

Whose Home on the Range? Coal Fuels Indian Dispute

By Mark Panitch

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By Mark Panitch

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NAVAJO AND HOPI Indians who used to skirmish across the rangelands and mesas of the Southwest have moved their fight into the federal courts, the halls of Congress and the media. They no longer fight with bows and arrows or even rifles; they use sophisticated legal, political and public relations weapons.

While once they might have fought over a few head of stock or even a woman, today the two tribes are fighting for control of almost 3,000 square miles—1.8 million acres—of scrubby Arizona rangeland. While theoretically only the surface rights are at stake, portions of the disputed land overlay at least 2.5 billion tons of easily accessible coal. As much as 25 billion tons may be there.

At today's price of about \$4 per ton, that coal could be worth \$10 billion or more, depending on demand. In addition there are geologic signs of oil, gas and uranium in the area.

The Hopi Tribal Council says the disputed lands belong to the Hopis both by law and tradition. "These lands are being taken by the Navajo who threaten violence if anyone resists," says Hopi chairman Abbott Sekaquapewa. The Hopi characterize the Navajo Tribe as "big" and "rich" and "arrogant" and they say the Navajo have gotten away with their land grab through complacency by the federal government. (Hopi Indians number about 6,000; the Navajo tribe about 135,000.)

The Navajo have in fact managed to retain physical control of the disputed land. But, ironically, it is the Hopi, who characterize themselves as "small" and "weak" and as "the underdog," who have won virtually every battle so far. The Navajo are fighting what can only be called a holding action.

While the Navajo leaders seem to decide their own policy in the Navajo capital of Window Rock, the locus of Hopi policy seems to be in Salt Lake City, almost 500 miles from the Hopi mesas. Both the Hopi's energetic and effective lawyer, John Boyden, and their public relations counsel, Evans and Associates, are headquartered in Salt Lake City. And much of the Hopi success can be attributed to their Mormon allies.

The Church of Jesus Christ of Latter Day Saints has had a close association since the 1890s with the "progressive" faction of Hopis. Mormons were the first missionaries to be allowed to preach on the Hopi mesas after the Spanish friars were driven off. Many "progressive" Mormon Hopis have sat on the tribal council in the past 40 years. "The Mormon religion is the predominate Hopi (Christian) religion," says John Dwan, director of public relations for Evans and Associates.

Through their Mormon allies, the Hopis also have developed allies in the worlds of industry and government.

Partition Authority

AMONG BOYDEN'S string of legal successes are a series of strategic court victories that leave the Hopis with the right to use half of the disputed land. And although both the federal district court and the Supreme Court have refused to partition the land, Boyden worried a bill through the House last May giving the courts that authority. The Senate Interior Indian Affairs subcommittee will hold its second series of hearings on the land dispute this week. Two bills are under consideration. One, sponsored by Arizona's two Republican senators, Paul Fannin and Barry Goldwater, follows the House bill, calling for partition of the land, removal of Navajos living on the Hopi side within five years and reimbursement for "moving expense."

Subcommittee Chairman James G. Abourezk (D-S.D.) also has a bill. His would grant title to half the disputed land—about 800,000 acres—to the Hopi. But instead of forcing the removal of the Navajos, creating a "refugee problem," Abourezk would allow a "life estate" for those born on the land and allow those who moved there to remain for a period equal to



John Boyden: Victories for the Hopis.

the time they have already lived there. The government would pay rent to the Hopi for the Navajos living on their land.

Hopi Chairman Sekaquapewa says the Abourezk bill is "unacceptable." Hopi public relations man Dwan simply dismisses Abourezk as "a Navajo partisan." Navajo public relations man Jerry Anderson, of the Washington public relations firm of Maurer, Fleisher, Zon and Anderson, isn't so sure. "The Navajos think Abourezk is well intentioned," he says. But so far they refuse outright support of his bill.

The question of what would happen to the Navajos living in the disputed area has become central to the whole debate. The Navajo argue that as many as 8,000 of their people—more than the total Hopi Tribe—would have to be moved if partition is enforced. "They would become refugees," says Navajo Chairman Peter MacDonald.

The just solution, says MacDonald, "would be for the government to buy out the Hopi surface rights and give them to the Navajo. The two tribes would continue to share the mineral rights."

But MacDonald noted that the tribe which controls the surface controls access to the minerals. That tribe can grant such things as leases, exploration rights and rights of way for roads.

