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# Somos Indígena: Ethnic Politics and Land Tenure in New Mexico, 1694-1965

Jacobo Baca

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**SOMOS INDÍGENA:  
ETHNIC POLITICS AND LAND TENURE IN NEW MEXICO,  
1694-1965**

**by**

**JACOBO D. BACA**

B.A. in History, University of New Mexico, 2003  
M.A. in History, University of New Mexico, 2006

**DISSERTATION**

Submitted in Partial Fulfillment of the  
Requirements for the Degree of

**Doctor of Philosophy  
History**

The University of New Mexico  
Albuquerque, New Mexico

**May, 2015**

## DEDICATION

To my family, especially, my Grandparents, José Filadelfio Rodríguez (1909-2000) and María Marina García Rodríguez (1905-1994), who loved to tell stories of the Tewa Basin; and, to my parents, Mario Amado Baca and María Juana Barbara Rodríguez Baca, who taught me to love history, especially our own.

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Albuquerque, NM

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ABSTRACT

This dissertation examines changes in Hispano and Pueblo Indian land tenure in the Tewa Basin of north central New Mexico across three centuries. Land grants imposed upon the Pueblo world in the Spanish colonial period limited the shrinking Pueblo population. They paradoxically protected Pueblo land from further incursions through the Mexican era. By the American territorial period, Pueblo and Hispano land grants were exposed to similar legal, political, and economic processes that dispossessed both communities of their commonly held lands. When New Mexico became a state in 1912, the federal government intervened after decades of renegeing on its duty to protect Pueblo lands. The result was the Pueblo Lands Board, which examined non-Indian claims to lands within the exterior boundaries of Pueblo land grants. New Deal programs followed the proceedings of the board, and addressed both Pueblo and Hispano land tenure by purchasing numerous Hispano community and quasi-community land grants that had long since passed from communal ownership.



Through an examination of intercultural relations and government relations, I analyze how Indian Pueblos and Hispano villages that once shared a sense of common destiny grew apart by the middle of the 20<sup>th</sup> century. This dissertation explores ethnic politics in Hispanos struggle for culturally based land claims in New Mexico. It examines the repression of Pueblo-Hispano hybridity by Pueblo rights advocates, government bureaucrats, Indiophiles, Hispanophiles, and Hispano and Pueblo communities themselves. It compares Hispano communities' struggle for land and water rights with comparable Pueblo Indians struggles. Despite similarities in how they worked and bore claim to their land in the past, the divisive way that Hispano and Pueblo communities relate to one and other and how they understand and articulate their claims to land and water rights is indicative of growing fissures between the two communities. Convoluting already complex relationships are changes in Hispano ethnic politics, where celebrations of a Spanish colonial heritage have given way to a recognition and assertion of indigenous origins, articulated notably in claims to land and water rights.

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## Introduction

*Vinieron los españoles  
de la España a esta tierra  
donde hallaron sus querencias,  
hermosas indias morenas  
jeya, jeya, jeya, ja.*

*Aquellas indias hermosas  
Virtuosas y llenas de gracia,  
escogieron para esposas,  
donde nació linda raza,  
jeya, jeya, jeya, ja.*

*Raza buena a amorosa,  
color bronce de mestizo,  
mezcla del indio del pueblo,  
donde salió un genízaro  
jeya, jeya, jeya, ja.*

*The Spaniards came  
from Spain to this land, where  
they found their hearts desire,  
beautiful dark Indian women,  
heya, heya, heya, ha.*

*Those beautiful Indian women,  
virtuous and full of grace,  
were chosen as wives  
and bore a new handsome race,  
heya, heya, heya, ha.*

*A good loving race,  
bronze colored people,  
mixture of the Pueblo Indian  
from whence came the Genízaro,  
heya, heya, heya, ha.*

Verses from, Cleofes Jaramillo, *Himno del Pueblo de las Montañas de la Sangre de Cristo*, San Cristóbal, New Mexico, 1988.<sup>1</sup>

*Somos Indigena* is a story about land and people. Set in the Tewa Basin of north central New Mexico, this dissertation explores how land tenure united and divided Pueblo and Hispano people across three centuries. Studying land grants in New Mexico is, for some, an archaic practice of an archane history analogous to genealogy. This study argues that within this old story of land grants lies a new or at least less-familiar story of conflict and compromise, a tensely negotiated coexistence that shaped both Hispano and Pueblo communities. It questions the hard lines drawn and redrawn between two of New Mexico's indigenous populations, the Pueblos who have called the Tewa Basin home for

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<sup>1</sup> Enrique R. Lamadrid, *Hermanitos Comanchitos: Indo-Hispano Rituals of Captivity and Redemption* (Albuquerque: University of New Mexico Press, 2003), 188-189. See also, Cleofes Jaramillo, "Himno del Pueblo de las Montañas de la Sangre de Cristo," in *Music of New Mexico: Hispanic Traditions*, © 1992 by Smithsonian Folkways Recordings, SFW40409\_121, compact disc.

nearly a millennia and the *nuevomexicanos* who have for centuries reinvented it as their patria chica, their *nacioncita de Sangre de Cristo* (Little Nation of Sangre de Cristo).<sup>2</sup>

This dissertation reads Pueblo and Hispano land tenure together. While other works have compared the histories of Pueblo and Hispano land tenure, they have done so by emphasizing conflict and subsequently ignored parallels that complicate simple portrayals of Pueblos and Hispanos as disparate people. By focusing on the land tenure history of the Tewa Basin (Figure 1, roughly a diamond shaped area bordered by Taos in the north, Santa Fe in the South, the Sangre de Cristo Mountains in the east and the Jemez Mountains in the west), this work offers a retelling of Pueblo and Hispano history that exposes how static ideas about race and ethnicity distort the complexity of Pueblo-Hispano relations.

The Tewa Basin of north-central New Mexico offers an ideal setting to examine the Pueblo-Hispano changing relationship. The Tewa Basin is culturally defined by the six remaining Tewa-speaking Pueblos: Ohkay Owingeh (San Juan), Santa Clara, San Ildefonso, Pojoaque, Nambé and Tesuque. The region also includes the Tiwa-speaking Pueblo of Picurís, which maintained significant cultural ties with San Juan before and after the Spanish incursion. Geographically, the Tewa Basin is roughly bounded by Santa Fe to the south and Taos to its north; it lies between the Sangre de Cristo Mountains to the east and the Jemez Mountains to the west.<sup>3</sup> National forests, the Santa Fe and the Carson, flank the basin on the east, west, north and south.

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<sup>2</sup> San Cristóbal folklorist Cleofes Jaramillo coined the term to describe the villages of Sangre de Cristo. See “Himno a la Nacioncita de la Sangre de Cristo” in Lamadrid, *Hermanitos Comanchitos*, 189.

<sup>3</sup> A more detailed geographic description comes from the Soil Conservation Service, which undertook a massive reconnaissance survey, called the Tewa Basin Study in 1935:



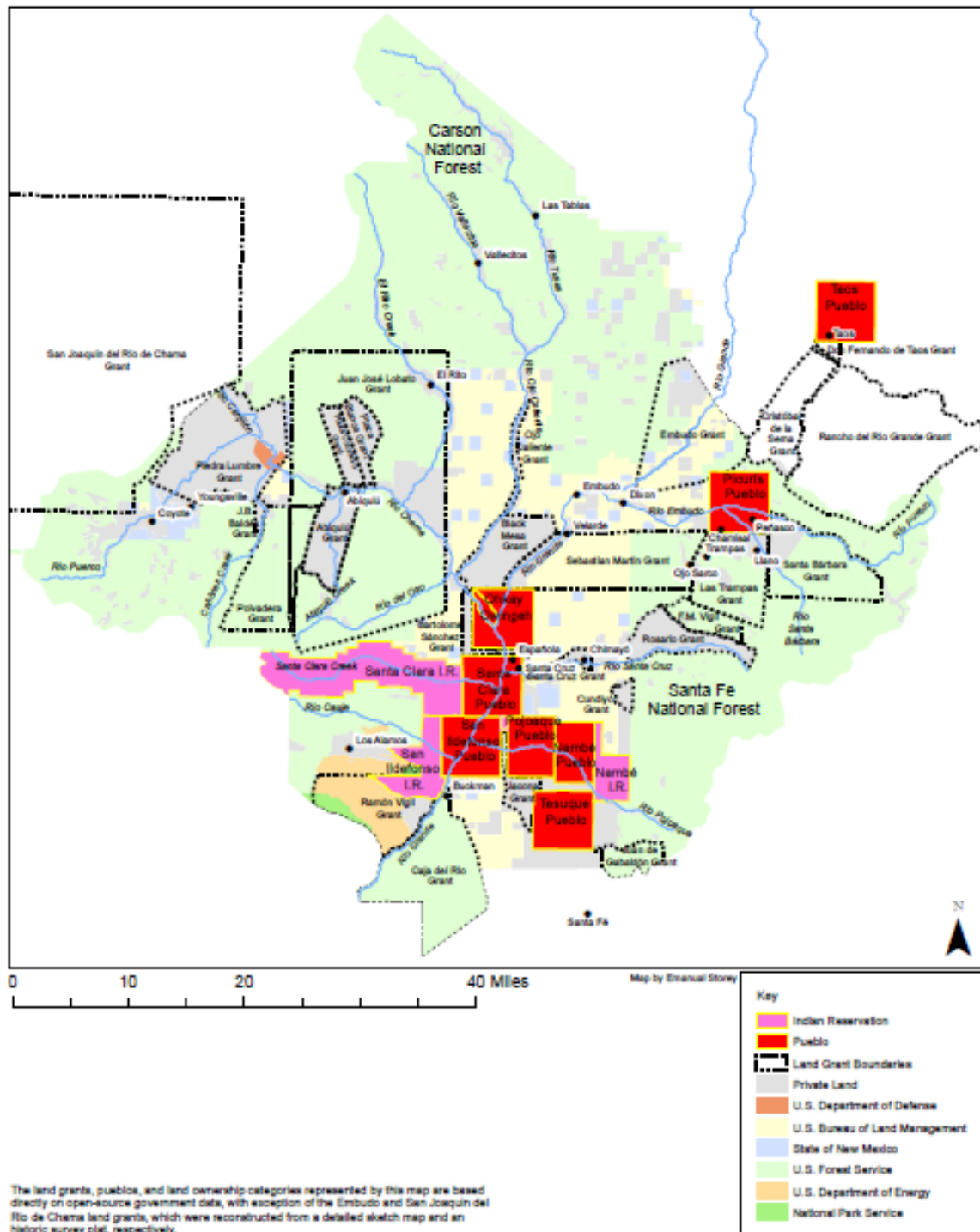
Pueblo Indians and their ancestors had called the Tewa Basin home for over three hundred years before Spaniards explored the area under Francisco Vasquez de Coronado in 1540. Anthropologists have estimated that as many as twenty-thousand pre-Puebloan people occupied more than seventy-five sites across the basin. Their population plummeted, largely because of disease and drought, which coupled with abuse and religious suppression by Spanish civil and ecclesiastic authorities, led to the Pueblo Revolt of 1680. After the Reconquest, Pueblo-Hispano relations were renegotiated. An essential part of this renegotiation was a post revolt land tenure system, centered around *mercedes* (land grants) that both limited Pueblo Indians' land base, but also protected it from colonial encroachment.

Hispano settlers coveted Pueblo lands and regularly trespassed onto pueblo lands throughout the Spanish and Mexican eras. *Vecinos* (subjects or citizens under the Spanish crown), who were mix of Spanish, Mexican and detribalized and Hispanicized Indians, gradually expanded their Tewa Basin settlements from settlements around Santa Cruz de la Cañada. Pueblos responded to these encroachments through official protest.

