“Hózhó and the Politics of Place:
Navajo Perspectives on the Navajo-Hopi Land Dispute”

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Navajo Nation, (Former) Joint Use Area

Credit: David Aberle fonds, University of BC Archives
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Photo Credit: Author Personal Collection
TIMELINE

1882: President Chester Arthur signs Executive Order creating 2.5 million acre contested reservation

1923: Creation of Navajo tribal government

1934: Secretary of Interior given power to veto decisions made by tribal government, thereby severely limiting their real power as sovereign nations

1930s: Navajo Livestock Reduction

1947: Navajo tribal council hires its first attorney, Norman Littell

1958: Navajo-Hopi Boundary Line Dispute submitted to federal court

1962: *Healing vs. Jones.* Court creates 1.8 million acre Joint Use Area (JUA) area to be jointly managed and used by tribes, District 6 to be exclusively Hopi; determines only Congress can determine and legislate partition

1971: Peter MacDonald becomes Navajo tribal chairman

1971: H.R. 11128 (the “Steiger Bill”), proposing partition and relocation, introduced in Congress

April 17 1972: Senate Hearings on Navajo-Hopi land dispute issue

May 3 1972: Navajo tribal council passes resolution to introduce the “Navajo Boundary Commission Bill,” to establish a Navajo-Hopi negotiating committee, in Congress


October 14 1972: District court of Arizona orders Navajo livestock reduction, and bans Navajo construction in JUA

May 13-14 1973: Senate Hearings on Navajo-Hopi land dispute issue

1973: Three bills before Congress: 1) H.R. 10337 the “Owens-Steiger Bill,” which would direct the courts to partition the area 2) S.B. 3220, which would authorize the Navajo Tribe to take out a federal loan to purchase JUA lands from the Hopi Tribe 3) S.B. 3724, sponsored by Senator Abourezk (SD), which opposed large-scale relocation, authorized partition, and had a provision that the Navajo would pay rent to the Hopi Tribe until there were no more of them on the Hopi half

1974: Congress passes H.R. 10337 and President Ford Signs PL 93-531 – The Navajo-Hopi Land Settlement Act (or “relocation law”) – into law

1977: District court of Arizona partitions JUA, Navajo appeal; Relocation begins

1979: Final partition line drawn
INTRODUCTION

Politicizing the Nation: the Legacy of the Navajo-Hopi Land Dispute

“It is not that ownership is communal in the Navajo tradition,” Robert Yazzie explained. “Navajos respect and assign great importance to individual freedom and autonomy, but as long as the exercise of that freedom upholds the duty to and reverence for all relations…It is not that land and resources should not be used, but that they should be related to with reverence and through a sense that the earth and all life is of equal importance to human life.” Mr. Yazzie took out a piece of paper and drew a big circle on it to demonstrate. According to the Navajo paradigm of Hózhó, and K’é, its guiding ethic, people have a duty to maintain harmony by taking care of the Earth in a participatory process, he said. All things are connected, everything is relational, and all relations must be upheld.¹

Looking out the window at the high desert expanse surrounding him, Mr. Yazzie was responding to my questions about how the Navajo relate to land, ownership, and

¹Robert Yazzie, J.D., Executive Director of the Diné Policy Institute, Navajo Chief Justice Emeritus, Interview with author 3/27/12, Tsaile, AZ. As comprehensively explained by historian Richard White, the Navajo “cultural ideal” of Hózhó is usually translated to mean harmony and order. It is upheld by the practice of K’é, which translates as love, kindness, peacefulness, friendliness, and cooperation. White, Richard, The Roots of Dependency: Subsistence, Environment, and Social Change Among the Choctaws, Pawnees, and Navajos (Lincoln: University of Nebraska Press, 1988). These concepts will be explored in much greater depth in chapter three.
property. I was interested in whether or not such “Navajo interpretations” were reflected in the legal and political regimes governing the Navajo Nation. As a former Chief Justice of the Nation, and Founder and Executive Director of the Diné Policy Institute (one of the few Navajo-led think tanks), Mr. Yazzie seemed like the right person to talk to. The Diné Policy Institute was established in 2005 with the goal of incorporating more traditional concepts and strategies into Navajo governance. The Institute developed as one of the more recent manifestations of Navajo efforts to indigenize and reform its governing institutions so as to include traditional values and concepts. According to Mr. Yazzie, this process effectively began in 1975 with the passing of the Indian Self-Determination and Education Assistance Act; which secured significant political and legal independence for the Navajo. National and local events (including the unfolding “resolution” of the Navajo-Hopi land dispute) motivated the tribe to take advantage of these new structural conditions and assert themselves as a sovereign entity. In 1977, the tribal government established a cultural resources management program whose mandate was to protect cultural resources. A comprehensive Navajo court system was developed in the 1980s, and a culturally informed Navajo legal code was fully codified by 2002. While the

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2 As an initiative of the policy of Indian Self-Determination that President Richard Nixon declared in 1970, this act was intended to “provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people.” Indian Self-Determination and Education Assistance Act of 1975, S. 1017, 93rd Cong., 1st sess. This Act has, however, been criticized for preserving substantial federal discretion over Indian administration of programs. Barsh, Russel Lawrence, and Ronald L. Trosper, “Title I of the Indian Self-Determination and Education Assistance Act of 1975.” American Indian Law Review 3, no. 2 (January, 1975): 361–395


4 Navajo Nation, Arizona, New Mexico & Utah, Navajo Nation Code Annotated (Minnesota: Thomson and West, 2005), Titles 1-5. This legal code contains “Natural Law” and “Common Law” sections that reflect the paradigm of Hozho. For example, the first and fourth provisions of Diné Natural Law respectively read: “The four sacred elements of life, air, light/fire, water and earth/pollen in all their forms must be respected, honored and protected for they sustain life,” and “The Diné have the sacred obligation and duty to respect,
“Navajo” concepts Mr. Yazzie described are not a product of the late twentieth century, their incorporation into Navajo governance is.\(^5\)

The “indigenization” of Navajo government and politics has been and continues to be a process marked by moments in which the sovereignty of the tribe has been frustrated, and moments in which it has been bolstered. Within literature on Native American politics, there is a broad consensus that this process really began in the late 1960s when a broad base of Native leaders and activists pushed to reform institutions in light of newly articulated notions of self-determination. This moment marked a shift in which, as historian Stephen Cornell writes, a “new Indian politics”\(^6\) emerged. In this new politics, Indians challenged the political and intellectual limitations set by the structure of tribal-federal relationships. Through scholarship and popular discourse they formulated diverse analyses about the ways in which tribal as well as federal economic interests, community values, and political (decision-making) power acted upon and informed each other.\(^7\)

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\(^5\) The Navajo tribal government was established by the U.S. Secretary of the Interior, and operated according to by-laws mandated by the Secretary into the mid-1980s. The question of the council’s “authenticity” has been the subject of much debate, and will be explored in-depth in chapter one. Briefly, the governance model and strategies of the council have been historically modeled after the (Western) federal government. Tribal leaders were supervised by the BIA and Department of the Interior, and as such guided by their goals. See Wilkins, David, “Governance Within the Navajo Nation: Have Democratic Traditions Taken Hold?” Wicazo Sa Review 17, no. 1 (April 1, 2002): 91–129, 101-103

\(^6\) Cornell, Stephen, The Return of the Native: American Indian Political Resurgence (New York: Oxford University Press, 1988), 5-8

\(^7\) Scholars and Native thinkers who wrote in self-determination era have generated a variety of formulations about how these elements have interacted in shaping Indian politics and possibilities of self-determination. The diversity of opinion was tied together by a common vocabulary and set of questions. See: Philip, Kenneth, Indian Self-Rule: First-Hand Accounts of Indian-White Relations from Roosevelt to Reagan (Logan: Utah State University Press, 1995); Josephy, Alvin, Red Power: The American Indian’s Fight For Freedom (New York: American Heritage, 1971); Hagan, William T, American Indians (Chicago: University Of Chicago Press, 1993)
Such discussion happened on the Navajo Nation in living rooms and tribal council chambers. As I will argue in the following pages, they happened to a great extent in response to developments in the long-standing and complicated Navajo-Hopi land dispute. In their attempts to secure control over 1.8 million acres of territory, tribal leaders, council delegates, medicine men and women, and traditional sheepherders generated discourse about the economic, political, but also cultural and philosophical dimensions of sovereignty. These discourses were contested, dynamic, and often contradictory. Nonetheless, they interacted to inform the development of a distinctive “Navajo politics,” that would later enable the incorporation of concepts like Hózhó and K’é into the governing institutions of the Navajo Nation.

With just over 300,000 enrolled members, the Navajo tribe is the second largest American Indian tribe in the United States. Located in the Southwest (spanning parts of New Mexico, Arizona, and Utah) the Nation is about the size of West Virginia. It has the largest land-base – 18 million acres – of any North American Indian Nation, encompassing 36% of all Indian land in the continental United States. It is resource rich containing significant coal, oil, natural gas, and mineral (including uranium) deposits. Since the nineteenth century, questions about how and by whom land, and particularly this energy wealth, should be managed have been at the heart of Navajo politics (and the Navajo-Hopi land dispute).

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The Navajo-Hopi land dispute refers to a conflict between the Navajo and Hopi Indians over the ownership rights of 2.5 million acres in northern Arizona. This almost inhospitable desert land has been home to both tribes, and the site of skirmishes between them, since the 1600s. The dispute has a long and complicated history formally dating back to an Executive Order made by President Chester Arthur in 1882 that created a Hopi reservation without making reference to the rights of the Navajo people already living within the area. This ambiguity seeded a conflict that would unfold over the course of more than a century.

In 1958, by recommendation of their respective non-Native attorneys, the Navajo and Hopi took the dispute to court. The resolution of the case (*Healing v. Jones*) in 1962 created District 6, an area to be exclusively owned and administered by the Hopi, and the 1.8 million acre Joint Use Area (JUA), which was to be jointly administered by the Navajo and Hopi tribes. The tribes appealed this decision, and the matter got referred to Congress. In 1974, Congress legally resolved the dispute by passing “An Act to Provide for the Final Settlement of the Conflicting Rights and Interests of the Hopi and Navajo Tribes.” President Ford signed this act into law in December of the same year. Public Law 93-531 partitioned the JUA and decreed that all Navajo living on the designated Hopi side would have to move and all Hopi living on the Navajo side would have to do the same. This meant the relocation of some 100 Hopi and 10,000 Navajo individuals. As the policy was implemented in the late 1970s and through the 1980s, many suffered

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from the severe emotional, psychological, and physical stress of displacement. In many ways the conflict continued into the 2000s as a small group of people continued to resist relocation.

The dispute and its resolution have prompted scholarly and popular discussion about the conditions of Native American sovereignty, and the ways in which these conditions have been informed by geopolitical interests. My own reading of this particular history’s significance in the Southwest is that it re-ignited historical resentments and politicized the Navajo Nation in new ways. For example, the Arizona general election of 1974 saw the largest number of Navajo voter turnout on record. The Arizona Republic deemed this turnout “anywhere from fantastic to unbelievable.”

Historical analyses of the Navajo-Hopi land dispute tend to group actors into large categories – federal, Hopi, Navajo – and thus obscure the local history of the dispute, and the extent to which this was shaped by intra-tribal negotiations. The problem with this kind of historiography is that, as one scholar notes, “the analysis then loses sight of the local-level actions that shape micro-level responses to macro-level interventions and

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12 Having underestimated the number of people who would need to be relocated according to the new boundary line, and the cost of relocation efforts, PL 93-531 was disastrous. Not enough “relocation land” was available for families, and many who were moved were moved into deteriorating houses off the reservation. Additionally, many relocated people were illiterate elders who had spent their lives herding sheep and farming and so did not have the kinds of skills they needed to adapt to a new economy. Aberle, David, “The Navajo-Hopi Land Dispute” in Anthropological Approaches to Resettlement: Policy, Practice, and Theory, Ed. Scott E. Guggenheim and Michael M. Cernea (Boulder: Westview Press, 1993), 168-192

13 Donovan, Bill “Heavy Navajo vote aided Raul Castro in governor race,” from the Arizona Republic, Nov. 7, 1974, Navajo Public Relations Documents in David Aberle fonds, University of British Columbia Archives

contribute to the final determination of events.”\textsuperscript{15} Indeed, the “macro-level intervention” of Congress’s decision significantly affected the Navajo Nation, but its impact was also shaped in particular ways by local-level responses. Discourse generated within Navajo communities on the JUA, and within the chambers of the Navajo tribal council, tempered and encouraged a nascent Navajo nationalism. In the following pages I will explore the development of this new Navajo politics by putting these two arenas of discourse into conversation.

Buried in dusty binders and nearly forgotten archive boxes, records of these Navajo discourses have been largely overlooked by scholars reconstructing narratives of the Navajo-Hopi land dispute. In an effort to recover a nuanced bottom-up history of the dispute, I have drawn from several different collections. Each tells its own distinctive story. In the following chapters I will primarily engage with two: a collection of unpublished testimonies from Navajo and Hopi JUA residents, and transcripts of meeting notes and resolutions passed by the Navajo Nation tribal council.

Navajo historian Jennifer Nez Denetdale observes, “Diné origins and creation narratives tell one kind of history while narratives about the Diné from non-Indian sources tell another, which often contradicts Navajo stories.”\textsuperscript{16} Testimonies of JUA residents help us understand Diné narratives on their own terms. The testimonies I engage are held in the Center for Southwest Research (CSR) archive at the University of New Mexico as a part of a larger collection of records kept by the National Youth Indian


Council (NYIC had sponsored the project of collecting these testimonies). In the CSR archive I read through three record collections containing newspaper clippings, reports, Native publications, flyers, letters, and memos that enriched my understanding of Southwest Native American politics in the second half of the twentieth century. Through these documents scholars can gain a glimpse of the concerns and formulations of the activist politics that animated Native American communities, in the Navajo Nation as elsewhere.

Locating records of how such politics were addressed by the Navajo Nation government proved to be difficult. To access transcripts of tribal council meeting notes, citizens and researchers must request the file of a specific tribal council resolution. In beginning, I did not know what resolutions had been passed and were relevant to my project. Fortunately, staff at the Navajo Nation’s tribal college (Diné College) pointed me to the Navajo-Hopi Land Commission Office in Window Rock, AZ, whose wall of over 100 dusty binders containing tribal council resolutions served as my archive. From this collection I was able to then request meeting notes at the Navajo Nation Public Records Office. The Navajo-Hopi Land Commission Office, funded by the Navajo Nation Government, was established in the late 1980s to research and represent the Navajo in the ongoing project of relocation. As an archive, it must be acknowledged that the Land Commission Office’s records are pre-selected and incomplete. Nonetheless, it is interesting as a reflection on what moments of tribal council discussion the Navajo entity

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17 Roman Bitsui, Navajo-Hopi Land Commission Executive Director, in Committee on Indian Affairs, S. 1003 Navajo-Hopi Land Settlement Amendments of 2005: Hearing before the Committee on Indian Affairs United States Senate, 109th Cong., 1st Session, July 21, 2005. The office does not have a website, and is not mentioned in histories or analyses of the land dispute that I have come across. I therefore do not know what agency established it or how it has functioned in the ongoing politics of the dispute. Roman Bitsui, however, explicitly opposed relocation in this statement and in written communications. See, for example, Benally, Bitter Water, 89-94
responsible for mediating the impact of PL 93-531 deemed significant in light of its own work. From the sheer volume of tribal council (as well as chapter house) resolutions and memos contained in this collection, researchers can gain an appreciation of the extent to which the Navajo-Hopi land dispute engaged the government of the Navajo Nation. The documents themselves shed light on how tribal leaders approached the issue, what they understood to be at stake, and how attitudes changed over time.

To fill in the gaps of these two sets of narratives, and compare them to external “non-Indian sources,” I have more peripherally drawn from two other archives: BIA records in the National Archives and Records Administration in Washington D.C., and the David Aberle fonds at the University of British Columbia. David Aberle was an anthropologist who worked extensively with the Navajo in presenting their case to Congress over the course of the dispute. From reading 500 pages of correspondences, reports, public relations flyers, and transcripts of Senate Hearings, I was able to get a sense of the politics that informed Aberle’s criticisms of Congress’s handling of the dispute. Finally, BIA records from 1940-1975 informed my work. These documents were primarily concerned with the natural resources – particularly oil, gas, and coal – of the Navajo Nation, illustrating the ways in which the Navajo-federal relationship revolves around questions of authority and resource control. This collection is striking in evidencing the extent to which Navajo voices (of tribal leaders and citizens) were remarkably absent from conversations about these Navajo resources.

Originating in the ambiguous wording of an 1882 Executive Order, and unfolding into the early 2000s, the land dispute has too long and complicated of a history to be interrogated in one telling. Focusing in on the moment of the land dispute’s legal
resolution allows for a deeper engagement with the meaning and significance of this 120-year-long historical “event.” The following chapters are mostly organized chronologically, tracing Navajo discourse from the time the dispute was formalized in 1957 to the time the strategy intended to resolve it was implemented in full force in the mid 1980s. Such an organization – in which JUA residents’ perspectives are examined last – also reflects on the politics of representation undergirding this history. Non-chronological vignettes included at the beginning of chapters one and two are intended to remind the reader of the ways in which, for the Navajo, the dispute was the subject of a dynamic, evolving, and yet inconsistent discourse.

In chapter one I examine the history of the Navajo-Hopi land dispute in light of the Navajo nationalist narrative that emerged in its final stages. The chapter explores how contestations over power and resource control contributed to this rhetorical politicization of tribal leadership. It engages with the contradictions and complexities involved in this process. Through contextualizing the Navajo-Hopi land dispute within broader historical and contemporary conditions of governance on the Navajo Nation, I hope to offer possible explanations for these contradictions. Particularly, this context is important to analyzing how and why the Navajo Nation government’s discourse continually marginalized traditional approaches and knowledges.

Chapter two builds on this question, offering a reading of the council’s discursive engagement with land as a manifested site of contestation between considerations of culture and political economy. Specifically focusing on the Navajo tribal council’s own agenda, I hope to locate the council in relation to JUA residents and the federal actors involved in the dispute. Thinking through the analysis of scholar William Hagan, who
observed that, “the challenge facing most tribal leaders is how to reconcile assertions of sovereignty with conditions of wardship and financial dependence,” I foreground Navajo leaders’ negotiation of this dilemma. The chapter ultimately undertakes to illustrate how notions of self-determination were worked out in and through discourse on the Navajo-Hopi land dispute.

Finally, chapter three works to recover the bottom-up history of the dispute through engaging with the perspectives of JUA residents. My work contributes to scholarship on Navajo history by picking up with themes explored by historians Richard White and Martha Weisiger in relation to the 1930s Stock Reduction Era. White and Weisiger contend that stock reduction was disastrous principally due to BIA bureaucrats disregard of Navajo culture and theology. In my final chapter I engage this argument that “cultures and their environments are interactive and reciprocal; each shapes the other. Diné viewed themselves and nature through a very different lens than we bilagáana, or Anglo-Americans, do.” As Weisiger tries to “give a sense of how cultural understandings of the world shaped Diné responses to the New Deal conservation program,” I hope to elucidate the significance of cultural understandings (particularly of land) in relation to the Navajo-Hopi land dispute. JUA residents’ assertions were also critical in pushing the evolution of Navajo politics and governance toward incorporating the kinds of traditional concepts and strategies Mr. Yazzie spoke of in explaining Navajo law and understandings of “ownership.”

18 Hagan, American Indians, 210
20 Weisiger, Dreaming of Sheep in Navajo Country, xix
21 Ibid.
While my project falls within the field of Native American history, I think it has a much broader relevance. The questions I am interested in about power, culture, ideological politics, and representation are central to struggles over territory and heritage that have and continue to exist around the world. My thesis will develop language and analytical framing to help understand the ways in which these struggles are informed by the intersection of politics, intellectual traditions, and material interests or needs. It will do so in the context of the Navajo Nation – the largest nation within a nation in the United States.

As a contribution to scholarship on the Navajo-Hopi land dispute itself, my project avoids the tendency to “take sides” thereby allowing for a new understanding of this moment’s historical legacy. I am not interested in asking about “right” and “wrong” but in doing a political analysis. This approach is commonly taken in historical inquiry but from what I have encountered has not been applied to the Navajo-Hopi dispute. Given the number of issues involved in this dispute, much can be learned from an investigation of it. At its heart, my research will delve into what insight it can give us on power and the politics of representation.
CHAPTER ONE

Narrating the Navajo Nation: the Navajo-Hopi Land

Dispute in Context

“Use of Navajo land is best understood in relation to political and economic forces that have provided the tribe with certain lands, or have deprived them of it”

“Culture and politics are not part of some malleable superstructure which changes as soon as economic structures change. Instead, the influences are reciprocal and must be studied as such”

In a 1986 interview with the Sacred Lands Project, former Navajo Tribal Chairman Peter MacDonald recalled his role in the Navajo-Hopi land dispute: “I was building a nation.” He went on to characterize the nation he was trying to build saying, “land, livestock, and Navajo Nation are all synonymous. The reason the Navajo has remained strong and the reason that they have overcome all these crazy things is that it is a land based tribe.” Congress’ resolution of the land dispute threatened this material, cultural, and political base.

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1 Klara B. Kelley, Navajoland: Family Settlement and Land Use (Tsaile: Navajo Community College Press, 1989), 2
3 Peter MacDonald, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
By the mid 1970s the Navajo tribal council was publicly denouncing Congress, the Bureau of Indian Affairs, “administrators in Washington,” and the courts for their handling of the land dispute issue. Tribal Chairman Peter MacDonald charged them with attempting to evict thousands of Navajo from the homesites “where they and their ancestors have dwelled for hundreds of years.” Revolving around the same questions of authority and land ownership that had long embittered the Navajo against the U.S. government, the land dispute issue became a powerful political theater within which Navajo nationalism took shape. MacDonald turned the disastrous aftermath of the Navajo-Hopi land dispute into a call for self-determination, claiming, “the Navajo is fighting a determined battle in this twentieth century for his land and his heritage.” After nearly three decades of mud slinging MacDonald proclaimed: “the Navajo seeks only friendship with the Hopi and to preserve the heritage of both ancient tribes…There is no real quarrel between the Navajo and Hopi people – only a quarrel caused by the Bureau of Indian Affairs to divert attention from its own mistakes and neglect.”

As chairman of the tribal council, MacDonald acted as spokesperson for the highly centralized Navajo Nation government. He gained the chairmanship in 1970, and immediately began appealing to the people with promises of self-determination. MacDonald pledged that his administration would fortify the Navajo Nation by securing economic and political sovereignty. MacDonald’s predecessor had declared that the Diné

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4 Peter MacDonald, Navajo Nation Public Relations Documents, in David Aberle fonds, University of British Columbia Archives
5 Conversations I have had with people in the Navajo Nation have illustrated to me the extent to which the Navajo Hopi land dispute was a watershed moment in the (political) history of the Navajo Nation. Tony Joe Jr, Supervisory Anthropologist at the Navajo Nation Historic Preservation Department, expressed this sentiment succinctly telling me that the Navajo-Hopi land dispute has had “a huge impact on peoples’ identity and collective memory – relocation is seen as another violation of sovereignty, a continuation of creating dependency” he told me. Tony Joe Jr., interview with author 3/28/12, Window Rock, AZ
6 Peter MacDonald, Navajo Nation Public Relations Documents
should be referred to as the “Navajo Nation” three years earlier. The tribal council formalized the name passing a resolution that read, “it appears essential to the best interests of the Navajo people that a clear statement be made to remind Navajos and non-Navajos alike that both the Navajo people and Navajo lands are, in fact, separate and distinct.” This new vocabulary of nationalism was expanded in and through the discursive politics of the Navajo-Hopi land dispute.

In 1973, MacDonald claimed that the land dispute had been the “most important problem, which has faced my people since I took office.” Encompassing 1.8 million acres, the JUA was but a fraction of the land base of the Navajo Nation (more than 17.6 million). And yet, at the grassroots level and in council chambers the controversy enveloping it sparked debates about the extent to which the Navajo Nation was economically, politically, and philosophically dependent on “Washington.” As a Pan-Indian movement agitating for self-determination took shape nationally, people on the Navajo Nation negotiated their own understandings of what this meant.

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7 Peter Iverson, *Diné: A History of the Navajos* (Albuquerque: University of New Mexico Press 2002), 244-248  
8 *Ibid*, 245  
9 Peter MacDonald, Statement before the House Subcommittee on Indian Affairs, May 1973, in David Aberle fonds, University of British Columbia Archives  
Chapter One

Contested Claims: The Navajo-Hopi Land Dispute

The “Navajo-Hopi land dispute” formally dates back to President Chester A. Arthur’s Executive Order of 1882, which effectively created a Hopi reservation in an effort to protect the Hopi against encroaching Anglo settlers. The Executive Order set aside 2.5 million acres (in the middle of the Navajo reservation) to serve as a reservation for the Hopis and “such other Indians as the Secretary of the Interior may see fit to settle thereon.”\(^\text{11}\) This lack of clarity about who had right to the land in question set the stage for what, in the second half of the 20th century, would turn into an exhaustive legal battle between the Navajo and Hopi tribes. The settlement reached in 1974 partitioned the disputed territory, displacing over 10,000 Navajo and Hopi residents from their homes, and calling into question the legitimacy of formal federal policies promoting Native self-governance.

