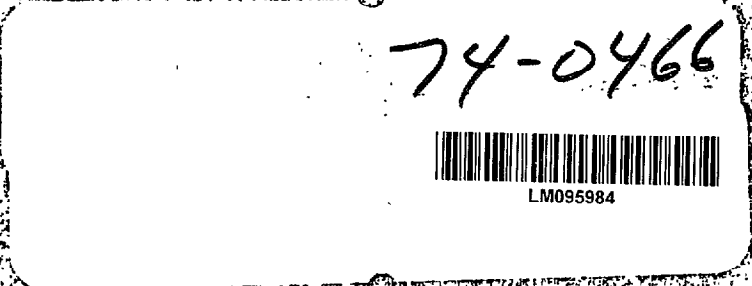




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 REPORT TO THE SUBCOMMITTEE  
 ON INDIAN AFFAIRS  
 COMMITTEE ON INTERIOR  
 AND INSULAR AFFAIRS  
 HOUSE OF REPRESENTATIVES

*Personal*  
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 095984



New Navajo Construction Activities  
 On The Navajo And Hopi  
 Joint-Use Area B-114868

Bureau of Indian Affairs  
 Department of the Interior  
 Department of Health, Education, and Welfare

BEST COPY AVAILABLE

BY THE COMPTROLLER GENERAL  
 OF THE UNITED STATES

~~701853~~ 095984



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-114868

CI  
K  
The Honorable Lloyd Meeds, Chairman  
Subcommittee on Indian Affairs  
Committee on Interior and Insular Affairs H 01902  
House of Representatives

Dear Mr. Chairman:

Pursuant to your request of October 12, 1973, we reviewed new Navajo construction activities on the Navajo and Hopi joint-use lands in Arizona.

We orally presented the results of our review to your staff on November 26, 1973. As requested, we agreed to furnish you the following summary document used during our presentation.

2 incorporated in the summary document the Department of the Interior's 33  
3 and the Department of Health, Education, and Welfare's comments on our 22  
1 findings.

The matters discussed in this report were the subject of a past legal action and are the subject of pending legal actions. Disclosure of the material in this report could prejudice the outcome of the pending legal actions.

Sincerely yours,

Comptroller General  
of the United States

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ABBREVIATIONS

BIA	Bureau of Indian Affairs
GAO	General Accounting Office
OEO	Office of Economic Opportunity
ONEO	Office of Navajo Economic Opportunity

SUMMARY  
REVIEW OF NEW NAVAJO CONSTRUCTION ACTIVITIES  
ON THE NAVAJO AND HOPI JOINT-USE AREA

OBJECTIVES

Pursuant to the October 12, 1973, request of the Chairman of the Subcommittee on Indian Affairs, House Committee on Interior and Insular Affairs (see app. I), we reviewed new Navajo construction on the Navajo and Hopi joint-use area in Arizona. The joint-use area contains approximately 1.8 million acres, bounded on all sides by the Navajo Reservation, in which both the Navajo and Hopi Tribes have joint, undivided and equal rights and interests.

The Chairman asked us to determine

- whether the Navajos had begun new construction within the joint-use area since October 14, 1972, when the U.S. District Court of Arizona prohibited such construction and
- whether Federal funds, directly or indirectly, had been made available for such construction.

SCOPE OF REVIEW

We agreed with the Chairman's office to randomly select cases of apparent new Navajo construction on the joint-use lands for detailed review. We inspected 28 sites of apparent new Navajo construction in the joint-use area. We interviewed Bureau of Indian Affairs (BIA) officials, Navajo tribal officials, Hopi tribal officials, the Judge of the U.S. District Court of Arizona, and other individuals engaged in or knowledgeable of construction in the area. We also scanned the records of two BIA Navajo agency housing offices, one BIA-funded Navajo Tribal Work Experience Program office, and one Navajo tribal office administering a Pre-Vocational Training Program formerly funded by the Office of Economic Opportunity (OEO) and currently funded by the Department of Health, Education, and Welfare.

Because of the need to brief the Subcommittee on November 26, 1973, before its consideration of legislation affecting the area, we did not systematically review in detail Federal agencies, tribal, or other records pertaining to joint-use area construction nor were we able to inspect all sites of apparent new construction activity. Also, in interviewing individuals knowledgeable about specific construction projects in the joint-use area, we relied on the memory

and integrity of the persons interviewed and an accurate interpretation of their statements. In some instances oral testimony conflicted with documenting evidence or other oral testimony.

