Railroads, Trading Posts, and a Fatal Challenge to the RRB’s System

Holbrook, Arizona

Leroy Yazzie—“Go round up some Navajos”

Like many of the men I interviewed, Leroy Yazzie Sr., a pleasant sixty-year-old man with a sparkling Navajo sense of humor, got work on the railroads through his trading post. He worked for several different railroads in his career. He got his job on the Rock Island Railroad after talking to a trader at the local trading post. The trader told him to “round up some Navajos.” Leroy found some men willing to go work at the railroad. All of the Navajo men got in the back of the pickup, on which the trader had put a camper. The trader then drove them to the embarkation site. This employment did not last, but later Leroy met J. B. Collyer, a Santa Fe Railroad official in Winslow, Arizona, who hired him to work for the Santa Fe.

Leroy Yazzie was hurt three times while working for the Santa Fe. He was hurt while changing tie plates, had a jack drop on him and cut off the tip of his finger, and, around 1980, his track vehicle turned over and he broke two ribs. After he got laid off he went to a traditional medicine man for healing. Leroy told me that part of the reason for going to a medicine man, instead of seeking a hospital, was that he had no transportation
and the medicine man lived close to him. In the treatment, the healer put his hands on Leroy’s ribs and then gave him herbs to use. The medicine man got the herbs from the mountains “where nobody lives and nobody goes, except the wild animals.” Leroy used the herbs for a month, rubbing them on himself. This treatment healed his injuries, he believes.

To this day, Leroy goes to peyote meetings when he gets sick because they “help me out.” He told me about another incident in 1984 when he was so sick he could hardly move. Then, Leroy paid a medicine man named Billy to come to his house and perform an all-night peyote ceremony. Through this ceremony, Leroy felt that he was cured of his medical problem.

The railroads take full advantage

The railroad that used the RRB’s system to its fullest was the Santa Fe Railroad. This railroad had been employing Navajo workers for many years, as its tracks were closest to the reservation.

During and prior to World War II, according to a letter from F. H. Stapleton to E. E. McCarty, a general manager for the railroad, the Santa Fe had been able to secure Navajos as track workers without the assistance of the RRB.\(^1\) In 1944, however, the Santa Fe sought the assistance of the RRB. While expressing a desire to help the Santa Fe meet its employment needs, Stapleton pointed out that the Santa Fe had refused to accept Navajo placements from the RRB in the past and was paying the workers that it secured on its own a lower salary than other railroads and not the guaranteed “board” rate. He wrote, “We have referred *several thousand Indians* to other railroads as we did not have an order for the Santa Fe. You no doubt are aware that the rates of pay on other railroads are from one and three-quarter cents to five cents higher and in all cases the board rate

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\(^1\) Letter, July 18, 1944, F. H. Stapleton to E. E. McCarty, general manager, Coastlines Division, AT&SF Railroad.
is fifty cents per day.” Stapleton counseled the Santa Fe that unless it matched the rates that were paid by the other railroads and shed its image of giving worse treatment to its Navajo workers than other railroads did, “it will be difficult for the Santa Fe to obtain Indians for future needs.” Sensing the changing conditions soon to come, Stapleton wrote, “I believe you will agree that the loss of a potential current labor supply is not only a serious matter at the present time but may be more so when you are not able to use Mexican Nationals.” Stapleton concluded his letter telling McCarty that he could supply “a large number of the orders” from the Santa Fe, assuming the Santa Fe matched the rates paid by the “lines East.” Apparently an agreement was reached, and in April 1945, L. D. Comer, director of employment for the railroad in Chicago, requested 120 Navajo Indians for work at the Santa Fe ice docks at Argentine, Kansas, from May 15 to July 15. Additional workers were needed from September 1 until October 15. The workers were to work seven days a week, at sixty-four cents an hour. Prefabricated housing was to be provided to the workers, with approximately eight men per house.

By 1951, the AT&SF was the largest employer of Navajo workers in the country, employing nearly 7,500 Indian workers that year, of whom 85 percent were Navajos. This reliance on Navajo workers eased the manpower problems for track labor that the railroad had been experiencing.