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“Lying immediately north of Santa Fe is a wide, somewhat V-shaped, natural basin which is bounded roughly on the west by the Jemez mountains and on the east by the Sangre de Cristo Mountains. This area is the Tewa Basin. The confluence of the Rio Grande and the Rio Chama mark its appropriate center. For the purpose of this study the eastern boundary was taken as the ridge of the Sangre de Cristo Range from its southern tip east of Santa Fe north and east to the head waters of the Tres Ritos creek. The divide north of Tres Ritos creek forms a section of the northern boundary. The remainder of which coincides with the Rio Grande and Rio Chama above their confluence. On the west the boundary runs from a point about ten miles west of Abiquiu south along the ridge to Frijoles Canyon, where it joins the Rio Grande. The southern boundary running east from Frijoles Canyon to the Sangre de Cristo Mountains is the only portion of the boundary not following natural features.” U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Inventory of Materials on the Río Grande Watershed: An Evaluation of Surveys and Reports*. By Hugh G. Calkins, Regional Bulletin No. 34, Conservation Economics Series No. 2 (Albuquerque, New Mexico, 1937), 8.

### Modern Tewa Basin map (2013)



**Figure 1: Modern Tewa Basin Map, 2013:** by Emanuel Storey, © Jacobo D. Baca

They also procreated with vecinos, introducing new vulnerabilities when children of these unions adopted Spanish conceptions of property and alienated Pueblo patrimony in pre capitalist markets. When the pueblo population continued to drop in the eighteenth century, some Indians independently sold their pueblo's lands to Hispanos desperate to possess their superior lands.

The Hispano population, meanwhile, grew slowly, expanding settlements from the southern Tewa Basin to its northern and eastern limits. In the late seventeenth and early eighteenth century, land grants were made to the colonial elite who participated in the reconquest and requested the lands of abandoned pueblos or those adjacent to existing ones. Other elite colonists received grants because they possessed the means to create new settlements in often-dangerous areas that would both relieve densely populated core settlements and protect them from raids by surrounding tribes. Enlightened Spanish governors, such as Tomás Vélez de Cachupín, and other colonial officials both protected Pueblo lands and guided settlements away from existing Spanish and Pueblo grants to avoid conflict and stabilize the struggling colony.

Despite laws and policies that promised to protect Pueblo lands, Hispano encroachments were not uncommon. They increased in times of peace, when settlements expanded as raids decreased and as the Hispano population of the colony boomed. When sovereignty shifted from Spain to Mexico, a new era of speculation commenced. Hispanos and Pueblos, united in 1837, much as they had to fight nomadic raids the century before, to behead Governor Albino Pérez, who they believed threatened their independence. A decade later, they united again to behead provisional civil Governor

Charles Bent in Taos and rose in rebellion to fight the American occupying army in battles at Mora and Embudo.

The sixty-two-year United States territorial era only brought more strife as the Hispano population continued to infringe on pueblo lands. But the new American era brought values that transformed the Pueblo world and Hispano homeland into a highly prized commodity. Land grants, Hispano and Pueblo, attracted speculation, investment, and development that tore communally held lands from villages. American laws upheld the validity of speculators' actions. And Pueblos and Hispanos entered statehood without lands that long ago sustained their communities. The Pueblo Lands Board attempted to sort out conflicting claims caused by decades of federal abrogation of its duties toward the Pueblos. When these reforms failed to repatriate a significant amount of land back to the Pueblos, progressive-reformer-turned-Indian commissioner John Collier used New Deal projects to achieve land tenure reform in the Tewa Basin. As federal programs dwindled in the late 1940s, Hispano and Pueblo villages continued to be overpopulated yet decline, until the traditional agrarian economy was supplanted by federal laboratories in Los Alamos, which has wrought untold ecological harm in the Tewa Basin's native communities.

Studying Pueblo or Hispano land tenure is by no means a novel exercise. This dissertation, nonetheless, makes a contribution to the field of land grant studies by telling together two stories that are generally separated in the work of scholars and the legal actions of local, state and the federal government. Scholars have focused on the adversarial Hispano-Pueblo ownership of land, painting a picture of two distinct peoples whose only interaction was conflictual. The appropriation of Pueblo lands by Hispanos

was often forced and unilateral, but the unyielding focus on that narrative has obscured larger stories that offer a more-nuanced understanding of Pueblo-Hispano land tenure and interethnic relations. These histories range from considerable evidence of inter-marriage to commercial relations, through which land was traded on an evolving barter market. In doing so, scholars have missed the similarities or shared experiences that connected Pueblo and Hispano land tenure. Examining these tenures together in the Tewa Basin demonstrates that both communities were subject to similar legal, economic and political processes that dispossessed communal societies of the land and water resources on which they historically and mutually depended.

This dissertation has other goals as well. It seeks to demystify and question the primordialist rhetoric of Collier and other Progressive Era Indian allies and the celebratory colonial rhetoric of elite Hispanos and Hispanophiles alike. This work also explores the complexity of race in the Pueblo Lands Board era. Spanish and Mexican settlers were not the saviors of the Pueblos as Hispanophiles would argue. Nor were they categorically the Pueblos' enemies, as the more radical Pueblo advocates posited. A more accurate and nuanced interpretation lies somewhere between the two extremes. In fact, intercultural relationships discouraged in the Spanish colonial era were exploited in the Mexican era and often normalized by the American territorial period.

Like their Spanish-colonial forbears, Hispanos in the late-nineteenth and early-twentieth century took part in the dispossession of Pueblo communities and put formerly communal land on a market of mixed private and communal ownership. They acted as they had been acted upon; the displaced communities adjacent to their own former communal lands, from which they had been displaced. Some of those Hispanos had

considerable wealth, grazed herds of cattle, and relied on Pueblo lands to expand their herds. They accumulated dozens, sometimes even hundreds of acres by coercing Pueblo leaders to grant boundless leases or even to make outright sales of land. More often, the most destitute Hispanos took advantage of the equally desperate Indian Pueblos and bought lands from Pueblo leaders who saw their communities shrinking and who believed that their communities were on a path to extinction.

The ramifications of Spanish land grants to the Pueblos are particularly vexing. They both limited and protected the land rights of Pueblo Indians, reducing their traditional lands to a four-square-league tract that was constantly violated in the Spanish and Mexican periods. Those same grants also ensured that Pueblos would not be resettled into one large Pueblo reservation during the American territorial era. This temporary protection was quickly exploited in the American territorial period, when a U.S. Supreme Court decision, *U.S. v. Joseph* (1876), removed already inadequate federal protections by claiming the Pueblos were not by culture, habits, or practices, actually Indian.

This dissertation reads native New Mexican and New Mexico native (indigenous) land tenure together. To tell this story, it engages traditional resources in a different way. Early chapters rely largely on secondary source materials. The historiography of New Mexico and the Greater Southwest is dominated by the Spanish-colonial era and the vast sources created by colonial-era scholars provide ample material on which this dissertation draws. Later chapters examine previously neglected primary sources through new perspectives, reading documents against the grain to discover connections between the stories of Pueblo and Hispano land tenure.

One of the chief contributions of this dissertation is a new interpretation of the significance of the Pueblo Lands Board. Both historian Lawrence C. Kelly and attorney G. Emlen Hall have written on the Pueblo Lands Board. Kelly's lengthy report for the Office of the State Engineer<sup>4</sup> discusses the institutional history of the board from the passage of the Pueblo Lands Act through the waning days of the Board. This essential work provides a chronology and discusses the Board's impact on land and water rights, especially among Southern Tewa Pueblos fighting for water rights decades before the infamous *State of New Mexico v. Aamodt* case. Kelly privileges the perspectives of board members and Pueblo advocates, who corresponded heavily about its operations and decisions. This sole focus on the Board leaves little room for discussion of the actual impact of its decisions on Pueblo and Hispano communities. In fact, Hispano and Pueblo perspectives are concealed in a narrative that rarely discusses the native communities' opinions. Kelly's 1983 article "John Collier and the Pueblo Lands Board Act"<sup>5</sup> and his Collier biography<sup>6</sup> follow a similar vein, discussing Collier's impact on the legislation without discussing the communities that were ultimately subjected to its decisions.

Hall's work situates the Board in the larger story of Pueblo Indian land tenure.<sup>7</sup>

Hall discusses the impact of Spanish-colonial, Mexican-republican and American-

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<sup>4</sup> Lawrence C. Kelly, "History of the Pueblo Lands Board, 1924-1933" (Santa Fe: Office of the State Engineer, 1980). L. G. Moses' forthcoming book will offer Pueblo perspectives on the Pueblo Lands Board processes.

<sup>5</sup> Lawrence C. Kelly, "John Collier and the Pueblo Lands Board Act," *New Mexico Historical Review*, 58:1 (1983): 5-34.

<sup>6</sup> Lawrence C. Kelly, *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983).

<sup>7</sup> G. Emlen Hall, "The Pueblo Land Grant Labyrinth" in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*. ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987), 67-140; G. Emlen Hall, *Four*

territorial governance over Pueblo Affairs. His portrayal of the Pueblo Lands Board describes it as a noteworthy attempt by the federal government to “untie the knot” of Pueblo Indian land tenure. Hall interprets the frustrating inconsistencies of land tenure with wit and style. Like Kelly, his work nonetheless submerges the perspectives of Pueblo Indians and their Hispano counterparts beneath the opinions and statements of the lawyers, who often did not have the best interest of their clients in mind. Focusing on Board hearings and decisions at Tesuque, Nambé, Pojoaque, Picurís, San Juan (Ohkay Owingeh), Santa Clara, and San Ildefonso, I delve into the unique story of non-Indian claims at each Pueblo. What emerges is a more complex nuanced portrayal of the Indian and Hispano relations at each pueblo. In particular, previous scholars’ generalizations break down under the examination of just how Hispanos appropriated lands at each Pueblo. The process was not always brazen trespass or outright theft.

Malcolm Ebright, more than any other scholar, has influenced the historical and legal study of land grants in New Mexico. Since his 1994 publication of *Land Grants and Lawsuits in Northern New Mexico*, the attorney-turned-historian cast a powerful influence on the study of land grants. Ebright is arguably the last active scholar in the Center for Land Grant Studies collective which once included sociologist Clark Knowlton and anthropologists John R. Van Ness and Charles Briggs. He participated in the 1971 *Land Title Study*, commissioned by the New Mexico State Planning Office,



contracted to the White, Koch, Kelley, McCarthy law firm, but inspired by land grant leader Reies López Tijerina and the Alianza Federal de Mercedes's radical activism.<sup>8</sup>

Ebright avoids portraying Hispanos as casualties of land speculation. Instead, he examines differences in Anglo and Hispanic legal conceptions of property as the root of dispossession. Ebright acknowledges that the “perception of injustice held by many land grant heirs is largely justified,” but he subtly argues for Hispano land rights by demonstrating U.S. courts' willful ignorance of Hispanic common law in their implementation of the Treaty of Guadalupe Hidalgo after the U.S.-Mexican War. Ebright sees the U.S. state not as a malevolent sovereign bent on dispossession, but a nation bound by legal and economic philosophies that abhorred “unproductive” uses of resources. According to Ebright, the legal treatment of property in Spanish, Mexican, and American courts derived from the difference of ways in which Hispanic law and society favored the building of community and Anglo American law and society exalted the individual. American land speculators exploited this political and business environment and attempted to enrich themselves at the expense of communities. Through meticulous and insightful readings of colonial and territorial documents, Ebright enriches land grant history and seeks an understanding of the competing ideologies behind land dispossession.<sup>9</sup>

Malcolm Ebright's devotion to understanding the *longue durée* of land tenure in New Mexico has cemented his influence and legacy in land grant studies. In his most

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<sup>8</sup> White, Koch, Kelley, McCarthy and New Mexico State Planning Office. *Land Title Study* (Santa Fe: New Mexico State Planning Office, 1971); Malcolm Ebright, *Land Grants and Lawsuits in Northern New Mexico* (1994; reprint, Guadalupita, N.M.: Center for Land Grant Studies, 2008).