### JOINT-USE AREA DISPUTE

The dispute between the Navajo and Hopi Tribes over the joint-use area has evolved over many years. Although both tribes have an equal interest in the land, the Navajo Tribe has gradually obtained the dominant role over the approximately 1.8 million acres. Navajo Tribal officials estimated that about 11,000 Navajos currently reside and graze livestock in the area, whereas only about 12 Hopis reside in the area.

In 1882 the President of the United States issued an Executive order establishing a reservation in the territory of Arizona for the use of the Hopis and such other Indians as the Secretary of the Interior saw fit to settle thereon. This reservation consisted of about 2.5 million acres. BIA estimated that, at the time the Executive order was issued, about 300 Navajos and 1,800 Hopis resided within the reservation boundaries.

In 1891, Department of the Interior officials established an exclusive Hopi reservation within the boundaries of the 1882 reservation. The exclusive Hopi area, referred to as District 6, was redefined in 1936 and in 1943. This Hopi reservation now consists of about 650,000 acres and is not involved in the land dispute. The remaining 1.8 million acres within the 1882 reservation area became the joint-use area. (See app. II for a map of the Navajo and Hopi Reservations and the joint-use area.)

After World War II, when mineral exploration in the area was about to begin, the question of how the area should be divided was again raised. By the act of July 22, 1958, the Congress decided that the legal rights question in the area should be referred to the courts. The Congress authorized each tribe to institute or defend action against each other to determine each tribe's rights and interests in the area.

As a result of the 1958 act and a suit against the Chairman of the Navajo Tribe, a three-judge panel of the U.S. District Court of Arizona held in 1962 that the Navajo and Hopi Tribes have joint, undivided, and equal rights and interests in that portion of the reservation established by Executive order in 1882 which was outside the exclusive Hopi area. The court held also that it did not have jurisdiction to partition the area the two tribes held jointly. In 1963, the U.S. Supreme Court upheld the court's decision.

RECENT COURT PROCEEDINGS

On March 13, 1970, the Chairman of the Hopi Tribal Council of the Hopi Indian Tribe petitioned the U.S. District Court of Arizona for an Order and Writ of Assistance to allow the Hopi Tribe joint and equal use and benefit of the joint-use area. The court initially denied the Hopi petition because of a lack of jurisdiction. However, the decision was appealed and, following a reversal of the District Court's decision by the Court of Appeals for the Ninth Circuit and the denial of a Petition for Writ of Certiorari by the U.S. Supreme Court on May 22, 1972, the U.S. District Court of Arizona held hearings and received evidence on the Hopi petition.

On October 14, 1972, the District Court issued an Order of Compliance concerning the joint-use area. The order included provisions concerning the reduction of livestock, the division of income, and the prohibition of new Navajo construction in the area.

The court required the United States to submit a plan within 90 days to facilitate and implement the order with relation to new construction. In compliance with the court order, BIA prepared such a plan. The plan, however, did not include detailed procedures to implement the court order concerning new construction but only reiterated the court order's requirement.

On December 13, 1972, the Chairman of the Navajo Tribe appealed the court order of October 14, 1972, to the Court of Appeals for the Ninth Circuit on the basis that, among other things, the District Court did not have jurisdiction over the subject, the Order of Compliance was not timely, the relief granted was not appropriate for a court of equity, and the order was not supported by competent evidence. The appeal has not yet been decided.

Also, the District Court of Arizona held hearings in August and September 1973 to determine whether the Chairman of the Navajo Tribe should be held in contempt of the October 14, 1972, court order. A total of 114 cases of apparent new Navajo construction that BIA and the Hopi Tribe identified in the joint-use area were presented to the court. The court has not yet made a final decision on this matter.

DEFINITION OF "NEW CONSTRUCTION"

The October 14, 1972, court order did not define the term "new construction." The District Court Judge informed us that, although the court has not defined "new construction," the objective of the

order was to prohibit further Navajo expansion in the joint-use area and to maintain the Navajo status quo as of October 14, 1972, until the Hopis have a number of dwellings and other improvements in the area equal to those of the Navajos. The plan developed by BIA to implement the court order also did not define "new construction."

The Chairman's office said the Subcommittee does not consider the rebuilding of a burned or dilapidated building or the drilling of new wells to be new construction, but it does consider new structures which are not replacements and additions to existing buildings to be new construction. We based our findings on the definition suggested by the Subcommittee.