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2 Emphasis in the original correspondence.

3 Governmental efforts in the early 1950s to recruit Indians in the more northern tribes, such as the Sioux and Crow in the Dakotas and Montana, had some success, but never matched that on the Navajo Nation. Some efforts were also made among Indians in the Carolinas and in Minnesota. To ensure that the agencies worked together in 1951, an agreement was entered into between the RRB and the Bureau of Indian Affairs “For the Placement of Indians in Railroad Employment.”

In 1954, H. L. Carter, the director of the Bureau of Employment and Claims of the RRB, wrote to the railroads that used Navajo trackmen to inform them of the recent activities of the RRB in “Navajo Country.” Outlining the program and some recent terminations of trading post owners as SCAs for unspecified issues, he wrote, “We consider it a primary responsibility to assist in making available to you Navajo labor at the time and in the numbers required and to make sure that those who are claimants for unemployment insurance benefits are the first to be offered employment and thus removed from the benefits rolls.” In response, the chief engineer for the UP wrote, “We are shipping a substantial number of young Navajos, and are getting some good, alert young men.” He promised to cooperate with the RRB and wrote Carter that the UP was “pleased with the way the labor problem is being handled on the reservation.”

The RRB works to please the railroads

In 1959, Paul Johnson wrote a memo to the RRB chief of field activities in Dallas to detail the “culling” actions the RRB was taking to eliminate “shipment” of “undesirable” railroad workers to the railroads. In 1953, Johnson reported, the RRB had established a file of three-by-five cards of “drunks and trouble makers.” Several hundred men were placed in this category and barred from placement by the RRB with the railroads. Johnson wrote that “this action by the Board in 1953 received commendation from railroad officials.” In 1957, in an effort to “stabilize” railroad employment and reduce the amount paid to Navajos for unemployment benefits, the board began giving serious priority to men who had spent more time in railroad work. Additionally,

5 Letter, April 19, 1954, H. L. Carter to various railroad officials.
7 Letter, August 27, 1959, “INDIAN PROGRAM—Programs and Procedure,” Paul Johnson to chief of field activities—Dallas Office, RRB.
it began sharing its records of undesirable employees with all offices so that men on the list would not be referred from different RRB offices. The result of these actions was that “literally hundreds of low service employees have been eliminated from the railroad industry,” thus stabilizing railroad employment.

A third culling action began in 1958, when the board developed what it called “The Multiple of Three Procedures.” Thus, “those claimants who showed an unwillingness to work such as several refusals, voluntary quits or a combination of both (multiple of three) were disqualified from unemployment benefits and made undesirable for future railroad referral.” Johnson also reported that the owners of the trading posts had been engaged to assist in this effort to reduce the amount paid in benefits by being asked to counsel the Navajos in their area. With a blind eye to the effect of the loss of unemployment benefits for the affected Navajos, Johnson concluded, “It is generally accepted that railroad work has a direct bearing upon the economy of the reservation and . . . should be respected and protected.” The result was that over 600 potential Navajo claimants, each of whom would have been entitled to around $500, were removed from the rolls.

In 1959 the Union Pacific was interested in increasing its use of Navajo trackmen. However, in a cost-saving move, it worked to shift the burden of the expense of travel from the reservation to the faraway job site from the railroad to the Navajo workers themselves. On February 18, 1959, L. R. Ward, employment supervisor for the UP out of Denver, sent a letter to all trading post owners in the Farmington area in which he stated, “The Union Pacific Railroad prefers the Indians to other nationalities on track work.” In order to promote the use of Indian labor, Ward asked the traders if they would be agreeable to loaning the Indians the money for transportation, with the implicit understanding that they would get repaid through the wages earned

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8 Letter, February 18, 1959, L. R. Ward, employment supervisor, UP Railroad.
by the Navajos in railroad work. At the same time, in order to reduce the cost of RRB benefits for the men when they were laid off, the UP was requiring the traders to ship only men who were currently receiving benefits from the RRB. When they began their new work, their benefits would cease. The RRB was very receptive to this initiative on the part of the UP.9