Hopi Chairman Sekaquapewa argues essentially that what the Navajo do with their excess population is their problem. "This land was once all ours," he says, "now the court says only half of it is ours. This is the first time in history that people will be paid \$28 million for stealing someone else's land," he says, referring to the reimbursement section of the House bill.

Bureau of Indian Affairs officials at the Hopi Agency at Keams Canyon, Ariz., say that land recovered in the dispute will be used by "progressive" Hopi to raise beef cattle for market. The establishment of a beef industry among the traditionally agricultural Hopi is a BIA goal that goes back almost 100 years.

Court Rules for Hopis

THE DISPUTE over land ownership simmered along until the mid-1950s. Then Boyden was able to lobby a bill through Congress which authorized the federal court to hear a suit by the Hopis against the Navajo. In 1962, a special three-judge federal court ruled that the Hopi were entitled to an undivided half interest in the 1882 reservation outside of a 650,000-acre area reserved for their exclusive use. In 1963 the Supreme Court upheld the district court.

Since that time, the federal courts have ordered the Navajo to reduce their livestock to half the carrying capacity of the disputed range. Although the court sees this as a way to give the Hopi their legal due, the Navajo sees this as another white man's punishment.

They recall that Kit Carson slew their sheep. Then during the Roosevelt administration in the 1930s, following their refusal to establish a tribal council under the Indian Reorganization Act (IRA), Navajo sheep were once again rounded up and slaughtered. This time it was to prevent dust bowl conditions and reduce the amount of meat on the market. The Navajo, though, was unable to comprehend the economics, only the terrible sense of loss and anger when his worldly wealth was wiped out by the white man.

The Navajo Tribe is now appealing a contempt of court citation for failing to reduce the stock on the range.

Although the courts upheld the Hopis' legal right to use the land, they essentially decided that they were unable to enforce their decision by partitioning the land.

Boyden's campaign for a partition bill bore fruit May 29 when the House voted to approve such a bill, 280-38.

The "Range War"

WHILE BOYDEN was lobbying in Congress and arguing in the courts, Evans and Associates virtually stage-managed a range war on the borders of the Hopi reservation.

During 1970-'72, few papers in the Southwest escaped having a Sunday feature on the "range war" about to

break out between the two tribes. Photos of burned corrals and shot up stock tanks and wells were printed, although such incidents were not widespread.

The issue generally was, and still is, that the BIA has "frozen" construction, including well drilling, in the joint-use area as a way to force Navajos to comply with the stock reduction order. Instead, many Navajos simply drive their stock to water inside the Hopi exclusive-use areas.

But the Hopis hired a ranger, a white former rodeo cowboy named Elmer Randolph, to patrol their fence-line. He was to impound Navajo stock inside the border and arrest the herders. In one celebrated incident Randolph told a 100-year-old Navajo man who spoke no English to dismount. When the old man remained in his saddle, Randolph pulled him from the horse, seriously injuring the old man. There were also charges that Randolph made forays into the joint use area and "kidnaped" Navajo stock.

Some local Navajos did threaten Randolph and there were occasional shots fired as the pressure on the Navajo herdsman mounted. On the one hand, their sheep were dying from lack of water and forage; on the other hand, they were arrested and their flocks were impounded if they drove them to water and grass.

By calling Evans and Associates, a TV crew often could arrange a roundup of trespassing Navajo stock. Occasionally when a roundup was in progress, Southwestern newsmen would be telephoned by Evans and notified of the event.

A print reporter could arrange a tour of the disputed area in a BIA pickup truck driven by the ranger.

Interviews with then Hopi Chairman Clarence Hamilton could also be arranged through Salt Lake City. But they were granted only when BIA officials could be present and the officials usually answered the questions. At the height of the "range war" tribal officials apparently lost whatever control they had to Salt Lake City and BIA.

The BIA lands officer at Keams Canyon, Sam Miller, claimed credit for devising the roundup technique to pressure the Navajo. He generally coordinated the roundups.

"Does the BIA in Washington know about this activity?" a reporter asked Miller in 1972.

"The area director in Phoenix (John Artchoker) certainly does," Miller said, "and he reports directly to Washington."

Reporters who visited Window Rock got a less effusive welcome. They had to make their own way over 50 miles of unmarked dirt roads to the Navajo side of the disputed area. There they were often assumed by the local people to be bill collectors or BIA officials. Little information usually came from such an all-day adventure.