#### AGENCY ACTIONS TO COMPLY WITH THE COURT ORDER

After the court ruling, BIA established an office in Flagstaff, Arizona, in January 1973, with the sole purpose of handling the U.S. trusteeship with regard to the joint-use land and to insure compliance with the court order.

Insofar as we could determine, the Flagstaff office action to control new construction in the area consisted of identifying the sites of a number of incomplete construction projects by making an aerial inspection of the area in the summer of 1973. BIA officials stated that they do not have manpower budgeted for a ground inspection of the area to make a detailed inventory and identify new construction. BIA officials estimated that a ground inspection would take three men about 2 months.

BIA agency officials on the Navajo Reservation said they received instructions from the Commissioner of Indian Affairs dated December 28, 1970, stating that both the Navajo and the Hopi Tribes "must join in each new transaction" in the joint-use area. The Acting Director of the BIA Navajo area housing office and a BIA Flagstaff office official stated that no BIA funds were used for new construction in the joint-use area after receiving the Commissioner's instruction in January 1971. Two BIA Navajo agency housing office officials stated that there had been no new construction approved for their respective portions of the area after they learned of the court order in the fall of 1972. One housing director stated, however, that proposed construction approved before the court order was allowed to proceed.

The Director of the BIA-funded Tribal Work Experience Program said the Program ceased all new construction in the joint-use area on October 14, 1972, in compliance with BIA instructions.



Office of Navajo Economic Opportunity (ONEO) officials stated that on December 20, 1972, ONEO stopped all new construction in the joint-use area except for a school project the Hopis approved. The ONEO Director stated that, after the court order, only renovation was done in the area. The Director stated also that he was waiting for the Navajo tribal legal counsel to interpret the court order and advise him whether to cease all activities in the area. In a memorandum dated December 13, 1972, to the ONEO Director, the Navajo tribal legal counsel stated that the court order is being appealed but, until it is overturned or reversed, it is the law and all construction must stop. As a result of this memorandum, a directive dated December 19, 1972, was issued to ONEO agency directors stating that

"Effective December 20, all construction by the Navajo Pre-Vocational Training Program in the 'Joint Use' area in dispute with the Hopi tribe will stop. Materials on the job sites will be returned to our warehouses immediately."

The one ONEO agency director we interviewed said that his agency had complied with this directive.

#### APPARENT CONSTRUCTION ACTIVITY

As a result of its aerial survey, the BIA Flagstaff Office mapped 92 cases of apparent new construction. These 92 cases were discussed in court in September 1973, along with 22 additional cases the Hopi Tribe had identified by ground inspections. Three of these BIA and Hopi cases involved the same projects. During our review, Hopi officials brought 20 additional cases of apparent new construction to our attention, for a total of 131 unduplicated cases. The BIA and Hopi cases included construction of new homes, barns, animal sheds, and corrals and the installation of house trailers in the joint-use area.

#### FINDINGS

We inspected 28 of the 131 cases and we reviewed the records pertaining to 9 cases in which the Navajos admitted that construction was begun after October 14, 1972. A Navajo official stated that six of these nine cases were justified as replacement facilities, but that the other three cases appeared to violate the court order. (See apps. III, IV, and V.)

Our examination of the 37 cases of apparent new construction indicated that there were 9 cases in which new Navajo construction began after October 14, 1972, which met the definition of new construction provided by the Subcommittee. Federal funds had apparently been used in four of these nine cases.

In addition to the three cases which the Navajo official acknowledged appear to violate the court order, we believe that one of the six cases the official justified as a replacement structure is also new construction as defined by the Subcommittee. Navajo tribal records relating to this case show that both the old and new house are occupied. We therefore question the justification for the new house as a replacement structure. (See app. VI.)

In four cases, the owner of the structure or relatives of the owner advised us that construction was begun after October 14, 1972. We did not, however, obtain additional evidence to substantiate their statements. (See apps. VII through X.)

In the remaining case, the owner of the structure advised Navajo tribal officials and us that construction was begun in July or August 1972, before the court order. Navajo Pre-Vocational Training Program records, however, show that the construction actually began on October 30, 1972. (See app. XI.)