The RRB reported that in 1959 it made 1,927 “shipments” of Navajo workers from the Farmington and Gallup areas. A “shipment,” in RRB terminology, was the successful placement of a Navajo worker with a railroad track gang. The Santa Fe received a shipment of 1,284 Navajo workers, 477 went to the UP, and 166 to the Denver and Rio Grande Western Railroad (D&RGW).10 In addition, 341 Indian shipments were made from the Winslow office. These Farmington and Gallup shipments were up from 1,175 total placements the year before. The total number of individuals in these shipments was 1,325. One man had shipped out six times, only to return to the reservation each time.

The RRB’s protective attitude toward the railroads was often evident. In 1977 a number of Navajo workers became ill from an apparent chemical exposure while working on tracks in Iola, Texas. A lawyer working for the men attempted to hold a meeting in the RRB office in Gallup to discuss claims against the railroad or any culpable third parties. The RRB official there, however, refused to let them use the space, forcing the men and their lawyer to hold their meeting in the hall of the Federal Building. The RRB official reported this to his superior along with the news from a trading post that a union man had been reporting that there was going to be a meeting in Gallup later that summer of “survivors and other workers who were affected.”

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9 Letter, November 12, 1959, Paul L. Johnson to RRB chief of field activities, Dallas.
10 The D&RGW is now part of the Union Pacific Railroad.
Sparks fly between the RRB and the railroads

The relationship between the railroads and the RRB was not without its own issues, however. On February 23, 1954, Hubbell Parker of the AT&SF and an associate visited a RRB office in El Paso, Texas, to complain about the handling of the provision of Navajo labor for a project for Santa Fe track gangs in Roswell, New Mexico. Though Parker worked for the AT&SF, his family had been associated with trading posts for many years. \(^{11}\) Parker complained that the traders acting as special claims agents (SCAs) were upset because RRB officials were telling Navajo workers that “they do not have to spend their U.B. [RRB unemployment benefits] at a Trading post.” He also claimed that an RRB official in Gallup had accused the trading posts of doing “shady” things and using “underhanded methods to get the benefits from claimants.” Further, the SCAs did not appreciate the RRB asking the Navajo workers what they did with the money from their unemployment checks. The AT&SF officials said that “they did not think it was any of the Board’s business what a claimant does with the money [RRB unemployment benefits]—that the Santa Fe doesn’t concern itself with how they spend their wages.” The RRB official relayed this information to his superior and to the RRB official in Gallup. \(^{12}\) It appears through the solid working relationship that continued between the two parties that this particular spat was quickly resolved, though the exact resolution is not reported.

The RRB acted as a go-between when there were problems between the workers and the railroads. By inserting itself so deeply into the railroad employment scheme, the RRB found

\(^{11}\) Hubbell was not the only major AT&SF employment official in the area who had been involved with trading posts. James B. Collyer, a special claims agent who owned the Wide Ruins Mercantile and Mariano Lake Trading Post, was hired by the AT&SF in 1967 as assistant employment supervisor for the region.

itself having to advocate for the Navajos in a number of matters. For example, in 1967, the Chicago, Rock Island & Pacific Railroad (RI) approached the RRB inquiring about the possibility of getting Navajo workers. The RI had been having hard times recruiting for these jobs around Chicago and Kansas City: only “winos” would apply, RI management claimed. In response the RRB sent Navajo men to Arkansas, Oklahoma, Illinois, Iowa, Missouri, and Kansas to work on the RI. The RRB even did recruiting for jobs with special requirements. For jobs as riveter helpers on the “B&B” gang, the RI required that the men have a high school education, $100 in their pocket, and be unmarried. Yet, in 1968, many of the Navajos were having problems with this railroad. For example, when men were let go by the RI at the conclusion of a project, they were forced to sign a statement saying that they had voluntarily quit and that they had not suffered an injury at work. This practice, called “advance resignations” by the RI, was used to deny unemployment benefits or financial compensation for on-the-job injuries, even when the law mandated compensation.13 The concerns of the Navajo workers on an RI gang working in Newark, Texas, had been reported to Paul Johnson of the RRB. Johnson interviewed some men that he “knew to be good railroad workers” about their complaints. He brought these problems to the attention of the railroad in a letter to P. J. Calza, the RI official in charge.14 Among the problems reported was that the gang had not been paid for over one month of work. Each member of the gang was being required to sign an