<sup>9</sup> Ebright, *Land Grants and Lawsuits*, 51-52, 137.

recent works, with Rick Hendricks and Richard Hughes (*Four Square Leagues*, 2014) and his own *Advocates for the Oppressed: Hispanos, Indians, Genízaros, and Their Land in New Mexico* (2014), Ebright tells the story of Pueblo lands through vignettes about individual Pueblos and general essays discussing the Pueblo league, the spurious Cruzate grants, the American territorial period, and the Pueblo Lands Board. His *Advocates for the Oppressed: Hispanos, Indians, Genízaros, and Their Land in New Mexico* (2014) discusses Pueblo, Hispano and genízaro land tenure, largely through the governorship of Tomás Vélez de Cachupín. Ebright argues that Vélez de Cachupín demonstrated incredible vision in his administration of land tenure in colonial New Mexico. In this work, Ebright makes his most explicit connections between Pueblo and Hispano land tenure, but largely does so discussing the colonial era. Ebright certainly considers both Pueblo Indians *and* Hispanos to be New Mexico's native *populations*. He writes: "Having written about Hispano land grants, and more recently about Pueblo Indian land grants . . . I have attempted in this book to bring both narratives together, to *reconnect* them, and in some cases to resurrect lost histories."<sup>10</sup>

Over his nearly fifty-year career, lawyer and historian G. Emlen Hall has unambiguously discusses connections between Pueblo and Hispano land tenure.<sup>11</sup> In

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<sup>10</sup> Malcolm Ebright, Rick Hendricks and Richard W. Hughes, *Four Square Leagues: Pueblo Indian Land in New Mexico* (Albuquerque: University of New Mexico Press, 2014); Malcolm Ebright, *Advocates for the Oppressed: Hispanos, Indians, Genizaros, and Their Land in New Mexico* (Albuquerque: University of New Mexico Press, 2014), 265. Emphasis is mine.

<sup>11</sup> Hall was by no means the first to study Pueblo Indian land grants. Western historian Herbert O. Brayer published *Pueblo Indian Land Grants of the "Río Abajo," New Mexico*, in 1939 in the wake of the implementation of Pueblo Lands Act (1924). Benefitting from the extensive historical and legal files created from decades of litigation, many of which he organized as the head of the federal-records survey during the New Deal, Brayer's work rests firmly in the historical record and rarely ventures toward other sources or his

writing about the legal history of the Pecos Pueblo land grant, Hall represents scholarship detached from implicit land grant advocacy. In *Four Leagues of Pecos: A Legal History of the Pecos Grant, 1800-1933*, Hall demonstrates how encroachment by Hispanos beginning in the 1810s commodified Pecos Pueblo land and water resources, and accelerated the decline of the pueblo, and forced its eventual abandonment.<sup>12</sup> Hall's case study of Pecos Pueblo is by no means narrow. He looks at broader Pueblo litigation in the Spanish, Mexican, and American periods, and brings in examples from other Pueblos to his text. This method, however, is both a weakness and strength. Pecos offers an interesting and tragic story, but is Pecos representative of the larger Pueblo experience or an exceptional case of exploitation? Hall, nonetheless, reveals the complexity of the larger Pueblo relationships to their neighbors and government entities in his scholarship.<sup>13</sup>

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own direct observations. See Herbert O. Brayer, *Pueblo Indian Land Grants of the "Río Abajo," New Mexico* (Albuquerque: University of New Mexico Press, 1939).

<sup>12</sup> G. Emlen Hall, *Four Leagues of Pecos: A Legal History of the Pecos Grant, 1800-1933* (Albuquerque: University of New Mexico Press, 1984). Historian John Kessell claims that internal dissension played as significant a part in the decline of Pecos Pueblo as did competition for land with Hispano colonists. See John L. Kessell, *Kiva, Cross, and Crown: the Pecos Indians and New Mexico, 1540-1840* (Albuquerque: University of New Mexico Press, 1987), 110, 359, 455.

<sup>13</sup> Hall, *Four leagues of Pecos*; Hall, "The Pueblo Land Grant Labyrinth"; "Land Litigation and the Idea of New Mexico Progress" in *Spanish and Mexican Land Grants and the Law*. ed. Malcolm Ebright (Manhattan, KS: Sunflower University Press, 1989), 48-58; "Giant Before the Surveyor-General: The Land Career of Donaciano Vigil." In *Spanish & Mexican Land Grants in New Mexico and Colorado*, edited by John R. Van Ness and Christine M. Van Ness, 64-73. (Manhattan, Kan.: Sunflower University Press, 1980).; G. Emlen Hall and David J. Weber, "Mexican Liberals and Pueblo Indians, 1821-1829," *New Mexico Historical Review* 59:1 (January 1984), 5-32.

Together, Hall and Ebright represent the two legal minds most devoted to the understanding of Pueblo and Hispano land tenure.<sup>14</sup> Both have a commanding presence in the field of land grant studies. Still, their depiction of Pueblo and Hispano land tenure, grounded in legal theory, portrays Hispanos and Pueblos land tenure as inimical and creates impressions that Pueblo and Hispano communities are equally drawn apart. In this dualistic narrative that emphasizes the enduring effects of Spanish colonialism, episodes of commerce become acts of thievery. This dualism has left little room for stories of cooperation that has rendered a complex story simple and made a complex story two-dimensional. I argue that law functions in a state of conflict. Plaintiffs file protests. Protests result in injunctions. And injunctions face demurrers. This legal story creates misconceptions of Pueblos and Hispanos social relationship. My work offers to utilize extant legal sources to tell a different story about Pueblos, Hispanos and their land in the Tewa Basin.

Though not trained as a lawyer, Victor P. Westphall authored works that are principally legal and political histories of land grants during the territorial period. He oscillates between supporting Hispano land rights and defending Anglo land speculators, particularly Thomas B. Catron. Relying exclusively on territorial-era records, Westphall's histories lack almost any social or cultural component. That contextual omission not only makes his work fairly one-dimensional, it also leads him to dubious statements, such as cautioning Hispanos to remember that the Treaty of Guadalupe

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<sup>14</sup> Christine A. Klein has also provided a comparison of Pueblo and Hispano land tenure and protections guaranteed under the Treaty of Guadalupe Hidalgo but ignored by the United States. See, Christine A. Klein, "Treaties of Conquest: Property Rights, Indian Treaties, and the Treaty of Guadalupe Hidalgo," *New Mexico Law Review* 26 (Spring 1996), 201-255.

Hidalgo “did not attempt to safeguard social justice, cultural autonomy, or any form of bilingualism for Mexicans.”<sup>15</sup> Westphall’s works are less a history of land grants, land laws and land tenure in eighteenth and early nineteenth century, as the title *Mercedes Reales* (‘royal grants’) suggests, but more an examination of who controlled grants in the nineteenth century. Perhaps this focus partly derives from his exclusive use of secondary sources in discussions of the Spanish and Mexican periods.

Anthropologist John R. Van Ness was the first member of the land grant studies collective to take Hispano’s relationship to land into account. Using what he called a holistic anthropological approach, he examines the physiography, hydrology, soils, climate, and flora and fauna of the Cañones microbasin, and uses it as a case study of the agropasotral system found throughout northern New Mexico land grant communities. Van Ness argues that previous scholars’ focus on ecological degradation through partible inheritance has blinded them to the uniqueness of the subsistence agricultural society and compelled them to blame poverty on cultural characteristics. Through the study of the long-term settlement of the Abiquiú region, Van Ness shows cultural adaptations to changing economies and growing populations. Farming, irrigation, stock raising, and hunting, articulated either through direct cooperation or through trading, reaffirmed and solidified community relationships. The ecological exploitation of land became severe and widespread when the equilibrium that had created both the complex community-based tenure system and localized subsistence economies was disrupted. Traditional

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<sup>15</sup> Victor Westphall, *Mercedes Reales: Hispanic Land Grants of the Upper Río Grande Region* (Albuquerque: University of New Mexico Press, 1983), 274. His other works include *The Public Domain in New Mexico, 1854-1891* (Albuquerque: University of New Mexico Press, 1965) and *Thomas Benton Catron and His Era* (Tucson: University of Arizona Press, 1973).

communities were dislocated through the expropriation of land and natural resources and through the replacement of barter societies with a monetized system of exchange, both of which disrupted traditional communities.<sup>16</sup>

While Anglo land systems encouraged the exploitation of the environment by individuals to achieve maximum profit without community restraints, the comparably ecologically appropriate Hispanic land tenure system ensured careful usage for the maintenance of the subsistence economy. For Cañones, the Forest Service acquisition of *ejidolands* (common lands set aside for communal use in a land grant) restricted hunting, grazing, and fuelwood and timber gathering, it restricted the community to the small bottomland acreage of the microbasin, and forced their exclusive reliance on farming, which never was sufficient to sustain the community. Van Ness argues that the land grant system was not simply a product of a particular cultural and legal tradition transferred mechanically from Ibero traditions. Instead, the land grant system, a mix of private and communal property in cooperative grazing and irrigation, had an underlying ecological rationale that was ideally suited to the limited agro pastoral possibilities of semi-arid micro-basins of northern New Mexico. This system dictated collaboration, minimized risks, and assured, at least, basic subsistence.<sup>17</sup>

William deBuys's *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* also studies the ecology of Hispanos of northern New

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<sup>16</sup> John R. Van Ness, "Hispanic Land Grants: Ecology and Subsistence in the Uplands of Northern New Mexico and Southern Colorado," in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987), 141-214, 142.

<sup>17</sup> *Ibid.*, 198; and John R. Van Ness, *Hispanos in Northern New Mexico: The Development of Corporate Community and Multicommunity* (New York: AMS Press, 1991), 258-262.

Mexico, but deBuys reaches less charitable conclusions than does Van Ness.

*Enchantment and Exploitation* is largely a legal and ecological history of Las Trampas and the Sangre de Cristo Mountains, where lawyers, public officials and government agencies struggled for land and the dispossession of Hispanos. DeBuys maintains that fraud, chicanery, and unethical legal practices left a legacy of bitterness and divisiveness among land grant residents, Pueblo Indians, and Anglos. He blames Congress for the loss of land, citing its failure to implement the Treaty of Guadalupe Hidalgo and claiming that land grants would have stayed intact under Mexico.<sup>18</sup> Aside from an erroneous reading of Mexican history,<sup>19</sup> *Enchantment and Exploitation* is completely unconcerned with ethno-historical analysis, offering almost no perspective of dispossessed Hispanos.

DeBuys's *Enchantment and Exploitation* offers an optimistic interpretation of the federal government's relationship with Hispano communities. He claims that through the U.S. Forest Service, the federal government gave unprecedented grazing rights to Hispanos, despite their continual overuse of resources surrounding their communities.<sup>20</sup> Many have lauded *Enchantment and Exploitation* as a definitive ecological history of the Sangre de Cristo mountain range. Much of the praise goes to deBuys's ability as a writer,

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<sup>18</sup> William deBuys, *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* (Albuquerque: University of New Mexico Press, 1985), 87. See also William deBuys and Alex Harris, *River of Traps* (Albuquerque: University of New Mexico Press, 1996).

<sup>19</sup> deBuys ignores the middle and late nineteenth century assault on communal property under the presidencies of Benito Juárez (1857-1872) and Sebastián Lerdo de Tejada (1872-1876) and during the Porfiriato (influence and presidency of Porfirio Díaz (1876-1911), as well as similar reforms by twentieth century presidents Manuel Avila Camacho and Miguel Alemán Valdés. See Enrique Krauze, *Mexico: Biography of Power: A History of Modern Mexico, 1810-1996*, trans. by Hank Heifetz (New York: Harper-Collins, 1997), 491-600; Mark Wasserman, *Everyday Life and Politics in Nineteenth Century Mexico: Men, Women, and War* (Albuquerque: University of New Mexico Press, 2000), 133-158.