Archeological records indicate that both Hopi and Navajo people have been living on the disputed territory since the early 1600s. Until the middle of the 20th century, the Navajo economy revolved around stockraising and farming. To maintain this semi-sedentary lifestyle, the Navajo settled in scattered family production units. In contrast, the historically sedentary Hopi farmers resided in mesa-top Pueblos. Scholars posit that the groups’ contrasting lifestyle and settlement-patterns seeded conflicts over resource use, while also enabling the two groups to support themselves in the harsh landscape of the Southwest. They contend that the region’s climate and drought cycles have been principle

factors in causing tensions between the tribes.\textsuperscript{12} Relationships between the two tribes have been constantly affected by this strain over resources, by population growth in both groups, and external pressures. Beginning in the 1700s, the increasing military and economic power of Hispanic and Anglo settlers significantly impacted relationships between the Navajo and Hopi. Throughout the 1700 and 1800s relations between them were situational; at times they collaborated in the face of encroachment, and at times they were at war with each other.\textsuperscript{13}

The 1882 reservation problem became apparent in 1926 when a faction of Hopi people asked Arizona Senator H. Cameron to expel the Navajo, and give the Hopi exclusive title to the land. Senator Cameron passed along the request to the Commissioner of Indian Affairs, who responded saying the Navajo had a right to live in and use the disputed territory. This lead to an investigation by the Commissioner of Indian Affairs in 1928, who considered dividing the land but ultimately concluded that doing so would only cause more trouble. On November 6th, 1930 Indian Affairs officials set up the first formal negotiation between Navajo and Hopi leaders. The leaders came up with a proposal to set aside two tracts of land – 438,000 acres around the main Hopi village and 23,000 acres around Moenkopi (outside the 1882 reservation boundary) – for exclusive Hopi use. Internal debates among the Hopi regarding the size of the claim that

\textsuperscript{13} For example, some Hopi survivors from a Spanish attack in 1701 joined the Navajo forming clan branches with Hopi names. By the 1770s a faction of the Hopi tribe had developed an alliance with the Spaniards against the Navajo. And again in 1819 the Hopi appealed to the Zuni to assist them in pushing back Navajo's encroaching upon First Mesa, a Hopi Pueblo. Through the 1830s accounts generally suggest friendly relations. Brugge, \textit{The Navajo-Hopi Land Dispute}, 9
should be made ensued; the question was left unresolved and the proposal shelved for the next decade.\textsuperscript{14}

In 1936 the U.S. Government went about redefining grazing districts in an effort to curb overgrazing. District 6, an area within the 1882 Executive Order Reservation, was reserved expressly for Hopi use in 1937. C.E. Rachford made a proposal to expand this district by over 29,000 acres based on his findings from surveying land occupation and use (carried out from 1938-1940 as part of a national Human Dependency Survey). Rachford also recommended relocating Navajo and Hopi families who lived on what had become the “wrong side” of the District 6 line. Soon thereafter another study, and further negotiation between the two tribes, and Indian Affairs superintendents, resulted in an agreement to expand District 6 by 103,000 acres. The Commissioner of Indian Affairs declared these boundaries official in April 1943. About 100 Navajo and a handful of Hopi families were forced to move.\textsuperscript{15} This relocation effort embittered the dislocated people against each other and government actors (tribal and federal), further exacerbating tensions over the whole 1882 area.

In 1956 Norman Littell, Chief Attorney for the Navajo Tribe, reported that the Hopi Council had filed a brief with the Department of the Interior claiming exclusive rights to all minerals in the 1882 Executive Order.\textsuperscript{16} Littell urged the Navajo council to contend the claim, which would require introducing a bill in Congress allowing the tribes to settle the dispute in court. Littell worked with the Hopi Tribe’s attorney John Boyden

\textsuperscript{14} Ibid, 32-33
\textsuperscript{15} Ibid, 33
\textsuperscript{16} Records from the Navajo Tribal Council as quoted in Ibid, 36; Navajo Tribal Council Resolution CM-43-57, "Bill to Refer Navajo-Hopi Boundary Line Dispute to Court,” meeting notes Navajo Nation Public Records Office, Window Rock, AZ
on drafting the bill; Congress passed a version of it in 1958. The "Act of July 22, 1958" authorized the tribes to sue each other in the U.S. District Court of Arizona "for the purpose of determining the rights of and interests of said parties in and to said lands and quieting title thereto in the tribes of Indians establishing such claims pursuant to such Executive Order [of December 16, 1882] as may be just and fair in law and equity." It authorized the court to "define tribal, village, clan and individual rights for both Hopis and Navajos." Navajo and Hopi leaders submitted the land dispute to the District Court in Prescott, Arizona in September 1960. Two years later the court’s Healing vs. Jones (the names of the Hopi and Navajo Tribal leaders) ruling created the Joint Use Area (JUA) – encompassing 1.8 million acres of the original 2.5 million acre Executive Order Reservation –, declaring that the tribes had joint and equal interest in the disputed territory. The ruling provided that the option of partitioning the land was a legislative matter only Congress had the authority to decide.18

The land dispute was reignited in the early 1970s when a number of bills were introduced in Congress. Representative Sam Steiger introduced the first, H.R. 11128 (referred to as the “Steiger Bill”), in 1971. The bill proposed maintaining joint-ownership of JUA subsurface resources while apportioning each tribe exclusive right to one half of the surface area. Although the Steiger Bill did not pass, it fundamentally impacted the course the dispute would take by introducing the strategy of partition and relocation. This logic framed Congress’s sense of possibility throughout the next three years.

Communities in the JUA first felt the impact of it in 1972, when a district court in

17 Senate Committee on Partition as quoted in Brugge, The Navajo-Hopi Land Dispute, 39
Arizona ordered a reduction of Navajo livestock, which compromised families’ ability to support themselves and thus pressured many to consider moving in search of economic opportunity. The court also barred construction by any Navajo living in the JUA, signaling that their status as permanent residents was no longer taken for granted.19

Three bills to do with the Navajo-Hopi land dispute were before Congress in 1973 and ’74: H.R. 10337 the “Owens-Steiger Bill” ( Introduced by Rep. Wayne Owens, (D) Utah), which would direct the courts to partition the area; S.B. 3220 ( sponsored by three southwestern Senators), which would authorize the Navajo Tribe to take out a federal loan to purchase JUA lands from the Hopi Tribe; and S.B. 3724, sponsored by Senator Abourezk (SD), which opposed large-scale relocation, authorized partition, and had a provision that the Navajo would pay rent to the Hopi Tribe until there were no more of them on the Hopi half. In committee hearings the Nixon administration announced its support for the Owens-Steiger Bill, scholar David Aberle strongly advocated against mass relocation, and Mina Lansa - leader of the “traditionalist” Hopi faction – requested that the tribes themselves be allowed to resolve the dispute on their own. Nonetheless H.R. 10337 went through to the Senate, passed by a vote of 72 to 0, and was signed into law on December 22, 1974 by President Ford as PL 93-531.20

PL 93-531 – known to Navajo as the “relocation law”21 – contained four major provisions: partition of the JUA surface area, livestock reduction of Navajo herds, relocation of over 10,000 Navajo and Hopi people residing on what became the “wrong

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19 Kammer, xiii
20 Ibid, 235
side of the line,” and maintenance of the sub-surface resource joint-ownership arrangement. A final partition line was drawn in 1979. Relocation efforts began in 1978 and continued into the first decade of the 21st century; a majority of early relocatees were given housing in off-reservation urban areas. As the majority of JUA residents were elderly, illiterate, and skilled in non-transferable ways (i.e. in farming and livestock raising), urban relocations proved to be disastrous. By the late 1980s people were mostly being relocated to reservation border towns. By 1996 relocation had cost $350 million, far exceeding the $30 million that had been earmarked for the project. A handful of the Navajo families who forcefully resisted relocation are still living on the land they claim to be theirs by right of history and heritage.

Neither Congress nor the courts engaged with the humanitarian and cultural implications of the relocation law. Following the precedent of the 1930s Navajo stock reduction policies – in which federal bureaucrats concerned with deteriorating range conditions ordered a “livestock reduction” that cut Navajo herds in half, crippling the Navajo economy and threatening Navajo culture – both bodies approached the land dispute issue as a material and technical problem. They did not acknowledge the extent to which ideological, cultural, and political concerns were integral to the dispute. In Senate Hearings and public meetings the Navajo, Hopi, and anthropologists presented such concerns to Congress emphasizing the social, psychological, and emotional stresses.

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23 Benally, Bitter Water, xiii
24 White, The Roots of Dependency, 316-323. In his analysis of the way in which the 1930s stock reduction policies effectively made Navajo people dependent on government handouts, White makes this same argument. He points out that the stock reduction policy was designed and implemented as a technical fix to a falsely conceived technical problem - historical, cultural, environmental, and cultural conditions were not dully considered.
relocation would cause. The congressional committee tasked with reviewing proposed bills did not solicit information about how a strategy of livestock reduction, partition, and relocation would impact JUA communities; neither did it recognize the way in which ideological politics and conceptual biases affected the process of resolution.

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**Claiming Facts: Historical Narratives and Interpretations**

In 1974 Congress enacted a bill to “provide for the final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes to and in lands lying within the joint use area.” From correspondence between the Senate Interior Committee charged with resolving the dispute, and the anthropologists they solicited for “objective, unbiased sources of data,” it is clear that Congress thought the land dispute was predicated on a long-standing inter-tribal conflict. The Navajo and Hopi had their own narratives.

The Navajo tribal council began to engage with the dispute in the late 1950s when it was first submitted to court. Their rationale was not codified until after the 1962 *Healing vs. Jones* court ruling that declared the Hopi and Navajo had “joint, undivided, and equal interest” in the disputed territory. While subsequent council resolutions did not

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25 1972, 1973, 1974 Senate Hearing Documents in David Aberle fonds, University of British Columbia Archives

26 Henry Jackson, Chairman of Senate Committee on Interior and Insular Affairs, letter to David Aberle, January 29, 1973, 1973 Senate Hearing Documents, in David Aberle fonds, University of British Columbia Archives


28 Henry Jackson, letter to David Aberle
reflect the council’s interpretation of the causes of the dispute, a narrative about what it involved began to take shape. From the beginning the consistent claim of the Navajo was that, “the people who have been living on the land for more than a century have been predominantly Navajos, most of whom are livestock herders … and expulsion from the area on which they and their ancestors have lived for decades would be a serious hardship on the Navajo families affected.”29

As the dispute heated up in the early 1970s, and Peter MacDonald took over as tribal chairman, the council’s narrative became more forceful. In an undated “Background Information Memo [on the] Navajo-Hopi Land Dispute” the council presented their interpretation of what was at the root of the conflict, and what was at stake. Acknowledging that the issue involved “an historic dispute between the Navajo and Hopi Indians,”30 the memo claimed that non-Native interests and actors significantly exacerbated the antagonism: “the Navajo-Hopi land dispute is an outgrowth of the settlers’ persistent eviction of the Navajo from his homesite.” It pinned the conflict to the ambiguity of the 1882 Executive Order and the U.S. government’s “mistakes” and “mismanagement.” The memo also claimed that the federal government became interested in resolving the issue only with the advent of mineral exploration (post World War II). Finally, it reflected the council’s desire to claim political power and resolve the issue locally - several pages of the memo were dedicated to showcasing prospects for peaceful coexistence and resolution between the Navajo and Hopi.31

29 Navajo Tribal Council Resolution CAP-39-72, Navajo-Hopi land commission office, Window Rock, AZ. This same language was used in all subsequent resolutions.
30 Undated memo in Navajo Nation Public Relations Documents, in David Aberle fonds, University of British Columbia Archives
31 Ibid.
Literature on the Navajo-Hopi land dispute has not interrogated the process by which this or any other “Navajo narrative” developed. Existing historical accounts tend to reinforce binaries of Navajo vs. Hopi and Indian vs. Non-Indian. Invoking old tropes of historiography on Native Americans, they limit our understanding of the Navajo-Hopi land dispute’s historical legacy. Foregrounding local intra-tribal negotiations sheds light on the ways in which political, cultural, economic, and historical influences interact in constructing discursive as well as material reality. Doing so allows us to appreciate the complexity of history while gaining insight into the ways in which it maps onto the present. The Navajo-Hopi land dispute has a specific history that began (formally) in 1958 and ended in the early 2000s. And yet it extends beyond those markers in having affected peoples’ and institutions’ narratives about themselves. Interrogating this discourse allows us to critically examine history as an interpretive act.

Emily Benedek’s 1992 book *The Wind Won’t Know Me: A History of the Navajo-Hopi Dispute* is one of the most referenced histories of the dispute. Benedek’s work engages with the chronology of the dispute by personalizing its complicated legal history. According to Benedek, coal companies, who found it easier to work with the Hopi Tribe, colluded with the U.S. federal government to expel Navajo from the land. Benedek criticizes non-Indian agents – energy executives, the courts, BIA, Congress, relocation commission - arguing that if the tribes themselves had worked it out, a more equitable solution would have been reached.32 She does not, however, acknowledge the diversity of perspectives that existed within each tribe. Neither does she pay attention to the discursive negotiations they respectively engaged in. The book has been critiqued for

taking a "pro Navajo" stance (as she harshly criticizes the Hopi tribal council) and, in
claiming that the "real Hopi" sided with the Navajo traditionalists, de-emphasizes those
Indians that did act as "bad guys."33

The two other most cited works – David Brugge’s 1994 book *The Navajo-Hopi
Land Dispute* and Jerry Kammer’s *The Second Long Walk: The Navajo-Hopi Land
Dispute* (1980) – arrive at similar conclusions. Brugge, who was a researcher for the
Navajo in the early 1960s, focuses on the proceedings of the court case that ended in the
1962 *Healing vs. Jones* decision. He downplays the antagonism between the two tribes,
arguing that interests in mineral wealth, which was believed to underlie the 1882
Reservation, motivated the case and the politics it inspired. According to Brugge,
stereotyping and prejudice against the Navajo were decisive to the final outcome.34
Adding to this line of argument, Kammer emphasizes the divisions that existed within the
Hopi tribe. He argues that a small group of Hopi tribal council leaders – most notably
Chairman Abbott Sekaquaptewa – pushed Navajo removal in the interest of obtaining
grazing leases on the JUA.35

Legal scholars James Goodman and Gary Thompson contributed a
different analysis in examining the ways in which the dispute raised questions
about the state of Indian self-determination. Written in 1975, their article focuses
on the influence political economy, institutions, and culture had on the process of
resolution. Like Benedek, Brugge, and Kammer, Goodman and Thompson

34 Brugge, *The Navajo-Hopi Land Dispute*. Like Benedek’s this work is biased in the Navajo direction; Brugge book is less of an historical work than a first-hand account – he had worked with the Navajo Tribe as a researcher for the *Healing vs. Jones* case.
35 Kammer, *The Second Long Walk*
maintain that energy politics were instrumental in shaping the process and final resolution of the dispute.\textsuperscript{36}

As all of these histories suggest, contestations of power and resource control were at the heart of the dispute. Over the course of the conflict, tribal leaders began to demand political autonomy from the federal agencies their own power was subordinated too. Elected at the height of the national movement for Indian self-determination, MacDonald asserted such claims more strongly than his predecessors.

A number of historians argue that this moment of the late 1960s and early 1970s was marked by a politicization of tribal leadership. As one scholar notes, tribal leaders “became increasingly politicized, and focused on implementing hard-won measures of securing self-determination.”\textsuperscript{37} But what it meant to secure “self-determination” was itself a political process. Conceptions of sovereignty were discursively and practically worked out in and through intra-tribal politics. The mobilization of traditional people who, as scholars write, have been concerned with the “substance of Indian life” was integral to this process of defining and advancing demands for greater tribal self-determination.\textsuperscript{38} Their rhetoric was appropriate to frame the nationalist “Navajo narrative” MacDonald would articulate in the aftermath of PL 93-531.

\textsuperscript{36} Goodman and Thompson, “The Hopi-Navaho Land Dispute,” 399
And yet it was not easily adopted or absorbed by tribal leaders, whose concerns were intertwined with the interests of American political economy. The tribal council’s discourse did not shift from being based in a language of economy to one of culture, politics, and identity until it became clear that Congress was not going to consider an alternative solution to the partition and relocation plan. JUA residents’ resistance to the “relocation law” – which they understood to be an act of economic imperialism – pushed the council’s narrative to become increasingly nationalistic and critical of the politics of energy development they had long been champions of.

**Oil, Political Adaptation, and the Navajo Tribal Council**

The tribal council is a relatively new and contentious form of governance for the Navajo. Since its founding in the early 1920s, the council has been a site of contestation in which ideological, economic, and political interests of Navajo people, tribal leaders, and the U.S. federal government have collided. As one scholar writes, the creation of a centralized system of tribal governance created a mechanism to manage tribal property but did not provide a “vehicle for cultural expression and some protection of the Indians’ right to be culturally different.”

Established by the U.S. federal government to facilitate the development of Navajo natural resources, it has struggled to gain legitimacy within the Navajo communities it governs.

39 Deloria and Lytle, *Nations Within*, 51
Scholars note that prior to the Bosque Redondo military internment in the 1860s, the Navajo were a politically decentralized cultural group. *Naataanii* (headmen or headwomen) led scattered clans of people containing anywhere from ten to forty families. There were *Naataanii* who led during times of peace and *Naataanii* who led during wartime. The *Naataanii* facilitated the spiritual as well as political life of the clan. They usually ruled for life, but were selected by community members in an effectively democratic process.\textsuperscript{40} Oral accounts passed down through families suggest that these leaders periodically gathered into regional assemblies called *Naachid*.\textsuperscript{41} The *Naachid* had both a ceremonial and political function. It was chaired by a War *Naataanii* in times of war, and a Peace *Naataanii* during times of peace. Anthropologist Aubrey Williams described the *Naataanii* as having the “role of a wise leader” who was expected to “combine mythological knowledge with wisdom in making decisions for his group.” According to Williams, the spiritual and political leader “operated within a social system that respected the individual” and where authority was achieved by “creating a favorable public opinion within the local group.”\textsuperscript{42}

U.S. military and government expansion into Navajo territory eroded this traditional form of governance. From 1864-1868 the U.S. military imprisoned the Navajo at Fort Sumner in Bosque Redondo in an effort to “civilize” them and, in the words of General James H. Carleton, make them “acquire new habits, new ideas, new modes of


\textsuperscript{41} Robert W. Young, *Political History of the Navajo Tribe* (Tsaile: Navajo Community College Press, 1978), 17

\textsuperscript{42} Williams, *Navajo Political Process*, 7
Internment dealt the traditional leadership a great blow; Naataanii became increasingly obsolete. They were further displaced in the second half of the 19th century by “Head Chiefs,” appointed by Navajo Indian agents and confirmed by the Secretary of the Interior. According to Aubrey Williams, these leaders were selected for their ability to speak English as well as “their cooperative attitude toward remodeling Navajo culture along lines that were prescribed by the [U.S.] Government.”

Appointed leaders gained traction in the changing geopolitical climate of the Southwest such that they effectively replaced traditional leaders by the early 1920s. Amenable (and accountable) to the U.S. Government, Williams argues that the new leaders represented “a new form of leadership which was inconsistent with the traditional Navajo culture.”

In the 1920s, tribal leadership was consolidated while federal oversight of Navajo governance was institutionalized and entrenched. Since 1901 the Navajo Reservation had been divided into six administrative districts that were overseen by separate agencies and effectively functioned as autonomous reservations. As the demand for oil increased in the United States in the early ‘20s, energy companies and the Department of the Interior turned their attention to the newly discovered and untapped energy deposits in the Southwest. Historian Kathleen Chambers attributes the political consolidation of Navajo leadership to this moment. Chambers argues that the prospects of energy development...
exposed a tension between the legal and structural underpinnings of the federally imposed system of tribal governance. While local leaders stood to gain from leasing rights to energy deposits in their districts, the resources technically belonged to the whole tribe (according to the Treaty of 1868). This issue emerged in 1921 when leaders of the San Juan administrative district tried to negotiate a lease with the Midwest Refining Company, which the Secretary of the Interior promptly vetoed contending that revenue from tribal resources had to be distributed across the tribe. In an attempt to resolve the local-tribal dilemma, the Secretary selected three district headmen – Chee Dodge, Charlie Mitchell, and Dugal Chee Bekiss – to serve on a “Business Council” and negotiate leases on behalf of the whole tribe (though the Secretary retained veto power). The Business Council was turned into the Navajo tribal council (with representatives from all six districts) in 1923. Although council members were to be elected by Navajo people, scholars argue it continued to be “organized and manipulated by outsiders.”

Jurisdictional rivalry accompanied this process of political consolidation. Leaders of the San Juan district were particularly opposed to it, wanting to maintain autonomy and control over revenue generated from oil development in the San Juan area. This was somewhat appeased by the establishment of a chapter system (originally referred to as “Livestock Improvement Associations”) in the 1930s. Each chapter was led by an elected

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48 Iverson, *Diné*, 135. This argument is representative of the literature on Navajo political history.
49 Lawrence C. Kelly, *The Navajo Indians and Federal Indian Policy, 1900-1935* (Tucson: University of Arizona Press, 1968), 65-69, and Chamberlain, *Underneath Sacred Ground*, 34-38. This contestation shaped the politics of the 1920s. Ironically, the most notable advocate for maintaining a regional system of governance and resource management, Jacob Morgan, served a term as Chairman in the late 1920s.
president and vice-president. Funded by the federal government, the chapter effectively implemented government programs and development projects while also serving as forums for political dialogue.\textsuperscript{50} It functioned as a discursive and administrative link between tribal government and local communities throughout the 20th century. Power was not, however, bi-directional. Without substantial authority or independent funding, chapters could do little to challenge the Navajo central government.

Although the establishment of the Business Council had stripped local leaders of their authority in economic matters, they were not politically disenfranchised until the Secretary of the Interior expanded the council’s purview and turned it into the Navajo Tribal Council. Chee Dodge was elected as the first council chairman. He was popular among the Navajo but also appealed to the vision of the tribe held by the Department of the Interior. In 1914 Dodge had written a letter about the status of Navajo unity to then Secretary of the Interior Franklin Lane indicating his amenability: “‘Our reservation ought to be kept intact and land within the reservation ought to be secured for us.’”\textsuperscript{51} In later correspondence he assured the Department of the Navajo desire for oil “development,” and appreciated the Secretary and Commissioner of Indian Affairs for their wise “supervision of our interests.”\textsuperscript{52} Historian Peter Iverson offers insight into the significance of this moment in Navajo political history noting that the establishment of the council officially marked the end of Navajo isolation and independence.\textsuperscript{53}

\textsuperscript{50} Wilkins, \textit{The Navajo Political Experience}, 81-82 See also Young, \textit{A Political History of the Navajo Tribe}, 33-50
\textsuperscript{52} \textit{Ibid}, 5-8
\textsuperscript{53} Iverson, \textit{The Navajo Nation}, 22
From the very beginning, the tribal council’s economic and political authority was compromised by its relationship to its federal overseers. In 1923 the first council approved a resolution granting the Commissioner of the Navajo Tribe the authority to sign ‘on behalf of the Navajo Indians’ all oil and gas leases. Government officials had allegedly assured the council that if they granted this authority the tribe would be given new territory. Federal government agencies effectively controlled the tribal council in its early iterations: the Commissioner of Indian Affairs drafted the document outlining procedures the council was to follow, meetings of the council could only be held in the presence of a federal representative, and meetings could only be called by the Commissioner. In its first decade of existence the council met only once a year; scholars argue that it functioned as little more than an advisory body to the Commissioner of Indian Affairs, and had little significance to Navajo people. It became relevant to the broader populace only in the 1930s and ‘40s when it approved and participated in the highly controversial Livestock Reduction Program that dramatically reduced Navajo herds and, in so doing, transformed the Navajo economy. The program raised the profile of the council making its power and significance clear to the Navajo people.

Scholars Vine Deloria and David Wilkins offer a compelling analysis that effectively fits together the pieces of this history:

In the vital areas of self-government and the protection of tribal natural resources particularly, there has been only grudging recognition of the sovereign political rights and viability of Indian tribes. Thus tribes find themselves in a condition in which they have a

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54 Williams, *Navajo Political Process*, 163
partial responsibility for their actions but are unable to withstand the application of arbitrary pressure by the federal government. The Navajo tribal government would struggle with this conundrum throughout the 20th century.

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**Livestock Reduction and the Makings of a Dependent Nation**

The Livestock Reduction Era was arguably the most significant “event” in 20th century Navajo history. The program – designed and implemented by the Department of the Interior and BIA – impounded nearly half of all Navajo sheep, cattle, and goat herds in an effort to ameliorate the deteriorating conditions of Navajo rangeland. While the most significant policies were enforced in the 1930s, the BIA and Department of the Interior made several attempts to reduce herds throughout the 1920s. The politics of this roughly twenty-year period transformed Navajo politics, social life, and economy. As historian Peter Iverson writes: “stock reduction influenced Diné attitudes toward not only land use, but also tribal government, education, health care, and religious observance.”