13 The issue of railroads attempting to shift the cost of injuries to their Navajo workers, in violation of the federal statute that regulates compensation for on-duty injuries, the Federal Employers’ Liability Act, was and is a constant problem. In 1968, Paul Johnson wrote the UP inquiring about the situation of a Navajo man who had been injured in Wyoming. A keg of bolts had fallen on his leg. The foreman on the job had the timekeeper take the man to a hospital in Rock Springs, Wyoming. The hospital billed the Navajo for the services, however, not the railroad.

14 Letter, March 25, 1968, Paul L. Johnson, district manager, RRB to P. J. Calza, assistant engineer of maintenance, RI.
“advance resignation” slip before he was finally paid. The men were required to pay for their own medical treatment, even when they were hurt on the job. They were concerned about safety, as they were being transported forty miles daily in the back of a one-ton truck that was filled with oil, gasoline, and diesel fuel.

In 1969 the Burlington Northern Railroad (BN) contacted the RRB about using Navajo workers at its Kansas City facility. Correspondence from the RRB indicated their concern about supplying workers to the BN, wondering if doing so would have an effect on the other major railroads that were getting Navajo workers—the Santa Fe, the Union Pacific, and the Rock Island Railroads. District manager Paul Johnson, regional director Oscar Gaskill Jr., and George Kanega worried about these ramifications. Johnson sent Gaskill a list of requirements for the BN that included the following: The BN would have to contract with a bus company to get the men from Gallup to Kansas City and to feed them sack lunches en route. The RRB would require each man to fill out a payroll deduction form to deduct fifteen dollars from his paycheck toward the cost of this transportation. The BN would designate one person as assistant foreman or leader-interpreter in order to facilitate communication with the Navajo-speaking workers. At the job site, the BN would set up bunk cars in which the men would sleep; the cars would contain bedding and blankets. The BN also would allow the men a ten-day leave every sixty to ninety days in which to return to the reservation. The BN would carry the men on a train to a point closest to the reservation and at that point they would have to find their own transportation to get home. It is unclear how they would return to work.

Over the next two years, the BN used a number of Navajo men on the tracks from Kansas City to Omaha to Chicago. A problem arose, however: the BN had a company-wide rule that

15 The Burlington Northern Railroad and the AT&SF have merged and the combined entity is known as the Burlington Northern Santa Fe (BNSF).
each man had to undergo a physical examination before coming to work. If the physical exam was not passed within forty-five days of the start of work, the man would be terminated. There was no doctor on the reservation to do an examination, and the men were not too happy about going to the work site, having the physical, and then waiting without pay for the return of test results, especially with the possibility that they might “fail” the physical. The BN officials who ran the track department tried to get the rule changed inside the company but could not. They liked having the Navajo men work their tracks, especially because compared to the injuries reported by other track workers, the number of claims for injuries filed by Navajos was few. It was not that the number of injuries was fewer, but that the Navajos tended not to file claims for compensation. In response to the concern about physical examinations, George Kanega of the RRB and Bill Gearhart of the BN engineered a system in which the men would work for five or six weeks, get paid for the work, and then get sent home to the reservation. It was agreed that the physical issue would be finessed in this way. Thus, with the assistance of the RRB, the railroad got the labor force it desired and was able to shift the medical and physical cost of injury claims to the Navajo workers themselves.

