

## No More War, Forever

### If Congress Agrees, An Old Dispute Between Hopis And Navajos Will End

By Emily Benedek | NEWSWEEK

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Bessie Hatathlie steps out of her cinder-block house just before dawn. Stretching about her in all directions is shadowy grassland; above her, the sky is still filled with chunky stars. She walks a few steps toward the hill where her horses and sheep are corralled and sprinkles an arc of cornmeal in the air—an offering to the gods who she believes will rise with the sun and pass over her house and her family.

On this morning, a fortnight or so ago, she thinks her prayers may finally be answered. At 64, Hatathlie, a Navajo Indian, lives on land that has been in her family for generations. But 16 years ago the U.S. government decided it belonged to her neighbors, members of the Hopi tribe. Authorities ordered Bessie and thousands like her to move away from the land where their herds, their memories and their spiritual attachments live.

Now, after 110 years of disagreement over the issue, the leaders of both tribes have produced a historic agreement to end their dispute. If the proposal is ratified by Congress, Bessie will be allowed to stay in her home. The Hopis, whose aboriginal territory has been severely eroded over the past centuries, will lose no further land. And the tribes will finally be free to pursue other issues of mutual concern.

The proposed agreement would allow about 250 Navajo families to remain in their homes with their livestock—on about 400,000 acres of land—under a 75-year lease from the Hopis. In compensation, the Hopis would receive 500,000 acres of land—two large private ranches and some state and federal land—near Flagstaff. The ranches, which spread over about 165,000 acres, would be bought on the open

market. Also, Washington would pay \$15 million to the Hopis to settle several lawsuits.

Announcement of the proposal sparked intense opposition in Arizona. Hostile locals expressed concerns about property values, possible government condemnation of private land and access to public forests much prized for hunting fishing and hiking. The plan has split the state congressional delegation. Democratic Sen. Dennis DeConcini, who faces a stiff re-election campaign, declared after hearings this month that without modifications the deal would not be approved by Congress. But Republican Sen. John McCain was critical of the opposition--especially the sportsmen. "When you winnow down the objections," he says, "it comes down to the fact that local residents don't want Indians to own land that's become their private playground."

Making the situation even more difficult, Interior Secretary Bruce Babbitt has recused himself from this issue. A former Arizona governor, Babbitt's family is part owner of a large ranch that is part of the land swap. Normally the Interior secretary would be a major player in an Indian settlement because the department includes the Bureau of Indian Affairs.

All of which means that congressional approval isn't assured. Says Hopi chairman Vernon Masayesva, "If positions taken for political expediency cause this effort to die, it would be a travesty of justice." Meanwhile, the negotiating teams continue to meet, with the help and blessings of the Interior and Justice departments, hoping to work out remaining details satisfactory to both tribes. For his part, Navajo president Peterson Zah hopes that his nonIndian neighbors "think about how they might help us, step forward and sacrifice a little as Vernon and I have."

The Navajo-Hopi land dispute has its roots in an executive order signed in 1882 by President Chester A. Arthur. With a pen stroke, he set aside 2.4 million acres for the Hopis and "other Indians." But the boundary line was so carelessly chosen that it left one Hopi village out of the reservation and included 300 to 600 Navajos. Within 50 years, the fast-growing Navajos outnumbered the Hopis three to one on the Hopi reservation. In 1962 a panel of judges determined that aside from an area of exclusive Hopi use, the two tribes had equal and undivided interest in the rest of the reservation. But the land was inhabited almost completely by the shepherding Navajos.

In 1974, responding to Hopi complaints that they were unable to use their share, the government passed the controversial Navajo-Hopi Indian Land Settlement Act. That

effort at a Solomonic solution divided the land and directed that all Indians who found themselves on the wrong side of the line be relocated at government expense. Affected were 10,000 Navajos and about 50 Hopis. The effort, which has cost taxpayers \$300 million to date, has been roughly as successful as the deregulation of the savings and loan industry. The government provided the Navajos with prefabricated homes, some of which were constructed poorly. Those that stood up were often used as collateral by the Indians for small loans. When they defaulted, they lost their homes.