So most stories that resulted from the "range war" opened with a description of Navajo encroachment, moved on to the ranger impounding stock—and ended with Navajo threats of violent retaliation—the range was about to be set aflame by Navajo bellicosity. Although there were elements of truth there, the whole story was more interesting and less romantic.

In the 1971-'72 period the Four Corners power plants were a major national environment issue. The Senate Interior Committee held a week of field hearings in the area.

There was a split among Indian groups about the question of fighting the strip mining of Black Mesa, the main coal depository in the joint-use area. Some who were opposed to mining nevertheless felt that, if mining were to be carried on, new contracts should be drawn giving more money to the Indians.

Navajo chairman Peter MacDonald was already calling for new coal contracts that gave more to the Indian.

But the main Indian spokesman for

the strip mines and power plants was Hopi Chairman Hamilton.

Utility Ties

AT THE SAME time Evans and Associates was representing the Hopi Tribe in 1970-'73, they also represented a trade association of 23 utility companies engaged in building power plants and strip mines in the Four Corners area. The group was called WEST Associates and their mailing address was the same as Evans and Associates.

"The Indians have resources to sell and our other clients have money to buy those resources," an Evans-for-Hamilton spokesman told a reporter. "There is no conflict of interest there." Besides, he said, the BIA had to approve the contract between the Hopis and Evans.

The arrangement was convenient. However, the relationship between the Hopi council and the power companies strip mining their land became almost symbiotic. On the one hand, Hamilton speeches written by Evans would be distributed through the public relations machinery of 23 major Western

utilities. On the other hand, these utilities would tell their customers, often through local media contacts, that the Hopi were "good Indians" who wouldn't shut off the juice that ran their air conditioners.

Because of the efforts by representatives of the Hopi to present that tribe's viewpoint, the Hopi rapidly took on the aura of the underdog who just wanted to help his white brother. Some of the Navajo, on the other hand, were saying threatening things about closing down polluting power plants and requiring expensive reclamation of strip-mined lands.

Why did the BIA permit a company that represented utilities buying Hopi coal to represent the Hopi?

A BIA spokesman said that, while attorney's contracts generally require approval, the Hopi agreement with Evans did not.

However, the Secretary of the Interior—or the BIA commissioner—did have to approve the coal leases. Fine, except that the secretary was also one of the buyers of coal.

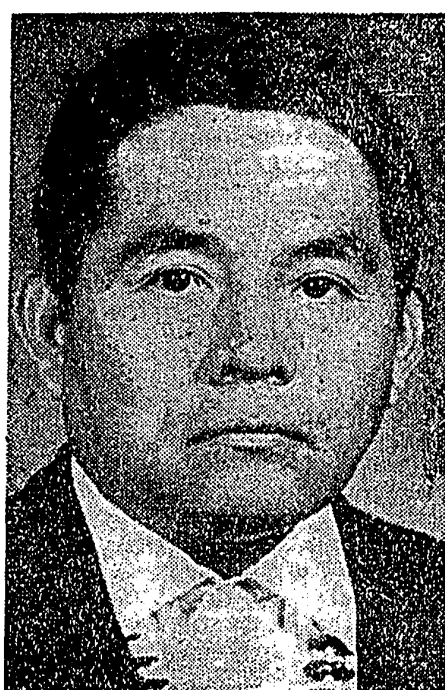
Through the Bureau of Reclamation, the Interior Department owns 25 per cent of the largest Four Corners power plant. The Bureau of Reclamation's power at Interior was so great that when citizens wrote to the department to ask about Black Mesa, they were sent a brochure prepared and published by the Peabody Coal Company.

To carry the chair to its conclusion: Peabody Coal strip mines Black Mesa in the joint-use area under a contract approved by the Interior Department. According to James Ridgeway in his book "Power Play," Kennecott Copper (which owns Peabody) "through its interlocks with Zions Utah Bancorporation . . . is interlocked to the extensive industrial holdings of the Mormon Church."

Evans no longer represents WEST. "I don't even know if they still exist," says Dwan casually. West Associates still exist and are being represented by a New York public relations firm.

"I'll Fight Like Hell"

THE NAVAJO has continued to press the Interior Department for new contracts based on the selling price of coal and its energy content. "So far the BIA and the Interior Department have been unresponsive to this approach," says Navajo minerals director Robert Schryver. "The tribe wants to participate in the real value of the resource," he says, "what the company actually gets for it."



Abbott Sekaquapewa: "I'll fight like hell for what is ours."



The Washington Post Peter MacDonald: "Buy out the Hopis."

By Joseph P. Mastrangelo—The Washington Post