<sup>20</sup> deBuys, *Enchantment and Exploitation*, 210.

who skillfully turns phrases, and offers wit and sharp analysis. Rather than following the familiar victim/proletarian trope, deBuys echoes Hal Rothman's argument that all cultures that have inhabited the Sangre de Cristos have abused it to varying degrees. He reveals that the number of grazing permits in the Carson National Forest surpasses those of other national forests. Corporate and Anglo ranchers' accumulation of permits was possible only through Hispanos' willingness to sell them. He defends the federal government, vilified by so many as the perpetuator of injustice, as the inheritor of an unjust situation. In doing so, however, he ignores federal policies that favored commercial timber operators and judicial decisions (like *U.S. v. Sandoval*, 1897) that directly dispossessed land grant communities of their commons. deBuys's ability to tell a story aside, he writes an environmental history in place of an ecological one, placing man and nature in a dichotomous relationship and telling a story that emphasizes abuse and ignores stewardship.<sup>21</sup>

While he endeavors to democratize his telling of ecological abuse and free it from cultural essentialism and idealization, deBuys still writes in the spirit of Thoreau, Muir, Gifford and Leopold, and of naturalism, conservation, and land ethics, all traits which he believes Hispanos lack. He invokes *querencia*, Hispanos' deep and abiding respect and stewardship for place, not to express their sense of place but to describe mockingly bovine *querencia*, the places where cows prefer to graze. deBuys has since been taken to task by sociologist Devon Peña, who criticizes bioregionalists and environmental historians for false dichotomies between man and nature, philosophical divisions that he believes derive from the disconnect that Anglos feel from nature. Peña argues that

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<sup>21</sup> Ibid. Hal K. Rothman, *On Rims and Ridges: The Los Alamos Area Since 1880* (Lincoln: University of Nebraska Press, 1992), 5-7.



despite centuries of sequential occupancy and sustenance of community and environment, Hispanos still are not seen as part of the environment, while Indians are. Although deBuys admonishes Hispanos for introducing foreign flora and fauna that disturbed the ecological balance that Indians had achieved, Peña commends Hispanos for increasing biodiversity of northern New Mexico by extending riparian zones with acequia agriculture.<sup>22</sup>

The ideological rift between Peña and deBuys does not end there. Where deBuys sees wilderness, Peña sees a homeland imbued with a sense of place. When deBuys draws on Leopold's ideas of land ethics, Peña cites Hispano philosopher Reyes Garcia's idea of *homeland* ethics, social practices guided by ecological sensibilities and notions of *vergüenza* (shame).<sup>23</sup> Understanding peoples' emic notions of ecology will inform etic ideas created by scholars, building respect and truly valuing their existence on and creation of cultural landscapes. The late Estevan Arellano has employed the concept of *querencia*, which he defines as "*raza* bioregionalism," to describe the knowledge of and obligation to land that Hispanos of the Río Arriba possess. Arellano condemns the effect that Los Alamos National Laboratories has had on the local economy of northern New Mexico, estranging people from their land and encouraging the abandonment of traditional economies.<sup>24</sup> When he discusses *querencia*, which he defines as the intimate

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<sup>22</sup> Devon G. Peña and Rubén O. Martínez, "The Capitalist Tool, the Lawless and the Violent: A Critique of Recent Southwestern Environmental History," in *Chicano Culture, Ecology, Politics: Subversive Kin*, ed. Devon G. Peña (Tucson: University of Arizona Press, 1999), 166-171.

<sup>23</sup> Devon G. Peña, "Los Animalitos: Culture, Ecology, and the Politics of Place in the Upper Río Grande," in *ibid.*, 40.

<sup>24</sup> Juan Estevan Arellano, "*La Querencia: La Raza* Bioregionalism," *New Mexico Historical Review* 72:1 (January 1997): 35. See also, Miguel Montiel, Tomás Atencio, E.A. Mares, *Resolana: Emerging Chicano Dialogues On Community and Globalization*

connection to, knowledge of, and stewardship for land, Arellano does not engage in abstract spirituality. He finds the roots of *querencia* codified in the *Recopilacion de las leyes de los reynos de las indias* (Laws of the Indies), which demanded that settlers gain personal knowledge of the land before settlement.<sup>25</sup> He believes this deep knowledge and the philosophy that guides it are the best models for preserving *nuestra querencia* for future generations.

The land values that Arellano expresses are deeply cultural. Though this land ethic is arguably fading with incursions of outside influence, it remains the basis for Hispano collective activism in many communities. For many communities, land was more than a commodity or an investment that is traded or sold when its value has reached its peak or the weak market demands that it be jettisoned from a strained portfolio. While private land grants were eagerly traded amongst the colonial elite, parts of community grants were owned collectively, which nurtured more profound connections to land.

Similar cultural land values are found among the Pueblos, whose entire land base was held communally. Collectivity created stability because land could not be expropriated from Pueblo ownership by any single member. This permanence bore fruit in the Pueblo worldview, which emphasized connections to place. Late Pueblo anthropologist Alfonso Ortiz (San Juan, *Ohkay Owingeh*) writes: "Pueblos have never been displaced from their homelands, something almost unique among North American Indian groups ... after more than four centuries of European exploration and colonization, most of the Pueblo people still live in places of their own choosing. The importance of

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(Tucson: University of Arizona Press, 2009), 65, regarding the growing role of Los Alamos in the Tewa Basin economy and its displacing of traditional knowledge and authority.

<sup>25</sup> Arellano, "*La Querencia*," 32-35.

this for cultural survival cannot be overemphasized, for, indeed, we might say that the Pueblos only believe in what they see and experience, and in their homeland they can see what they believe."<sup>26</sup>

In her work comparing the traditional Pueblo built environment embodied in the plaza and the BIA day school imposed on her native Santa Clara Pueblo, Rina Swentzell discusses how place and identity are intertwined for Pueblo peoples. She writes, "Pueblo people believe that the primary and most important relation to humans is with the land, the natural environment, and the cosmos, which in the pueblo world are synonymous. Humans exist within the cosmos and are an integral part of the functioning of the earth community. The mystical nature of the land, the earth, is recognized and honored. Direct contact and interaction with the land, the natural environment is sought. . . . These symbolic places remind the people of the vital, breathing earth and their specific locations are where the people can feel the strongest connection to the flow of energy, or the creation of the universe. The plants, rocks, land, and people are part of an entity that is sacred because it breathes the creative nature of the universe."<sup>27</sup>

For Hispanos, these connections grew into something more complex than a land ethos: they were often political and were crucial to identity formation.<sup>28</sup> Anthropologist Sylvia Rodríguez argues that *nuevomexicano* identity and ethnicity can be understood through their ongoing relationship to land and water, which, she claims, crystallized as

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<sup>26</sup> Alfonso Ortiz, quoted in "In Memory of Alfonso Ortiz," <http://indigenouspeople.net/>, (accessed 5 January 2015).

<sup>27</sup> Rina Swentzell, "Conflicting Landscape Values: The Santa Clara Pueblo and Day School," in *Understanding Ordinary Landscapes*, ed. Paul Groth and Todd W. Bressi. (New Haven: Yale University Press, 1997), 56.

<sup>28</sup> Laura Pulido, "Ecological Legitimacy and Cultural Essentialism: Hispano Grazing in Northern New Mexico," in *Chicano Culture, Ecology, Politics: Subversive Kin*, ed. Devon G. Peña. (Tucson: University of Arizona Press, 1999), 121-140.

the symbol of Hispano cultural survival and social self-determination.<sup>29</sup> Independent from their utility in maintaining ethnic boundaries, cultural values of land had a religious and spiritual component as well. Writer, scholar, and Tierra Amarilla native Sabine Ulibarrí articulated this beautifully in an 1997 interview for the documentary *Chicano!:* “The land was sacred because your parents and their parents were buried there, some of your children were buried there and you would be buried there. So the sweat, blood and tears have filtered into the land. So it is holy, it is sacred, it is sacrosanct.”<sup>30</sup>

Where Peña believes that a Hispano land ethos informed by cultural connections to land articulated by Arellano and Ulibarrí, is possible, others doubt that this is the case. Geographer Alvar Carlson remains skeptical of the ability of Hispanos to care for the environment. His *The Spanish American Homeland: Four Centuries in New Mexico's Río Arriba* (1990) is a revisionist history of the region, a rejoinder against what he considers to be over politicized works rife with moralizing and Anglo bashing and exaggerated emphasis on Hispano subjugation and social injustice. Carlson believes that his perspective is considerably “detached from any political or other cause.”<sup>31</sup> Echoing Gary D. Libecap's and George Alter's claim that cultural characteristics like partible inheritance doomed Hispano villages, Carlson claims that Hispanos were victims only because of their own adherence to the archaic use of land, a holdover from Spanish colonialism. Further, he portrays Hispanos as the deceitful predators of Pueblo land,

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<sup>29</sup> Rodríguez, “The Hispano Homeland Debate Revisited,” 100, 110; Sylvia Rodríguez, “Land, Water, and Ethnicity in Taos,” in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, Charles L. Briggs and John R. Van Ness, eds. (Albuquerque: University of New Mexico Press, 1987), 313-403, 314.

<sup>30</sup> F. Arturo Rosales, *Chicano! The History of the Mexican American Civil Rights Movement* (Houston: Arte Público Press, 1997), 157.

<sup>31</sup> Alvar Carlson, *The Spanish American Homeland: Four Centuries in New Mexico's Río Arriba* (Baltimore: Johns Hopkins University Press, 1990), x.

continuing their cruel subjugation of Pueblo Indians through encroachments on their land well into the American period.<sup>32</sup>

Nowhere does Carlson adequately address the effect that the loss of common lands had on land grant communities. He ignores the fact that the *ejido* offered not only a community resource base but the potential for community growth.<sup>33</sup> His dire appraisal of northern New Mexico paints it as a waning cultural region in which each generation that remains is trapped by its own economic and cultural history.<sup>34</sup> According to Carlson, culture and tradition are both the foundation on which Hispanos have built their connection to land and the shackle that has kept their use of this land stagnant. He believes Anglo “rejuvenators” are left with the responsibility to bring the dead land back to life.<sup>35</sup> Hispanos are, once again, the “dusty background against which life must move,” and despite their connection to and self-definition in the land, their ineffectual stewardship has meant both their cultural doom and regional ecological collapse.<sup>36</sup>

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<sup>32</sup> Gary D. Libecap and George Alter, “Agricultural Productivity, Partible Inheritance, and the Demographic Response to Rural Poverty: An Examination of the Spanish Southwest,” *Explorations in Economic History* 19:2 (April 1982): 184-200. Libecap and claim that while partible inheritance (the practice of dividing land equally amongst all heirs) was an important cultural and economic institution in creating and maintaining ties to the village, it undermined the viability of land grant agriculture and discouraged out migration. See 197. Ramón Gutiérrez corroborates this conclusion in *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846* (Stanford, CA: Stanford University Press, 1991), 304; Carlson, *Spanish American Homeland*, 46-52, 113-114.

<sup>33</sup> Libecap and Alter, “Agricultural Productivity, Partible Inheritance, and the Demographic Response to Rural Poverty,” 198-200.

<sup>34</sup> Carlson, *Spanish American Homeland*, 204-206.

<sup>35</sup> *Ibid.*, 216.

<sup>36</sup> The quote comes from the Katherine Fullerton Gerould article in July 1925 *Harper's Monthly Magazine*, entitled “New Mexico and the backwash of Spain.” See Charles Montgomery, *The Spanish Redemption: Heritage, Power, and Loss on New Mexico's Upper Río Grande* (Berkeley: University of California Press, 2002), 1-3.

Hispanophilic historians, from early borderlands scholar Herbert Eugene Bolton to New Mexico historian Marc Simmons, have pit Hispanos and Pueblo Indians against to one another. They have glorified the Spanish conquest of the Southwest while downplaying Spanish brutality toward Pueblo Indians.<sup>37</sup> These historians and others use of religious, civil, and military correspondence offered a view privileging the two groups as not only distinctive but oppositional. Reports from official visitations by ecclesiastical officials and bureaucrats document, with displeasure, the fact that Hispano villages failed to conform to the strict dictates of the Laws of the Indies. Sprawled across valleys rather than arranged in compact settlements, Spanish communities closely bordered on Pueblo Indian villages. While intermarriage was rare, cross-cultural progeny populated communities that were officially separate but nonetheless mixed. Native and indiophilic scholars have written an equally dichotomous history, emphasizing Spanish brutality against Indians and their encroachment on traditional lands. In contrast to these extremes, historians John Kessell and David Weber have created a vast body of work that avoids these extreme interpretations, citing the agency of Indians and peaceful relations between Pueblos and colonists as significant characteristics of the borderlands milieu.<sup>38</sup>

Historian Oakah L. Jones Jr. avoided the polemical portrayal of Pueblo-Hispano relations in *Pueblo Warriors and Spanish Conquest*, published in 1966. Jones argues that

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<sup>37</sup> Herbert Eugene Bolton, *The Spanish Borderlands: A Chronicle of Old Florida and the Southwest* (New Haven: Yale University Press, 1921); Marc Simmons, *New Mexico: An Interpretive History* (1976; reprint Albuquerque: University of New Mexico Press, 1988).