Scholars argue that the program was a disaster in large part due to the fact that the BIA

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55 Vine Deloria Jr., and David E. Wilkins, *Tribes, Treaties, and Constitutional Tribulations* (Austin: University of Texas Press, 2000), 159

56 Iverson, *Diné*, 137
approached the problem from a technical point of view and thus underestimated the extent to which livestock were important to Navajo cultural and social organization.\(^5^7\)

Livestock reduction exacerbated divisions within the Navajo, as well as between the Navajo and the federal government. Responding to the resulting political stalemate, the Secretary of the Interior imposed a kind of placeholder political system that structured Navajo governance for half a century. This system effectively subordinated Navajo leadership to the ideological and geopolitical interests of the federal government.

Commissioner of Indian Affairs John Collier’s promotion of livestock reduction policies, as well as of tribal self-determination, indelibly marked the politics of the 1930s and ‘40s. In 1934 Collier got the Federal Indian Reorganization Act (IRA) to pass in Congress, which was designed to encourage tribal self-government and bolster protection of tribal lands. The Navajo did not accept the act, in part because of their anger at Collier for implementing the stock reduction program. Although the Navajo opted out of the IRA, they followed the new precedent and drafted a constitution. In 1937, the Navajo submitted a tribal constitution to the Secretary of Interior for approval. The Secretary of the Interior rejected the document, issuing instead a set of by-laws the tribal council would follow into the 1980s. While it was pending, internal divisions over issues of grazing controls, stock reduction, and the definition of the reservation boundaries as well as resistance against the authority of the tribal council from a small “separatist party” stopped consideration among the Navajo of the constitution.\(^5^8\) These “Rules For the Navajo Tribal Council” set up a governing body consisting of a chairman, vice-chairman

\(^{57}\) Peter Iverson, Diné, 97-104; White, The Roots of Dependency, 316-323; Weisiger, Marsha L, Dreaming of Sheep in Navajo Country (Seattle: University of Washington Press, 2011), xv-xix

\(^{58}\) Young, A Political History of the Navajo Tribe, 106
and seventy-four delegates (elected from land management districts). Members of the council were to serve a four-year term. Delegates from each district chose one among them to be chief delegate, who then would be a member of the executive committee. The executive committee acted in place of the tribal council between meetings of the council. The rules delineated that the tribal chairman may be elected for only two terms, and that no person could serve as a delegate if he was "in the employment of any State or private employer with business interests on the Navajo Reservation." They also established that meetings of the tribal council would have to be called by the Commissioner of Indian Affairs, based on the request of a majority of the executive council.

These internal infrastructural developments did not substantially change the nature of the council’s relationship to either the federal government, or Navajo localities. In his analysis of the livestock reduction era historian Richard White writes that the council was, “perceived by most Navajos as essentially an alien institution, its offices were often filled by those who had the most experience in dealing with Anglos.” White cites a study of Navajo governance that explained the council’s role succinctly: “The councilman’s function, as he and the community see it, is not to represent Shonto as the seat of government … but to represent government at Shonto.” At least some councilmen were aware of their compromised position. During this period one delegate, Tsehe Nota, explicitly blamed the government for calling in the council only to sign off on programs the government planned to implement. “We have not as yet made plans for

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59 Wilkins, Navajo Political Experience, 239
60 White, The Roots of Dependency, 257
61 Ibid.
our own people. It has always been the government making plans for our own people,”⁶² Nota remarked. This awareness may have, as White argues, caused internal conflict for many delegates, but it was not yet strong enough to manifest politically.

The council remained a political dependent of the U.S. federal government. Even the BIA recognized how far the Navajo Nation government had to go to be democratic. In a 1963 memorandum written to the Commissioner of the BIA, Chief Tribal Operations Officer R.W. Quinn wrote:

The absence of ‘ground rules’ [i.e. a constitution] places the electorate largely at the mercy of the Tribal Council. The Tribal Council and not the electorate determines its authority, tenure in office, and in fact its own size and representation. Thus it has the freedom of a General Council without the need to deal directly with the electorate.⁶³

Historians claim the BIA’s Livestock Reduction program, “took a self-sufficient people, who had supported themselves for at least two centuries with pastoralism and agriculture, and turned them into dependents, who came to rely largely on welfare and what little wage labor they could find.”⁶⁴ The program transformed the Navajo economy and upset social relations through most of the reservation pushing more and more people to look for wage-labor jobs. And, like the Navajo-Hopi land dispute would decades later, it reinforced Navajo distrust of the federal government while generating significant discourse about the ways in which Navajo culture, resources, and economy were intimately intertwined.

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⁶² Ibid, 302; also in Iverson ed., For Our Navajo People, 185-186
⁶³ Navajo Tribal Council Collected Papers; Central Classified Files 1958-1975, Box 20; General Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building, Washington, DC
⁶⁴ Weisiger, Dreaming of Sheep in Navajo Country, 4. In The Roots of Dependency Richard White makes this same argument.
The livestock reduction program was comparable to the land dispute in two other significant ways: interests in energy development principally motivated its implementation, and it was culturally ill conceived. In 1928 the Boulder Dam (later renamed Hoover Dam) was commissioned to generate electricity for growing populations in southern California and the Southwest. In the course of the Dam’s construction it became apparent that silt from upriver could threaten the entire project. The U.S. Geological Survey reported that the silt problem stemmed from the erosion being caused by overgrazing on the Navajo reservation. White writes, “the urgency which came into the attack on overgrazing during the New Deal was a direct result of this growing perception of a threat to the economic development of the whole region.”

Livestock Reduction affected the economy and social structure of the reservation, the everyday lives of people, and the tribal government. It shifted the nature of the relationships between the Navajo people and the tribal government, as well as between the Navajo and the federal government. Historical analyses of the Livestock Reduction Era suggest that its impact on the Navajo nation was somewhat paradoxical. One the one hand it created conditions of dependency that forged a deeper link between politics and political economy. On the other, by inflaming Navajo distrust of the federal government it “hastened the evolution of Navajo nationalism.” Indeed, the Navajo nationalist discourse that emerged some forty years later would refer to livestock reduction as an example of the problematics of federal control of Navajo resources and decision-making.

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65 White, *The Roots of Dependency*, 251-252
66 Wilkins, *Navajo Political Experience*, 30
“We must look for other means”\textsuperscript{67}: Modernizing the Economy

According to Robert Yazzie (Navajo Chief Justice Emeritus), Navajo cosmology is centered on a belief that the world is made up of two life forces – Hozho (good) and Nayee (bad) – that are constantly working in opposition to one another. These bi-polar forces are believed to be the make-up of everything in the world, meaning that any element is understood as having both beneficial and harmful potentialities. The difference in whether the positive or harmful potential is released depends on how things, elements, are used. Navajo stories educate people about what each element is made for and thus how it should be treated. One story tells of how the world was once out of balance because Nayee forces had risen up to be of greater strength than Hozho. The holy people restored balance by burying the Nayee forces, where they became what we now know as energy resources – coal, oil, and gas. In their natural state – underground – these things do not harm the world as they are in their right place. But, as the story goes, when they are extracted the bad forces are released. Yazzie maintains that for many Navajo this story explains how energy extraction and consumption has had such negative environmental and health impacts.\textsuperscript{68} It encourages people to use land and natural resources lightly, and without fundamentally changing the states within which they are found.

\textsuperscript{67} Councilman Ned Hatathli in Iverson, \textit{For Our Navajo People}, 198-199. On October 14, 1955 Hatathli made a speech to the tribal council urging them to think about how to develop human as well as natural resources. He argued that grazing lands had reached their capacity and so the council had to “look for other means” of livelihood for younger generations. \\
\textsuperscript{68} Robert Yazzie, J.D., Executive Director of the Diné Policy Institute, Navajo Chief Justice Emeritus, Interview with author, Tsaile, AZ, March 27, 2012
Throughout the 1950s, ’60s, and ’70s Navajo tribal leaders were increasingly stretched to balance this cultural paradigm with the pressures of American political economy. Buried Nayee forces were the greatest untapped source of wealth. As one scholar argues, “the Navajo Tribe, after 1950, was well on its way to becoming a “big business” in the Southwest.” Industrialization and economic development increasingly preoccupied the tribal council, shaping governance and discourse.

In the aftermath of WWII Collier’s “retribalization policy,” implemented under the IRA, was rolled back to be replaced by economic programs aimed at integrating Native Americans into mainstream society. The ensuing “termination years” were devastating for tribes cut off from federal assistance programs; the Navajo became increasingly assertive and willfully independent. Scholars argue that throughout the late 1940s and ’50s the Navajo were able to regain ground they had lost during Collier’s administration and “reaffirm their government-to-government relationship with the United States.” Drawing attention to the large number of Navajo men and women who had left the reservation in the war years, Iverson maintains the Navajo “gained new perspectives that challenged the status quo and encouraged self-determination.” He posits that as these new perspectives were applied to questions of tribal governance and aspirations of self-rule “the Navajo “tribe” started to become the Navajo Nation.” In the decade following the war the tribe requested federal government assistance in addressing crises in education and health services on the reservation. While the tribal council worked

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69 Young, *Political History of the Navajo Tribe*, 139
71 Kenneth Philip, *Termination Revisited* (Lincoln: University of Nebraska Press, 1999), xii; See also: Fixico, *Termination and Relocation*
72 Iverson, *Diné*, 181
with the government to put together these social and economic development plans, council members began to criticize federal paternalism, demanding greater political and legal authority. In an effort to assert independence, the tribal council hired its first attorney, Normal Littell, in 1947.

A Rhodes Scholar, Littell had worked as assistant solicitor in the Department of the Interior and headed the Lands Division of the Department of Justice from 1939-1944. Littell quickly gained the confidence of Navajo leaders by successfully repealing many of the harsh grazing regulations established during the livestock reduction program. According to one scholar he also succeeded in “helping to make the tribal government a far more ambitious and independent presence … from 1947-1957, the Council approved 2,300 resolutions, nearly ten times as many as it had passed in the previous two decades.”73 As the only legal expert employed by the tribe, he had a considerable amount of influence in tribal matters. In 1957 Littell exerted this influence toward the Navajo-Hopi boundary dispute, convincing the tribal council that they should submit the issue to federal court.74

Littell’s position was, however, short-lived. Chairman Raymond Nakai (elected in 1963) fired Littell soon after he took office claiming he had “too much power and made too much money.”75 Nakai’s administration ushered in an era of change in economics, education, and the social development landscape of the reservation. Iverson writes, “the era showed the Diné attempting to prove that their reservation could be a viable place to

73 Ibid, 209
74 Navajo Tribal Council, CM-43-57, meeting notes; Kammer, The Second Long Walk, 46
75 Iverson, Diné, 228
live, not only socially but economically. Nakai also eased enforcement of the regulations against peyote use on the reservation and spoke out against grazing restrictions, which gave him support from factions of more “traditional” Navajos.

Nakai made rhetorical demands for political self-determination without fundamentally challenging the economic or ideological politics underpinning the tribal-federal relationship. In his inaugural address he gestured at pledging to secure greater autonomy for Navajo people saying “I will seek advice from our non-Indian consultants, but not take orders from them, not permit them to give orders to the personnel of my administration … for political advice, I will go to the people.” And yet he followed the precedents established by the first generations of council leadership, and instituted policies that did not challenge non-Navajo economic interests. Under Nakai’s leadership the council passed a resolution in 1964 “invite[ing] and encourage[ing] investment by private capital to develop the extensive natural and human resources of the Navajo Reservation.” Ultimately, Nakai’s administration attempted to build a Nation in which every Navajo could “stand erect beside his fellow American as an equal among equals,” but on Anglo-American terms. Debates about what it meant to be Navajo, and how that was distinct from being American, were yet to come.

Chairman Nakai made economic development a priority; by the end of his first term the federally funded Office of Navajo Economic Opportunity (ONEO) – which would become quite powerful and influential – had emerged. The ONEO focused on

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76 Iverson, *For Our Navajo People*, 83
77 Chairman Raymond Nakai, inaugural address, as quoted in Iverson, *Diné*, 228
78 Wilkins, *Navajo Political Experience*, 100
79 Chairman Raymond Nakai, inaugural address, as quoted in Iverson, *Diné*, 228
local development and was to be internally directed and informed by local input. It facilitated a wide range of projects on everything from education and youth empowerment to community building, cultural preservation, and legal services. Many Navajo, including Chairman Peter MacDonald, would promote the ONEO as a symbol of progress in the struggle to secure political self-determination. Others would push back against this claim arguing that such programs of self-administration frustrated the attainment of true sovereignty.  

In an effort to finance the expansion of tribal bureaucracy and “modernize” the Navajo economy, the Nakai administration focused its attention on promoting and facilitating industrial development. By 1966 the Council had directed $1 million toward assisting private industries in development projects. These included: Fairchild Semiconductor of Shiprock, Navajo Concrete, the Armex Corporation of New Jersey, the Westward Coach Corporation, Fairchild Camera and Instrument Corporation, and General Dynamics Corporation.

Industrialization impacted the reservation politically, socially, and economically. Throughout the 1950s federal and tribal governments paved roads and developed infrastructure to facilitate industry, and the extraction of energy resources. While oil and gas had been discovered in the 1920s and ‘30s, production did not boom until the ‘50s. Leasing was complicated by the fact that stakeholders did not know who had the authority to grant access to Navajo resources. BIA area directors wrote letters to their

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81 Kelley, *Navajoland*, 137-139; Chamberlain, *Underneath Sacred Ground*, 89-92
superiors asking for clarification as to their own authority in approving leases; throughout
the first half of the 20th century this jurisdictional ambiguity was the subject of
correspondence between Indian Agents, the BIA administration, and the Department of
the Interior. Despite such legal ambiguities, the BIA negotiated the terms of leases, and
the Secretary of the Interior signed off on them. Resolutions passed by the Navajo tribal
council in 1945 and 1954 institutionalized these arrangements, authorizing federal
bureaucrats to lease tribal lands. Coal mining began in the early 1960s. The Navajo
signed their first coal lease with Utah Mining and Manufacturing for the Four Corners
plant in 1961; agreements with Peabody Coal Company (for sites on Black Mesa, which
meant royalties were split with the Hopi) followed in 1964 and 1966.

Having underwritten the establishment of the Navajo tribal council, private and
federal interest in Navajo energy reserves continued to shape governance into the 1970s.
The nature of the Navajo Nation’s natural resource endowment may have contributed to
increasing centralization of power within the Nation, and the subordination of local
corcerns to national interests. According to Ronald Maldonado, who was an aide to
Chairman Peter MacDonald in the 1970s, a centralized government was “important
because otherwise the money and development would only go to one area.” Maldonado

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82 Oil and Gas Lease Negotiations and Correspondence; Central Classified Files 1940-1957, Box 129;
General Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building,
Washington, DC
83 In 1945 authority was given to BIA area directors, and in ’54 to the Secretary of the Interior. In ibid.
84 Iverson, *The Navajo Nation*, 105. Iverson has a good discussion of the politics and pressures of this
development as well as the “miscalculations” of the Navajo.
85 The BIA and Department of the Interior did not try to hide their intentions in establishing the Tribal
Council. A 1963 internal memorandum of the BIA on “Navajo Tribal Government” explicitly stated that
the Navajo Tribal Council was created “primarily to negotiate oil leases.” Navajo Tribal Council Collected
Papers; Central Classified Files 1958-1975, Box 20; General Records of the Bureau of Indian Affairs,
Record Group 75; National Archives Building, Washington, DC
added that a strong institutional body was also “necessary to be able to negotiate the tension between economic development and culture.”

Energy development accounted for a substantial amount of tribal revenues, but it did not come without a cost. By 1970 negative environmental and social consequences of, in particular, uranium and strip-mining were becoming increasingly apparent on the reservation. Ground water supplies and grazing areas were being contaminated. Families displaced by strip-mining on Black Mesa complained that they had not approved of the operations or agreed to trade in their land and livestock and relocate. Scholars contend that the tribal council was often not given an accurate picture of what mining would involve; having never been to other places where strip-mining was employed, they did not know what to expect. While resistance to mining initiatives developed in localities most affected by threats of physical and cultural displacement as well as the ecological damages mining caused, the council continued to pursue energy-driven economic development.

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87 In 1964 oil and gas revenues peaked at $31 million. In 1965 they dropped to $18 million and from 1967-1970 they contributed an average of $8 million annually. Iverson, Diné, 242
88 Ibid; Chamberlain, Under Sacred Ground, 96-98
A Geopolitical Discourse: Land, Culture, and Commodities

The tribal government’s pursuit of economic development in and through natural resource extraction provided revenue needed to support community development initiatives. But as the Secretary of the Interior had to sign off on all negotiated lease agreements, it also reinforced the council’s status as a political dependent. Thus compromised, the Navajo central government was not a space in which distinctly non-Western ideologies were substantively entertained.

BIA records from the 1940s to mid ‘70s evidence the extent to which Navajo voices were absent from conversations about how natural resources should be managed, and the extent to which energy companies pressured the Department of the Interior to open tribal lands to leasing. Information regarding Navajo natural resources circulated between the BIA, the Department of the Interior, and energy executives – by the time it reached the tribal council it had been selectively condensed and packaged. This is important history to consider in evaluating the Navajo government’s endorsement of oil, gas, and coal extraction.

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89 It is important to note that this claim (that reflects a broad consensus in scholarship) has been contested. Citing studies from 1974 and ’75 Wood et. al argue: “most government development funds are marked for the infrastructure of the economy rather than for the development of productive capital … [and] resources are controlled and exploited by outside interests with relatively few returns for the reservation economy.” Wood, Vannette and Andrews, Sheep is Life, 23.

90 Oil and Gas Lease Negotiations and Correspondence; Central Classified Files 1940-1957, Box 127; General Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building, Washington, DC; Oil and Gas Lease Negotiations and Correspondence; Central Classified Files 1940-1957, Box 128; General Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building, Washington, DC; Oil and Gas Lease Negotiations and Correspondence; Central Classified Files 1940-1957, Box 129; General Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building, Washington, DC; Oil and Gas Lease Negotiations; Central Classified Files 1958-1975, Box 53; General Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building, Washington, DC
Decisions made to endorse energy extraction on tribal lands had to be negotiated in light of traditional Navajo teachings and ethics. Members of the tribal council had grown up hearing stories like those recounted by Robert Yazzie and, perhaps, believing in their wisdom. Nonetheless they faced a serious dilemma: the greatest sources of wealth available to them were buried Nayee forces, and yet they had to develop an economy capable of supporting a nation. Throughout the 1960s and ‘70s, Navajo leadership had to figure out “how to respect and maintain tradition while living in a modern world.” Their dynamic negotiation of the very real tension between culture and economic development had material as well as socio-political and cultural implications.

In 1969, the council drafted and passed a “Navajo Range Code” articulating their position vis-à-vis land, resources, and their appropriate use. It delineated relationships of authority while reflecting on the extent to which the tribal council had appropriated a non-traditional conceptual framework in which political economy was privileged above culture.

The disputed territory in the 1882 Executive Order Reservation falls within the category of “Tribal Trust Land,” which the Code defined as: “land, or any interest therein, held by the United States in trust for the Navajo Tribe, and land that is held by the Tribe subject to Federal restrictions against alienation or encumbrance.”

91 Ronald Maldonado, interview with author, Window Rock, AZ, March 28, 2012. Mr. Maldonado was an aide to Chairman MacDonald in the 1970s.
92 Ronald Maldonado in Ibid.
93 Resolution of the Navajo Tribal Council, CMY-33-69, Navajo-Hopi Land Commission Office, Window Rock, AZ.
94 Ibid. Edgar S. Cahn makes an interesting and important point regarding the significance of this relationship in the context of Healing vs. Jones and PL 93-531 (both decisions decided subsurface resources should remained jointly owned): “The provision for joint ownership under Secretarial supervision leaves open the question of what would happen if the two parties cannot reach agreement on subsurface
commissioned by the tribal council, the Code reflects on the jurisdictional relationships governing tribal resources, as they existed legally, and as the council perceived and accepted them. Legally and practically the U.S. Government is the ultimate arbiter of tribal trust land. As representatives of the “Navajo Tribe,” the tribal council manages the land, deciding the terms by which it may be used and claimed. Individual Navajo people, assigned plots of land by the Tribe, have authority to make decisions about land and natural resources (which might mean leasing) only if specifically given that right in the terms of the assignment. Within this arrangement the tribal council functions as both the face of “the Navajo” to the U.S. Government, and the intermediary between the government and the individual Navajos who live on and use land having legal title to it.95

The Code also offers insight into the ways in which the council conceived of the use-value of land and other natural resources in the years leading up to the final resolution of the land dispute. The Range Code had three objectives, to:

1) “Preserve, through proper grazing management, the land, water, forest, forage, wildlife and recreational values of the Off-Reservation area”

2) “Promote use of the range resources by Indians to enable them to earn a living, in whole or in part, through the grazing of their own livestock.”

3) “Balance the rights and equities of the individual land owners and Tribal programs through the granting of grazing privileges in a manner which

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lease terms. It is likely that the Secretary of Interior will assert he has residual power as trustee to break the deadlock to make sure that one tribe's intransigence does not stand in the way of facilitating access to coal deposits." Edgar S. Cahn, By Executive Order: A Report to the American People on the Navajo-Hopi Land Dispute (DC: Citizens Advocate Center, 1982), 201

95 The Code also outlines relationships of authority in terms of livestock and grazing rights. The Code spells out that grazing regulations “are effective for all Navajo Indian lands and Government lands under the jurisdiction of the Bureau of Indian Affairs except as superseded by special instructions from the Commissioner of Indian Affairs or by properly approved Tribal action.” Decisions regarding grazing, the most contested and fundamental form of land use for the residents of the JUA, involved principally the Commissioner of Indian Affairs, bureaucrats working under him for the Bureau of Indian Affairs, and, nominally, the Tribal Council.
will yield a fair return to land owners consistent with undiminished future uses.”

Absent from these objectives is a cultural rationale for protecting and preserving resources. Within Native scholarship there is a broad consensus that land is particularly significant for indigenous communities because “as land is alienated, all other forms of social cohesion also begin to erode, land having been the context in which the other forms have been created.” For the Navajo in the middle decades of the 20th century, land was significant as a conceptual and physical site of negotiation between notions of utility and notions of sacredness.

This tension was worked out discursively in the Navajo government’s discussions about territory and how it ought to be managed. Until the Navajo-Hopi land dispute came to a head the council seemed to primarily engage with the natural world as an exploitable and economic resource. This began to shift in 1974 when the JUA was divided and its residents faced with being displaced. As residents resisted, the Navajo government appropriated their rhetoric. MacDonald would adopt this rationale – of land as heritage – in his narration of the history and significance of the land dispute.

The Range Code’s language reflects a relationship to land and resources as economic commodities suggesting that, in 1969, the council did not associate questions about land

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96 *Ibid.* Reference is made to the “off-reservation” area because the resolution enacted the Navajo Range Code for “off-reservation” areas.

and land use with questions of tradition and national identity. “The range” – land and livestock - were promoted for their economic utility, not for their symbolic significance. Over the course of the next decade new articulations of sovereignty, and the politics of the Navajo-Hopi land dispute would challenge and ultimately shift this formulation. Because of the ways in which Navajo governance was developed around questions of resource management, the shift would impact not only narratives about resources, but also articulations of nationhood.
CHAPTER TWO

Contesting Circumscribed Sovereignty: Discourse of the 

Navajo Tribal Council

“Identification of self with locality is anathema to the logic of modern political economy”¹

"The challenge facing most tribal leaders is how to reconcile assertions of sovereignty with conditions of wardship and financial dependence"²

“To forceably remove Navajo Indian people from the land their forefathers have lived, died, and are buried on, will have seriously damaging emotional, cultural and social consequences”³ councilwoman Annie Wauneka told the Senate Subcommittee on Indian Affairs on April 17th, 1972. Wauneka appealed to the sympathy of Congressmen and women, presenting them with a stark image of what would happen if the bill they were considering passed. Her testimony foregrounded the ideological politics underpinning the land dispute.

² William T Hagan, American Indians (Chicago: University Of Chicago Press, 1993), 210
³ Dr. Annie Wauneka, testimony to the Senate Subcommittee, Senate Hearing 1972 in David Aberle fonds, University of British Columbia Archives. Wauneka, the daughter of Chee Dodge, was the second woman elected to the tribal council. She believed the Navajo were the victims in the Navajo-Hopi land dispute. According to biographer Carolyn Niethammer, Wauneka took issue with the language "Joint Use Area" claiming the Navajos were the only ones actually using the area. Wauneka believed that energy interests - in coal, uranium, and oil - were fundamental to the politics of the dispute: "In the early 1970s, the United States was facing an energy crisis, and a number of energy companies were eager to get access to these resources. Some companies saw the Hops as easier to deal with than the Navajo because Peter MacDonald had made it clear that he was determined to push for higher royalties and more control over mineral production on Navajo land." Carolyn Niethammer, I’ll Go and Do More: Annie Dodge Wauneka, Navajo Leader and Activist (Lincoln: Bison Books, 2004), 183
Emphasizing the extent to which the Navajo saw themselves as embedded in the landscape of their birth, Wauneka explained that JUA residents would protest relocation on the basis of their culturally informed world-views. She read selected statements from 2,024 JUA Navajo that Indian Mental Health Workers had interviewed a few months before the hearing. “All my relatives and I talk of defending our land if need be. We will not move. Our livestock will suffer and we will die of lonesimy. This land is too much a part of me. I live off her and she is my mind. The land makes me think of what to do and when,” one respondent had said. Wauneka explained that, “a loss of livestock and land by such a person is a blow to identity and self-esteem. Some of the likely effects are family disorganization and increased rates of depression, suicidal attempts, and violent crime.”

