could be set up—at least temporarily—within the joint use area. The hay or corn or forage or wheat or whatever it is that is going to be used for feeding livestock could be transported down to those feedlots.

Mr. VLASSIS. Yes; that is very feasible.

Mr. FUNKE. Does the tribe have any plans in development for consideration for doing that?

Mr. VLASSIS. As a matter of fact, in a different part of the reservation, the Chambers Ranch, which is fee land owned by the tribe, is being used in that fashion right now as an additional range.

I have met with the board of directors of Navajo Agricultural Products Industries which is the enterprise that runs the irrigation project to discuss this very topic.

We ran into one interesting problem as we began to develop a grain delivery for the coming crop year, in which part of it would be allocated to the joint use area. We met total defeat at the hands of the Department of Agriculture here. The reason for it was that corn was declared a surplus crop; therefore, you could not grow it in a reclamation project—no water.

So we wanted an exemption from that in order to consume the corn internally. The answer was: No.

Mr. FUNKE. Can you provide us with the documentation on that and any records you may have in that regard?

Mr. VLASSIS. All I can provide you with are memoranda of the conversations with counsel and other representatives of the Department of Agriculture.

Mr. FUNKE. If you could give us a cover letter describing what occurred and any memorandum or documents that you have in that regard, we would appreciate it.

In talking with the Department of the Interior, it is my understanding that there are about 80 watersheds scattered throughout the Navajo and Hopi Indian Reservations.

Much of the water rights have been perfected in this area—some of them have not been perfected, but a number of them are not presently developed.

Has the Commission or the tribe given any consideration to areas where these watersheds are available for developing irrigation projects and relocating some of the relocatees into these areas?

Mr. VLASSIS. The Navajo Tribe has expended better than \$4.25 million in connection with the water studies you are referring to. They are almost complete but not quite.

The perfection of water rights with relation to the reservation is a little difficult to discuss at the present time because the San Juan Basin is subject to present litigation in Aztec, N.M., which covers the whole east side of the reservation.

Like most litigation of that nature, it will be in process, I suppose, for the next 6 or 10 years.

The perfection of water rights with the reserved water rights for the Navajo Indian tribe on the balance of the reservation is a very precarious thing at the present time.

The community of Arizona, excluding Indians, is sort of on the move to do whatever is necessary to make sure that those water rights are limited as much as possible.

What will happen, no doubt within the next few years, is that there will be another water adjudication suit filed by someone—similar to *Arizona v. California*, only this time it will be Indian tribes versus everyone else.

The only actual perfection of water rights at the present time in the State of Arizona is in connection with the central Arizona tribes. So it is a very difficult situation. But the tribe has anticipated the water problem, and it has expended the money to have an idea of where water could be put to the best use and where ground water could actually be located.

Mr. FUNKE. Commissioners, would you care to comment on any consideration you have given to different watersheds and the possibility of relocating people—either within the existing boundaries of the reservation where irrigation could make that land more productive and, therefore, support more people and more livestock or in the additional 250,000 acres that may be purchased by the Navajos and also made more productive?

Governor LEWIS. Since I go through the area often and conservation is at heart, I have informed the chapters that in setting up their comprehensive plans they must not forget the conservation work that can be instilled in the plans to upgrade their lands—both for the benefit of stock and for other useful purposes.

But in many areas, the soil is poor—not necessarily overgrazed. I really don't think that in many areas overgrazing is the thing that is uppermost. It is just that soil cannot maintain enough forage for livestock. I think these things can be cut down considerably though soil-erosion projects.

Right now in many places in the area, right down the middle you see a big arroyo going down it. It is downslope from either side.

When you get rains, everything empties into these arroyos, and the water goes down somewhere else.

I think that a constructive type of conservation program can make the land useful in many areas where at present it is pretty poor.

We have informed the chapters not to forget about this in setting up their plans.