<sup>38</sup> See especially John L. Kessell, *Spain in the Southwest: A Narrative History of Colonial New Mexico, Arizona, Texas, and Californina* (Norman: University of Oklahoma Press, 2002); John L. Kessell, *Pueblos, Spaniards, and the Kingdom of New Mexico* (Norman: University of Oklahoma, 2008); David J. Weber, *The Spanish Frontier in North America* (New Haven: Yale University Press, 1992); David J. Weber, *The Mexican Frontier, 1821-1846: The American Southwest under Mexico* (Albuquerque: University of New Mexico Press, 1982).

the Spanish commanders relied on Pueblo auxiliaries to fight both hostile tribes and other Pueblos in the eighteenth and early nineteenth centuries.<sup>39</sup> While Jones provides a vivid account of the Spanish and Pueblo alliance against mutual enemies, his story tells little of the day-to-day interactions between colonists and natives. Although Spanish colonial Indian relations were structured to minimize contact between citizens and Indians, intimate contact inevitably occurred.

Ramón Gutiérrez's controversial *When Jesus Came, the Corn Mothers Went Away* (1991) provides insights to post-Revolt Pueblo-Hispano relations. Gutiérrez's objective is to study the social transformation of a caste-based society to the class-based society that took hold during the Bourbon reforms. Enacted by various Bourbon monarchs in the eighteenth century, the Bourbon Reforms sought to centralize power and expand the crown's powers over an expanding economy. In a population tied together by *mestizaje* (Spanish-Indian miscegenation), a strict Spanish hierarchy imposed class division, enforced inequality and maintained a social order that placed Pueblos and *genizaros*, detribalized and Hispanicized natives, at the bottom and the few *criollos* (Spaniards born in the New World) and *peninsulares* (Iberian-born Spaniards) on top in New Mexico.<sup>40</sup> Still, the barriers between Pueblo and Spanish villages were permeable.<sup>41</sup>

The eighteenth-century defensive necessities and the establishment of Hispano villages closer to native pueblos increased daily contact between the two groups. At the same time, Indians became more cognizant of preserving their traditions than they had been in the seventeenth century while they incorporated Spanish technology and

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<sup>39</sup> Oakah L. Jones, Jr. *Pueblo Warriors and Spanish Conquest* (Norman: University of Oklahoma Press, 1966), 107-109, 142.

<sup>40</sup> Gutiérrez, *When Jesus Came, the Corn Mothers Went Away*, 160.

<sup>41</sup> *Ibid.*, 169, 304, 174.

foodways. Pueblo Indian anthropologist Edward P. Dozier argued that Pueblo society remained largely unchanged through their selective adoption of Spanish technology, foods and cultural traits and deliberate compartmentalization of Pueblo culture. Writing from the Pueblo perspective, Dozier states that “since Spanish contact, Pueblo socioceremonial compartmentalization, particularly the Spanish-Indian dichotomy, appears to have great permanence.”<sup>42</sup> In other works, Dozier cites the Pueblo practice of expelling members no longer observing traditional ways as a means to preserve traditions from Spanish influence. The outmigration of Hispanicized Pueblo expatriates partially explains comparable figures of Hispano population growth and Pueblo population decline in the eighteenth and nineteenth centuries.<sup>43</sup>

Roxanne Dunbar-Ortiz’s *Roots of Resistance: A History of Land Tenure in New Mexico* echoes Dozier. She argues that the decline of the Pueblo Indian population was only partly due to disease epidemics and was more likely attributable to outward migration. Pueblos’ expulsion of dissidents retained the social and cultural integrity of the community and enhanced the growth of the *genizaro* and poor Hispano population that settled community land grants. These grants worked as a buffer to private land grants of the elite, who were responsible for most of the malicious encroachment on and

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<sup>42</sup> Edward P. Dozier, “Río Grande Pueblos,” in *Perspectives in American Indian Culture Change* ed. Edward H. Spicer, (Chicago: University of Chicago Press, 1961), 175, 179. Alfonso Ortiz’s discussion of the veneration of select Catholic saints by Pueblo Indians somewhat conforms to Dozier’s assertion. Ortiz writes that Saint James, the patron saint of horsemen, and Saint Raphael, the patron saint of fisherman, were venerated because the Tewa wove use of the horse and fishing into their cultural practices and had no native spirits for their practice. See Alfonso Ortiz, *The Tewa World: Space, Time, Being, and Becoming in Pueblo Society* (Chicago: University of Chicago Press, 1969), n. 5, 156.

<sup>43</sup> Edward P. Dozier, *The Pueblo Indians of North America* (New York: Holt, Rinehart, and Winston, 1970) 82-83.



claims to Pueblo lands.<sup>44</sup> Though lauded as a groundbreaking study, Dunbar-Ortiz's almost exclusive reliance on secondary sources is troubling. Her hard Marxist reading of a barter society obfuscates colonial relations. Although *Roots of Resistance* is replete with examples of peaceful Hispano-Pueblo coexistence, Dunbar-Ortiz is prone to falling back on the dichotomous portrayal of Hispano and Pueblo relations. The final full chapter widens the Pueblo-Hispano chasm, telling the story not of "recent conflicts in New Mexico over land, minerals, timber, and water" as claimed, but of Hispano and Pueblo conflicts over commemoration. Dunbar-Ortiz discusses the Hispanophilic celebration of symbols of European brutality and the continued victimization of Pueblo Indians at the hands of native-born Hispano scholars, such as Ramón Gutiérrez, who still assault Pueblo historical memory.<sup>45</sup>

Former New Mexico state historian Myra Ellen Jenkins's work was influential in the portrayal of interethnic relations in New Mexico. Jenkins was known for hoarding archives and restricting public use of documents and collections. This practice allowed her to be the first historian to work with historical documents that she often poured into articles often bereft of analysis. She nonetheless structured her narrative to emphasize Hispano aggression (especially through trespass onto Pueblo lands), questioned Hispano claims to lands adjacent to Pueblos, and disputed documents that supported Hispano claims.<sup>46</sup> Her treatment of undocumented Pueblo claims was highly charitable. For

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<sup>44</sup> Roxanne Dunbar-Ortiz, *Roots of Resistance: A History of Land Tenure in New Mexico* (Norman: University of Oklahoma Press, 2007), 14.

<sup>45</sup> Dunbar-Ortiz, *Roots of Resistance*, 14, 64-66.

<sup>46</sup> Myra Ellen Jenkins, "Spanish Land Grants in the Tewa Area," *New Mexico Historical Review* 47:2 (April 1972): 122-123; Myra Ellen Jenkins, "Taos Pueblo and Its Neighbors, 1540-1847," *New Mexico Historical Review* 41:2 (April 1966): 93. In recounting Taos Indian encroachment on the Antonio Martínez Grant, Jenkins simply states that they were

example, despite the absence of legitimate documents granting land to Laguna Pueblo (in light of the Cruzate forgeries), Jenkins accepts the “age of tradition” as an indication “that such a document or map existed prior to 1832.”<sup>47</sup> In Taos, Hispanos from surrounding community grants, including Don Fernando de Taos and Cristobal de la Serna, lived at Taos Pueblo for safety in 1760 and 1776, suggesting a Pueblo-Hispano military alliance. Jenkins blithely reports this practice and moves quickly onto further examples of Hispano exploitation, ignoring customary laws that allowed Pueblos to control access to their villages and that suggest that Hispanos were at Taos Pueblo at the Pueblo’s invitation.<sup>48</sup>

While Pueblos retained some rights under Spanish-colonial law, their economic status deteriorated with the development of a strong barter economy from the mid eighteenth to the mid nineteenth centuries. Ross Frank’s *From Settler to Citizen: New Mexican Economic Development and the Creation of Vecino Society, 1750-1820* discusses colonial New Mexico’s participation in the increasingly diverse economy of northern New Spain. His work challenges the depiction of New Mexico as an impoverished subsistence society of isolated villages surrounded by violent nomadic

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“planting on a portion of the Martínez grant.” See 98. In 1968, amidst the height of the land grant struggle, Reies López Tijerina asked Jenkins for a copy of the grant papers for the San Joaquín del Río de Chama, or Cañón de Chama, grant, which Jenkins denied she had. Jenkins had remarked publically that she did not support Tijerina or the land grant movement. Tijerina pressed and Jenkins, under public pressure and scrutiny, miraculously and suspiciously located the papers. See Rudy V. Busto, *King Tiger: The Religious Vision of Reies López Tijerina* (Albuquerque: University of New Mexico Press, 2005), 57-63.

<sup>47</sup> Myra Ellen Jenkins, *History of Laguna Pueblo Land Claims* (New York: Garland Publishing, 1974), 33; See also Myra Ellen Jenkins, “Spanish Land Grants in the Tewa Area,” 114. Jenkins mentions the Cruzate grants as evidence of Pueblo rights but fails to mention their dubious origin.

<sup>48</sup> Jenkins “Taos Pueblo,” 98-99.

Indians. Frank argues that Pueblo-Hispano relations soured as trade increased between New Mexico and northern Mexico in the middle of the eighteenth century. Spaniards used Pueblos as auxiliaries to defend the settlements central to New Mexico, but marginalized them in the growing economy. Frank's analysis of the material culture of Bourbon northern New Spain reveals that Hispanos increasingly co-opted the traditional crafts and thus the economic life of the Pueblos. Spanish introduction of the loom guaranteed superior productivity in weaving and the growing market for Pueblo pottery affected its quality. Both were sold in a market that Hispanos increasingly controlled.<sup>49</sup>

The creation of this new economy had untold effects on the once-rigid class structure and on race relations in New Mexico. Mixed-race classifications used in New Mexico, such as *genizaro* (detribalized plains Indians), *casta* (caste), *color quebrado* (mixed race, or *mestizo* or *mulatto*), once corresponded with class, but when all non-Indians became incorporated under the *vecino* label, the mixed-race settlers were now citizens on the far northern frontier.<sup>50</sup> With the complex system of caste divisions gone, racial divisions hardened. Social and cultural shifts in Hispano villages and in Pueblo communities sharpened the line between "Spanish" and "Pueblo," as the two groups no longer relied so heavily on one another for mutual defense. The added stress of declining Pueblo population and increasing Hispano population throughout the nineteenth century coincided with reduced intermarriage between Hispanos and Pueblos. The result was that Hispanos beginning to identify themselves "in contradistinction to the Pueblo Indians."

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<sup>49</sup> Ross Frank, *From Settler to Citizen: New Mexican Economic Development and the Creation of Vecino Society, 1750-1820* (Berkeley: University of California Press, 2000), 175.

<sup>50</sup> *Ibid.*, 180.

Frank states that "social interaction between Pueblo Indians and *vecinos* became a casualty of the structural changes in the New Mexican economy."<sup>51</sup>

Still, as remarkable as the burgeoning arts and crafts trade was, we may question whether large segments of the New Mexico population participated in this trade. While this trade diversified the colony's economy, most villages were still engaged in local subsistence and barter economies. Although Frank cites the decline of intermarriage in at the end of the eighteenth century, the decades of 1820s and 1830s witnessed a boom in Pueblo-Hispano marriage that, while a lower percentage of the total marriages, dwarfed eighteenth-century intermarriage in sheer numbers. Lastly, official marriage rolls, which Frank relies on in his analysis, fail to take into account intimate relations that eluded church regulation.<sup>52</sup>

James Vlasich's *Pueblo Indian Agriculture* provides perhaps the most complete assessment of Pueblo-state relations from Spanish contact through the present. Vlasich demonstrates that sovereigns correctly understood the centrality of agriculture to the preservation of Pueblo peoples. From Spain's post-Revolt policies aiming to preserve native subsistence economies to territorial agents' fights against encroachments on Pueblo lands, sovereigns proved willing to protect native traditions, all the while denying equality through citizenship.<sup>53</sup> Amid changing land and water laws and pressures to expand production, Pueblos adapted to new systems while maintaining traditional agricultural practices. Although postwar Indian-policy changes signaled the abandonment of "assimilation through agriculture" programs, Vlasich claims, Pueblos

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<sup>51</sup> Ibid, 122.