#### Federal assistance

We obtained evidence showing that at least four of the nine cases which we believe are new construction received Federal assistance through BIA and/or OEO. In one case we did not obtain information indicating whether the owner had received Federal assistance. In the remaining four cases, the owner or close relatives reportedly financed construction costs, but we did not verify this.

In one project (see app. XI) where Federal assistance was provided, BIA records showed that the housing assistance program provided about \$1,000 for materials. The owner purchased the materials shortly before the court order and construction was begun on October 30, 1972. Navajo Pre-Vocational Training Program records also showed that \$5,780 in OEO funds were used for labor costs on the house.

In the second project (see app. IV) the owner stated that BIA provided materials for the project and the Pre-Vocational Training Program provided the labor. Records for this Program also showed that the program provided \$1,218 in labor assistance for the project.

For the remaining two projects (see app. VI and VII), the owners said either the BIA-funded Tribal Work Experience Program or the Navajo Pre-Vocational Training Program supplied the labor.

#### AGENCY COMMENTS

By letter dated January 8, 1974 (see app. XII), the Department of the Interior stated that we have accurately portrayed the funding and manpower problems, which precluded the BIA Flagstaff office's ground inspection of the joint-use area. The Flagstaff office was just now receiving personnel authorization and funds for a limited staff increase and it will include construction project surveillance in the joint-use area as part of its functions when personnel are on field assignments.

The Department also stated that BIA obtained telephone and written reports from the field indicating that BIA funds were not being used for new construction after the court order. The Department stated, however, that in view of our report to the contrary, BIA is reviewing three of the cases of apparent new construction to determine if BIA funds were used in two of them and if BIA welfare officials approved the construction in the third.

In a letter dated January 7, 1974 (see app. XIII), the Department of Health, Education, and Welfare advised us that, with respect to the two cases in which we had documentary evidence showing that ONEO funds were used to support new construction, the costs incurred appeared to be eligible under the Pre-Vocational Training Program. The Department stated that apparently the court order prohibiting new Navajo construction in the joint-use area was misunderstood. The Department stated further that it would not seem appropriate to request refunds of the moneys involved, but that they would inform ONEO not to become further involved in construction in the joint-use area until the legal issues were resolved.

APPENDIX I

NINETY-THIRD CONGRESS

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 HAROLD T. JOHNSON, CALIF.  
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 PHILLIP BURTON, CALIF.  
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 JOHN MELCHER, MONT.  
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 YVONNE BRATHWAITE BURKE, CALIF.  
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COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

U.S. House of Representatives  
WASHINGTON, D.C. 20515

October 12, 1973

SIDNEY L. MCFARLAND  
STAFF DIRECTOR AND CLERK

LEWIS A. SIGLER  
GENERAL COUNSEL

CHARLES LEPPERT, JR.  
MINORITY COUNSEL

Honorable Elmer Staats  
 Comptroller General  
 General Accounting Office  
 441 G Street  
 Washington, D.C. 20548

Dear Mr. Staats:

Enclosed is a copy of an Order of Compliance and related material in the case of Hamilton v. MacDonald handed down in the United States District Court for the District of Arizona. Item 7 of that Order provides that:

"No new construction shall be permitted on the Joint-use Area without a permit issued jointly by the two tribes, except that the Hopi Tribe shall be permitted to construct that number of dwellings or other improvements equal to those Navajo dwellings and other improvements which are presently existing or now under construction in the Joint-Use Area."

The Subcommittee has heard allegations that Navajo construction has been begun and continued in the prohibited area in violation of the court order and, further, that federal funding, either directly or indirectly, has and is being made available for such construction. The charges indicate that Bureau of Indian Affairs' funds, through their Home Improvement Program and the Tribal Work Experience Program may have been involved as well as funds from the Department of Housing and Urban Development through the Navajo Tribal Housing Authority.

Honorable Elmer Staats

2

October 12, 1973

The Subcommittee on Indian Affairs is currently considering legislation to resolve the land dispute between the Navajo and Hopi tribes. In aid of that legislation, the Subcommittee would like an investigation and report on (1) whether new construction has begun by the Navajo within the prohibited area since October 14, 1972 and (2) whether Federal funds, directly or indirectly, have been made available for such construction.

Thank you.