Mr. FUNKE. Have you had any discussions with the Department of the Interior in terms of utilization of existing watersheds and soil conservation programs which could be instituted to make those areas more productive? That is my basic question.

Governor LEWIS. We would like to consult with them on this.

Up until now, we have had so many other things come up that we have been talking about that we have entirely overlooked this area. But this is not an impossibility, and I think that they should be made knowledgeable.

In the area directors' meeting in Albuquerque, I was always totally amazed at the attitude of some of the superintendents, implying that we were taking their money and putting it into the joint use area, which we were not doing.

At that meeting I informed them that they were out there to help the people that they were working with and for.

There is no reason why these land conservationists or conservation engineers have not looked into this, prior to this time.

I don't know whether they have made attempts or not. But I think this is a very important area that they should be considering also, because they are out there all the time.

Mr. FUNKE. I would just like to comment on Reverend Urbano's statement about livestock—whether it is economic or not.

I think the importance of livestock-raising to the Navajos is much more than just an economic issue. It is very closely tied to their whole culture of making rugs, eating mutton, and maintaining the herds. I think it has a lot more significance than just the economic impact that it would have on them.

Governor LEWIS. That is true.

Mr. FUNKE. Unless anyone has a closing statement to make—

Mr. PEACHES. I just want to say, in closing, that we support restructuring of the Commission in order for the Commission to address the real concerns of the Navajo people and to really become the advocates, in terms of their welfare.

Second, we support the increased funding for them. I think that we cannot overemphasize the fact that here are 3,500 people faced with the threat of relocation, and the people who are charged with overseeing how the relocation can be fair and humane and so forth are only doing so on a part-time basis.

I think no resources and no amount of time is too much to be given to the people and their welfare.

Mr. FUNKE. Are there any other comments?

Governor LEWIS. I would like to make one last comment in regard to funds that we are requesting.

We tried to find some clue as to how they reached the conclusion to give us the amount they did.

I would just like to bring out the fact that a mediator was obtained to do a job in 6 months. His job did not necessarily mean for him to contact the people out there, except to work with two committees—the negotiation committees of both tribes and the Land Dispute Commissions of both tribes.

To do this 6-month job, he was given \$500,000.

The Commission, on the other hand, has a larger area to cover; and they put us on the same operating level, as far as funds were concerned.

A statement was made for the Department by the then-Commissioner of Indian Affairs, Morris Thompson, that they should consider leaving that open. He said: "We do not know what expenditures will be necessary to implement this project." I think he was right.

This is an area that is critical.

You talk about obtaining what you can afford. Certainly I agree with the gentleman that we have to coordinate this, but we have to have the expertise to do the job right.

In every area of the Commission's work, this expertise is needed very badly.

Without the money, we cannot continue in the right style to assist these people to the best advantage for them.

I feel that everybody was not knowledgeable about the things that we are running into now.

The Relocation Commission has run into unforeseen things, and because of this we have to come back up here. You, in turn, question us, and through our testimony you are obtaining information in lines or avenues never thought about.

All in all, I think this is a time when we need this—especially for 1979. We are not asking for the \$1 million right straight through to the implementing years. As we mentioned, our work will slacken off.

I think with the highly qualified staff that we are assembling, and to a large extent have assembled, they are the ones who will be doing most of the work.

For instance, in construction of the houses and replacement homes, we should have a highly qualified housing inspector of our own who will definitely say that it has to be built right. We see too many of these HUD homes that are not going to last. We don't want that to happen to the relocatees.

Thank you.

Mr. FUNKE. I want to thank you all for taking the time to come in and testify and especially for staying over an extra day. That was not anticipated. I apologize to you for not foreseeing that the hearing would take longer than it did yesterday.

We will be taking action on the bill. We hope to take action on it before the end of the week. If not by the end of the week, we will certainly get to it next week. We will inform you as to whatever action we will be taking on it.

Thank you.

The hearing is adjourned.

[Whereupon, at 2:05 p.m., the hearing adjourned.]