Issues at the trading posts

Like the relationship between the RRB and the railroads, the arrangement between the RRB and the trading posts benefited both parties. And again, participation by the Navajo workers themselves in any decision making was strikingly absent. The primary economic problem for the traders was ensuring that Navajo families had sufficient income to pay for purchases at their stores. The traders could import nearly any kind of product into the reservation; the problem was how to get money to the Navajos so they could pay the traders for these products. After the demise of the sheep industry, the previous rhythm of
twice-yearly infusions of cash into the community that could be used to buy products at the trading posts and pay off debts had been disrupted. Thus, railroad work by the traders’ customers was a godsend for the financial status of their operation. For the RRB, the work of the traders was a successful economic arrangement; the RRB had only to pay fifty cents per unemployment claim, but nothing for the traders’ recruitment efforts.

The RRB was terrified of having to complete fully the mandates of its operative statute without the traders. Thus, the RRB
always watched out for the well-being of the trading posts. As early as 1953, when a dispute broke out between the Navajo Tribal Council and the trading posts over a new set of regulations that the tribe had proposed, RRB officials in the Southwest made sure officials in Chicago were aware of the issues brewing in “Indian country.”

The exact legal status of trading post operators as Special Claims Agents for the RRB was often contested. Generally, the RRB maintained that the traders were independent contractors. In the manual it distributed to the traders, they were told that they were contract employees. But the RRB was not consistent on this point. In pursuing an incident of potential fraud involving an unemployment benefit check allegedly stolen by the trader at Two Story Trading Post, D. W. Stoddard, chief of the Division of Claims Operations for the RRB, wrote to the FBI asking for their help in an investigation. In his request, he claimed that SCAs were Civil Service employees and thus any legal provisions against fraud by those who function in a Civil Service capacity should be investigated.

One issue that arose in this relationship concerned the liability for injuries suffered by the men when they were being transported, usually in the back of pickup trucks, from the trading posts to the staging point set by the RRB. A grisly incident occurred on July 8, 1969, in which two Navajos were killed and at least five seriously injured when a truck driven by the son of trading post owner Sylvan Jack flipped over on a reservation road as men were being transported to the RRB staging point. Jack had picked up fourteen Indian men at the Round Valley and Piñon trading posts and packed them in the back of the truck. Jack carried no insurance and the railroads disclaimed responsibility. The RRB was worried that it might be responsible for any such claims. When concerns arose about compensation for the men and their families, the Office of the Solicitor of the Department of Interior

16 Memo, October 14, 1953, M. A. Robson to H. L. Carter.
was asked for a legal opinion on the employment or contract status of the traders. The legal opinion that was received held that the liability would fall only on the trader; however, the possibility that an individual might have a claim under the Federal Tort Claims Act was raised as a possibility, implying potential RRB legal culpability.\(^\text{17}\) It is unclear if any compensation was ever paid to the Navajos and their families; however, it seems that nothing was paid by the RRB for its role in the incident.

**An important journalist takes note**

In 1970 the muckraking journalist Jack Anderson published two columns on ways that the “white Indian traders, white tribal lawyers and federal agencies dealing with Indians” were abusing the “downtrodden Navajos” and other “dirt-poor” Indians. He highlighted Senator Barry Goldwater’s campaign to get the DNA (\textit{Dinébe’iíná Náhiilna be Agha’diit’ahii}), a federally supported legal aid society, off the reservation.\(^\text{18}\) The DNA had been active and aggressive in its representation of Navajos. In July 1969, Goldwater had written to Donald Rumsfeld, the head of the Office of Economic Opportunity, the agency in which the legal services attorneys were then employed.\(^\text{19}\) Referring to

\textbf{17} Memo, March 19, 1968, Lotario D. Ortega, field solicitor, US Department of the Interior. The Federal Tort Claims Act is the legal vehicle for persons to make claims when they believe a tort has been committed against them by an agent of the federal government.

\textbf{18} The DNA was a federal legal services program dedicated to work on the Navajo Reservation.