<sup>52</sup> Ibid, 179.

<sup>53</sup> James A. Vlasich, *Pueblo Indian Agriculture* (Albuquerque: University of New Mexico Press, 2005), 39, 93.

negotiated barriers to maintain agricultural traditions of diminishing economic but great cultural importance.<sup>54</sup> Despite centuries of contact and cohabitation, Hispanos and Pueblos evidently faced very different sovereigns.

Nineteenth-century Pueblo-Hispanos relations undoubtedly strained as the booming Hispano population began to trespass on Pueblo lands in a large way. Under Mexican rule, elite Hispanos attempted to gain legal title to Pueblo lands, citing their legal equality under the Plan de Iguala, the 1821 peace treaty that unified Mexican rebels, and guaranteed equality for all Mexican peoples. Less fortunate *paisanos* (countrymen) simply squatted on Pueblo lands or overstayed lease agreements and eventually claimed title. During the mid to late nineteenth century, land dispossession drove larger populations of poor Hispanos onto Pueblos, so that by the 1910s, three thousand non-Indian families lived on Pueblo lands, especially those of the northern Pueblos. Dozier notes that the “breach between Hispanos and Pueblos widened as succeeding generations of Pueblo Indians” have been “quick to pick up negative Anglo-American attitudes toward Hispanos and Mexicans and regard themselves as in a superior status position.”<sup>55</sup>

Sociologist E. K. Francis remarks that “the sense of common destiny has disappeared which once united Pueblo Indians and Hispano peasants.”<sup>56</sup> Anthropologist John J. Bodine confirms this division in field work in Taos during the 1950s and 1960s. Seeking to understand the role of Indophilic tourism in upholding this division, he notes that in the creation of the “Taos mystique,” Anglos “glorified Taos Indian culture and relegated the Spanish American to the bottom of the prestige structure.” By doing so,

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<sup>54</sup> Vlasich, *Pueblo Indian Agriculture*, 212-218, 287-293.

<sup>55</sup> Dozier “Río Grande Pueblos,” 167.

<sup>56</sup> E. K. Francis, “Multiple Intergroup Relations in the Upper Río Grande Region,” *American Sociological Review* 21:1 (February 1956): 86.

argues Bodine, Anglos have controlled the interpretation of ethnicity, Taos' most important commodity.<sup>57</sup>

Anthropologist Sylvia Rodríguez has extended John Bodine's studies of the Taos region through ethnographic work on ritual dances, fiestas, and land and water-rights activism. Rodríguez examines shared cultural practices and reveals remnants of deteriorating ties that once held Pueblos and Hispanos together. In place of visits, trade, and gift exchange, Pueblos and Hispano meet in court, where they fight for water rights and land claims.<sup>58</sup> The ubiquitous effects of tourism and the growing Anglo population have led to the intensification of ethnic boundaries, as Pueblos and Hispanos fight "displacement, political usurpation or certain forms of cultural suppression or co-optation."<sup>59</sup> While Anglos glorified, advocated, and imitated Pueblo culture, and controlled the commodities created in the tourist economy, Hispanos faced not only cultural and social subordination, but land and water loss. Rodríguez argues that along with water and land, "Indian culture has become a bottom line." While this process commodified their culture, it also gave Indians incomparable authority in resource

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<sup>57</sup> John J. Bodine, "A Tri-Ethnic Trap: The Spanish Americans in Taos," in *Proceedings of the American Ethnological Society*, ed. June Helm (Seattle: University of Washington Press, 1968), 147.

<sup>58</sup> Sylvia Rodríguez, "The Taos Pueblo Matachines: Ritual Symbolism and Interethnic Relations," *American Ethnologist* 18:2 (May 1991): 248-252; Sylvia Rodríguez, "Art, Tourism, and Race Relations in Taos: Toward a Sociology of the Art Colony," *Journal of Anthropological Research* 45:1 (spring 1989): 77-99.

<sup>59</sup> Sylvia Rodríguez, "Ethnic Reconstruction in Contemporary Taos," *Journal of the Southwest* 32:4 (winter 1990): 543. See also Sylvia Rodríguez, "Land, Water, and Ethnicity in Taos" in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*. Ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987), 313-315; and Sylvia Rodríguez, *Acequia: Water Sharing, Sanctity, and Place* (Santa Fe, NM: School of American Research Press, 2006).

contests with neighboring non-Indian villages.<sup>60</sup> The net result is both the hardening of ethnic boundaries and growing animosity as both Pueblos and Hispanos struggle to maintain tradition and culture in an economy where both are traded largely without their input.

From their initial contact, Pueblos and Hispanos encountered two very different sovereigns. The Spanish crown was distant and blissfully unaware in the case of Hispanos; the Franciscan mission was omnipresent, paternalistic and oppressive in the case of Pueblos. Pre-Revolt colonial governance acquiesced to repressive practices by religious officials and abuses of powerful *encomenderos* (holders of *encomiendas*, which were royal grants of forced Indian labor and the right to collect tribute from Indians of a given area). After the Pueblo Revolt, however, the crown took measures to guard against further revolts that would threaten Spanish control of the northern frontier in New Spain, publishing and distributing the Laws of the Indies, granting Indians their traditional lands, and assigning legal protectors to represent Indian communities in courts and other measures.

Charles Cutter's *The Protector de los Indios* and Malcolm Ebricht's "Advocates for the Oppressed: Indians, Genizaros and Their Spanish Advocates in New Mexico, 1700-1786" reveal the complexity of Pueblo Indian status in colonial New Mexico. The *protectores* (defenders) effectively served as natives' legal voice in everything from complaints about abuses at the hands of friars to land disputes with surrounding villages. And although the office lay vacant from 1717-1810, Cutter argues that the Pueblos'

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<sup>60</sup> Sylvia Rodríguez, "Subaltern Historiography on the Río Grande: On Gutiérrez's *When Jesus Came, the Corn Mothers Went Away*," *American Ethnologist* 21:4 (November 1994): 897-898.

previous experience with the *protectores* had prepared them to effectively utilize *procuradores* (colonial paralegals) in their stead.<sup>61</sup> Ebright points to the ability of Spanish advocates to protect not only Pueblo rights, but also *genizaro* rights, demonstrating the lengths to which the Spanish government went to settle disputes between Spaniards, Indians, and *genizaros*.<sup>62</sup>

Fear of a second revolt nonetheless led to repressive regulations requiring Indians to obtain permits to travel, outlawing Indian possession of firearms and addressing abuse by friars more seriously. Oakah L. Jones Jr. remarks that despite these laws, colonial governors, including Diego de Vargas, Tomás Vélez de Cachupín, and Juan Bautista de Anza, allowed Puebloan military travel, armed Pueblo allies with muskets, and feuded with Franciscan missionaries over their treatment of Indians.<sup>63</sup> G. Emlen Hall, on the other hand, has demonstrated that beneath colonial governors, even those with friendly policies toward Indians, stood *teniente alcaldes* and *alcaldes* (local justices of the peace), who were more likely to abuse their power to the detriment of the larger community, Pueblo and Hispano.<sup>64</sup> These low-level bureaucrats were often brought up on charges by Indians complaining of encroachment by new or existing land grants, depredations from their livestock, or illegal use of water. The Spanish-colonial-era abuse of Indians by

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<sup>61</sup> Charles R. Cutter, *The Protector de Los Indios in Colonial New Mexico* (Albuquerque: University of New Mexico Press, 1986), 107.

<sup>62</sup> Malcolm Ebright, "Advocates for the Oppressed: Indians, Genizaros and their Spanish Advocates in New Mexico, 1700-1786." *New Mexico Historical Review* 71:4 (October 1996): 305-339, 316-318, 333.

<sup>63</sup> Jones, *Pueblo Warriors*, 93, 116, 135-136, 158-161.

<sup>64</sup> G. Emlen Hall, "Land Litigation and the Idea of New Mexico Progress," in *Spanish and Mexican Land Grants and the Law*, ed. Malcolm Ebright (Manhattan, KS: Sunflower University Press, 1989); 48-51; See also Hall, "The Pueblo Land Grant Labyrinth," 75, 78.



corrupt or self-interested *alcaldes* at the local level was continued by their Mexican successors.

Although Pueblo Indians became citizens under the liberal policies of the Mexican government, their new-found rights proved to be more a handicap than a benefit. Formal legal status as citizens, Pueblo historian Joe Sando claims, was injurious to Pueblo property rights during the Mexican period. He states that Mexican governance “consisted largely of confusing Indian title, ignoring the illegal taking of Pueblo land, and responding passively when Indian boundaries were violated.”<sup>65</sup> Work by G. Emlen Hall and David Weber corroborates Sando’s claim, demonstrating the lengths local Mexican officials went to attempt gaining Pueblo lands. For all of their scheming, a central government in Mexico bent on retaining control over all affairs, upholding the Plan de Iguala, and protecting Indian rights blocked their plans.<sup>66</sup> These schemes exposed inconsistencies in Pueblos’ treatment by the Mexican government. Their problematic legal status as quasi-citizens under Mexican rule was inherited by the United States government when it annexed New Mexico in 1848.

Historian Deborah Rosen contends that the debate over Pueblo Indian citizenship spanned the entire territorial period. Early governors James S. Calhoun, W. W. H. Davis, and David Meriwether fought to repeal statutes that gave Pueblos legal power and voting

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<sup>65</sup> Joe S. Sando, *Pueblo Nations: Eight Centuries of Pueblo Indian History* (Santa Fe, NM: Clear Light Publishers, 1992), 83.

<sup>66</sup> Hall and Weber. “Mexican Liberals and Pueblo Indians” 17-19; G. Emlen Hall, “Giant Before the Surveyor-General: The Land Career of Donaciano Vigil.” In *Spanish & Mexican Land Grants in New Mexico and Colorado*, edited by John R. Van Ness and Christine M. Van Ness, 64-73. (Manhattan, Kan.: Sunflower University Press, 1980), 68-71.

rights, but made them party to judicial proceedings and vulnerable to land speculation.<sup>67</sup>

Judicial officials, including New Mexico Supreme Court justices John S. Watts and Warren Bristol, cited lack of both formal treaties with the United States and federally appointed U.S. Indian agents, along with the fact that Pueblos had full title to their land under U.S. law as proof they were not Indians.<sup>68</sup> Watts, along with Justice Joab Houghton and Attorney General Stephen B. Elkins, were active land speculators who would benefit from the privatization of Indian land. Rosen argues that the legal ideologies of these officials reflected federal policies that promoted individualism, from the Supreme Court decision in *U.S. v. Joseph* of 1876, which upheld Pueblo citizenship and denied federal protection as Indians, to the Dawes Allotment Act of 1887, which broke up reservation into small parcels and opened the majority of reservation lands for Anglo settlement.<sup>69</sup>

Suzanne Forrest's *The Preservation of the Village: New Mexico's Hispanics and the New Deal* presents a less charitable portrayal of the federal government in the twentieth century. Waves of lawyers and land speculators, urban romantics and post modernists, and intellectuals and reformers benefitted from an inept state government and an absent federal government. While liberals saw a utopian refuge from modernity and traditional communal rural values in New Mexico's villages, reformers saw a region rife with illiteracy, unemployment, and poverty. The Great Depression exacerbated poverty and accelerated the collapse both of small village based economies and of the migratory labor trail north that villagers had come to depend on. When the federal government

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<sup>67</sup> Deborah Rosen, "Pueblo Indians and Citizenship in Territorial New Mexico," *New Mexico Historical Review* 78:1 (Winter 2003): 4-7.

<sup>68</sup> *Ibid.*, 10-11.