In May of 1973 a second group of Navajo testified before Congress. Mary Lou White, a resident of the JUA, reinforced Wauneka’s message; she explained that the JUA Navajo had no interest in being relocated because “this land is priceless to us.” Like Wauneka, White did not claim that the Navajo had a right to the land in question. Rather, she acknowledged the committee members’ authority and merely urged them to be compassionate. “We pray that we may stay where our present homes are with all of our livestock and continue to make more improvements on our land,” White stated.

Chairman Peter MacDonald and councilman Howard W. Gorman delivered more assertive testimonies, imploring the subcommittee to understand the meaning land and livestock had for JUA residents. Gorman brought up an historical precedent for the land

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4 Unnamed Navajo JUA resident in *Ibid.*
5 Dr. Annie Wauneka in *Ibid.*
6 Mary Lou White, oral presentation before the House Subcommittee on Indian Affairs, May 14-15, 1973, in David Aberle fonds, University of British Columbia Archives
dispute issue – the 1930s Stock Reduction Program – arguing that it had wreaked havoc precisely because Navajo culture and tradition had not been taken into account in the process of designing the policy. Gorman urged the committee to not make the same mistake saying, “It is important for you to realize that sheep and other livestock have a special meaning to us Navajos … this is the way the Navajos feel now and the way we felt in the 1930s.”

Unlike Wauneka and White, Gorman did not thank the committee at the end of his statement. He challenged them to turn the process of resolution over to the tribes themselves: “Ideally, we should be left alone to provide Indian solutions to Indian problems…rather than adopting legislation which would cause even greater poverty and heartache, you should be devoting your time and energy to making it possible for us to become truly self-sustaining.” Chairman MacDonald adopted a similar tone of defiance saying, “I will not and cannot countenance a wholesale destruction of the values and lives of over five percent of all Navajos.” He argued that partition and relocation would dislocate Navajo JUA residents from “their ancestry, their traditions, their livestock, and their way of life.” And yet, while defending this “traditional way,” he appealed to the congress men and women’s economic interests, discussing plans to continue development of “one of the largest coal deposits in the country.”

MacDonald ended his testimony with a supplication: “in summary, let me plead with you once more to let my people stay on the land which has been theirs for

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8 Howard Gorman, Statement before the House Subcommittee on Indian Affairs, May 14-15, 1973. in David Aberle fonds, University of British Columbia Archives
9 Ibid.
10 Peter MacDonald, Statement before the House Subcommittee on Indian Affairs, May 14-15, 1973, in David Aberle fonds, University of British Columbia Archives
11 Ibid.
12 Ibid.
generations.” The Chairman seemed to understand that his own authority was circumscribed - ultimately the land dispute would be resolved in and through the philosophical, economic, and political frameworks of the federal government.

Indeed, committee members were well aware of their power. In a 1973 letter soliciting “expert advice” from Anthropologist David Aberle, the Chairman of the committee wrote:

Congress has the complete constitutional authority to regulate Indian affairs. Consequently, it can legitimately consider any alternatives which would realistically put an end to the Navajo-Hopi land controversy, or at least initiate a process which leads to the eventual disappearance of this dispute, provide for better relations between the two tribes, and enable each tribe to determine its own destiny within reasonable limits. By passing new legislation, Congress can attempt to accomplish the above goals, regardless of actions taken in the past by different branches of the government. Given this carte blanche, what actions would you recommend Congress take in this matter?13

Throughout the course of the formal land dispute – from the late 1950s to the mid 1970s – the council struggled to reconcile its responsibility to represent the Navajo Nation with its complicated relationship to both the federal government, and its models of economic development. As a “domestic dependent nation,”14 legally subordinate to the federal government, and economically dependent on federal assistance as well as

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13 Henry Jackson, Chairman of the Interior Committee, 1973 Senate Hearing Documents, in David Aberle fonds, University of British Columbia Archives
14 This was the term ascribed to Indian Nations in Chief Justice Marshall’s 1831 ruling in Cherokee Nation v. Georgia, which determined the basic legal status of Indian tribes in relation to the federal government. United States Department of the Interior, Federal Indian Law (Washington: United States Government Printing Office, 1958), 138-139. Federal Indian Law is incredibly complicated, dynamic, and constantly contested. This publication of the Department of the Interior describes this complexity, and (perhaps inadvertently) the power dynamics underwriting it: “Because of circumstances of varying historical and legal importance, tribal Indians have been subject throughout our history to numerous treaty provisions and special or local laws enacted by Congress for their governance, some of which relegated many of them to a status variously described in court decisions by terms such as pupilage, tutelage, and wardship. It rests largely with Congress to determine when the remnants of that status or relationship shall cease.” In Ibid, 1
American energy companies, the council had a limited ability to substantively represent traditional Navajo perspectives. Such limitations were increasingly negotiated and contested by tribal leaders and Navajo people as the land dispute developed, arriving finally at a point of legal resolution.

Formalizing Measures: Referring the Dispute to Court

In the Senate Hearings of 1972 and 1973 Wauneka, White, Gorman, and MacDonald were responding to a situation that had been building for a little more than a decade. The land dispute had been formalized in 1958, when the Navajo and Hopi went to court against each other to settle their conflicting claims to the 1882 Reservation area. By submitting the dispute to court, Navajo tribal leadership inadvertently ceded their own political power and changed the representational politics of resolution.

On May 8th, 1957, the Navajo tribal council had unanimously passed a resolution endorsing congressional bills that would refer the "Navajo-Hopi Boundary Line Dispute"

15 There is an interesting dynamic here in that, as several scholars have observed, economic development was necessary to realizing self-sufficiency, and thus self-government. See: Lyman H. Letgers, and Fremont J. Lyden, eds., American Indian Policy: Self-Governance and Economic Development (Westport: Greenwood Press, 1993). According to scholar David L. Vinje, who examined Navajo economic development strategies in the 1960s and 70s, the Navajo tribal government assumed that "the combination of outside capital and tribal-owned mineral wealth [would] result in the creation of jobs for tribal members, as well as sufficient royalty income to assist the tribal government in establishing a more independent and self-sustaining reservation economy." Vinje notes that the Navajo Nation followed the development strategies implemented throughout the developing world in the 1950s and 1960s, which were based on the “extractive-based industrial activity” of large national and multinational companies. David Vinje, “Cultural Values and Economic Development on Reservations” in American Indian Policy in the Twentieth Century, ed. Vine Deloria, Jr. (Norman: University of Oklahoma Press, 1985), 169. Economic development by way of energy extraction may have been a means to an end for the Navajo, but it created new conditions of dependency as alternative paths to development were neglected and the Navajo economy became increasingly tied to revenues from mining and drilling (which had destructive health and ecological consequences). Kathleen Chamberlain, Under Sacred Ground: A History of Navajo Oil, 1922-1982 (Albuquerque: University of New Mexico Press, 2000), 99-103
to federal court. Resolution CM-43-57 approved H.R. 3789 and S. 962, which provided "for reference to the Federal Courts of the problem of determining the relative rights of the Navajos and the Hopis in the areas of conflicting land use within the area of the Executive Order of December 16, 1882." The resolution authorized the "officers of the Tribe and the General Counsel" (the tribal council) to represent the Navajo "for the purpose of bringing to a conclusion the long-standing conflict over land use between the Hopis and the Navajos." This resolution marked the beginning of the Navajo tribal council's formal and sustained engagement with what would become known as the Navajo-Hopi land dispute. Nominally, the conflict revolved around questions of resource control. And yet over the course of the next three decades it would galvanize discourse that in turn shaped the development of Navajo politics, governance, and conceptions of sovereignty.

Many Native scholars’ work is preoccupied with the ways in which “land, culture, and government” interact in shaping relationships between indigenous people and nation-states. These relationships reveal a long history of conflict between the resource needs of governments’ (local as well as federal), and native communities’ assertions of territorial control. As in the case of the Navajo-Hopi land dispute, communities have often employed logics and vocabularies of “indigenous culture” in

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17 Ibid.
their struggles to gain control over traditional land-bases. Native cultural paradigms, however, do not figure into the way that these contested territories are regulated.

Instead, a complex matrix of treaties and law govern Indian lands, the majority of which are technically owned by the federal government. These complicated legal arrangements generally derive from two foundational and somewhat contradictory principles: that tribes are independent and self-governing, and yet their independence is subject to the authority of Congress. As such, tribes’ status can be constantly regulated and modified.\(^\text{19}\) Scholars observe that the trust relationship – in which the federal government holds land “in trust” for tribes – has been a source of power for Congress, and assurance of federal supervision of tribal lands (through the Department of the Interior and the BIA). The federal government thus has control over tribal resources. It has a legal responsibility to protect them, but no clear mandate delineating what that means.\(^\text{20}\) This relationship has been further complicated by conflicts of interests within Congress as well as the Department of the Interior. For example, in the case of the Navajo-Hopi land dispute, men (including Stewart Udall, Sam Steiger, and Barry Goldwater) from the Southwest who were interested in securing resources to provide electrical power for Southwestern cities dominated federal leadership.\(^\text{21}\)


Given Congresses unique authority in the regulation of tribal trust lands, the Navajo and Hopi had to go through Congress to legally resolve their conflicting land claims. Their respective attorneys had been involved in drafting the bill - introduced by Stewart Udall, a Congressman from Arizona, and Senators Clinton Anderson (NM) and Carl Hayden (AZ) – that would do this.\(^22\) H.R. 3789 (and S. 692) authorized the chairman of each tribe, and the U.S. Attorney General, to “defend…an action against each other” in the United States District Court for the District of Arizona.\(^23\) The bill provided for a “determination of the dispute by a district court” explaining that such a measure was necessary because “with discovery of oil, gas, and uranium in the area” the issue has “become acute.”\(^24\)

Hatfield Chilson, Assistant Secretary of the Interior, had written a letter to the subcommittee encouraging them to pass the bill. His letter evidences the extent to which the official overseers of Indian Affairs promoted the centralization of tribal governance.\(^25\) Chilson maintained that the bill would strengthen “the recognized governing bodies” of both tribes by providing that these bodies would “represent all villages and clans

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\(^{22}\) David M. Brugge, *The Navajo-Hopi Land Dispute: An American Tragedy* (Albuquerque: University of New Mexico Press, 1999), 37-39. Littell and Hopi attorney John Boyden had worked on a similar bill that had been introduced in Congress in 1956. While it passed the Senate, the bill got forced back by the House on the basis of objections advanced by Hopi traditionalists. Language was then changed to authorize the Tribal Councils to act on behalf of their respective tribes. Brugge argues that this provision was designed to overcome the traditionalists’ opposition. Indeed, Assistant Secretary of the Interior Chilson acknowledged this motivation in his letter to the subcommittee of Indian Affairs in 1957.


\(^{24}\) Ibid.

\(^{25}\) The Hopi Tribe was beset by even greater political factionalism than the Navajo. To this day the Tribal Government is seen as illegitimate by many Hopi, who defend the authority of traditional religious leaders. Emily Benedek argues that reorganizing the Hopi political structure was a project undertaken by the BIA as mineral resources were discovered in the southwest. “By 1950, more than twenty oil companies were corresponding with the BIA superintendent over his progress in reorganizing a Hopi Tribal Council that could grant rights so that they could proceed with mineral exploration. The 1882 area has become one of the hottest untested sources of oil and coal in the nation.” Emily Benedek, *The Wind Won’t Know Me: A History of the Navajo-Hopi Dispute* (New York: Alfred A. Knopf, 1992), 130-132
This provision codified and institutionalized a political structure that disempowered communities, leaving little space for them to represent their own interests in negotiations regarding issues that would directly affect them.

The Assistant Secretary’s letter also shed light on the ideological premise of the bill: the disputed territory was conceptualized as property. Providing a clarification of legal ownership, the bill authorized “either the Navaho or the Hopi Tribe to buy, sell, or exchange land within its reservation, with the approval of the Secretary of the Interior.”

Chilson explained that this provision was in the best interest of both tribes, as it would allow them to sell or exchange territory in order to “take care of the needs of any Indians who may be displaced as a result of the litigation.” Chilson’s assessment did not take into account the fact that the majority of the “Indians who may be displaced” did not relate to the land as a commodity that could be replaced with cash, or any other kind of compensation. When another piece of Congressional legislation (PL 93-531) finally “resolved” the dispute over a decade later, people facing relocation resisted, insisting on the significance of their connection to the particular land on which they lived. The resisters’ discourse forcefully rejected the notion that land could be a commodity.

The Navajo tribal council, however, appropriated this logic of land as saleable. Their discourse referred to the contested territory in primarily economic terms. While council members defended JUA residents’ claim to the contested territory, they only

26 Hatfield Chilson in Committee on Interior and Insular Affairs, Determining Rights and Interests of the Navaho Tribe, Hopi Tribe, and individual Indians to certain lands
26 Hatfield Chilson in Ibid.
27 Committee on Interior and Insular Affairs, Determining Rights and Interests of the Navaho Tribe, Hopi Tribe, and individual Indians to certain lands
28 Hatfield Chilson in Ibid.
29 National Youth Indian Council Records and Eda Gordon Papers, in Center for Southwest Research, University Libraries, University of New Mexico. This discourse will be explored in chapter three.
nominally engaged with their rationale. In the council members’ formal conversations, traditional culture and knowledge was subordinated to a language of political economy.\(^{30}\) This was significant because, in delineating how the land dispute was to be resolved, H.R. 3789 had authorized the tribal council to represent all of the Navajo. Neither JUA residents, nor the formulations of their concerns, were substantively engaged in the process of negotiation. Submitting the boundary dispute issue to federal court set in motion a new representational politics that would have far-reaching consequences.

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**Terms of Consideration: Littell Persuades the Council**

On May 8th, 1957 the Navajo tribal council passed Resolution CM-43-57, endorsing the bill that would refer the land dispute to federal court. Chairman Paul Jones urged council members to support the bill. Revealing his own motivations he said, "the Hopis have been standing pat on the theory that it [the 1882 Executive Order area] is their land and keeping development away from there, the prospecting for uranium, gas and oil and the like have been kept off by our Hopi friends." "We want the area of land on which the Navajos are living to be determined within their rights. That is what we are after," he added.

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\(^{30}\) Scholars Vine Deloria Jr. and Clifford M. Lytle offer useful analysis in considering the position and role of contemporary tribal governments. They argue that, "tribal governments have taken on the cloak of Anglo-American institutional forms. The structures, the functions, the technologies, the politics, and even the goals of the white community are in many ways displacing the traditional ways of the Indians. The unanswered question that remains is how much of the traditional Indian culture and values can survive if tribal government continues to develop along these lines." Vine Deloria Jr, and Clifford M. Lytle, *American Indians, American Justice* (Austin: University of Texas Press, 1983), 109

\(^{31}\) Paul Jones in Navajo Tribal Council Resolution CM-43-57, "Bill to Refer Navajo-Hopi Boundary Line Dispute to Court," meeting notes, Navajo Nation Public Records Office, Window Rock, AZ. Jones was elected Chairman in 1954. He had spent several years living and being educated off the reservation before
The council’s attorney, Norman Littell, also urged the delegates to support the bill. He had worked with the Hopi’s attorney, John Boyden, to get H.R. 3789 introduced in Congress in the first place. As an attorney, Littell naturally believed the dispute could best be resolved through the American legal system. He appealed to the delegates as American citizens contending that "any American citizen who is sure of his rights should be willing to submit to a court...I ask that you treat the problem of the Hopis with dignity and sincerity and simply present to them as one group of American citizens to another.” He also implied that there was no real alternative: “this will go on forever unless you submit to the courts what was the meaning of the Executive Order of December 16, 1882 and get that settled.” From Littell’s perspective, submitting the dispute into the arena of the American legal system was the only way to find a "reasonable solution to the problem.”

Littell reinforced this argument by discrediting traditional knowledges and perspectives. He identified "traditionalists" as the principle obstacle standing in way of the bill. After quoting a letter from a Hopi “traditional” leader who had written, “It is time the Government works with traditional leaders so it will not make a mistake and destroy ourselves,” Littell entirely dismissed the man’s plea. Addressing the council Littell remarked:

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33 Ibid. Scholar Emily Benedeck and former Attorney General of the Navajo Nation Claudine Bates-Arthur argue that Littell and Boyden stood to benefit financially from court cases between the Navajo and Hopi. Benedek points out that the Indian Claims Commission Act of 1946 provided that lawyers could receive up to 10 percent of the value of compensation paid to the tribes. Benedek, Emily, The Wind Won’t Know Me, 134-140. Claudine Bates-Arthur, Attorney General of the Navajo Nation (1983-1987), Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
If there is a solution I do not know where it can be found. It is in some dim mist of the future and it lies within their religious concepts and you cannot settle things in that way. That is the traditionalist point of view which we have met with all the years back, so let us deal with it patiently and hope the practical men will prevail as they are in Congress to date because Congress does not pay much attention to these things.\textsuperscript{34}

Littell’s dismissal of “traditionalist” interpretations of the dispute, as well as what appears to be their sense of how and by whom it should be resolved, gestures at the cultural and philosophical frameworks Littell operated within. His statements also shed light on who he felt he was accountable to: Congress. Littell dismissed “traditionalists” as unreasonable while stating, “I feel my commitment to the attorney for the Committee and Udall who is fighting this thing through, for us.” Stewart Udall served in the House of Representatives for three consecutive terms before serving as the Secretary of the Interior from 1961-1969. As Secretary, Udall would champion energy development on Black Mesa, promising that it would bring “new jobs, large tax benefits, and tremendous economic advantage, not only in royalties and jobs for the two Indian tribes, but for the entire Southwest.”\textsuperscript{35}

Littell and Jones convinced the council, who voted to endorse the bill. In so doing they set in motion a new representational politics. The structure and frameworks underlying the legal arena in which the matter would henceforth be engaged alienated Navajo and Hopi people in more ways than one. Physical, cultural, and philosophical distance separated Washington and the JUA. Noting the challenges indigenous peoples face within such arenas of representation one scholar writes,

\textsuperscript{34} Norman Littell in Navajo Tribal Council Resolution, CM-43-57, meeting notes
\textsuperscript{35} Stewart Udall, as quoted in Jerry Kammer, \textit{The Second Long Walk: The Navajo-Hopi Land Dispute} (Albuquerque: University of New Mexico Press, 1987), 87
The problems of translating their [indigenous peoples’] concerns into a format that will be comprehensible and plausible at the national level are unrelenting. Aboriginal land claims, for example, tend to be viewed by corporations and governments as issues involving control of access to valuable commodities, whereas for indigenous peoples these claims stand not only for a different set of economic interests but also for the protection of their culture and community.\textsuperscript{36}

Submitting the dispute to Congress and the courts created a new problem: land claims that had been generated in one ideological paradigm became subject to the interpretation of another. It also removed the process of resolution from the Navajo and Hopi people themselves. The rearrangement meant that the Navajo and Hopi individuals living in the disputed territory did not have a space at the negotiating table. For the next decade and a half, tribal council members ostensibly represented their positions and concerns. The Navajo tribal council sympathized with JUA residents. Indeed, they protested the relocation strategy that quickly gained traction in Congress. In Senate Hearings council members foregrounded JUA residents’ concerns, attesting to the depth of their connection to place and the likely consequences relocation would have.

However, as an organization the council had its own agenda that was dynamic but also always somewhat at odds with that of the traditionalists. From its establishment, the council’s principle function had been to facilitate extractive forms of energy development traditionalists ideologically opposed. Revenues from leasing tribal lands to energy companies became only more important to the council as tribal bureaucracy expanded through the late 1940s and 1950s. Chairman Paul Jones’s stated concerns regarding the land dispute issue reflect on this historical context, and the conflicting agendas it engendered. Jones said that the Navajo living on the JUA should have a right to their

\textsuperscript{36} Dyck, \textit{Indigenous Peoples and the Nation-State}, 7-8
land, but he also pointed out that the Hopi were standing in the way of prospecting for uranium, gas, and oil, suggesting that the Navajo wanted to open JUA lands to energy developers. For Jones and the council delegates in 1958 these interests did not seem to be at odds with one another. As the dispute wore on, the tension between them became increasingly apparent.\textsuperscript{37}

As this conversation suggests, neither the land dispute nor the tribal council were highly politicized in the late 1950s. Neither Chairman Jones nor council delegates raised questions about how involving the federal government in the process of resolution might affect their own political power. Council members did not push back against Littel’s dismissal of traditionalists’ concerns, nor his suggestion that the land dispute could only be resolved through the American legal system. Council members may have been nominally pursuing self-governance in the sense that they were interested in securing access to a promising revenue stream. They were not, however, yet engaging with what it meant to be a sovereign Navajo government able to structurally, politically, and discursively accommodate traditional Navajo concerns and interests.

\textbf{“What is rightfully ours, we must protect”\textsuperscript{38}: Peter MacDonald}

However unintentionally, in 1958 the Navajo tribal council had limited the extent to which they and other Navajo groups could participate in attempting to resolve

\textsuperscript{37} Historian Kathleen Chamberlain argues that as energy development projects began on the reservation, “those not directly involved or individuals with misgivings about development had little or no voice in the process.” She points out that as development proliferated, discontent also grew. Chamberlain, \textit{Under Sacred Ground}, 90-95

\textsuperscript{38} Peter MacDonald in Peter Iverson, \textit{The Navajo Nation} (Albuquerque: University of New Mexico Press, 1984), 130
the Navajo-Hopi land dispute. Under the new leadership of Peter MacDonald, the council attempted to reverse this arrangement in the early 1970s. The land dispute had erupted as a political issue when a series of bills proposing a variety of solutions to the land dispute problem were introduced in Congress. Through the 1960s a national Pan-Indian movement advocating for tribal self-determination had been taking shape. This movement ignited conversations about the role and responsibilities of tribal leadership, pushing leaders to demand greater political autonomy from the federal government. One scholar posits that this moment marked a shift in which Native American people increasingly participated in the politics that had for so long been about them but did not involve them. 39 MacDonald’s administration certainly attempted to re-involve Indians in the politics of the Navajo-Hopi land dispute.

On September 28, 1962 the District Court of Arizona made a ruling on the Navajo-Hopi case. The Healing vs. Jones decision found the Navajo and Hopi to have “joint, undivided and equal rights and interests” 40 in the disputed territory. 1.8 million acres of the disputed 1882 Executive Order Reservation were turned into the Navajo-Hopi Joint Use Area (JUA), which was to be jointly managed by the tribes, and overseen by the Secretary of the Interior. Either tribe could sign energy leases so long as the royalties from them were evenly split.

The Navajo immediately appealed Healing vs. Jones to the Supreme Court, who ultimately referred the case back to the Arizona courts in 1972. Through the 1960s Commissioner of Indian Affairs Philleo Nash was charged with mediating negotiations.


40 Decision as quoted in Iverson, Diné, 216
between the tribes, but a settlement agreement was never reached. Throughout the process both tribes continued to develop subsurface resources by signing oil and coal exploration leases. While the Navajo turned their attention to other things, Hopi attorney John Boyden continued to push the land dispute issue. He succeeded in bringing the matter back into focus in 1971 when he convinced Arizona Representative Sam Steiger to sponsor a bill in Congress.

Peter MacDonald’s 1970 election to the position of Navajo tribal chairman coincided with this moment. As the prologue to his autobiography suggests, MacDonald seemed to think of himself as an almost divinely appointed leader that could bridge tradition with the modern political world: “To his [MacDonald’s] people, he was naat’aanii, the traditional term for leader. To his enemies, he was the Last Warrior, the spiritual survivor of the Long Walk, a man who feared neither scandal nor death so long as he was acting in the interests of the people he loved.” MacDonald’s leadership and attitude, influenced by the Pan-Indian movement for self-determination that peaked in the late ‘60s and early ‘70s, differed from his predecessors in ways particularly significant to the resurfacing land dispute issue. MacDonald was a complicated figure who left an equally complicated legacy for the Navajo Nation government. On the one hand he helped the Navajo Nation attain greater autonomy, and on the other he obstructed

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41 Reports contend that Boyden’s efforts were motivated by his relationship with Peabody Coal. In 1960 Peabody Coal began extensive exploration of the 1882 Reservation; by August 1961 the company had approached Boyden "about securing a lease to mine coal from Black Mesa." Through the 1960s, as the Hopi tribe signed leasing arrangements with Peabody Coal, Boyden’s law firm listed Peabody Coal as one of its clients. Cahn, By Executive Order, 177
42 Benedek, The Wind Won’t Know Me, 146-147
Born in Teec Nos Pos, a small community on the reservation, MacDonald grew up speaking Navajo and learning traditional Navajo ways. His extended family owned thousands of sheep, making them wealthy by Navajo standards. McDonald served in the United States Marine Corps from 1944-1946 as a member of the Navajo Codetalkers, and in 1957, he graduated from the University of Oklahoma with a B.S. degree in electrical engineering. In 1965, he became director of the Office of Navajo Economic Opportunity (ONEO), a position he held until he was elected as Chairman. MacDonald served as tribal chairman for four terms (three consecutive terms 1970-1982, and then re-election in 1986) until he was removed from office in 1989 on charges of corruption. In 1990 he was sent to federal prison; within a few years he was charged on 111 criminal counts. After being incarcerated for seven years, MacDonald was released. His release was achieved by appeals citing health concerns (MacDonald had diabetes and heart problems), and a pardon by the Navajo Nation council in 1995. In reaction to the corruption of the MacDonald administration, the tribal council reorganized the Navajo government system to decentralize power. The position of chairman was split into two: speaker of the council (legislative leader) and president of the council (executive leader). 