\textbf{19} The first federal funding for legal services came in 1965 through the Office of Economic Opportunity, beginning as part of local antipoverty efforts. After a couple of false starts, Congress passed the Legal Service Corporation Act (LSC), which President Nixon signed as one of his last acts before he resigned. The LSC is the conduit for federal funding to legal services programs today. Interestingly, in 1978, President Jimmy Carter appointed Hillary Rodham as the chair of the board of the LSC. (Rodham took the last name of her husband, Bill Clinton, prior to his run for the presidency.) During her Senate confirmation hearings, Rodham
Ted Mitchell, the head of the Navajo legal services program, Goldwater wrote, “To be as clear and plain with you as I can, we want him out and we want him out right now . . . we lived very well without him and we can live better now when he is gone.”

This letter, a copy of which was received by the “Office of the Chairman, The Navajo Tribe,” was copied to all RRB members, apparently by local RRB officials.

Anderson’s column spotlighted the story of an Indian trader, M. J. Tanner, who had allegedly “waved a knife” at an older Navajo woman and had forced her to endorse her welfare check to him in payment of a debt. Anderson reported that “Peace Corps” lawyers stepped in and Tanner paid the woman $100 not to prosecute an assault and battery case. The “white Indian traders” and the federal agencies dealing with Indians mobilized. Tanner sent an assistant to the hogan of the Indian woman and brought her to his trading post, where he wrote out a statement for her that refuted Anderson’s charges. He had her put her thumbprint on the statement to authenticate it. Concerned about the loss of his status as a special claims agent, Tanner put her in his airplane and flew her to the RRB office to give a statement to RRB officials. The RRB interviewed the woman without her having an attorney or representative present.

RRB records reflect that Tanner also gave a statement to them. In this statement, his concern, it seemed, was that the woman in question owed him a debt. He found out that she had changed her address to a different trading post. Without the government check coming to his trading post, Tanner felt he would be unable to collect his debt. The change of address was not caught until a check had come to his trading post, so he took the check and drove to her hogan to get her to sign it over to him. He pulled out his pocket knife—which he stated was his common practice—to

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20 Letter, July 17, 1969, Senator Barry Goldwater to Donald Rumsfeld.
assist her in opening the letter. He then instructed her to rub her thumb in ink that he had brought and place it on the check, which he said was also common practice on the reservation.

District manager Paul Johnson was very protective of Tanner, who had been an SCA since 1950. In fact, the RRB overall was protective. A representative of the board had contacted Jack Anderson in an attempt to convince him not to write a second column about the matter. After Anderson’s editor refused the request, George Kanega was quick to note on the file that “our only interest in the episode was to make sure whether or not we should keep Tanner as a special UCA.”

Johnson concluded in a letter to his superior, “It appears to me that Tanner’s problems are related to personality factors involving the representative of DNA in the area, plus the Torreion chapter officer and possibly the counselor.” Thus, the RRB cleared Tanner, attributing the issue to the work of the DNA and certain disgruntled Navajo leaders.

District manager Johnson also got very concerned and protective of the trading post owners when the *Gallup Independent* published the results of a study of trading posts on the reservation conducted by eight college students during the summer of 1969. While the students reported that some of the traders were friendly and sympathetic toward their Navajo customers, the majority were not. The report found that many trading posts employed “credit saturation,” a practice in which “a Navajo is encouraged to buy goods on credit up to the amount of future known income and then credit is refused once the limit is reached, regardless of need.” The survey also found that it was a common practice when Navajos received checks in the mail for traders to take the Navajos to back rooms when the checks arrived. The trader would open the check for the Navajo (against

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21 Memo to file, January 26, 1970, George W. Kanega. A “special UCA” is the same as a “Special Claims Agent.”

22 Memo, January 14, 1970, Paul L. Johnson, RRB district manager, to RRB regional director.

US postal regulations) and have the person place their thumbprint on the check. The trader would then take the check, deduct an amount he claimed was owed to the trading post, and then give the Navajo the remaining financial balance only in scrip, which was an IOU from that trading post. The report said, “One Navajo woman told us the trader had torn off her blouse when she tried to get her welfare check cashed instead of having it returned in a credit slip.” At one trading post, a sign was posted outside stating, “The following people are . . . damn liars and cheats . . . they ran off with their checks.” At the bottom of the sign were three columns of names.