<sup>69</sup> *Ibid.*, 20. For more on federal-Pueblo relations, see Willard H. Rollings, "Indian Land and Water: The Pueblos of New Mexico (1848-1924)" *American Indian Culture and Research Journal* 6:4 (1982): 1-21.

responded to this collapse in the 1930s, it turned to social scientists and romantics to a design reform programs.<sup>70</sup>

Forrest argues that while federal relief undeniably saved villages from total economic collapse, its conservative policies were beset with ethnocentrism, ambivalence and paternalism.<sup>71</sup> As reform-minded liberals sought to preserve Hispano villages in northern New Mexico, they painted the region's identity as timeless and immutable, using crafts and art production and to fight the negative depiction of northerners. As federal involvement increased during the New Deal, these reformers largely controlled the ideological direction of reform and fixed Hispanos and thereby Hispano identity in the utopian pastoral village. Through preserving the village, they sought to control unbridled modernization and preserve the northern New Mexico of an idealized past, in effect continuing the century-long U.S. colonization of Hispanos and the Southwest.<sup>72</sup> Although Forrest makes an impassioned and convincing argument for the ahistorical nature of reform, the Hispano voice is muted throughout her book. By using government documents, she privileges the narrative of the administrators and idealists, who were sometimes in dialogue with Hispanos but not necessarily active participants in reform projects. They, in fact, quite actively suppressed the native voice found in Hispano field

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<sup>70</sup> Suzanne Forrest, *The Preservation of the Village: New Mexico's Hispanics and the New Deal* (Albuquerque: University of New Mexico Press, 1989).

<sup>71</sup> Assessments of the Indian New Deal have echoed this criticism of federal relief programs. See Lawrence C. Kelly, *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983). For a more critical appraisal, see Donald L. Parman, *The Navajos and the New Deal* (New Haven: Yale University Press, 1976); and James A. Vlasich, *Pueblo Indian Agriculture* (Albuquerque: University of New Mexico Press, 2005), 159-206.

<sup>72</sup> Forrest, *The Preservation of the Village*, 177. See also David H. Dinwoodie, "Indians, Hispanos, and Land Reform: A New Deal Struggle in New Mexico," *Western Historical Quarterly* 17:3 (July 1986): 291-323.

workers' notes, claiming that no length of time in the villages would allow locals to interpret data accumulated through their own field work.<sup>73</sup>

In a time so formative of Hispanidad (Hispanic identity), as new external pressures undoubtedly redefined self- conceptualization, Hispanos appear as passive sheep led back into the field in an era when depression and starvation might have killed Hispano cultural identity altogether.<sup>74</sup> While *Preservation of the Village* offers a thoughtful discussion of the effect of government policies on people, the voice of the people was rarely pursued and remains muted, leaving an institutional history in place of a social or cultural one. Jake Kosek's *Understories: The Political Life of Forests in Northern New Mexico* examines the Hispano perspective of Hispano-federal postwar relations. Set around the village of Truchas during its fight against environmentalists in the late 1990s, *Understories* depicts Hispano villagers as politically astute and vocal agents in their preservation of tradition. Increased reliance on the federal government through decreasing grazing rights, increased welfare dependence and employment at Los Alamos National Labs has shaped Hispano political economy, argues Kosek.<sup>75</sup> While activists call for the return of grant lands, it is debatable whether the majority of *norteños* would trade land repatriation for the economic security that Los Alamos National Labs has provided.<sup>76</sup>

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<sup>73</sup> Marta Weigle, *Hispanic Villages of northern New Mexico: A Reprint of Volume II the 1935 Tewa Basin Study with Supplementary Materials* (Santa Fe, NM: Lightning Tree, 1975), 7-8.

<sup>74</sup> Forrest, *Preservation of the Village*, 156-157.

<sup>75</sup> Jake Kosek, *Understories: The Political Life of Forests in Northern New Mexico* (Durham: Duke University Press, 2006), 229-239.

<sup>76</sup> Joseph Masco considers the long-term ecological and economic effects of the Manhattan project in, Joseph Masco, *The Nuclear Borderlands: The Manhattan Project in Post-Cold War New Mexico* (Princeton: Princeton University Press, 2006).

David Correia's *Properties of Violence: Law and Land Grant Struggle in Northern New Mexico* examines the land grant struggle in the Tierra Amarilla region of northern New Mexico, north and west of the Tewa Basin. Correia considers the role that violence played in the dispossession of the Tierra Amarilla grant, both in resistance against economic forces by Hispanos in the late nineteenth and early twentieth centuries and in violence employed by the state to counter radical activism in the mid and late twentieth century.<sup>77</sup> The violent dispossession of Hispano lands, he argues, is important to remember when considering the violence of the land grant movement, which characterizes northern New Mexico in the minds of their detractors.

Scholarly debates over the proper identity of *nuevomexicanos* have been raging for over a century. Aurelio Espinosa and Arthur Campa disagree over the significance of Spanish forms in the folklore of New Mexico. Carey McWilliams popularly questions the existence of veritable Spanish tradition in the United States. He argues that the "Spanish fantasy heritage" was the white-washing of Mexican history, a cultural scheme created in the early twentieth century as a way for Anglos to come to terms with land expropriation and their abuse of the Mexican population.<sup>78</sup> Sociologist George I. Sánchez argues passively for *nuevomexicano* cultural uniqueness brought on through

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<sup>77</sup> David Correia, *Properties of Violence: Law and Land Grant Struggle in Northern New Mexico* (Athens: University of Georgia Press, 2013).

<sup>78</sup> Phillip B. Gonzales, "Whither the Nuevomexicanos: The Career of a Southwestern Intellectual Discourse, 1907-2004," *The Social Science Journal* 43:2 (2006): 274-277. See also Julian Josue Vigil and Anselmo Arellano, *Arthur L. Campa and the Coronado Cuarto Centennial* (Las Vegas, NM: Editorial Teleraña, 1980); Carey McWilliams, *North from Mexico: The Spanish-Speaking People of the United States* (Philadelphia: J. B. Lippincott, 1948), 38-40.

isolation. Rather than celebrating cultural exceptionality, he claimed that Hispano culture was the reason for the backwardness of the region in the 1940s.<sup>79</sup>

Post-Chicano movement debates have centered around claims of *nuevomexicanos*' Spanish pedigree. Perhaps most interesting is the Hispano-distinctiveness debate started when geographer Richard Nostrand published a chapter of his book *The Hispano Homeland* in 1980. In his article, "The Hispano Homeland in 1900," Nostrand claimed that isolation created a unique non-Mexican culture evidenced by the preservation of archaic Spanish words and traditions. Responses from economists, anthropologists, geographers, and historians questioned Nostrand's methodology and conclusions, called his scholarship ideology, and asserted that Hispanos were merely a subculture of greater *mexicanidad*. Hispanophilic historians Fray Angelico Chávez and Marc Simmons support Nostrand's claims of distinctiveness, thereby defending their own work. Chávez, the lone New Mexican in the entire debate, also defended his claims to a unique New Mexican history and identity.<sup>80</sup>

John Nieto-Phillips's *The Language of Blood* and Charles Montgomery's *The Spanish Redemption* seek the origin of the seemingly pervasive "Spanish American" identity that survived the politics of the Chicano movement. Echoing Ramón Gutiérrez and Ross Frank, Nieto-Phillips argues that colonial concepts like *limpieza de sangre*

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<sup>79</sup> George I. Sánchez, *Forgotten People: A Study of New Mexicans* (1940; reprint; Albuquerque: Calvin Horn, 1967), 18-24.

<sup>80</sup> Richard L. Nostrand, "The Hispano Homeland in 1900," *Annals of the Association of American Geographers* 70:3 (September 1980): 382-396; J. M. Blaut and Antonio Ríos-Bustamante, "Commentary on Nostrand's 'Hispanos' and Their 'Homeland,'" *Annals of the Association of American Geographers* 74:1 (March 1984): 157-164; Marc Simmons, Fray Angelico Chávez, D. W. Meinig, Thomas D. Hall, Rejoinders (Hispano Cultural Distinctiveness: A Reply), *Annals of the Association of American Geographers* 74:1 (March 1984): 169-171.

(purity of blood) and *calidad* (quality) broke down in New Mexico and the once-complex *casta* system gradually changed into a binary in which *español* and *indio* were the only distinctions.<sup>81</sup> He claims that Hispano ethnic identity entered the public sphere in the late nineteenth century and was transformed by hispanophiles who replaced the “Black Legend” with the “White Legend,” which downplayed *mestizaje*, whitened Hispano identity, and implemented an “imperialist nostalgia.”<sup>82</sup> Nieto-Phillips contends that Hispanos eventually embraced this idea, but rather than conforming to Anglo expectations, they co-opted and used it to define themselves. By idealizing the romantic past, they both disregarded the abysmal present and achieved a certain degree of heightened self-definition.<sup>83</sup>

Montgomery argues that Spanish heritage was the creation of Anglos and Hispanos, artists and journalists, boosters and politicians, and educators and even the *paisano* that it sought to redeem. Through a more astute reading of ethnic politics than Nieto-Phillips accomplishes, Montgomery demonstrates the ways that Hispanos took hold of the Spanish fantasy not for a somatic fix to avoid the abysmal present, but to claim political and cultural authority in their lives.<sup>84</sup> *The Spanish Redemption* explores the ways that paternalistic art promoters like Mary Austin and Frank Applegate attempted to “revive” nuevomexicano art, all the while discouraging innovation, and defining and enforcing the “authentic” in the artist’s products.<sup>85</sup> Simultaneously, a generation of elite

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<sup>81</sup> John Nieto-Phillips, *The Language of Blood: The Making of Spanish-American Identity in New Mexico, 1880s-1930s* (Albuquerque: University of New Mexico Press, 2004), 33.

<sup>82</sup> *Ibid.*, 149, 151, 170.

<sup>83</sup> *Ibid.*, 7.

<sup>84</sup> Charles Montgomery, *The Spanish Redemption: Heritage, Power, and Loss on New Mexico’s Upper Río Grande* (Berkeley: University of California Press, 2002), 72, 168.

<sup>85</sup> *Ibid.*, 169, 175.

Hispana *patronas* like Adelina Otero-Warren, Concha Ortiz y Pino, and Carmen Espinosa sought to reform Hispano education to modern standards while keeping a Spanish heritage alive in Hispano consciousness.<sup>86</sup>

Both *The Spanish Redemption* and *The Language of Blood* appropriately avoid passing candid judgment on the Spanish heritage. Montgomery and Nieto-Phillips are also careful not to attribute causation to any single aspect of what evidently is a fantasy heritage. Rather, they study the vast cultural consequences of the Spanish identity. Still, Montgomery's study comes across as more plausible. Nieto-Phillips attempts to equate the reenactment of the Passion of Christ by Los Hermanos de la Fraternidad Piadosa de Nuestro Padre Jesús Nazareno, popularly known as the *penitentes*, with the sacrifice of noble and pure Spanish blood. His adherence to colonial notions of *pureza de sangre*, while conforming to his construct of "identity of blood," or "identity as blood," is an intriguing but misguided idea, especially when it is applied to the confraternal reenactment of the passion play that takes place across the Catholic world.<sup>87</sup> He also states that it is only "ironic" that Hispanophilia did not translate into civic, racial, and political equality for *nuevomexicanos*. Perhaps interpreting this time period through the conceptual lenses of culture and identity has caused him to ignore the changing political and legal landscape.

In *The Spanish Redemption*, Montgomery reveals class and cultural dynamics that fall through the cracks in Nieto-Phillips's analysis. Montgomery also appreciates the intangibility of the Spanish identity, pointing out that its definition varied by social

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<sup>86</sup> Ibid., 182.

<sup>87</sup> Nieto-Phillips, *The Language of Blood*, 46.



setting.<sup>88</sup> Notwithstanding such praise, both Montgomery and Nieto-Phillips assert that the Spanish identity failed to resonate past the Coronado Cuatro Centenary of 1940, but neither one offers ample evidence to confirm that this was the case. Centering their studies on Santa Fe and treating it as representative rather than exceptional is also problematic. The Chicano Movement of the 1960s and 1970s demonstrated that *mexicanidad* lacked the saliency in New Mexico that it had in Texas and California. The analysis of both Nieto-Phillips and Montgomery would have benefited from extending their timeline to the post World War II era, a time when a larger swath of *nuevomexicanos* actively and vocally participated in the public sphere and Hispano identity underwent a vast redefinition. Then again, their subject is the career of Hispanic identity, not Hispanos themselves.