44 As Chairman, MacDonald radically reorganized and centralized the Navajo Nation government by establishing a new council standing committees whose members were to be appointed by the Chairman himself, and stripping power from the judicial branch by securing the authority to appoint directors for the five central offices (administration, program development, of the controller, business management, and operations). David Wilkins, “Governance Within the Navajo Nation: Have Democratic Traditions Taken Hold?” Wicazo Sa Review 17, no. 1 (April 1, 2002): 91–129
45 Iverson, Diné, 245-247; MacDonald and Schwartz, The Last Warrior
46 Iverson, Diné, 296-297
MacDonald continued his predecessor Raymond Nakai’s prioritization of economic development; he also advocated for Navajo control over decision-making and natural resources. MacDonald outlined the goals of his administration in his inaugural address:

First, what is rightfully ours, we must protect; what is rightfully due us we must claim. Second, what we depend on from others, we must replace with the labour of our own hands, and the skills of our own people. Third, what we do not have, we must bring into being. We must create for ourselves.47

MacDonald attempted to achieve greater Navajo independence and self-sufficiency through institution building. He built up the Navajo judicial system, law enforcement, legal services, and infrastructure development entities (such as the Navajo Housing and Development Enterprise). He pushed to regain Navajo control over educational and medical institutions, and encouraged Navajo people to increase their involvement in local and state politics.48 Income from natural resource development projects largely financed this work.

According to historian Peter Iverson, MacDonald was “[willing] to develop Indian energy resources, but only on Indian terms.”49 This is an ambiguous analysis that oversimplifies MacDonald’s leadership, and the diversity of perspectives that influenced Navajo politics. MacDonald had gained the chairmanship by pledging to secure sovereignty for the Navajo; and yet “sovereignty” meant different things to different people. For MacDonald, it seemed to mean securing political and economic independence. JUA residents demanded sovereignty in cultural and philosophical terms,

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47 Peter MacDonald as quoted in Iverson, The Navajo Nation, 130
48 Iverson, The Navajo Nation, 131
49 Ibid. 189
claiming the right to live according to traditional ways. Scholars like Philip Deloria, Gerald Wilkinson, and Hank Adams have engaged in a productive discussion about the complexity of defining this term. Deloria writes about the intersecting economic and political dimensions of it. Wilkinson argues that in order to secure sovereignty Native communities must engage in intellectual and philosophical debates about what it means to be an indigenous person, and how that can be incorporated into governance.\textsuperscript{50}

Such debate was minimal in the tribal council’s discourse in the early 1970s. Even if council members (and MacDonald) claimed to be guided by Navajo world-views, their private discourse (within council chambers) did not incorporate traditional frameworks or vocabularies. In contrast to traditional Navajo citizens, council members referred to land as an economic resource. In the 1990s MacDonald wrote, “Our [Navajo] concerns were not just the political, religious, and historical factors inherent in any change in land ownership. We felt we were about to be cheated out of great wealth by having resources taken from us to ensure below-market availability to economic interests opposed to those of the Navajo Nation.”\textsuperscript{51} Noting the extent to which the Navajo tribal government was in the position of managing a “shift from a traditional horticultural-pastoral economy, to the market driven economy of an industrial society” in the 1970s, scholar Kelli Carmean argues that leaders’ priority had to be economic development.\textsuperscript{52} Compounded with the history of the council’s establishment, and its status as a dependent of the federal


\textsuperscript{51} MacDonald and Schwartz, The Last Warrior, 185

\textsuperscript{52} Kelli Carmean, Spider Woman Walks This Land: Traditional Cultural Properties and the Navajo Nation (Walnut Creek: Altamira Press, 2002), 91. Carmean defines MacDonald, and succeeding Tribal leaders’ philosophy, as “nontraditional, pro-capitalist, [and] industrial-oriented, but she also argues that their adoption of such an approach was necessary in the context of this economic and cultural shift.
government, this context helps to explain why culturally informed language was largely absent from council members’ official discourse.

The council was not in a position to proactively represent or adopt the rationale of its most traditional constituents. As the council was the representative voice of the Navajo in Congress, Congress understood the Navajo and their concerns through what the council communicated. In not having the rationale of JUA residents explained to them by the Navajo political leadership, Congress men and women were less able to understand precisely what was at stake in the dispute for those who would be most affected by its outcome. The traditionalists’ rationale would, however, be increasingly adopted by MacDonald and other council members when Congress passed a law that determined JUA residents would have to relocate. Only then would the official Navajo narrative emphasize the ways in which the dispute involved a kind of ideological and cultural politics.

In many ways the Navajo-Hopi land dispute was a perfect lightning rode for MacDonald. One of the principle goals he pledged to have for his administration was to “run an offensive effort against our enemies – those who wanted to control us, to take our land, to determine our destiny.” These issues – control, land rights, and decision-making power – were the main subjects of MacDonald’s conception of self-determination. They also were all central to the land dispute.

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53 MacDonald and Schwartz, *The Last Warrior*, 179
A Question of Political Power: the Council Responds to H.R. 11128

Certainly some council members disagreed with MacDonald’s assertion that the tribes should regain control over the process of negotiating the land dispute. In a meeting on April 13th, 1972 Councilman Pete Riggs challenged the chairman, reminding the council that, “numerous attempts have been made in the past in trying to compromise or agree with the Hopis for a better understanding as to what we should do in the disputed area. Of our efforts it has prevailed nothing in the resolution of the dispute … it appears that something else has become necessary in resolving this situation.”\(^5^4\) As Riggs uttered these words the power failed in the council room. The discussion went off the record, leaving us with no way of knowing how Mr. Riggs’s comments were received.

The resolution that came out of this meeting suggests that Mr. Rigg’s was not voicing a majority opinion. Despite whatever conversation had ensued from Riggs’s comments, the council ultimately voted to pass a resolution that articulated a new demand for political sovereignty. Resolution CAP-39-72 – “to provide for an equitable settlement of the dispute between the Navajo and Hopi tribes”\(^5^5\) – reflected on the ways in which MacDonald’s leadership (as well as the broader socio-political context of the early 1970s) shifted the tribal council’s orientation toward the land dispute. Whereas in 1957 and ‘58 tribal leaders referred the matter to the federal government, in 1972 they attempted to assert political independence and reclaim the land dispute as a local issue.

\(^{54}\) *Ibid.*

\(^{55}\) Navajo Tribal Council Resolution, CAP-39-72, “To Provide for an Equitable Settlement of the Dispute between the Navajo and Hopi Tribes and Members Thereof in Connection with the 1882 Executive Order Area and the Hearing on H.R. 11128 (“The Steiger Bill”) to be Held in Washington, D.C., on April 17 & 18, 1972; and to Authorize the Chairman of the Navajo Tribal Council and its General Counsel to offer Testimony in support of such equitable settlement,” Navajo-Hopi land commission office, Window Rock, Arizona
Resolution CAP-39-72 was drafted as a response to H.R. 11128 (the “Steiger Bill”), pending legislation that threatened to partition the JUA. If passed, the bill would relocate thousands of families, allotting each 3,000 dollars (equivalent to $14,076 in 2012)\(^56\) per family, regardless of size in compensation “for indeterminable expenses and personal hardship.”\(^57\) CAP-39-72 unequivocally rejected the proposed bill.

Through resolution CAP-39-72 the Navajo tribal council expressed concern about the process by which the land dispute was ostensibly being resolved. Claiming that H.R. 11128 was “conceived without the participation of the two tribes affected by the bill,”\(^58\) the resolution directed the council to “present testimony through Tribal representatives and others to demonstrate the inappropriateness of the Steiger Bill so that an opportunity may be provided for the two tribes to mediate the matters in controversy in Indian harmony.”\(^59\) The Steiger Bill was “not good legislation,” the resolution stated, “because it was drafted unilaterally without giving either tribe any opportunity to resolve their own problem within the concepts of their own culture.”\(^60\) The tribal council was beginning to challenge the rationale Littell had used in convincing council members to submit the matter to court in 1957. The language used in the resolution also suggests that Navajo leaders were concerned that Congress was marginalizing traditional frameworks in its attempts to resolve the dispute. Finally, resolution CAP-39-72 reflected on the councilmembers recognition of, and discontent with, the state of their own circumscribed authority.

\(^{57}\) Navajo Tribal Council Resolution, CAP-39-72, meeting notes, Navajo Nation Public Records Office, Window Rock, Arizona
\(^{58}\) Navajo Tribal Council Resolution, CAP-39-72, Navajo-Hopi land commission Office, Window Rock, Arizona
\(^{59}\) Ibid.
\(^{60}\) Ibid.
Resolution CAP-39-72 came out of a three-day special meeting convened to discuss what action the tribal council ought to take in response to the Steiger Bill. Opening the meeting, Chairman Peter MacDonald faulted the bill for not being in “the best interest of both tribes at all because the two tribes have lived there together for some time and it [the bill] did not allow for the two tribes to make a serious attempt to resolve the dispute between the two on their own basis.”\[^{61}\] He urged the council to demand the matter be turned back over to the tribes, arguing that they had been “put into this complex problem after the 1962 court decision.”\[^{62}\] MacDonald explicitly blamed the federal government for limiting the political sovereignty of the Navajo and Hopi by directing the resolution process.

Robert Cook, assistant to tribal attorney George Vlassis (hired by MacDonald), affirmed MacDonald’s distrust of Washington. Cook pointed out that the dispute had been before Congress for “a number of years,”\[^{63}\] during which time no action had been taken despite the many different hearings that had been held, and several committees employed to evaluate them. This process, he suggested, served to placate the tribes but did not create a space for the input of tribal peoples to be included in the formation of a final resolution.

Mr. Cook also critiqued the bill for being based on inadequate information, which meant that those who were deciding upon a resolution did not understand how it would impact the people whose land and livelihood it was concerned with. He called upon the tribal council to make a statement demanding “accurate data compiled by neutral sources

\[^{61}\] Peter MacDonald in Navajo Tribal Council Resolution, CAP-39-72, meeting notes, Navajo Nation Public Records Office, Window Rock, Arizona

\[^{62}\] Ibid.

\[^{63}\] Robert Cook in Ibid.
to be submitted to the tribes so that they, face to face with one another, may effect an equitable settlement based upon accurate information.” 64 Washington Council Representative Francis J. O’Toole responded noting that, “we have met with a number of people in Washington and it seems that they have not been aware in the past of the problems that the Steiger Bill will create…one of our problems so far, I think, is that not enough people know of the facts involved here, the hardship involved as Mr. Cook has pointed it out.” 65

The meeting also involved a discussion about whether or not the tribal council should propose an alternative bill to H.R. 11128. MacDonald had drafted one before the special session began, but as the conversations wore on he began to argue that proposing a new bill would be inconsistent with his argument that the tribes should be given space to resolve the matter through their own process. The Chairman said,

We don’t want Congress to interfere with what the Navajo and the Hopi are doing. This is our problem [and] we want to solve it. We want to solve the problem our own way…So, with this kind of position that we have taken, now if we come back and say here is a bill, we are back in Washington and talking from another angle, contradicting ourselves by saying to Congress that you solve the problem for us and here is a bill we think that is going to solve the problem. 66

Suggesting that a commission be set up composed of representatives from both tribes and hearings be held “right out there where the people are actually affected,” MacDonald proposed that a grassroots solution be attempted. And yet MacDonald was in the process of consolidating power within the Nation – by 1971 he had reorganized tribal government to centralize power in the

64 Robert Cook in Ibid.
65 Francis J. O’Toole in Ibid.
66 Peter MacDonald in Ibid.
executive branch. These somewhat contradictory impulses are illustrative of the paradoxical legacy of MacDonald’s leadership.

The council’s April 13th discussion revolved around questions about representation and authority that had not been brought up before in relation to the land dispute. The term “sovereignty” did not enter tribal council discourse until 1975. Nonetheless, this conversation suggests that a conceptualization of what it would mean to have political sovereignty was taking shape in 1972. While this aspiration was forming, it continued to be frustrated by the council’s position in relation to the federal government and, in particular, Congress. Not too long after MacDonald had persuaded the council to reject the arena of negotiation altogether, the council gave up and once again opted for what would appear to be the most politically pragmatic strategy of engagement.

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**Agency in Political Pragmatism: Striking a Compromise**

A month after deciding to not submit an alternative to the Steiger Bill, the Navajo tribal council passed Resolution CMY-41-72. This resolution authorized the chairman to introduce a bill to “establish a boundary commission to resolve the disputes between the Navajo and the Hopi Tribes, to provide for the partition of surface rights in the so-called

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67 The Chairman gave himself power to appoint members of a variety of newly established standing committees. He also created five new central offices to be headed by directors he chose. As a whole, the 1971 re-organization stripped the legislative branch of its authority. Wilkins, “Governance Within the Navajo Nation: Have Democratic Traditions Taken Hold?” 109

68 In the records kept by the Navajo-Hopi land commission office, the word “sovereignty” was first used in a Resolution passed on February 14th, 1975. The Resolution “Authorizing the Navajo-Hopi Land Dispute Commission to Charter a Grazing Association” stated that, “the power to charter corporations and associations is an inherent part of the sovereignty of the Navajo Nation.” Navajo Tribal Council Resolution, CF-16-75 in Navajo-Hopi Land Commission Office, Window Rock, AZ
Joint Use and 1934 Areas and for other purposes.” In endorsing the introduction of an alternative bill, the council indicated that they were reconsidering the demands for political autonomy they had made in April. Rather, they attempted to secure greater political agency within the existing federal arena of negotiation.

Resolution CMY-41-72 included a draft of the Navajo Bill, which proposed creating a boundary commission to “effectuate a mutual agreement between the Navajo and Hopi Tribes with respect to the rights and interests of the two tribes in the Joint Reservation.” The commission was to consist of three members of the Hopi tribe and three members of the Navajo tribe, all to be appointed by the President of the United States. Three more members-at-large with no “direct or indirect interest in any outcome” were to be appointed by the President “in his discretion.” This deference to the President was tactical. Given that the President would have no idea who to appoint from the Hopi and Navajo tribes, and the fact that the tribal council was effectively the sole Navajo entity with whom the U.S. Federal Government worked, council members could be sure they would be consulted in the making of appointments. The bill also provided that the commission’s recommendations and decisions would have to be approved by both tribal councils. Such an arrangement would secure the council’s own political power and position as voice and official negotiator for the Navajo people.

Rather than attempting to change the arena of resolution altogether, the bill was designed to secure greater political agency for the Navajo and Hopi councils within it.

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69 Navajo Tribal Council Resolution CMY-41-72, “Authorizing the Chairman of the Navajo Tribal Council and the General Counsel of the Navajo Tribe to Introduce before the Congress of the United States a Bill to Establish a Boundary Commission to Resolve the Disputes Between the Navajo and the Hopi Tribes, to Provide for the Partition of Surface Rights in the So-Called Joint Use and 1934 Areas and for Other Purposes,” May 3, 1972, in Navajo-Hopi Land Commission Office, Window Rock, AZ.

70 Ibid.

71 Ibid.
The contents and rationale of the proposed bill suggest that one of the council’s principle concerns continued to be the political status of the Navajo Nation. The Steiger Bill proposed to relocate JUA residents to land outside of the Navajo Reservation. The council resisted, in part, pointing out that this threatened the political integrity of the Navajo Nation. Outlining what should happen to any Navajo and Hopi who had to be relocated in a final settlement the Navajo Bill stated that, “such land to be acquired [for the dislocated people] shall be held by each tribe as a whole.”

If JUA residents were to be physically relocated, the council wanted to ensure that they would not also be politically displaced. The resolution was not a defense of residents’ right to place, culture, and heritage (which was the rationale residents themselves would use to protest relocation). Rather, it was a compromise measure that sought to defend residents’ status as members of the Navajo Nation, and thus constituents of the tribal government. Because there was no available land on the reservation for displaced JUA residents, if the Steiger Bill passed they would be moved off the reservation, and out of the jurisdiction of the Navajo Nation government.

A month earlier, in April, Chairman Peter MacDonald had challenged the involvement of Congress in attempting to resolve conflicts between the Navajo and Hopi. He questioned the strategy of proposing an alternative bill to the Steiger Bill, advocating instead for a settlement to be negotiated by the tribes themselves. In May, council representative Harold Drake followed suit, questioning the very legitimacy of the “white mans law” that had established joint ownership. Drake remarked, “that is exactly what we are doing according to page 3 of this proposal. We are now consenting and admitting

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72 Ibid.
73 Harold Drake in Navajo Tribal Council Resolution CMY-41-72, meeting notes, Navajo Nation Public Records Office, Window Rock, AZ.
that this portion of the Executive Order land is rightfully owned jointly by the Navajos and the Hopis...This is exactly what Mr. Leosch wanted us to do yesterday, to concede, and that is what we are doing here.”

Drake appealed to the sense of indignation that was circulating. This indignation MacDonald and council members had been expressing was tied to their sense of being politically constrained and manipulated by federal actors.

The council ultimately dismissed this appeal, struck a compromise, and played the game of American politics. Attorney George Vlassis advised them to do so. Vlassis told the council that he had talked to Congressman Steiger “as recently as yesterday afternoon and he indicated that if we would provide a Navajo amendment to the bill...that those amendments would be favorably considered by the House Subcommittee on Indian Affairs.” By reporting that Hopi attorney John Boyden was going to try and make claims to “a good portion of all of the Arizona part of the Navajo Reservation,” he convinced the council that proposing a bill was necessary to prevent future conflict.

“This bill is designed to try to resolve all past troubles and all troubles that could come up in the future,” Vlassis assured them.

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74 Ibid. “Mr. Leosch,” or Harrison Leosch, was the Secretary of the Interior. He became vice-president of Public Affairs at Peabody Coal after serving as Minority Counsel of the Senate Committee on Interior and Insular Affairs at the time PL 93-531 was adopted. Cahn, By Executive Order, 191. In his opening remarks at the May 3rd meeting, presiding authority Vice Chairman Wilson Skeet had reminded the council of Assistant Secretary Harrison Loesch’s concern: “we’re overgrazing in there [the JUA] severally, and [he] even mentioned as much as 400 percent.” The Secretary’s interest in combating this problem was referred to three times throughout the course of the discussion. George Vlassis referred to it in assuring the council that the Navajo Bill was politically astute. “I think it’ll be very difficult for the Department of Interior to disagree with the proposal that will eliminate what they call the worst overgrazing problem they’ve seen” Vlassis remarked. Wood et. al contend that, much like in the 1930s, federal interests in “protecting the range” to a great extent underscored PL 93-531, which included a livestock reduction provision. John Wood, Walter Vannette, and Michael Andrews, “Sheep is life”: An Assessment of Livestock Reduction in the Former Navajo-Hopi Joint Use Area, Northern Arizona Anthropological Paper No. 1 (Flagstaff: Northern Arizona University), ix

75 George Vlassis in Ibid

76 Ibid.
As an attorney for the Hopi Tribe and Peabody Coal, John Boyden’s allegiances were clearly in conflict; at the time Vlassis seemed to be a sincere advocate for the Navajo Tribe, or at least for the tribal council. His response to the Steiger Bill reflected a concern that his client, the Navajo tribal council, have a strong voice in the process: “Now the whole reason for the Boundary Commission is that so you’ll have an opportunity to present a fair position, which you have not had so far, in how those lines should be drawn in order to take into consideration the long usage that the Navajo has had in the 1882 area” he said. Ultimately, Vlassis was interested in winning an argument, and he knew how to do this through the American legal and political institution he came from. Like Norman Littell before him Vlassis encouraged the council to become more adept at working within that system. If Vlassis had doubts about this somewhat assimilationist approach he did not communicate them.

Vlassis’s approach was fundamentally pragmatic. He offered the council an understanding of the protocol of the American political system and advised them to submit a bill that was subtle enough to be “accepted in Washington.” However, this pragmatism colored his interpretation of what was at stake in the dispute and, in turn, influenced how the council members understood it. For Vlassis, the Steiger Bill in all its iterations posed a threat to the fiscal integrity of the tribe. His consideration of Navajo sovereignty, the concerns of JUA residents, and democratic practice was secondary at best. In a later meeting, Vlassis revealed his lack of concern about the extent to which

77 Indeed Littell had been a controversial figure, it seems Vlassis was not. Histories of the Navajo only mention Vlassis in passing. Council delegates (including Annie Wauneka) had publicly questioned Littell’s motives. I have read nothing that suggests Vlassis was regarded with the same degree of skepticism (although, as mentioned earlier in this chapter, general critiques were made about the role and interests of all the attorneys involved in land dispute proceedings). Iverson, Dine’, 208-216, 251; Benedek, The Wind Won’t Know Me, 141; Kammer, The Second Long Walk, 83
78 George Vlassis in Navajo Tribal Council Resolution CMY-41-72, meeting notes
79 Ibid.
JUA residents were involved (on their own terms) in the resolution process. In explaining why negotiating meetings were being held far away from the reservation (in Salt Lake City) he said, “you can’t have a meeting with a demonstration going on outside the door … it’s a shame that the negotiating meetings themselves are removed from the people who are involved, but in another sense you can’t negotiate with all your people looking over your shoulder.”

Vlassis legitimated and reinforced the representational politics of the dispute, in which the council served as the definitive voice of “the Navajo.”

This political pragmatism pervaded the council’s discourse. While the Navajo Bill introduced a new strategy for Congress to consider (establishing a boundary commission), it did not introduce a radically new discourse. In the wake of PL 93-531, residents of the JUA would resist relocation arguing that they had historical, spiritual, and cultural rights to their land. This logic did not seem to inform the council’s position in 1972. Negotiations continued to rely on a language of debate that was more “American” than “Navajo.”

Relocation was framed as an economic and political problem for JUA residents, and the Navajo Nation as a whole. A section of the Navajo Bill stated, “no settlement proposal shall be made by the Commission…unless adequate provisions have been made for relocation of any Indian to be displaced by such settlement on lands with an economic base comparable to that of his presently occupied lands.” Nowhere in the bill was there mention of the peoples’ attachment to the land as heritage. The language used suggested

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80 George Vlassis in Navajo Tribal Council Resolution, CMY-23-73, “Authorizing the Chairman of the Navajo Tribal Council and the Office of the General Counsel of the Navajo Tribe to Introduce Before the Congress of the United States of America a Bill to Resolve the Disputes Between the Navajo and Hopi Tribes With Respect to Certain Lands Set Aside by the Executive Order of December 16, 1882, to Provide for the Partition of Certain Surface Rights in the So-Called 1934 Area, and for Other Purposes,” meeting notes, Navajo Nation Public Records Office, Window Rock, AZ

81 My emphasis. Navajo Tribal Council Resolution, CMY-41-72
that the rights of the individual residents were considered as rights to livelihood, not rights to place.

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**The Land Question: Conceptualizing Resources**

“Land” - used to refer to surface and subsurface resources - functioned as a loose category within the rhetorical politics of the dispute. It functioned as a kind of material and ideological terrain of contestation. While traditional Navajo JUA residents laid claim to the disputed land for philosophical and spiritual reasons (as well as material ones), within tribal council discourse it was primarily discussed as an economic commodity. Throughout the early 1970s the council stayed away from using language reflective of cultural logics about land and territory as something sacred. Rather, they employed a rationale and terminology and that fit within the U.S. federal government’s orientation toward natural resources as saleable, exploitable, commodities.

Historical analyses of the Navajo-Hopi land dispute foreground the ways in which corporate, tribal, and federal interests in subsurface resource development shaped the process as well as final resolution of the conflict. In the aftermath of PL 93-531 government officials, including Chairman Peter MacDonald, offered this same

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Navajo ethnographer and archaeologist Richard Begay, who worked near the JUA in the ‘70s and ‘80s, offered a cogent explanation of how such “energy interests” drove the dispute: “ownership up there was not at all clear … although leases were already signed with Peabody, it wasn’t clear which tribe should be getting which cut, and, the Navajo were getting the revenues from it.”

Begay contended that the Hopi were encouraged by energy companies and U.S. government officials to pursue legal action against the Navajo. He said that, ultimately “there would not be a NPL [Navajo Partition Land] and HPL [Hopi Partition Land] if not for the pressures of private companies and the U.S. government, especially Senator Goldwater, on both tribal councils.”