While there were ways for Navajos to complain about the traders, few Navajos were able to access these procedures, especially given language issues. The students reported that there was a “great fear of the Navajo with the trader” but that few Navajos complained because of fear of retribution. Upon seeing the article, Johnson made calls to the editor of the paper, to the head of the DNA, and to Peterson Zah, who would later become head of the Navajo Nation Tribal Council. Zah, according to Johnson’s memo, was “currently editing the report to be sure they cannot be sued.”

The legal service lawyers enter

An inherent problem in the triangle was conflict of interest. There is scant evidence that this was thoroughly considered by those involved. To take just one example: in 1968 the UP was considering a different way to procure Navajo workers for its track gangs. It seems that the UP felt that the RRB had not been supplying a sufficient number of workers at this time. Railroad management had talked with RRB officials about the possibility of hiring a recruiter to work for the UP in the Navajo Reservation. In a letter to the UP on the issue, Kanega pointed out a conflict of

24 Letter, February 18, 1970, Paul Johnson, RRB district manager, to George W. Kanega.
interest problem that might result if a trading post owner became such a recruiter. He wrote, “As you know, an arrangement under which a trading post operator serves the capacity you have in mind almost automatically involves some conflict of interest. On the one hand, the trader is naturally concerned with looking after the welfare of the trading post in which he has a financial interest. On the other hand, he should be concerned with the interest of the railroad which, in some instance, would be just the opposite of that of his Trading post.”25 Yet, to the RRB, having a trading post owner working as an RRB recruiter and as a special unemployment claims agent (SCA) did not seem to be an issue that engendered concern about such a conflict of interest.

The issue of the physical examinations that the BN required of the Navajo workers surfaced again. The BN and the RRB had decided that the requirement would not be changed but that working Navajos would simply be laid off before the final date required by company management for the completion of the physical. On one gang in 1971, 40 percent of the men were sent back to the reservation for not having a valid physical.26 However, the RRB fretted that advocates for the workers, such as the active legal service agency on the reservation, the DNA, might have an issue with this solution. The RRB was afraid the DNA would raise the issue of travel costs for those who had to return because they had no physical. Many workers would be laid off hundreds of miles away from the reservation.

The BN situation raised another concern about which the RRB hoped to avoid alerting the DNA. The BN refused to pay the usual “subsistence allowance” given to men who worked

25 Letter, February 8, 1968, George Kanega to Leonard Ring, personnel assistant, UP Railroad, Omaha, Nebraska.

26 Letter, May 24, 1971, Paul Johnson to Oscar Gaskill. The RRB was also frustrated because no other railroad was this sticky on the issue of the physical. In a letter to Gaskill, Johnson wondered why the BN made such a point of the physicals. For, if the point was to be sure they did not hire men who had preexisting physical issues, “the other railroads are not having problems on claims.”
away from home. The RRB worried that men it shipped to the BN would realize that men shipped to the Santa Fe were receiving the allowance and leave the job. Even more worrisome for the RRB was that the DNA might hear of this and advocate on behalf of the Navajos.

In 1969 the DNA had begun a full-fledged attack on the RRB’s triangle. At a meeting at the Torreon Chapter House, Richard Reichbart, a DNA attorney, presented a brief to the RRB entitled “QUESTION: May a Trader be a Special Claims Agent for The United States Railroad Retirement Board.” In the brief, Reichbart argued that the RRB had set up a system in which, “if a Navajo wants railroad employment at all, he must accept a patently unfair and discriminatory system.” The major reason for this unfairness, according to the DNA lawyer, was that the “trading post, today, has become a multipurpose institution upon which the Navajo is entirely dependent.” Reichbart argued in his brief that, for the Navajo,

[the trading post] is the equivalent of the Navajo bank where the Navajo pawns his valuables in exchange for money or credit; it is a grocery store and gas station; it is the only telephone booth for miles around; the trader purchases Navajo livestock, wool and rugs; the trader receives the mail and government checks; the trader acts for the Navajo as interpreter of communications by mail or phone from the Anglo world; governmental organizations such as the welfare department use the trader to confirm facts about Navajo families and send messages through the Trading post.