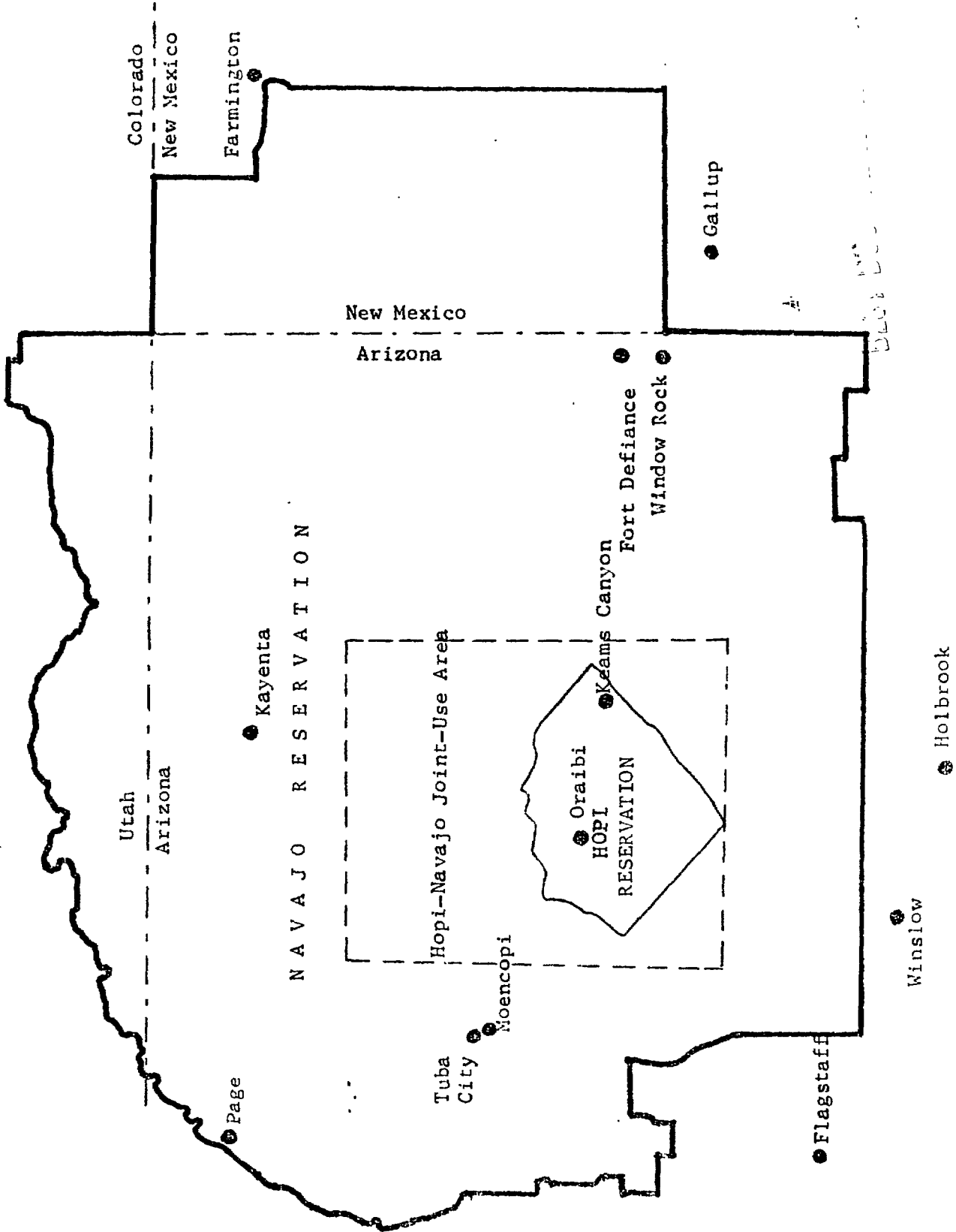
Sincerely,



Lloyd Meeds  
Chairman  
Indian Affairs Subcommittee

LM:bsd

MAP OF NAVAJO AND HOPI  
RESERVATION AND THE JOINT-USE AREA



CASES OF NEW CONSTRUCTION  
ON JOINT-USE LANDS

Description: Framehouse (24' by 20') not completed.

Construction schedule: The owner's wife advised a Navajo tribal interviewer on August 1, 1973, that construction was begun on July 1, 1973, and would likely be completed within 2 weeks.

Federal cost: Not determined. The owner's wife said that the family had provided materials and labor. We did not verify the family's financing of the house.

Navajo position: A Navajo official advised us that he thought this construction violated the court order.