Mineral resources may have been key to the politics of the dispute, but they were peripheral in the tribal council’s discourse. Throughout debates in 1972 MacDonald and Vlassis were the only people to hint at the ways in which energy politics figured into negotiations. The council did not threaten to upset the existing arrangement, passing bills and resolutions providing that such resources should stay jointly managed by the Navajo and Hopi (and overseen by the Department of the Interior). Indeed a section in the Navajo Boundary Commission Bill stated explicitly that the bill had “nothing to do with

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83 In 1986 MacDonald said, “We strongly suspect that energy companies – whether it’s Peabody Coal or some others that we do not know – may be behind this whole effort to get the land divided in such a way that the Navajos will be relocated off that land. Consequently, the energy company would have what they want – a land free of its people.” Testimony of Peter MacDonald, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico. See also: Navajo Nations Public Relations Documents in David Aberle fonds, University of British Columbia Archives.


85 Ibid. The NPL and HPL were created by PL 93-531, and represent the partition of the JUA.

86 The language used in the various Navajo bill proposals was taken directly from the Steiger Bill: “Partition of the surface of the lands of the Joint Reservation shall not affect the existing status of the coal, oil, gas and all other minerals within or underlying said lands. All coal, gas, oil and minerals of every kind, shall be managed jointly by the Hopi and Navajo Tribes, subject to such supervision and approval by the Secretary of the Interior or as otherwise required by law, and the proceeds there from shall be divided between the said tribes, share and share alike.” Navajo Tribal Council Resolution CAP-39-72, meeting notes.
the existing status of coal and gas and other minerals under the ground.” In explaining the bill, Vlassis told the Council that, “it’s just a guessing game as to where the most valuable mineral deposits are in the 1882 area. We don’t know. I don’t think there’s anyone on the Reservation that really knows…I suspect the Hopis don’t know either.” No council members stated otherwise.

It is unclear whether or not this was true. The issue of subsurface resource management certainly seemed to occupy little of the Navajo council’s attention in the early stages of negotiation. Chairman MacDonald and George Vlassis was the only people who engaged with it directly. As early as April 13th 1972, MacDonald had argued that there was “a conspiracy to get a bill passed in Washington” that included “the Hopi attorney, the Hopi Tribal Council, the Assistant Secretary Harrison Loesch, and the public relations firm who represents 23 major power companies in the southwest out of Salt Lake City.” Nonetheless, MacDonald did not challenge this “conspiracy” until two years later when plans to partition the JUA and relocate over 10,000 of its Navajo residents began to solidify.

The expressed “land concern” of the Navajo government had to do with surface rights. Council resolutions consistently began with the finding that whereas “there is no additional rangeland available on the Navajo Reservation, and residents of the 1882 Executive Order area outside Land Management District no. 6 could, therefore, not continue as livestock men on the Navajo Reservation.” The Navajo consistently claimed right to the JUA on the basis of their interest in maintaining access to its grazing areas.

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87 Navajo Tribal Council Resolution CMY-41-72, meeting notes
88 George Vlassis in Navajo Tribal Council Resolution CMY-41-72, meeting notes
89 Peter MacDonald in Navajo Tribal Council Resolution CAP-39-72, meeting notes
90 This language is present in every resolution discussed in this chapter.
As more than 95% of the 1.8 million acres of the JUA was suitable rangeland, this was significant. The council’s explicitly stated theory was that the matter should be resolved according to how the land was used, and by whom. Such a strategy would of course benefit the Navajo livestock herders who depended on the land to support themselves. Navajo bills were thus designed to secure use-rights to the JUA’s rangeland.

While the Navajo government clearly tried to protect Navajo JUA residents’ material interests in the disputed territory, they did so using a distinctly non-traditional language of utility. The council negotiated land claims through a framework that made sense in the broader context of American political economy. Individuals in the JUA asserted their attachment to particular places, and claimed that land could not be bought or sold. The council, with Vlassis as an architect, drafted bills that would undercut both of these sensibilities. According to the Boundary Commission Bill, for example, the Navajo would purchase land from the Hopi and compensate displaced people with cash payments. Monetizing the land in this way undercut many residents’ understanding of land as sacred.

This is not to say that council members intentionally or deliberately disregarded residents’ views; rather, their historically informed positions compromised their ability to represent them. Moreover, as scholars Vine Deloria Jr. and Clifford Lytle note, traditionalists and tribal governments approached political issue from distinct vantage points. Whereas for traditional people (like many JUA residents) issues were “philosophical and, by extension, theological and sociological,” for government

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91 Wood, Sheep is Life, 25
92 Navajo Tribal Council Resolution CAP-39-72 and Resolution CMY-41-72, meeting notes
93 Navajo Tribal Council Resolution CMY-41-72, meeting notes
representatives they tended to be “pragmatic, programmatic, and operational. The tribal government’s pragmatic and technical approach was problematic in that it obscured the extent to which the land dispute revolved around concerns about culture, identity, and philosophical sovereignty. In not effectively or proactively engaging with these dimensions of the dispute itself, the council was unable to persuade Congress to develop a resolution that took these issues into consideration. As partition and relocation began to seem inevitable, tribal leaders did increasingly adopt traditionalists’ language and approach. This appropriation happened too late in the process for Congress to be shifted. It did, however, inform the development of governance and narrative in the Navajo Nation.

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**Economic Collateral and Re-inscribed Dependency**

On May 8th, 1972, two weeks after the council had voted to introduce a Navajo bill into Congress, the discursive effects of political pragmatism became even more apparent. The council passed Resolution CMY-23-73, authorizing the Chairman to introduce a bill entitled the “Navajo-Hopi Settlement and Economic Development Act.” The bill was an updated version of the proposal to establish a boundary commission, but it was framed in a new way: as an economic and social development initiative. This strategy of appealing to federal paternalism made sense in light of what scholars have argued about the extent to which tribal governments have been “reduced to seeking more

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95 Exhibit “A,” Navajo Tribal Council Resolution, CMY-23-73
benevolence in federal paternalism” to protect their lands and, by extension, their history.  

In the early stages of the 1970s negotiations, MacDonald and the council had (at least rhetorically) resisted this paternalism. But as Congress rejected their proposals demanding greater political autonomy, the council attempted to use their status as dependents of the federal government to their own advantage.

Framing the bill as a social and economic development initiative was somewhat misleading – the bill was actually designed to facilitate a land deal involving the federal government, Navajo tribal council and Hopi leadership. It had nothing to do with establishing social and economic development programs to benefit Navajo and Hopi citizens. The bill would establish a commission much like the previously proposed boundary commission (but called the Navajo-Hopi Settlement and Economic Development Commission). Charged with investigating and drawing up a settlement solution based on the respective land use habits of the Navajo and Hopi, the commission was to determine the amount of compensation the Hopi tribe should receive (from the Navajo) if it was determined to have “surface” interests in less than one-half the value of the JUA land’s total surface area. Given that few Hopi families used JUA grazing land, such an outcome was expected.  

According to the design of the bill, the Navajo would buy land (to be held in trust by the federal government) from the Hopi with loans from the U.S. Department of the Interior. The Navajo would “repay the loan by paying to the

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96 Klara Bonsack Kelley and Harris Francis, *Navajo Sacred Places* (Bloomington: Indiana University Press, 1994), 4. Kelley and Francis’s book engages with the significance of landscape to the Navajo. They argue that the landscape functions as a kind of text that links the Navajo to their past. This past (or history), they maintain, is what makes social and individual life meaningful.

97 Clemmer, Aberle, and Scudder. “Anthropology, Anthropologists, and the Navajo-Hopi Land Dispute: Reply to Washburn,” 744-747. Of all that I have encountered, this article gives the most cogent and comprehensive summaries of the use-interests of each tribe.
United States the proceeds derived by the Tribe from the exploitation of the mineral
resources”98 of the territory in question.

Throughout the meeting on May 8th, Vlassis and council members remarked that
the Navajo really had no other choice but to introduce the bill they had before them. Carl
Todacheene articulated the mood in saying, “Mr. Chairman, Members of the Council, I
think that this is a very worthwhile proposal, that we have no choice, actually, in the
matter.”99 Vlassis acknowledged that, “what you are offering to do is as the Navajo Tribe
you are offering to pay for the mistakes of the Federal Government over the last 100
years.” But he did not see what could be done about it: “I don’t see any other way in the
circumstances that you can swim against the tide that has been created and has been
flowing for over ten years.”100

MacDonald added to the conversation by identifying Congress, the Department of
the Interior, BIA, and the courts as the “areas of pressure”101 informing the politics of the
land dispute. In doing so he acknowledged that this issue of the land dispute was
ultimately subject to the same arrangements of authority that had overshadowed the
legitimacy of the tribal council as a governing body since its establishment. The council’s
political power continued to be limited by its relationship to the federal government, as
well as its increasingly intertwined relationship with the forces of American political
economy. In tracing Navajo land use patterns from 1700 to the 1970s, scholar Klara
Kelley observes that the institutional, market, and political forces of “industrial monopoly

98 Exhibit “A,” Resolution of the Navajo Tribal Council, CMY-23-73
99 Carl Todacheene in Resolution of the Navajo Tribal Council, CMY-23-73, meeting notes
100 George Vlassis in Ibid.
101 Peter MacDonald in Ibid.
capitalism” transformed the traditional “self-sufficient” Navajo economy. The tribal council helped to facilitate this transformation and, in turn, reinforced tribal dependencies.

Contestations over territory illuminated these conditions of compromised sovereignty. According to the “Navajo-Hopi Settlement and Economic Development Act,” the U.S. Government would retain legal ownership of the surface and subsurface resources while, on paper, getting to be a patron of economic and social development of the “Indians.” And as the Navajo proposed to sign mining leases in order to buy out the Hopi with loans from the Department of the Interior, prospects of energy development were secured. By endorsing the bill, the Navajo tribal council inadvertently encouraged the very paternalism and dependency MacDonald, AIM, and other Native American activists rhetorically denounced.

There was one problem with the tribal council’s proposal: mineral deposits could only be effectively used as a kind of incentive if they were exploitable, and they would not be easily exploitable if people who were ready to protest lived near them. The council was aware of this issue. Vlassis himself acknowledged that, “there’s no doubt about the fact that the problem with relation to exploiting minerals … it’s always going to involve the question about dislocating some people.” But as residents were mostly excluded from the resolution process, it may be that the council did not understand how strong this resistance would be. One councilman commented on this oversight pointing out that Navajo people were residing on lands containing energy deposits, and thus ought to be involved in the decisions made regarding them. The councilman unwittingly

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102 Kelley, Navajo Land Use, 6
103 George Vlassis in Navajo Tribal Council Resolution, CMY-23-73, meeting notes
foreshadowed the massive resistance that would rise up against the final legislative resolution of the dispute.
CHAPTER THREE

A Politics of Philosophy: JUA Residents and “the Relocation Law”

“What I learned from the Whiteman is that the United States is supposed to be a free country. You can decide the laws. We live on an Indian reservation – not the Whiteman’s world. But the Whiteman now draws a map and puts us right in the middle of Hopi land. Hopis over here and Navajos over here. The Whiteman created two reservations and we are just caught right in the middle. Maybe freedom doesn’t mean anything.”

The resolution of the Navajo-Hopi land dispute turned the Joint Use Area into a site of struggle over resources and worldviews. For Navajo residents of the JUA the relocation mandated by PL 93-531 threatened not only their material reality, but also the philosophical framework within which they understood their culture and way of life. Located in the very heart of the Navajo Nation, the JUA was primarily peopled by traditional Navajo families who placed great value upon living on the land their ancestors had cared for and been fed by. They experienced the world as a sovereign people living in accordance with customary laws grounded in their interpretation of Navajo principles.

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1 Guy Bahe, 46, Star Mountain, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico

For them, “Navajo law” revolved around “living in harmony [hozho] with the earth.” In contrast to the Anglo-American legal tradition, it did not function to protect private property ownership. Traditional Navajo on the JUA did not relate to land, or natural resources, as commodities. Within the imaginary of traditional JUA Navajos the value of land – used as range land – was understood in terms of heritage as much as economy. It fit within the framework expressed by the Navajo saying “Dibé bee iiná” (sheep is life) – land-based livelihoods were understood as cultural manifestations. Indeed, according to an anthropological study done in 1977, 91% of JUA households owned livestock. When interviewed, livestock owners observed that they used livestock for food, trade, exchange, and ceremonial purposes. They were also used to teach children responsibility and “as a means of instructing children in a way of viewing the world.”

Traditional JUA Navajos maintained that “Navajo culture” was directly informed by the place of its existence. In a 1986 testimony one Navajo elder summarized this conception: “Our church is the land. Our belief is the land. They believe in the Bible but we believe in the land. Our church is the natural way – the natural way of life.” This “church” informs “our laws and our rules that we must live by,” she added. The perceived dialectic between culture and land (and livestock) was such that sheepherders,

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3 Ida may Clinton, Finger Point, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico

4 John Wood, Walter Vannette, and Michael Andrews, “Sheep is Life”: An Assessment of Livestock Reduction in the Former Navajo-Hopi Joint Use Area, Northern Arizona University Anthropological Paper No. 1 (Flagstaff: Northern Arizona University), 26. This project was a comprehensive “sociocultural assessment” of the livestock reduction program mandated by PL 93-531. Research was done between 1977 and 178, livestock reduction had began in ‘77. Using a sample method of households, the research began with a frame of 2,156 heads of households.

5 Ida may Clinton, *Sacred Lands Project*,
farmers, medicine men and women, seasonal wage laborers, and basket weavers believed relocation would lead to the dissolution of their culture.\(^6\)

Guy Bahe’s statement – “the Whiteman created two reservations and we are just caught right in the middle” – suggests that legalist maps, and the particular conception of boundaries they imposed meant little to JUA residents. While home sites were passed down from one generation to the next, rangeland was a part of the commons.\(^7\) According to Bahe “in our ways the land is for everybody to use.”\(^8\) Designed within the Anglo-American philosophical and legal framework, the partition and relocation law was at odds with this traditional Navajo paradigm. Meant to be a corrective to the ambiguous Executive Order of 1882 it unintentionally perpetuated the policy of catching people “right in the middle.” Navajo political leaders found themselves negotiating the tensions of this space; communities found themselves caught in between authority and their own understandings of rights. For them, the moment of the Navajo-Hopi land dispute’s “resolution” foregrounded their centuries old struggle for political, economic, and ideological sovereignty. However non-deliberate their exclusion from the process of designing the resolution had been, it meant that many JUA residents felt like Guy Bahe, whose experience of PL 93-531 had made him think, “maybe freedom doesn’t mean anything.”

While President Ford signed PL 93-531 into law on December 22, 1974, the material implications of the law was not felt for several more years. Certainly that day

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\(^8\) Bahe, *Sacred Lands Project*
was significant for the government of the Navajo Nation; it marked a beginning of yet another set of political and legal battles. Strategies had to be reformulated and the Council’s position rethought. The impact of the decision unfolded much more slowly for the people it would affect the most in the end – lines of partition were not finalized until April 18, 1979 and a specific plan for relocation was not completed until 1981.9 It thus took several years for the moment of resolution to be experienced in communities.

When relocation efforts did begin, they were met with fierce resistance. A community on Big Mountain signed a Declaration of Independence in 1978 because, according to them, “the United States Government and the Navajo Tribal Government have violated the sacred laws of the Diné Nation by allowing exploitation of natural resources … [and] Public Law 93-531 has divided the Sovereign Nation of the Diné and the Hopi and is therefore disrupting our spiritual and traditional ties.”10 Native American newspapers and newsletters took up the cause generating a flurry of articles about sovereignty, resource control, energy politics, and Native identity. This discourse supported the claims made by JUA residents. In this chapter we will look at what those claims were through engaging with a philosophical discourse of a group of Navajo JUA residents.

9 David Aberle, “The Navajo-Hopi Land Dispute and Navajo Relocation” in Anthropological Approaches to Resettlement: Policy, Practice, and Theory. ed. Scott E. Guggenheim and Michael Cernea (Boulder: Westview Press, 1993), 165-166. In his discussion of this post-1974 process, Aberle points out that community members were not involved in the negotiations or planning.
10 Big Mountain Declaration of Independence, in Eda Gordon Papers, Center for Southwest Research, University Libraries, University of New Mexico
Reclaiming Voice: The Sacred Lands Project Testimonies

In 1986 the National Indian Youth Council (NIYC) worked with the Christic Institute (a public interest law firm) in Washington D.C. to gather and compile over 100 testimonies from Navajo and Hopi people. Seeking to “highlight a first amendment question … [and] raise the level of debate regarding the constitutional questions connected to the relocation of traditional Indian practitioners from land they claim is the source of their religion,” the project was to culminate in the publishing of an oral history book. For unknown reasons the book was not published, or at least not publicly distributed. A draft copy (missing chapter one) of the manuscript is now held in the Center for Southwest Research’s NIYC records.

Given the political agenda of the project the manuscript cannot be read as a comprehensive record of the perspectives held by residents of the former JUA. The testimonies seem to have been collected to make a point, which they do quite strongly: P.L. 93-531 was an imperialistic and unconstitutional law that violated religious freedom and had grave humanitarian consequences. A statement of one Navajo elder highlights the extent to which this point was made: “I have asked myself this question of why, why are they doing this to us? They want us to have hard times. They want to do away with us…the land talk is just an excuse to destroy our people. The earth was put here with the

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11 Project Proposal, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
Diné people. The natural resources is what they want.”¹² This collection, however limited, is one of the few texts that foregrounds the voices of common Navajo and Hopi people.

As far as my research has shown, this project was the first systematic survey of people living in or somehow intimately connected to the JUA. Conducted by a non-native lawyer and Navajo (and Hopi) translators, the interview testimonials were done with a diverse caste of characters: self-identified traditionalists, medicine people, elders and young people, tribal council politicians, an AIM activist and chapter delegates. The manuscript draft held in the NIYC archives contains only four Hopi interviews compared to eighty-seven with Navajos (one of whom identified as mixed Hopi-Navajo); six out of eight chapters showcase “traditionalist” perspectives. The fact that this project did not happen until more than ten years after the passing of PL 93-531 is indicative of the politics of representation surrounding the specific moment of the law’s creation: the majority of people in the JUA had not been asked to participate in the design of it. In her testimony, Star Mountain resident Shirley Jensen observed, “In 1974 the BIA said I don’t belong here on my land. They said I am trespassing on the land where I was raised.”¹³ Another woman recounted: “we were told that we had to move out because where we used to live was on the Joint Use Area – the JUA. They told us that we had to move out.”¹⁴ Such memories of 1974 and the beginnings of relocation reflect on many

¹² Dan Chee, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
¹³ Shirley Jensen, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
residents’ experiences of being informed post facto of the implications of the ’74 legislation.

While the views expressed in the Sacred Lands Project testimonies may have been forceful, they had little political clout. Between 1972 and the fall of 1974 public meetings and senate hearings in Washington (in which a handful of “reservation Indians” were present) held in the lead-up to the ’74 legislation indicate that some space had been made for Navajo (and Hopi) peoples’ concerns to be voiced; it is not clear that they were given much regard. Testimonies suggest that people felt these forums were more formal than substantive - when they were not simply omitted from the political discourse surrounding what would become PL 93-531, “traditional” claims were nonetheless dismissed. Jane Biakeddy from Big Mountain articulated this common perception saying, “I have a question. Many times people have come out here to ask us about the mountain and how sacred it is. We have told them many times. I am wondering, did these stories ever get to Washington?”

These Navajo people felt their deeply felt concerns for their families, homes, and sense of self were either not taken seriously, or somehow deemed unimportant by Tribal officials, lawyers, bureaucrats, and members of Congress. And yet there was a more complicated backdrop to what many Navajos interpreted as deliberate disregard. Despite extensive lobbying efforts organized by the Navajo tribal council, Congress, the Courts, and tribal attorneys’ were unable to engage the perspectives and rationale behind JUA

15 Ibid.
residents’ resistance to relocation. Formulated primarily within traditional logics, Navajo claims may have merely not made sense to the Anglo-American lawmakers. Legal scholars have acknowledged the position Anglo actors found themselves in noting the “difficulty of applying a legal solution to a land dispute outside the tradition of Anglo-Saxon property rights.”

Historian Paul Rosier’s analysis of the ways in which the politics of the Cold War affected Native America offers an alternative reading: within the context of Cold War politics “tribalism” was warily regarded as a form of communism; institutions of private property ownership were aggressively protected and glorified. And as PL 93-531 took shape, Watergate and the oil crisis pulled legislators’ attention away from careful consideration of the relocation and partition plan being proposed. Lending support to such a reading, a 1982 report put out by the Citizens Advocate Center claimed energy politics were directly responsible for the formulation of PL 93-531. In the aftermath of the 1973 Arab oil embargo lawmakers were actively seeking to minimize reliance on foreign energy sources. Within this context the untapped low-sulfur coal in the JUA was especially valuable; because of its proximity to the surface, strip-mining was thought to be the most appropriate method of extraction. According to the report, “strip mining and people are mutually exclusive – particularly a traditional people which regard the land as sacred and require large expanses of the surface for grazing.” And finally, the

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19 Edgar S. Cahn, *By Executive Order: A Report to the American People on the Navajo-Hopi Land Dispute* (DC: Citizens Advocate Center, 1982), 170
20 *Ibid.* 206
perceived disregard of Navajo concern may have stemmed from a problem of information.

Conflicting but equally desperate arguments of Navajo and Hopi tribal officials were difficult to make sense of by people who did not understand the historical context of the region and its politics. The Interior Committee responsible for sifting through the claims had only one person, Bill Chandler, travel to the reservation. No documents published by the Committee in the course of its investigation mentioned Chandler’s report.²¹ However unintentionally, Congress lacked information and understanding.

Navajos interviewed by the Sacred Lands Project partly attributed the operating politics of representation to a kind of cultural and philosophical power struggle between variants of “Native” and “Euro-American” worldviews;²² Euro-American philosophical orientations had the upper hand. A significant body of cross-disciplinary scholarship lends support to this interpretation. Scholars have long argued that Native American histories and 20th century political realities have to be understood within the context of American colonialism.²³ The Lakota Sioux theologian and historian Vine Deloria Jr. summarizes this historiography writing that, “within the perspective of Indian-white conflict there is no question that the major thrust has been one of dispossession of the

²¹ Kammer, The Second Long Walk, 120-121
²² For more on the “Native Worldview” and the conditions of (post) colonialism see: Marie Battiste, ed. Reclaiming Indigenous Voice and Vision (Vancouver: UBC Press, 2000)
natives by those colonizing the continent.” Native communities have been dispossessed of their “ancestral lands, traditional forms of social organization, and identities.” Deloria tracks the ways in which colonial dispossession has affected internal tribal politics pitting “traditional Indians” against tribal governments and the form of government they represent. He suggests that the introduction of Euro-American models of governance in conjunction with the colonial project of cultural control – assimilation – seeded philosophical divisions within Indian tribes. Official discourse in the chambers of the Navajo Nation Government, and its dearth of traditionalist vocabulary, suggests that traditional formulations were subordinated in the political arena.

Native struggles for sovereignty exploding in the 1960s and ‘70s further foregrounded the ideological conflicts underlying these politics. Writing in 1974, the Native Canadian activist and thinker George Manuel invoked this frame: “the struggle of the past four centuries has been between these two ideas of land.” According to Manuel the “white” idea of land is as an economic good or commodity that can be claimed, speculated against, bought, and sold. In contrast, land in indigenous worldviews is “like the water and the air, one and indivisible.” Testimonies in the Sacred Lands Project collection reflect that the Navajo interviewed invoked this same dichotomy of “ideas of land” locating themselves in the cross fire of political contestation between them. Within the Navajo Nation the JUA was a particularly critical site of intellectual negotiation. The

25 Ibid. 12. Deloria traces the erosion of social cohesion in Native communities to dispossession of land, which is the centerpiece of “Indian psychological makeup.”
27 Ibid. 6; This point is made also in Aberle, “The Navajo-Hopi Land Dispute and Navajo Relocation,” 169
moment of the land dispute’s resolution drew attention to tensions between as well as within worldviews.\textsuperscript{28} Individuals, families, the tribal government, and institutions (such as the Navajo Court) had to engage in the process of trying to reconcile them. Internal development prerogatives as well as external pressures (from federal agencies and the energy industry) challenged traditional teachings about land such that “sacredness and utility confront[ed] each other within the tribal psyche.”\textsuperscript{29}

The Sacred Lands Project testimonies help us understand this notion of land as sacred, as well as the broader philosophical underpinnings of Navajo communities in the JUA. As an historical text, the collection sheds light on how a significant number of Navajo people experienced and understood the land dispute. A simplistic yet common reading of the dispute tells us that it was a manifestation of tribalism motivated by material and political interests in resource ownership.\textsuperscript{30} A more neutral explanation goes something like: the issue stemmed from the fact that “too many people have placed too many demands upon a landscape too long occupied with constant, non-adjusting technologies, resulting in a constantly deteriorating agricultural resource base. Presently, the energy resources of the area are attractive to the politically dominant non-Indian groups with greater demands.”\textsuperscript{31}

\textsuperscript{28} The significance of the land dispute on “Navajo collective memory” is discussed in Benally, Bitter Water, 2-5. This point was also raised by Navajo Nation Historic Preservation Department Supervisory Anthropologist Tony Joe Jr. in interview with author, March 28, 2012


\textsuperscript{30} Norman Little, expressed in Navajo tribal council meetings, referred to in chapter two. See also, David M. Brugge, The Navajo-Hopi Land Dispute: An American Tragedy (Albuquerque: University of New Mexico Press, 1999)

\textsuperscript{31} Goodman and Thompson, “The Hopi-Navaho Land Dispute,” 400
Such interpretations divorce the object of the land dispute from the cultural and political moment in which it occurred. Questions about power, and the historical legacy of American colonialism, are overlooked. More importantly, these readings ignore the perspectives of the subaltern – the Navajo people who were most affected by the form of the dispute’s resolution. In any attempt to reconstruct the past we run the risk of objectifying people, communities, and the experiences that shaped the course of their lives. This risk is particularly great when archives and written records are sparse, and history is kept alive through oral tradition. Historical investigation can all too easily become a process of producing knowledge about people rather than a practice of recovering and reconfiguring the knowledge of people. Navajo historian Jennifer Denetdale gestures at this danger writing, “Diné origins and creation narratives tell one kind of history while narratives about the Diné from non-Indian sources tell another, which often contradicts Navajo stories…Diné perspectives of themselves and their relationship to the land contrast dramatically with white American notions.”