Thus, to require Navajos to secure railroad employment through the trading post subjected them to too much control by the trading post owners. It encouraged a form of involuntary servitude as well as arbitrary and discriminatory conduct, as the trading post had the ability to decide who could work for the railroad and who could not. Reichbart alleged that the trader was able to choose which Indians work on the railroad. In doing so, the trader selected those who will be of greatest assistance to the
trader. Reichbart wrote that the trader “chooses those people who have unpaid accounts with him so that he may thereby recover on these accounts. If someone has offended him in his business dealing, he will cut that person off from railroad employment.”

Further, in a legal point made by Reichbart, the SCAs were, at the very least, agents of the RRB. As such, they were barred by federal statute from trading with Indians. The solution, Reichbart argued, was for the RRB to hire Navajos who have worked for the railroads to take over this function. It could be handled, Reichbart believed, at the chapter houses, which were becoming a vibrant and important part of the political community on the reservation.

As might be expected, the traders became quite agitated when they heard of the Reichbart report. Ike Murray, the secretary of the United Indian Traders Association, sent it out to the members of the governing body of the group. Murray’s cover letter said that the report was “patently a special and slanted pleading based on undocumented charges about the status of the trader in relation to his Navajo customers.”

In spite of these efforts by DNA lawyers, no major change to the triangle occurred at this time.

The end of the system

In the early 1970s, the DNA—mindful of the financial importance of railroad work—also began to advocate for Navajos who were not receiving the RRB benefits to which they were entitled. In 1972, DNA attorney Robert Hilgendorf wrote to the RRB on behalf of a Navajo client complaining about the amount of time that it was taking to process an RRB unemployment benefit claim. RRB internal documents revealed that the issue was

discussed by them and that they contacted the UP—the railroad involved—as the RRB would not begin the processing of benefits until the UP had provided them with documentation that the man was no longer working. RRB officials were concerned that “the DNA attorney would dip deep enough into the records and through inquiry with the Indians to discover that the UP employees are the ones whose claims are being delayed.”  

In its protective capacity, the RRB even focused on individual attorneys within the DNA, comparing the tactics of each in pursuing their legal objectives.  

Concerned about the actions that the DNA might take toward them and their system of using trading posts as SCAs, the RRB became even more proactive. When a problem developed involving a dispute with the previously mentioned trader Sylvan Jack, district manager Paul Johnson met with Clifford J. Hofmann, the director of the DNA at the time. In Johnson’s memo to his boss, he wrote, “Mr. Hofmann expressed the paternalistic attitude some of the traders acquire due to their involvement in the lives of the people doing business with them (i.e. credit, banking, etc.).”  

Finally, by the late 1970s the SCA system was being seriously questioned on administrative grounds by the RRB itself. While not mentioning trading posts specifically, an internal RRB report questioned whether claimants would give the program the proper sense of importance if they were required to register at “non-governmental locations [such] as private insurance agencies, grocery stores, and barber shops.” Railroads were becoming much less interested in providing the administrative support the program required, and the dwindling number of RRB offices

29 Note to file, George Kanega, February 1, 1972.
30 Note to file, George Kanega, February 5, 1970 (comparing attorney Stephen Conn at the Crown Point office of the DNA to Ted Mitchell).
31 February 11, 1970, Memo, Paul L. Johnson to Regional Manager, RRB, Dallas, Texas.
made the alternative of bringing the function back in-house appear increasingly impractical. On the reservation, however, the trading posts were still happy to provide the function. Finally though, the RRB developed a mail registration system for the processing of unemployment claims. Given the advances in mail service on the reservation, this had become more practical. This system was implemented and is still in effect today. With this change, the railroads began direct hiring of Navajos and the problematic triangle dissolved.

The hiring system was forced to change and now, as Leroy Yazzie told me, you do not get a job from personal contact with the traders. Today you “use the e-mail” to get a job on the railroad.