Some Navajos refused to move. Instead they've stayed on in deteriorating shacks that they are forbidden by law from repairing. Thus far Washington has not sent in the cavalry to move them. No government official wants the law to run to its course, which is, as one government lawyer put it: "the trucks and the guns and U.S. marshals dragging Indians from their homes."

### **'I was ashamed':**

To avoid that, and to settle several lawsuits, the Ninth Circuit Court of Appeals ordered mediation between the tribes. Federal magistrate Harry McCue guided the tribes through 18 months of intense negotiations. A cigar-smoking, fast-talking, MIT-trained engineer and lawyer, McCue was not prepared for what he found on his first trip to Arizona. "I was in Germany at the end of WW II," he says, "and even though the people rooting around in the rubble were the enemy, we gave them some of our rations. When I stood in the hogan of two Navajo women, with snow inside because of the holes in the roof, I was ashamed to be an American. I had nothing to give them, not even a piece of chocolate. I resolved then that I would do everything I could to end this dispute."

Money will not buy peace. The Hopis will not accept cash payoffs in place of land, as some Arizonans have suggested. A \$5 million settlement paid by the government in 1976 in compensation for other lands taken from the tribe sits in the bank untouched. It is now approximately \$17 million. Says the Hopi leader Masayesva, "Arizonans don't understand that we are a wealthy tribe. We have the money to buy all of Flagstaff. Except we are prohibited by our teachings. We cannot buy or sell land."

The Hopis are an ancient farming people; they have lived in the same spot for more than 1,000 years. They believe they are the caretakers of the earth. Through the performance of their intricate and demanding religious ceremonies, they believe they keep the world in balance. The Hopis' deep reverence for the land will guarantee

their careful stewardship over the proposed sites, which surround the San Francisco Peaks, a mountain range in Flagstaff sacred to the Hopis. Says Masayesva, "The land is important to them, it is important to us, there is no need to debate this point." Observers have suggested the Hopis can be expected to take better care of it than the U.S. government.

That is little comfort to the foes. One Flagstaff resident who has formed a coalition to oppose the proposal, Dayle Henson, says he is not opposed to a settlement, but he believes that public land should be enjoyed by all Americans. Others object that 83 percent of the state's land is already held by the government or Indian tribes. Some officials who have been involved in the negotiations suspect that much of the opposition is fueled by a desire to keep land out of the hands of the tribes. "At the bottom of this is a fear that the Indians could treat non-Indians as badly as the whites have treated the Indians in the past," says Jill Fallon, a former Interior lawyer.

Technically, the proposal would not be a final solution. It requires only that the Hopis lease their land to the Navajos for 75 years. Some Navajos contend that term is not long enough; they want to know that their children and grandchildren will have a home. And some whites advocate a land exchange between the tribes.

### **Ancestral home:**

But anyone who suggests this route, as DeConcini has, does not understand the Hopis' resolve. The Hopi tribe cannot and will not agree to a land exchange. The Hopis' refusal is made in good faith-it is against their very essence to give up any of the land surrounding their homes on the mesa tops, land that has deep historical and religious significance to them.

Hopi chairman Masayesva argues that the proposal does provide a permanent solution on one condition: that the Navajos respect the law. The Hopis still remember the days-more than a century ago-when the Navajos raided their neighbors. That's unlikely to happen again, but the Hopis want the security of a landlord-tenant relationship they can enforce if they have to.

The terms of the lease are still being discussed. The Hopis could make the Navajos feel more secure by stipulating that the leases are renewable, if both sides consent. And the Hopis could similarly reassure non-Indian Arizonans that their use of the public land will be protected.

If that is done, we can finally hail the end of this long and miserable chapter. Judge McCue, who helped bring the tribes to their agreement says, "There's not a single thinking American, regardless of his political beliefs who, if he became aware of what was going on out there, would oppose this agreement. Absolutely none."

Bessie Hatathlie, who knows disappointment from the white man, remains skeptical.

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