As historical texts the Sacred Lands Project testimonies illuminate the Diné peoples perspectives of themselves and their own experiences. Moreover, they provide a framework within which new and increasingly relevant questions can be asked: What does it mean to “own” something, and who gets to decide that? Who gets to decide what a right is? And, finally, what kind of value does “Mother Earth” have? The Sacred Lands Project testimonies offer a deep engagement with these questions. There is within them a story about the significance of place, what it means to be Navajo (or Hopi), and a

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32 Jennifer Nez Denetdale in Foreword to Benally, *Bitter Water*, xi
philosophical commentary about how people ought to understand their position within
the natural world.

Nothing is Separate, Everything is Sacred: Navajo Philosophical
Frameworks

Two overlapping geographical and socio-political contexts – the Navajo Nation,
and the JUA – informed the commentary of the Sacred Lands Project testimonies. In the
late 1960s anthropologist David Aberle conducted the first extensive demographic study
of the area. Using a sample of 214 adults from 110 Navajo households on Black Mesa,
Aberle studied the effects of gender and education on participation in the wage economy
and livestock management of Navajo communities. He did a second study in 1980; the
biggest change Aberle observed was an expansion of tribal bureaucracy and employment
in the corporate sector (namely through Peabody Coal). While his research concerned
only a section of the JUA, Aberle argued that the results of both studies were indicative
of the region more generally. 33

Located in the heart of the reservation, Black Mesa is one of the most isolated and
“traditional” communities in the Navajo Nation. “Traditional” in this context refers to a

430. Results from the 1960s studied were not published immediately thereafter. Indeed a similar, more
recent, study on the community of Shonto showed much the same patterns as observed by Aberle. See:
Scott C. Russell and Mark B. McDonald, “The Economic Contributions of Women in a Rural Western
Navajo Community.” American Indian Quarterly 6, no. 3/4 (October, 1982): 262–282. The findings of
Wood et. al also support Aberle’s claims. Wood et. al., Sheep is Life, 14-18
value system around which identities and social expectations develop. Native thinker and scholar Leroy Little Bear argues that any discussion of North American Native values must acknowledge the conditions of juxtaposition between “Indigenous and Eurocentric worldviews” colonialism created. Within this context native peoples have individually and collectively developed “jagged worldviews” indicating that there is a continuum of traditionalism. Falling somewhere along this continuum, traditional Navajos place at least some stock in Navajo origin stories and the ethics they formulate; they generally identify themselves as practitioners of Navajo “religion,” meaning they ascribe to the guidelines of the Blessingway mythology. According to scholar John Farella, the Blessingway “meta-statement” is that “the only permanence is change.” This means, Farella argues, that “to be traditional is to believe in change.” Farella’s analysis reminds us that “traditional” does not mean static or simply anti-modern. Traditionalists implicated in our moment of the Navajo-Hopi land dispute were not protesting change per se but rather the specific forms of change being proposed.

Black Mesa’s distance from administrative centers and towns as well as its veritable lack of all-season roads “reduced the impact of Anglo cultural influences.” Unable to commute year-round to administrative jobs in other parts of the Nation (due to a lack of all-season roads), Black Mesa residents made a living by managing livestock and farming, or seeking employment outside the Navajo Nation. In both studies Aberle found that most residents had little to no (Western/formal) education and that most

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36 Farella, *The Main Stalk*, 195
community members were elderly. Black Mesa School only had grades 1-3 so children were sent to boarding schools off the reservation.\textsuperscript{38} Aberle attributed the limited choice of livelihood and relative material poverty of the community to the “imposed relationship of the Navajos with the U.S. government and the national economy.”\textsuperscript{39} In the 20\textsuperscript{th} century, federal policy toward the Navajo Nation tried to assimilate the Navajo into the American political and social order through strategies of economic integration.\textsuperscript{40} The Black Mesa Navajo were thus some of the poorest people on the Navajo Nation in terms of cash income. Despite or perhaps because of this, they had been able to maintain a way of life based around traditional activities of farming, herding livestock, and every-day spiritual practice.

\textit{“We are of the five-fingered people and we do not think of each other as separate. We think of each other as one. We are all from one mountain. We came from the same place.”}\textsuperscript{41}

While Aberle’s study of Black Mesa highlights the distinctiveness of the JUA within the context of the Navajo Nation, these communities did not see themselves as separate from the rest of Navajo land. Indeed a sense of interconnectedness was central to their identity as individuals and as a people. This sense of oneness was a central tenet of

\textsuperscript{38} Ibid. 407
\textsuperscript{39} Ibid. 406
\textsuperscript{40} Deloria, American Indian Policy in the Twentieth Century, 1-14. These initiatives included: The urban relocation program started in the 1950s (see, Donald L. Fixico, The Urban Indian Experience in America (Albuquerque: University of New Mexico Press, 2000) and Stephen Cornell, The Return of the Native: American Indian Political Resurgence (New York: Oxford University Press, 1990); attempts to terminate government support to tribes based on an explicit agenda of cultural assimilation (see, Donald L. Fixico, Termination and Relocation: Federal Indian Policy, 1945-1960 (University of New Mexico Press, 1990); and the stock reduction policies of the 1930s and ‘40s (see, Richard White, The Roots of Dependency: Subsistence, Environment, and Social Change Among the Choctaws, Pawnees, and Navajos (Lincoln: University of Nebraska Press, 1988), and Colleen O’Neill, Working the Navajo Way: Labor and Culture in the Twentieth Century (Lawrence: University Press of Kansas, 2005)
\textsuperscript{41} Nez Begay, 66, Cactus Valley, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
their interpretations of Navajo philosophy, framing the ways in which these Navajo related to themselves and the rest of the natural world. Anthropologists, including Klara Kelley and Maureen Schwarz, posit that Navajo connection to place (land) is at once particular, in the sense that people feel deeply connected to their home sites, and holistic, in the sense that they strongly identify with the entire historic Navajo homeland. They also feel accountable to it. Through origin stories Navajo learn that leaving the land – home sites and the homeland - is a violation of their responsibility to act as stewards of the land and Holy Beings. In his protest of the relocation effort, Big Mountain elder Ashkie Bitsie communicated this fear saying, “If we should let go and leave the land, we will be punished harshly by our Creator.” Such beliefs underscore the extent to which Navajo interviewed by the Sacred Lands Project responded to threats to particular places as threats to all of Navajo land. They believed they had a right, as well as responsibility, to remain on their ancestral home sites.

Traditional Navajo people understood their way of life to be constructed, dependent on, and accountable to the particular geography of the Navajo homeland.

“We pray at Big Mountain to ask for the care of the sheep, to bring us more sheep and horses and cows. We pray to these mountains so the sheep and the horses and the cows will have a place to live. All people and the mountains live together as one.”

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43 Ibid. Historian Stephen Jett adds to this discussion in pointing out that “some [Navajo] attribute contemporary environmental, social, and political problems” to the neglect, improper management, or desecration of places. Stephen C. Jett, “Navajo Sacred Places: Management and Interpretation of Mythic History,” The Public Historian 17, no. 2 (April, 1995): 39–47, 43
44 Ashkie Bitsie, 86, Big Mountain, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
45 Nez Begay, Sacred Lands Project
Statements like this one from Nez Begay indicate that Navajo residents of the JUA saw themselves as caretakers of land and livestock. The importance of this role was emphasized in their vision of Navajo philosophy. Leroy Little Bear writes, “the function of Aboriginal values and customs is to maintain the relationships that hold creation together … values and customs are the participatory part that Aboriginal people play in the maintenance of creation.”\(^{46}\) Traditional JUA residents believed themselves to be participating in the maintenance of creation through conducting special ceremonies, as well as engaging in daily practices of prayer and tending to land and livestock. Scholars observe that these daily activities “root the Navajos in their family’s land base by turning the land into food, which becomes their flesh.”\(^{47}\) The philosophical discourse presented by the Sacred Lands Project testimonies revolved around the interlinked concepts of stewardship and interconnectedness. Kelley and Little Bear’s frameworks of analysis are helpful in illustrating the logic by which traditional JUA residents understood their rights, responsibilities, and cultural teachings. Roberta Blackgoat’s statement - “the land is holding us and the people and land belong together. The land feeds us and takes care of us”\(^{48}\) - evidences the extent to which the principle of mutual dependence between land and people was interpreted as a core tenet of these teachings.

Traditional teachings were framed by the central Navajo philosophy of Hózhóójí (generally translated as Blessingway). Hózhó is an expansive concept manifest in the form of - to name but a few - belief, ritual, and medical practice. Scholars present Blessingway as both a philosophical paradigm, and particular ceremony conducted to

\(^{46}\) Little Bear, “Jagged World Views” in Battiste, Reclaiming Indigenous Voice and Vision, 81
\(^{47}\) Kelley and Francis, Navajo Sacred Places, 25
\(^{48}\) Roberta Blackgoat, Navajo Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
mark major life transitions or restore an individual to balance. It is concerned with peace, harmony, happiness, restoring or maintaining balance, and goodness. These principles form an ethic that is supposed to guide Navajo peoples interactions with one another as well as their interactions with the land, plants, and animals. Former Chief Justice of the Navajo Nation explained the concept of Hózhó to me as a comprehensive paradigm that explains how all things are related. The way of living in accord with what it means to respect Hózhó, he said, is “the law of society.” According to this law “people have a duty to maintain harmony and take care of the Earth in a process that is participatory.”

Following the path of balance demands that individuals participate in processes of renewal on micro as well as macro levels. This is done everyday through ceremonial land-based rituals such as the offering of corn pollen to the diyinii (Holy People) to encourage the water and sun that is needed to support farming and herding. Caring for the crops and herds in turn honors the provision of those elements.

Land is the medium of these interactions, and therefore the base upon which the philosophy of Hózhó rests. As explained by Nez Begay, “the use of the land is every day. It is not only a few minutes of the day or a few minutes of the month or year. We use it

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49 Leland C Wyman, Blessingway, with Three Versions of the Myth Recorded and Translated from the Navajo by Father Berard Haile (Tucson: University of Arizona Press, 1987), 4-7. To understand what “balance” and “goodness” mean within the Navajo context see Farella, The Main Stalk, 121-124. Navajo philosophy is not dualistic and thus there is no notion of “good” and “bad.” Rather, every thing is thought to be internally composed of opposite forces, or potentialities. The Blessingway path involves trying to find balance between and within these opposites.

50 Robert Yazzie, J.D., Executive Director of the Diné Policy Institute, Navajo Chief Justice Emeritus, Interview with author, Tsaile, AZ, March 27, 2012

51 Farella, The Main Stalk, 100

52 Ibid, 25-27. The Diyinii are animate and inanimate forces. “Holy People” are thus conceived of as ancestral spirits and supernatural gods as well as natural phenomena including wind, thunder, rain, sun, earth, corn, and so on. There is no categorical separation between these Holy forces and humans. Rather there are degrees of Holiness; people themselves fall along this spectrum.
and live with it every day and every night and this is why we cannot leave.” Begay and others in the JUA understood their quotidian habits as deliberate ritual forms of honoring and transmitting knowledge of the sacred. They believed these practices reflected the “Navajo way.”

“The Four Sacred Mountains are our boundary. They are our Navajo laws that are written in the land…”

Within scholarship on the Navajo there is a broad consensus that Navajo consider all land between the four sacred mountains – Blanca Peak in the east, Mount Taylor in the south, San Francisco Peaks in the west, and Hesperus Peak to the north – to be their ancestral homeland. In origin stories the mountains symbolize the four corner-posts that support the Hogan (traditional house structure). For traditional people from the JUA, they were more than geographical markers of historical borders. Historian Martha Weisiger argues that the land between the four sacred mountains was itself the “essence of identity” for Navajo people. It “demarcated an imagined community of people long before a political nation arose.” The Navajo language, as well as a philosophical discourse based on historical and mythical creation narratives, culturally and socially connected this community. Phillip Altsisi’s statement about the connection between

53 Nez Begay, Sacred Lands Project
54 Scholars including Klara Kelley and John Farella point out that for the traditional Navajo there is no distinction between the mundane and the sacred. Kelley, Navajo Sacred Places. Farella, The Main Stalk, 74-76. Farella raises the concern that many anthropologists and other outsiders to Navajo culture have tried to separate Navajo “religion” from “secular” cultural beliefs. Such a compartmentalization misses the point of the traditional worldview of the Navajo.
55 Phillip Altsisi, Medicine Man from Big Mountain, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
56 Kelli Carmean, Spider Woman Walks This Land: Traditional Cultural Properties and the Navajo Nation (Walnut Creek: Altamira Press, 2002), 59
57 Marsha L Weisiger, Dreaming of Sheep in Navajo Country (Seattle: University of Washington Press, 2011), 64
“Navajo laws” and the Navajo homeland suggests customary laws within the JUA derived from this repertoire of narratives. Peoples’ understandings of laws were grounded in their interpretations of Navajo philosophy.\(^{58}\)

The *reservation* was a political creation of the treaty of 1868, which ended the Navajo internment at Bosque Redondo. The borders this treaty established meant little to the people who returned to their homes when they gained freedom.\(^{59}\) Peoples’ relationship to and use of the land predated the reservation; it did not make sense to them that much of the land they returned to no longer belonged to them, but rather to the U.S. federal government (through the trust arrangement).\(^{60}\) Navajo people interviewed by the Sacred Lands Project rejected these kinds of boundaries that had been established by the federal government. Big Mountain elder Roberta Blackgoat articulated the framework within which many JUA Navajos conceived of borders: “in the Navajo Way, we have no boundaries. The land between the Four Sacred Mountains is a Hogan – and all traditional people may live here together – in the Hogan.”\(^{61}\) Some individuals believed they had exclusive right to the land between the four sacred mountains, but most maintained that it was meant to be shared with other Native peoples of the area.\(^{62}\) A sentiment expressed

\(^{58}\) For an interesting discussion on the relationship between society and philosophy (or ideology) see Kwame Nkrumah, *Philosophy and Ideology for Decolonization* (New York: Monthly Review Press, 1964), 56-77. Nkrumah writes about the politics of ideology in the context of decolonization arguing that ideologies are the operating principles of societies.

\(^{59}\) Kammer, *The Second Long Walk*, 26

\(^{60}\) Tony Joe Jr., Supervisory Anthropologist at Navajo Nation Historic Preservation Department, interview with author, Window Rock, AZ, March 28, 2012

\(^{61}\) Roberta Blackgoat, Big Mountain, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico

\(^{62}\) For a discussion on the real and constructed ethnic boundaries in the context of the Navajo and Hopi see, Kelley and Francis, *Navajo Sacred Places*, 223-225
throughout the testimonies was that, “the Hopi and Navajos were created together…With the Hopis we were all put here by the Holy People, the same Creators.”

“This Land is our history.”

In *Navajo Sacred Places* preeminent scholar of the Navajo Klara Kelley argues that landscape serves as a “material” anchor for the Navajo people, connecting them to their past as well as present. According to Kelley the Navajo homeland “anchor[s] the ways of Navajo life, the stories about the origins, and correct pursuit of those ways.” In this way it links generations as well as individuals to place. She posits that landscapes function as historical texts for the Navajo, reminding them of their own history and helping them make sense of who they are within the complex living system they are a part of.

Traditional Navajo in the JUA related to landscape in this way. Ruth Benally protested relocation saying, “the Earth knows us…our history cannot be told without naming the cliffs and mountains that have witnessed our people.” Scholars have also proposed that landscape functions as a teaching tool – a “sacred guide” – used to pass on knowledge of proper conduct from one generation of Navajo to the next. Ruth Benally’s testimony included the statement: “the land and the plants and the stars are our

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63 Slim Biakeddy, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico. Note: Big Mountain is on Black Mesa. For more Navajo commentary on boundaries, in the form of fences, see academy award winning documentary “Broken Rainbow” directed by Mario Florio and Victoria Mudd, 1985
64 Irene Yazzie, Tees Ya To and Big Mountain, Medicine Woman, 89 years old, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
65 Kelley, *Navajo Sacred Places*, 2
66 Ruth Benally, Medicine Woman, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
67 Carmean, *Spider Woman Walks This Land*, 70
Such statements suggest that the Navajo in the JUA did indeed imagine the landscape surrounding them to have significant educational value.

“Within the Four Mountains we were given sheep. This is our way of life and this is the only way of life that was put here for us. This is the way our prayers begin.”

To talk about land in the context of the Navajo is to talk about livestock and, specifically, sheep. Anthropologists, historians, and political scientists have written about the centrality of sheep in Navajo stories, labor systems, mythology, and cultural discourses. Malcolm Benally’s collection of oral histories of the Navajo-Hopi land dispute foregrounds the extent to which the notion that “sheep is life” shaped Navajo resistance to relocation. According to Benally, this saying encapsulates the ways in which sheep figured into the livelihood as well as sense of identity and culture of traditional Navajo. Historian Martha Weisiger arrives at a similar analysis in her investigation of the 1930s Stock Reduction Era. She writes that the impoundment of sheep “unintentionally rent the fabric of Diné society,” arguing that livestock herding and pastoralism were not merely economic engagements for the Navajo; they framed and anchored peoples’ understandings of their way of life. Navajo in the JUA conceptualized the value of sheep in this way. One elder interviewed by the Sacred Lands Project stated, “We cannot forget these ways. Sheep, too, we cannot live without. This is

68 Ruth Benally, Sacred Lands Project
69 Phillip Altsisi, Sacred Lands Project
71 Benally, Bitter Water, 3
72 Weisiger, Dreaming of Sheep in Navajo Country, 11
our food and this is our livelihood. This is our way of life.”

Sheep occupied a similar space as land in the traditional imaginary – they were associated with culture as much as economy.

“There is a responsibility to stay on this Land – this place, our Mother.”

Native thinker and lawyer John Echohawk argues that the most significant difference between Native American and “non-Native” societies lies in their understanding of rights. Native peoples, he maintains, believe that humans have no special rights over territory and other living creatures. In the formulation where humans are not placed in a hierarchy in relation to the rest of nature, “ownership” means something different than how it is understood in the Western tradition. In one of the few works undertaken to synthesize Navajo concepts of property, Franciscan scholar Berard Haile suggests that the Navajo understand land to belong to all. He writes: “land may be occupied and used freely, with no fear of trespassing upon the rights of others, or of eventually losing something of value.” Haile maintains that Navajo relate to all natural resources as common property. Robert Yazzie rejects this framework asserting, that there is no distinct category of “property” in the traditional Navajo philosophical paradigm. “You can’t own anything” he remarked in an interview with the author, all things – animals, plants, people, land – are relational and “based on the concept of K’é, which

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73 Phillip Altsisi, Sacred Lands Project
74 Historian Richard White points out how interconnected this categories were writing that sheep are “an important symbolic and emotional center of the lives of the [Navajo] Indians … [and] the focus of their cooperative activities and the symbol of the life, wealth, vitality, and integration of the subsistence residential unit.” White, The Roots of Dependency, 238
75 Alvin Clinton Yinishye, 62, Fingerpoint Area, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
means the duty to take care of all relations. Traditional people living in the JUA seemed to have shared Yazzie’s vision of Navajo philosophy. “We were the ones that were instructed by the Creator how to take care of the Earth” a woman from Big Mountain remarked.

Within the discourse of these traditional Navajo, land was not conceived of as a commodity. Tom Bahi Yinishye articulated this in speaking about the significant “cultural” difference between (traditional) Navajo and Anglo-American societies saying, “the main thing we are told by our forefathers is that the land cannot be sold or bought. The younger generation and the Whiteman, they are the ones who buy and sell land.”

Yinishye’s statement further suggests that, within the JUA discourse, the notion of property was not considered to be part of the Navajo philosophical repertoire. People were understood to belong to the land, and the land to people in a relationship of mutual dependency and accountability.

In her book Dreaming of Sheep in Navajo Country historian Martha Weisiger investigates the notorious 1930s stock reduction era by engaging with the worldviews of the actors involved. The object important to her story is, of course, sheep. Her book traces the ways in which differing views motivated “New Deal bureaucrats” and “Diné grazers” to “act as they did.” According to William Cronon (who wrote the book’s foreword) Weisiger does this believing that “different views of land, people, and animals offer vital keys to the misunderstandings that explain why the events of the 1930s

78 Kee Shey Yinishye, Big Mountain, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
79 Tom Bahi Yinishye, Medicine Man from Star Mountain, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
80 Weisiger, Dreaming of Sheep in Navajo Country, xi
unfolded as they did.”\textsuperscript{81} In an equally seminal work, \textit{The Roots of Dependency}, Richard White adds to this formulation arguing that historical moments of great change have to be understood by “finding the reciprocal influences of culture, politics, economics, and the environment.”\textsuperscript{82} Overlooking the influence of culture, and the philosophical discourses that circulate within cultures, can result in disastrous policy. This happened in the 1930s, and again with the passing of PL 93-531 in the 1970s.

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\textit{“They don’t allow us to talk, to say our mind”: Perceptions of Authority and Representation}
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Reflecting on his experience as the Vice President of Teesto Chapter, seventy-two year old Archie Barton remembered that “people had no place to go. They had no help from anybody. The land and livestock was all they knew. So we figured we must do something. We must organize.”\textsuperscript{83} This sense of feeling silenced and disregarded is a recurrent theme in the Sacred Lands Project collection. Voices of JUA residents amplified through the testimonies highlight the ways in which a politics of representation affected the moment within which PL 93-531 was envisioned, passed, and enacted. Memories of first encounters with the kind of resolution PL 93-531 embodied, suggest that those who had known about the proceedings, and spoken out against partition and

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\textsuperscript{81} William Cronon in \textit{Ibid.}, xi \\
\textsuperscript{82} White, \textit{Roots of Dependency}, xv \\
\textsuperscript{83} Archie Barton, 72, Teesto Chapter, in \textit{Ibid.} 
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relocation, felt unheard. More commonly, people were *informed of* rather than *involved in* the conversation.

Speaking about his experience encountering and reacting to the partition and relocation plan, Phillip Altsisi noted: “When the Public Law came, I went to a Chapter meeting and they told us that we can’t build homes. We must reduce our livestock. And fencing will be going on. They don’t allow us to talk during the Chapter meeting, to say our mind.”84 Saying the law “came” Altsisi indicates that he had not been involved in a process of review. His statement is also very specifically concerned with the local political forum – the chapter. There was no consensus within the JUA community regarding the chapters and whether or not they were spaces that empowered or ignored voices of dissent. While Altsisi’s comment reflects a frustration, Barton clearly believed chapter meetings provided a space for people to collectively organize. Peoples’ references to the chapter forum indicate that it was a significant arena of discourse and debate in the *aftermath* of PL 93-531.85 The references suggest, however, that chapters had no substantial power and were ineffectual. In the debates leading up to the passing of PL 93-531 chapter officials did not effectively inform area residents, or serve as a feedback loop connecting local residents to the Navajo central government, which acted as their representative.

References to the Navajo Nation government follow a similar pattern. Some, including Kee Shey Yinishye, expressed frustration with the tribal government saying

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84 Phillip Altsisi, *Sacred Lands Project.*
85 A chapter of the Sacred Lands Project manuscript – entitled “The Political Way” was devoted to peoples’ evaluation of political institutions and spaces in informing as well as contending with the resolution of the dispute. Testimonies of several council delegates from chapters within the JUA highlight the activity within, and general powerlessness of, the chapter as a political arena.
things like, “we can never get help from our Tribal Council. We are abused. We just get abused whenever we try to ask for help.” Yinishye recounted how people in the JUA had tried to communicate their concerns saying, “so with all of this, the government should know what we want.”  

Jane Biakeddy and others felt the council was trying to act in the interests of JUA residents, but did not have enough of a voice to actually do anything. Biakeddy argued, “our Councilmen are not being heard and they are not believed no matter what they say. They are not believed and not heard.”

This diversity of opinions regarding the positionality of Navajo political actors was underscored by a general expression of distrust for politics and governmental entities. Many people reference “they” or “government” as the antagonists in the dispute, making no distinction between the United States and Navajo Nation governments. Such a conflation seems symptomatic of the general problem of representation and the sense residents had of being powerless and marginalized. Articulating a sentiment expressed by many people, Big Mountain elder Ashkie Bitsie asked, “why don’t you listen? Why doesn’t anyone listen to our stories?” “We have told our stories again and again,” he insisted “but it seems like the government or the Hopi Tribe or non-Indian people have no ears at all.”