Other: The owner's wife informed the Navajo interviewer that she is expecting a child and therefore the family needs a house of its own. The family was living with relatives at the time.

CASES OF NEW CONSTRUCTION

ON JOINT-USE LANDS

**Description:** Cinder block house (30' by 32') not completed.

**Construction schedule:** Owner advised Navajo tribal interviewer that construction began in May 1973, and that completion depends on the availability of funds for materials.

**Federal cost:** Owner told a Navajo tribal interviewer that BIA had provided materials and the Navajo Pre-Vocational Training Program had provided labor. We found that Navajo tribal records show labor costs of \$1,218 for this project. We did not verify BIA funding of materials.

**Navajo position:** A Navajo official advised us that he thought this construction violated the court order.

**Other:** Owner informed the Navajo interviewer that she had divorced her husband and therefore needed her own house.



CASES OF NEW CONSTRUCTION

ON JOINT-USE LANDS

Description: Horse shed (20' by 25') and attached corral, completed.

Construction schedule: Owner advised a Navajo tribal interviewer that construction was begun and completed in June 1973.

Federal cost: Not determined. The owner advised Navajo interviewer that he had furnished all the materials and had performed the labor himself. We did not verify financing by the owner.

Navajo position: A Navajo official advised us that he thought this construction violated the court order.

Other: The owner said that he needed a place to store livestock feed.

CASES OF NEW CONSTRUCTION  
ON JOINT-USE LANDS

Description: Hogan (30' diameter) completed and occupied.

Construction schedule: Owner's wife told a Navajo tribal interviewer that construction started June 1, 1973, and was completed June 15, 1973.

Federal cost: Not determined. Owner's wife advised Navajo interviewer that owner had provided materials and the Tribal Work Experience Program had provided labor. We did not substantiate that Federal funds were used for this project or that the owner provided the materials.

Navajo position: A Navajo official said that this is a replacement of an unsafe hogan and therefore does not violate the court order.

Other: The Navajo tribal records relating to this case show that both the old and new hogans are occupied.

CASES OF NEW CONSTRUCTION  
ON JOINT-USE LANDS

**Description:** Wood hogan (approximately 20' diameter), occupied.

**Construction schedule:** Owner told our interviewer that construction started in July 1973 and stopped in October 1973; the interior of the house was not finished.

**Federal cost:** Not determined. Owner said she had furnished the materials and that OEO's Pre-Vocational Training Program provided the labor. We did not substantiate that Federal funds were used for this project or that the owner provided the materials.

**Navajo position:** Not determined.

**Other:** Owner told our interviewer that BIA welfare officials had granted permission to construct her home because she is handicapped. She said she was not aware of the ban on new construction.

CASES OF NEW CONSTRUCTION  
ON JOINT-USE LANDS

Description: Stucco house (approximately 25' by 30'), completed and occupied.

Construction schedule: The owner's mother-in-law, who lives nearby, told our interviewer that construction started in the summer of 1973 and was completed about 2 weeks before the interview on November 12, 1973. We could not contact the owner and did not further confirm the construction evidence.

Federal cost: Not determined. The mother-in-law said the owner had provided the materials and labor. We did not confirm that the owner financed the project.

Navajo position: Not determined.

Other: The owner's mother-in-law said the owner previously lived outside the joint-use area in Navajo, New Mexico, and that she herself had not heard of the construction ban.

CASES OF NEW CONSTRUCTION  
ON JOINT-USE LANDS

Description: Wood hogan (about 22' diameter), under construction.

Construction schedule: Owner told our interviewer on November 8, 1973, that construction started earlier in November and would be completed by November 10, 1973.

Federal cost: Not determined. The owner said he furnished the materials and the family provided the labor. We did not confirm this information.

Navajo position: Not determined.

Other: Owner said that the hogan was to be used for a 9-day ceremony only to begin November 13, 1973, and it would be dismantled afterwards. We visited the site again on November 15, 1973, and noted that the roof was being tar papered and the ceremony had not begun. The owner then said the ceremony would begin November 17, 1973.

CASES OF NEW CONSTRUCTION

ON JOINT-USE LANDS

**Description:** Mobile trailer house (12' by 50'), occupied.

**Construction schedule:** The owner's father-in-law told our interviewer that the trailer was obtained and moved to the location in June 1973. We could not contact the owner and did not further confirm the construction evidence.

**Federal cost:** Not determined.

**Navajo position:** A Navajo official said he did not consider a trailer as new construction because it had been previously constructed and it could be easily moved out of the area.

**Other:** The owner's father-in-law said that the owner previously lived with him in a nearby house.

CASES OF NEW CONSTRUCTION  
ON JOINT-USE LANDS

**Description:** Stucco house (25' by 30' - 4 rooms), completed and occupied.

**Construction schedule:** Owner reported to Navajo and our interviewers that construction started in July 1972. Pre-Vocational Training Program records show that construction (pouring of footings) started October 30, 1972, and the house was completed on May 25, 1973.

**Federal cost:** Pre-Vocational Training Program records show the use of \$5,780 in OEO funds on this house between November 9, 1972, and May 25, 1973. BIA records show the expenditure of about \$1,000 for materials before the court order.

**Navajo position:** Not determined.

**Other:** Owner first heard of construction ban in November 1972 but was told by tribal officials that his location was not affected so the construction was completed. Owner formerly lived with relatives nearby.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20210

JAN 8 1974

Mr. Max Hirschhorn  
Deputy Director  
Resources and Economic Development Division  
U. S. General Accounting Office  
Washington, D. C. 20548

BEST DOCUMENT AVAILABLE

Dear Mr. Hirschhorn:

We have reviewed the draft briefing document, prepared for the Indian Affairs Subcommittee, Committee on Interior and Insular Affairs, House of Representatives, on your review of Navajo construction activities on the Navajo and Hopi joint-use area. Thank you for the opportunity to offer the following comments.

We suggest that "within" be changed to "surrounded by" in the second sentence on page 1 which would then read: "The Navajo and Hopi joint use area is an area of approximately 1.8 million acres surrounded by the Navajo Reservation...." The joint-use area is not a part of the Navajo Reservation, but "within" might be interpreted by the casual reader as implying otherwise.

The report indicates that 92 cases of alleged new construction were identified by a Bureau of Indian Affairs (BIA) aerial inspection of joint-use lands in the summer of 1973. However, BIA officials do not believe that the aerial survey provided a basis to claim knowledge as to whether or not the apparent instances of new construction disclosed were, in fact, violations of the court order. Accordingly, we suggest that reference be made to "apparent construction activity" rather than "allegations." This would require changing the heading of the section entitled "Allegations" on page 7 to "Apparent Construction Activity." The first sentence following that heading would be changed to read "92 cases of apparent construction activity...." The second sentence would be modified to read "these apparent activities were discussed...." and so on through the rest of the paper. It would also result in changing Attachment 2 to read "Summary of Apparent New Construction and Findings as of November 16, 1973." The first column heading would be changed to read "Number of Instances Reported"; second heading would be changed to read "Instances Tested," and fourth column "Instances Tested."

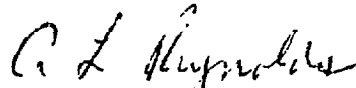


## BEST DOCUMENT AVAILABLE

Funding and manpower problems which precluded ground inspection by the BIA Flagstaff Office are accurately portrayed as of the date of the report. The Flagstaff Office is just now receiving ceiling and funds for limited staff and will include surveillance of contractors as part of their functions when personnel are in the field on various assignments.

The BIA obtained telephonic and written reports from the field that BIA funds were not being used for new construction subsequent to the court order. Attachments 4 and 6 of your draft briefing document are being reviewed to determine if BIA records support statements to the contrary contained therein, and BIA will also attempt to check Attachment 7 with regard to approval by BIA welfare officials for the construction involved.

Sincerely yours,



Allan L. Reynolds  
Director of Audit  
and Investigation



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
WASHINGTON, D.C. 20201

OFFICE OF THE SECRETARY

JAN 7 1974

Mr. Franklin A. Curtis  
Associate Director  
Manpower and Welfare Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Curtis:

The Secretary asked that I respond to your letter of December 26. As requested we reviewed your briefing document on construction at the Navajo and Hopi joint-use area.

The costs incurred by the Office of Navajo Economic Opportunity (ONEO) for the two situations discussed appear eligible. Apparently, the court order prohibiting construction at the joint-use area was misunderstood. Your briefing document discusses this problem. Thus, it would not seem appropriate to request refunds of the monies involved. We will, however, tell ONEO not to become further involved until the legal issues are resolved.

Thanks for letting us review your draft briefing document.

Sincerely yours,

John D. Young  
Assistant Secretary, Comptroller