On the subject of the United States federal government little difference of opinion was expressed in the testimonies. Old and young, traditional and bureaucrat,

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86 Kee Shey Yinishye, *Sacred Lands Project*; Still stronger terms were used by Bessie Hatathlie, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico  
87 Jane Biakeddy, *Sacred Lands Project*; Still stronger terms were used by Bessie Hatathlie, *Sacred Lands Project*, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico  
overwhelmingly blamed the U.S. government for causing the Navajo-Hopi land dispute in the first place and, more importantly, attempting to resolve it by relocating people. The perception was some variant of, “as far as I know, it is from Washington and their politics.”“Washington” for the majority of people interviewed by the Sacred Lands Project seemed to represent the United States Federal Government as an entity, specific actors (including in the private sector), and the legal-regime that governs the United States of America. The law – PL 93-531 - was understood as a tool of this distant Washington: “our religion and our freedom is being taken away from us … Whiteman’s law is the weapon that has been brought into the Four Sacred Mountains. Our way of life is being swept away.”

Danny Blackgoat, who had relocated to Flagstaff from Big Mountain, argued that ideological divides (not between Navajo and Hopi, but between both tribes and non-Native actors) regarding matters of law, authority, and rights underwrote the entire conflict. He recounted: “I guess I was weak on certain points and I was easily swayed by the law. I was thinking from the perspective of the government and its legal processes. I signed away my birthright so that according to the Whiteman way I am totally off the land. I have no rights to it. But deep in me there are roots from my family. My mother

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89 Fannie Goh, 44, Big Mountain, in Ibid.
90 Kee Shey Yinshye, Big Mountain, in Ibid.
said I still have ties with the land. She said *there is a conflict between the Whiteman’s law and the Indian law.*”

Ideas were a source and subject of conflict in the moment of PL 93-531’s implementation. The politics of these ideas circumscribing the entire process of the land dispute’s resolution were such that JUA residents were not provided with an opportunity to develop their own solutions. Writing about the dilemma of the 1930s stock reduction White argues, “the tragedy was that a group that had weathered previous crises and changes with substantial ingenuity and success was never given a chance to develop its own programs and responses. Instead, the government forced the Navajos into a position of desperate and finally sterile opposition.” With the resolution of the Navajo-Hopi land, this tragedy was repeated.

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**Why Partition and Relocation: Politics, Resources, and Cultural Colonialism**

While most people identified an abstract “Whiteman’s government” to be the cause of the partition and relocation problems, a few (including the Navajo and Hopi council delegates interviewed) had more specific understandings of the political motives at work. According to them, U.S. Senator Barry Goldwater and Representative Morris Udall – both from Arizona – had persuaded Congress to adopt PL 93-531. Miller Attakai,

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93 White, *Roots of Dependency,* 249
a man of Hopi and Navajo descent, claimed “it is not either Hopi or Navajo that caused the problem…But now we can’t look at each other because of the situation that the federal government created. Barry Goldwater and Morris Udall are the ones who are behind this partition. They are the ones who pushed it through Congress. Congress listened to them.”

Teesto Chapter president David Clark echoed Attakai’s analysis saying, “in our community we blame Goldwater for what’s happening. He’s the person that did this. He’s all for getting the resources.”

The resources Goldwater and Udall were most interested in were coal and water (to power the coal plants). With constituents based in the booming desert cities of southern Arizona, Udall and Goldwater were invested in securing access to the JUA’s subsurface resources. This would be much easier if there were fewer people living there who might protest resource extraction.

The pervasive notion that the dispute was caused and exacerbated by non-Indian actors did not mean that the Navajo and Hopi people interviewed by the Sacred Lands Project did not blame each other for the predicaments within which they found themselves. Among the Navajo interviewed, Bessie Shepherd made the strongest claim against the Hopi saying, “I lived out there when the Hopis took my livestock and my land.”

Others explicitly blamed the “Whiteman’s laws” and yet told stories of

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94 Miller Attakai, Star Mountain, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico. Catalyzed in 1972 over Macdonald’s endorsement of George McGovern as a Democratic candidate for president, a feud between Goldwater and Chairman Peter Macdonald further added to these material motivations. Kammer, The Second Long Walk, 97-99, 130-133

95 David Clark, Teesto Chapter President, in Ibid.

96 Herbert Blatchford, Sawmill Moutain, in Ibid. Hopi Tribal Chairman Abbott Sekaquaptewa, whose testimony was also collected by the Sacred Lands Project, was allied with Goldwater but nonetheless stated explicitly that Goldwater was interested in the JUA’s natural resources for these reasons. For background and discussion of the interests and involvement of Goldwater and Udall see: Brugge, The Navajo-Hopi Land Dispute, 213-252, and Kammer, The Second Long Walk, 97-99, 130-133

97 Bessie Shepherd, Flagstaff, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
confrontations with Hopi people.\textsuperscript{98} Most, however, downplayed the antagonism between the tribes, emphasizing their history of co-existence.

Politicians, energy companies, “Whiteman’s Law,” the BIA, and the Hopi were all frequently referenced as actors significant to the dispute as well as the consequences of its legal resolution. Lawyers, however, were mentioned only twice. One explanation for this conspicuous omission could be that JUA residents related to Norman Littell, John Boyden, and George Vlassis as part and parcel of some form of “government.” Or, perhaps interactions were so minimal area residents did not know of the attorneys and the influence they had in the respective council chambers. And certainly by the time the testimonies were gathered in the 1980s, the lawyers’ significance had faded; perhaps they did not seem relevant to peoples’ experiences on the ground. The one JUA resident that did bring up “the attorneys” did so in the context of recounting his father-in-law’s experience of testifying in Tucson in 1972. “We talked to the Hopis at the hearing” he said. “They knew the people from this area because they always lived together – they were neighbors all their lives. The Hopis were telling the Navajos that they were told to say different things because the Navajos were questioning why the Hopis were saying these things against the Navajos…The Hopis said that these testimonies were rehearsed. “It’s the attorneys,” they said.”\textsuperscript{99}

Attorney General of the Navajo Nation Claudine Bates-Arthur identified the attorneys as key actors in the dispute. Unlike the vast majority of the people who offered testimonies, Bates-Arthur did not question the legality or justice of PL 93-531. She did,\textsuperscript{98,99}

\textsuperscript{98} Ida May Clinton, in \textit{Ibid.} and Ashkie Bitsie in \textit{Ibid.}
\textsuperscript{99} Anderson Tully, in \textit{Ibid.}
however, agree with the prevailing interpretation of the dispute and its resolution as being about “money” and “land.” From Bates-Arthur’s perspective the money “part of the puzzle” had more to do with the interests of the attorneys than either tribe. “You could say the Navajo-Hopi federal laws have been and are part of a retirement plan for lawyers” she claimed. “The Hopi tribe has filed seven damage suits against us. I wonder how many of those would have been filed if the government wasn’t paying the attorney’s fees.”

Bates-Arthur’s analysis does not contribute to our understanding of how people on the ground explained the dispute, but is nonetheless significant as an insight into the more subversive interests directing its course. Documents from Navajo tribal council meetings certainly evidence the influence exerted by the tribe’s attorneys.

“This land dispute is because of the mining. Minerals lie underneath the land that we use.”

By the time PL 93-531 was implemented to the extent that it affected people on the ground, the resource wealth of the contested area was evident to all parties. JUA residents interviewed by the Sacred Lands Project felt that the cause of their displacement was an interest in extracting valuable natural resources. Statements like, “they want us to move so they can get the coal that we call the liver of our Mother Earth,” suggest that residents believed they were being relocated as a strategic measure. Their resistance to this strategy was motivated by their sense of personal grievance, and philosophical
opposition to the technologies of energy development. Origin stories,\textsuperscript{103} “traditional”
metaphors – the reference to coal as the liver of Mother Earth – and appeals to “Natural
Law” formulated this position. Those with access to information - tribal council members
and tribal officials (including Claudine Bates-Arthur) - pragmatically traced the politics
to the motivations of very specific actors. In the isolated communities of the JUA, people
understood these politics through their interpretations of Navajo stories and beliefs:

> Peabody Coal is up here. There is all kinds of resources under us that they
> have seen and there is gas, oil, coal, silver, gold. They [Washington] are dying
> for these things, but then again, they have to realize this is what keeps the
> balance of the Earth. If they mess this up, then they are going to mess the earth
> up and its balance.\textsuperscript{104}

Jane Biakeddy’s statement is representative of JUA residents’ conceptual framework. In
this analysis Biakeddy underscores the extent to which material, economic, motivations
of energy companies and the US Government were believed to be the driving force of PL
93-531. Her comment also reflects on the way in which residents’ opposition to the
operations of these interests was in large part philosophical. Biakeddy and others saw
themselves as ideologically opposed to Peabody, and “Washington’s” particular valuation
of natural resources as extractable economic resources.

> “The government is working to terminate the tribe. They are working to terminate
> Navajos – scattering us all.”\textsuperscript{105}

\textsuperscript{103} Recall Robert Yazzie’s story (chapter two) about how Nayee (bad) forces once threatened the balance of
the world so the holy people buried them. These forces then became what we know as coal, oil, and gas. In
their “natural” state they are not harmful but when extracted they are released as destructive energy.
\textsuperscript{104} Jane Biakeddy, \textit{Sacred Lands Project}
\textsuperscript{105} Roy Nez, Coal Mine Mesa, \textit{Sacred Lands Project}, in National Indian Youth Council Records, Center for
Southwest Research, University Libraries, University of New Mexico
Politics, interest in energy development, and cultural colonialism\textsuperscript{106} were identified as the principle motivations behind the “Whiteman’s law.” Roy Nez’s statement – “the government is working to terminate the tribe” – epitomized the prevailing perception that PL 93-531 was a direct attack on the sovereignty as well as culture of the Navajo (and Hopi) people. The language of termination evoked a discourse that had circulated between the 1940s and 1960s, within the era of the federal government’s “policy of termination.” This policy orientation aimed to dissolve the government’s trust relationship over Indian lands and integrate American Indians into the American economy. Such an approach was not altogether new, but marked a reversal of twentieth century federal Indian policy, which had promoted tribal reform rather than dissolution.\textsuperscript{107} According to policy scholar Donald Fixico, the termination years had “threatened the very core of American Indian existence – its culture.” The federal government’s attempts to “de-Indianize Native Americans”\textsuperscript{108} through pushing them to assimilate into mainstream America reinforced many Native peoples’ distrust of the federal government.

Locating the land dispute within this historical context Cecil Begay argued, “the policy of America is to terminate the Indian and our ways. Our traditional ways – the way of the Navajo legend how we are meant to live. These are being destroyed. The White

\textsuperscript{106} Nicholas B. Dirks, ed, \textit{Colonialism and Culture} (Ann Arbor: University of Michigan Press, 1992). This volume is a collection of scholarship that explores the cultural consequences and implications of European colonialism. In his introduction to the collection Dirks sets up an epistemological argument that foregrounds the ways in which the European colonial project relied on developing systems (such as education and ideological discourse) to control and shape the cultures of colonized peoples.


\textsuperscript{108} Fixico, \textit{Termination and Relocation}, 183
society values our lives to nothing.” Such statements suggest that for many traditional Navajo physical displacement and cultural, ideological, dispossession were two sides of the same coin.

“Because the sheep are gone”: Lived Consequences of PL 93-531

Although PL 93-531 – “an act to provide for final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes to and in lands lying within the joint use area of the reservation established by the Executive order of December 16, 1882, and lands lying within the reservation created by the Act of June 14, 1934, and for other purposes” – was passed in 1974, relocation did not begin until 1979. By 1986 a discourse had developed around humanitarian concerns about the way in which the Navajo-Hopi land dispute was being “resolved.” The central explanatory narrative in this discourse – that the “settlement” was formulated in the interests of non-Native actors (including Senators, Peabody Coal, the Department of the Interior, and the tribal attorneys) – challenged the logic with which the act was justified. Stories from the JUA emphasized that the rights and interests of Hopi and Navajo as people were not in fact

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109 Cecil Begay, relocated to Tuba City, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
110 Virginia Bahe, 62, Star Mountain, in Ibid. Ms. Bahe’s full statement was: “We had 80 sheep and then we were told to sell the sheep and we sold all of them. Now we depend on commodities and food stamps because the sheep are gone.”
conflicting. Kee Shey Yinishye rejected Congress’s framing of the dispute saying, “Today, it is said, ‘this is Hopi land. Navajos and Hopis are fighting over the land.’ That is not truth. I do not ever see any Hopis coming around asking people to move out.”

Testimonials in the Sacred Lands Project suggest that a significant number of residents understood the dispute to be rooted in a conflict between Navajo and Euro-American worldviews.

This discourse within the JUA in turn encouraged the Navajo tribal council to downplay animosity toward the Hopi Tribe. Concerns that had been subordinated to political pragmatism in the early 1970s were revisited. Affirming the rights of Navajo JUA residents to remain in their homes, and pressing Congress to stop relocation in light of the human suffering it was causing, the Navajo tribal council effectively endorsed resistance. By 1987 the Council was protesting further relocation of Navajo JUA residents claiming relocation violated constitutional and human rights. Stories from communities within the JUA formulated the council’s increasingly firm position. They informed and were informed by the humanitarian framing of the discourse.

Three themes, or categories of concern, run throughout the accounts collected by the Sacred Lands Project. First, stories were told about the ways in which relocation

\[112\] Kee Shey Yinishye, *Sacred Lands Project*

\[113\] Navajo Tribal Council Resolution, CD-83-82, “Affirming the support of the Navajo Tribal Council, as Representatives of the People of the Navajo Nation, for Senate Bill 3026, to stop the Relocation of the Residents of the Hopi-Partition Area of the Former Joint Use Area,” passed December 22, 1982, Navajo-Hopi land commission office, Window Rock, AZ

\[114\] Navajo Tribal Council Resolution, CAU-64-85, “Affirming the support of the Navajo Tribal Council for President Reagan’s initiative to resolve the Navajo-Hopi Relocation Controversy, passed August 1, 1985, Navajo-Hopi land commission office, Window Rock, AZ

\[115\] Navajo Tribal Council Resolution, CAU-37-87, “Adopting key principles for purposes of Seeking a Comprehensive Legislative Resolution of all Aspects of the Navajo-Hopi Dispute and Authorizing and Directing the Chairman of the Navajo Tribal Council and the Navajo-Hopi Task Force to Seek Appropriate Legislation from the United States Congress,” Navajo-Hopi land commission office, Window Rock, AZ
destroyed the integrity of community and culture. A fear of losing culture, language, tradition, and community through processes of assimilation underlay the concerns of many JUA Navajo. Thirty-seven-year-old Jesse Nez, relocated to Flagstaff, lamented “my kids don’t speak Navajo now. That’s really a problem. They can’t talk to their grandparents.” Jeanette Denny of Hollow Mesa voiced a similar fear: “If we relocate, the weaving and the pottery and basket making will vanish along with the people. There will be nobody to teach one another.” An important point to mention here is that many people had lived outside the Navajo Nation (prior to relocation) in order to work, but remained connected to these “Navajo practices” by visiting family members (mostly elders) who remained. By removing these remaining residents, PL 93-531 would break this link and thereby severe the active connection off-reservation Navajo had to their heritage.

Concerns about what it would mean for JUA residents to be separated from their ancestral lands were also raised. Personal hardship, spiritual bereavement, and severe emotional distress were attributed to the separation between individuals and the land they came from. Anthropologist Maureen Trudelle Schwarz emphasizes the significance of this connection arguing: “For these [Navajo] people attachment to the land goes beyond mere sentiment to actual physical and social connections that are components of

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116 Jesse Nez, 37, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
117 Jeanette Denny, Hollow Mesa, in Ibid.
118 Many articles have been written about the serious psychological, social, and financial challenges relocated Hopi and Navajo JUA residents have faced. For an elaboration on these conditions see: Schwarz, “Unraveling the Anchoring Chord,” 50; and for further discussion on the impacts of relocation see: Aberle, “The Navajo-Hopi Land Dispute and Navajo Relocation” in Anthropological Approaches to Resettlement: Policy, Practice, and Theory, 164-178
personhood. Consequently, forced relocation constitutes a breach of personhood."¹¹⁹ She argues that in the traditional Navajo worldview, land is seen as an extension of self. Certainly not all JUA residents felt their identity was intimately connected to the land of their birth. Living in Flagstaff, Bessie Shepherd expressed that she “didn’t feel lonesome” for her land anymore. “Even though I moved out here I still have my culture inside me,”¹²⁰ she remarked. However, Schwarz’s interpretation of the “Navajo self” is reflected in testimonies like that of Slim Biakeddy who said, “I am against relocation because it is going to kill us. It is going to kill all our people.”¹²¹ Tommy Chase commented, “to relocate means to go away and never to be seen again.”¹²² For Chase, Biakeddy, and many others, relocating meant disappearing. They feared that in relocating they would lose their very identities.

And, finally, people spoke about what it meant to be stripped of their sovereignty as individuals and as a people. JUA residents spoke about the value of sovereignty in the context of what it meant to be independent. Remembering what it was like before the passing and implementation of PL 93-531, Teesto Chapter president Roger Atakai claimed: “we were self-determined then as a family, you know…We did it all on our own. We never depended on the tribe or the government then.”¹²³ Not wanting to be dependent on the US federal government or the tribal council, they demanded the right to live according to their traditional ways. Many people spoke about the importance of sheep as a source of livelihood and means of maintaining independence for themselves

¹¹⁹ Schwarz, “Unraveling the Anchoring Chord,” 44
¹²⁰ Bessie Shepherd, Flagstaff, Sacred Lands Project
¹²¹ Slim Biakeddy, Sacred Lands Project
¹²² Tommy Chase, 35, Hard Rock, in Ibid.
¹²³ Roger Atakai, Star Mountain, in Ibid.
and their descendants. “Because the sheep are gone,” Virginia Bahe said, “we depend on commodities and food stamps.” “The sheep were a security blanket. We used our livestock as our security blankets” Nez Begay remarked. Tommy Chase expanded upon this idea saying, “We have no way to make a living without the sheep. Not from any jobs. Our income now is mostly from the welfare. I think this Relocation has done more damage than good for the people…They said that law was actually good for the people. Instead they are making us poor.”

A Struggle over Land and Lifestyle: Territorial vs. Epistemological Politics

The discourse of JUA residents challenged the very name - the “Navajo-Hopi land dispute” – of the moment the discourse developed around. In it, Navajo residents of the politically contested Joint Use Area emphatically reject the explanatory narrative implied in this naming. Challenging readings of the dispute as a territorial squabble between the Navajo and Hopi people, they highlight the extent to which the conflict was rooted in a kind of epistemological politics. Their stories suggest that the dispute was to a great extent caused and mediated by ideological conflicts between variants of “Native” and “Euro-American” worldviews. The power dynamics of this conflict were such that the voices and knowledges of these JUA residents were, and continue to be, politically and

124 Nez Begay, in Ibid.
125 Tommy Chase, in Ibid.
discursively marginalized. The struggle for them was not only for territory, but also culture, place, independence, and philosophical sovereignty.\textsuperscript{126}

Disregarding or simply not understanding the interconnectedness of these issues, Congress passed PL 93-531, which merely exacerbated a conflict it was ostensibly meant to solve. Technical solutions applied to problems complicated by cultural differences all too often only seed greater dysfunction. The passing of PL 93-531 marked a moment in which this happened. Congress’s disregard for JUA residents’ epistemological realities upheld (however unintentionally) the federal government’s effective disenfranchisement of Navajo people. The policy of physical dislocation was experienced by the people it most affected as a project of cultural and philosophical imperialism. Navajo resistance to relocation was thus understood by the resistors and, later, by the Navajo tribal council as a defense of cultural integrity. One resident made this position clear asserting, “We want a piece of our spiritual sovereignty back so that we can use it and live for generations to come.”\textsuperscript{127} In defining and fighting for this kind of sovereignty, the residents of one of the most remote and “non-modern” corners of Diné Bikéyah inadvertently tempered the emergent political identity of the Navajo Nation.

\textsuperscript{126} This formulation is discussed in detail in: Escobar, Arturo, \textit{Territories of Difference: Place, Movements, Life, Redes} (Durham: Duke University Press, 2008)

\textsuperscript{127} Nez Begay, \textit{Sacred Lands Project}
CONCLUSION

“Land is good to think with”: Perspectives on the Dispute

“Our problem starts with the coal companies. This is not Peabody Coal country – this is our roots”¹ eighteen-year-old Violet Ashikie told the Sacred Lands Project interviewers. Peabody had not always been a threat to Violet’s “country.” Hot, desolate, and arid, Diné Bikéyah was of little interest to Anglo-Americans as they moved into the (now American) Southwest in the 1800s. In 1883 one Indian agent had described the desert expanse that would come to constitute a part of the Navajo reservation as “10,000 square miles of the most worthless land that ever laid out doors” adding that, “three quarters of it is are about as valuable for stock grazing as that many acres of clear sky.”² Over four million acres of this landscape had been designated as the original Navajo reservation in the treaty of 1868, which was signed as the Indian Bureau released some 10,000 to 12,000 Navajo it had imprisoned four years earlier at Bosque Redondo in southern New Mexico.

Deeming the land to be worthless, federal officials did little to protest as the Navajo returned to homes that lay outside the new reservation boundaries.³ Violet’s

¹ Violet Ashikie, Sacred Lands Project, in National Indian Youth Council Records, Center for Southwest Research, University Libraries, University of New Mexico
³ Ibid. 214-216
family was one of those that moved back into a homesite that they, by law, no longer had claim to, and which they had shared with the Hopi prior to the internment at Bosque Redondo. Recognizing the need to expand reservation lands to protect the Indian tribes from encroaching white settlers, in 1868 the Bureau of Indian Affairs encouraged President Chester A. Arthur to sign an Executive Order expanding the boundaries of tribal lands. Like the homesites of thousands of families, Ashikie’s family became the site of conflict that would involve the Hopi, Navajo tribal government, a host of federal actors, and energy companies (including Peabody Coal) for more than a century.

At the turn of the twentieth century natural resource “discoveries” in Navajo land made it valuable in the minds of white settlers, the Bureau of Indian Affairs, and newly minted American corporations. The discovery of water in the southeastern and eastern reservation lands drew the attention and interest of white cattlemen; at the same time railroad companies sought title to lands in the west, east, and south. Prospectors had also discovered oil seeps in the western part of the reservation as early as 1879. By 1907, federal overseers of Indian Affairs were receiving a steady stream of inquiries regarding the possibilities of prospecting for oil and gas on Navajo land. And in 1909 coal seams were discovered in the heart of the reservation, on Black Mesa. Half a century later, in 1956, a federally funded study of mineral resources on the Navajo and Hopi Reservations was published. It identified Black Mesa as the site with the best prospects for "immediate

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4 Ibid. 216-218
economic development." Peabody Coal would take advantage of these prospects and sign leases with both the Navajo and Hopi tribal councils in the early 1960s.

In leasing land for energy extraction to Peabody Coal, and others, the government of the Navajo Nation inadvertently reinforced a status quo political economy that undercut the interests and values of a significant portion of the Navajo people they were meant to represent. Throughout the first half of the 20th century, Navajo political leaders’ negotiation of the power dynamics and conflicting interests they were accountable to effectively silenced these Navajo “traditionalists” expressions of their values regarding land and lifestyle.

And yet, as the politics of the Navajo-Hopi land dispute erupted in the 1970s and ‘80s, tribal leaders increasingly adopted the framework and language Violet and others displaced by the 1974 “relocation law” used. Political developments across Indian country, as well as the grassroots mobilization and discourse within the Navajo Nation, pushed the formulation of an emergent Navajo nationalism, which developed as tribal leaders demanded sovereignty. The council and its leadership (namely Peter MacDonald) sought political self-determination; JUA residents asserted their right to philosophical and spiritual sovereignty. The discourses both groups – the tribal council and JUA residents – generated in response to the Navajo-Hopi land dispute formulated and reflected how these positions interacted to shape the developing political identity of the Navajo Nation.

A 1.8 million acre parcel of land in the American Southwest was the embodied site of the contestations involved in this process. For the government of the Navajo

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7 Edgar S. Cahn, *By Executive Order: A Report to the American People on the Navajo-Hopi Land Dispute* (DC: Citizens Advocate Center, 1982), 174
Nation, it was the site of tension between the prospects of developing through appropriating dominate models of extractive-based industrialization, or through re-appropriating traditional logics and applying them to a struggle for greater autonomy and sovereignty.

Writing about the impact of federal bureaucrats cultural ignorance in the 1930s stock reduction policies, scholar Martha Weisiger notes: "The New Deal Conservationists lost sight of the fact that a truly sustainable relationship with the natural world requires an ethical relationship with the land, those that people it, and with the cultures that give it meaning." Relevant to the Navajo-Hopi land dispute, this point is significant to consider in contexts beyond the boundaries of the Navajo Nation, and in light of the struggles shifting national and global geopolitical conditions continually give rise to.

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