Anthropologist Sylvia Rodríguez's and sociologist Phillip B. Gonzales's comments on Hispano identity reflect views more nuanced than those of Nieto-Phillips and Montgomery, for they explore the academic discourse on *Hispanidad* and discuss the need for further research. Gonzales concludes that Hispano identity has a "varied and complex history" and that further scholarly work should consider the political arena in studying this regional identity. He also reminds us that claims to Hispano distinctiveness are distinct from claims to a Spanish American identity.<sup>89</sup> Rodríguez intends to clarify the debate over what she considers to be an ethno-political self-consciousness situationally and structurally created and sustained through the maintenance of ethnic boundaries. She points out that Nostrand's primordialist tendencies conform with not only the Spanish

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<sup>88</sup> Montgomery, *The Spanish Redemption*, 87.

<sup>89</sup> Phillip B. Gonzales, "The Hispano Homeland Debate: New Lessons," *Perspectives in Mexican American Studies: Mexican Americans in the 1990s; Politics, Policies and Perceptions* 6 (1997): 137.

myth but with tourist fixations on maintaining the tri-cultural myth which, in turn, affected the “symbolic expression of Indian ethnicity.”<sup>90</sup>

Academic discussions of the concept of a Hispano homeland have in the past led to prolonged debates about cultural distinctiveness that flirt with geographic determinism. I employ the concept of homeland neither to argue that northern New Mexico is a cultural island free of outside influence nor that it is a final cultural refuge fatalistically awaiting its demise. Rather, my use of the concept of a Hispano homeland differentiates *nuevomexicanos* from other Latinos in the United States, many of whom look outside the U.S. for place-based or place-specific connections. In fact, the lack of or suppression of connections to places outside “*la nacioncita de los Sangre de Cristos*” [the little nation of the Sangre de Cristo mountains] has long drawn criticism from other Latinos. Mexicans in particular perceive New Mexican fidelity to their *patria chica* (home town or village) as provincial and boorish, yet arrogant and blind. Connections to rural or semi-rural agro-pastoral communities root *nuevomexicano* identities in a sense of place comparable to American Indian place-based identities. Creating a *querencia*, the Hispano intimate knowledge of place discussed above, is comparable to the Western Apache dictum, “wisdom sits in places,” popularized by the Keith Basso’s book of the same name.<sup>91</sup> The reciprocal relationship between people and their land, whether policed by the “voices of their ancestors” or “notions of *vergüenza*,” (shame) has created cultures that share a comparable connection to place.

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<sup>90</sup> Sylvia Rodríguez, “The Hispano Homeland Debate Revisited,” *Perspectives in Mexican American Studies: Community, Identity, and Education* Vol. 3 (1992): 97-99.

<sup>91</sup> Keith H. Basso, *Wisdom Sits in Places: Landscape and Language among the Western Apache* (Albuquerque: University of New Mexico Press, 1996), 122-129.

Interestingly, many advocates of Pueblo land rights in the 1910s and 1920s next turned their attention to the decaying villages of northern New Mexico in the 1920s and 1930s. The descriptor *Mexican* was rarely used for the romanticized, sleepy, brown villages of the picturesque north. Put simply, as “Spanish-Americans,” *nuevomexicanos* at once had the capacity for salvation and were worth saving. As “Mexicans,” or even as “*mexicanos*,” they did not. The reshaping of *nuevomexicano* racial and ethnic consciousness amid battles for land and water rights offers a compelling avenue into study of the politics of inter-ethnicity. If, as Jake Kosek claims, Hispanos are caught between “what they need to remember and what others will not let them forget,” the process of remembering and forgetting creates opportunities to examine *nuevomexicano* racial and ethnic discourse.<sup>92</sup> Taking these opportunities might allow historians to better understand a people maligned for their self-conception.

My use of the term *Hispano* in this dissertation begs some discussion. The colonial forebearers of the Tewa Basin population likely identified themselves as *españoles* (Spanish) or *españoles-mexicanos* (Spanish Mexicans); by the mid and late seventeenth century, colonial inhabitants of the Basin used the term *vecino* to describe themselves and this term carried into the Mexican era, when they aimed to differentiate themselves from their Pueblo neighbors, who were their fellow citizens under in the Mexican republic. By the territorial era, Hispano intellectuals publishing newspapers used the term *neo-mexicano* or *nuevomexicano*, a literal translation of New Mexican, which is used to this day. In Spanish-language conversation, nineteenth century Hispanos identified themselves as *mexicano*, a habit that continued until the twenty-first

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<sup>92</sup> Jake Kosek, *Understories: The Political Life of Forests in Northern New Mexico* (Durham: Duke University Press, 2006), 60.

century and continues to this day. But trends are by no means stable across time and are often contextual. If asked his identity in Spanish (“*quién eres*”), my grandfather would respond, “*mexicano*”; if asked in English, he would say “Spanish.”

Politicians and boosters seeking to dispense with the liabilities of the Hispano population’s mestizo lineage began to fashion a “Spanish American” identity in the 1880s. By the 1920s, politicians displayed a sensitivity to Hispanos and used the term “Spanish American” interchangeably with the term *native*, which referred to Hispano, not Pueblo Indians. The term “Spanish” enjoyed permanence for decades, but was challenged in the Civil Rights era, when Reies López Tijerina coined the term *Indo-Hispano* as a recognition of both Spanish and indigenous roots that would not offend the sensibilities of land grant heirs who bristled when called “Mexican American,” “Mexican,” “*mexicano*,” or “Chicano.” While Hispanos are ridiculed for their rejection of labels that recognize a Mexican past, experiences discussed in this dissertation offer clues as to why they have been reluctant to use the ethnic label. For one, the using the term *Mexican* during times of racial strife assumed recent immigration, making them vulnerable to exclusion and expulsion, but also undermined claims rooted in the colonial era that relied on longevity and permanence. Tijerina’s term *Indo-Hispano* was not widely embraced, but it offered an alternative to the term *chicano*, which was correlated with crime and poverty, but gained use from the 1970s through the 1980s, when it was supplanted with *Hispanic*. Global migrations have diversified the populations rooted in Spanish colonialism, which brought forth *Latino*. Spread through commerce, it has gained usage in New Mexico. I use *Hispano* as a way to unite various time periods and

connect colonial ancestors with their modern descendants without the baggage that other terms carry with them.

I approach the history of land tenure in the Tewa Basin from a very personal perspective. I was privileged to grow up in a large extended family, among cousins, uncles and aunts who sat in my grandparents' kitchen while my grandfather, José Filadelfio Rodríguez, told the stories of life in the Tewa Basin. He recounted his great grandfather, the Spanish-born Franciscan priest José de Castro, who fathered nine children with his housekeeper, María Ygnacia Rodríguez, and was nearly deported when Mexico gained its independence. My grandfather told of José Ramón Vigil, another ancestor, who once owned the vast Ramón Vigil grant and whose brothers-in-law, Antonio Abad and Desiderio Montoya, led the Río Arriba Rebellion of 1837 against the Mexican government and whose followers eventually beheaded the governor. His stories reminded us of my grandmother, María Marina García's grandfather, Juan Luis García, who was taken captive by Navajos and returned to find the growing town of Española dominating the changing valley. My *abuelo* told stories of his youth spent working in fields and mines in southern Colorado and, finally, of how his father-in-law, Adolfo García, lost his homestead and lumber mill when the federal government seized the lands surrounding the Pajarito Plateau to impose and maintain secrecy for the Manhattan Project, and later built a weapons laboratory that gave him a stable job and a comfortable retirement. This story, for me, is a very personal one.

This dissertation is organized into twelve chapters that roughly divide into three major sections. Part I, chapter 1 discusses Spanish-Pueblo colonial relations in the Tewa Basin from contact through the end of the Pueblo-Spanish War (the many Pueblo Revolts

plus the reconquest). Chapter 2 examines land tenure and intercultural relations from eighteenth century New Mexico through the Mexican era, when New Mexico is annexed during the Mexican American War. Chapters 3 and 4 discuss the American territorial era.

In Part II, Chapters 5 and 6 explore the Pueblo land question in post-statehood New Mexico and its effect on land tenure in the Tewa Basin. This controversy was popularized in the Bursum Bill debate, which eventually culminated in the creation of the Pueblo Lands Board. Chapter 7 disengages with the Pueblo lands debate briefly to discuss continued parallels in Pueblo and Hispano land tenure after statehood.

Part III centers on the actions of the Pueblo Lands Board. Chapter 8 discusses the formation of the Board and its hearings at Tesuque; chapter 9, hearings at Nambé; chapter 10, those at Picurís, San Juan, and San Ildefonso; and chapter 11, hearings at Santa Clara and Pojoaque, and the end of what I call the Pueblo Lands Board era. Finally, chapter 12 looks at land reform in the Tewa Basin during the New Deal.

This study seeks to unite histories of Pueblo and Hispano land tenure in one coherent narrative. Examining parallels in the stories of the Tewa Basin's Indian Pueblos and Hispano villages complicates prevailing accounts that espouse a rigid Pueblo-Hispano dichotomy. Recognizing these congruences enriches our understanding of Pueblo and Hispano relationships created and refashioned across centuries. Re-contextualizing the history of land tenure offers a site to examine the politicization of Hispano ethnic identity and the role governments played in the ceaseless renegotiation of land tenure and ethnic politics in New Mexico.

## Chapter 1: Spanish Settlement and the Reshaping of the Tewa Basin's Pueblo World in Colonial New Mexico, 1598- 1730

This chapter discusses the early Spanish colonial era in New Mexico, arguing that divisions between Spanish and native peoples were permeable even in the first decades of contact. After the Pueblo-Spanish War (1680-1700), racial lines hardened between Pueblos and elite Hispanos, but the impact of Spanish reconquest damaged the Pueblo world, and native refugees found solace in not only consolidated Pueblos, but also in peripheral communities that were integral to the colony's success. These relationships were informed, though not dictated, by a shared colonial past, during which two distinct cultures clashed under Spanish exploration and settlement. The Pueblo revolt rejected this colonial imposition. After the revolt, a tense century and a half of constantly renegotiated coexistence witnessed the establishment of many Hispano villages that remain to this day.

This chapter begins by discussing the early-Spanish-colonial era (1598-1680) in the Tewa Basin, beginning with the exploitation and oppression that brought on the Pueblo Revolt of 1680. It continues by exploring the Reconquest (1692-1697) and the renegotiation of Pueblo-Hispano relations, paying particular attention to the Spanish land grants that again reconfigured colonial space, limited Pueblo access to resources, and shifted the land-tenure patterns in north-central New Mexico. Pueblos and Hispanos constantly renegotiated their relations through commerce, kinship, competition, and war. This chapter demonstrates that even in the early colonial era, distinct racial lines between Pueblos and Hispanos could not be drawn by colonial authorities who sought to control both populations by keeping them separate.

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From 1200-1500, while Spaniards fought to regain control of the Iberian Peninsula from the Moors, the Pueblo world was taking shape. After the Anasazi abandoned Mesa Verde and Chaco Canyon, their pre-Puebloan progeny gradually made their way to the Río Grande Valley. Two distinct languages developed among the Río Grande Pueblos: eastern Pueblos came to speak variations in the Tanoan language group; and western Pueblos spoke Keresan language variants. Analysis of pottery shards from 900 A.D. to 1400 A.D. suggest Tiwa occupation of the Tewa Basin either before Tewa emerged as an identifiable Tanoan linguistic group from the Tiwa,<sup>93</sup> or before Tewa speakers moved from the Río Chama drainage and occupied abandoned Tiwa sites.<sup>94</sup>

Pueblo society in the Tewa Basin expanded and collapsed between 1250-1600. Natives created large, multi-room Pueblos, abandoned them and reoccupied previously deserted sites. These ephemerally occupied sites spread from Chama and Abiquiú in the north to Santa Fe in the south, from the northern Pajarito Plateau in the west to sites near Santa Cruz and Truchas in the east. In all, an estimated twenty-thousand proto-Pueblo peoples occupied seventy-six sites across the Tewa Basin. Bandelier and Puye Cliffs housed the ancestors of Santa Clara Pueblo (*Kha'p'oo Owinge* in the native Tewa) and perhaps San Ildefonso Pueblo (*Po-woh-ge-oweenge* in the native Tewa). Tewa Basin Pueblos had contracted in the decades and centuries before Spanish contact. Posi-

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<sup>93</sup> This theory would explain the gradual separation of northern Tiwa (Taos, Picurís) and southern Tiwa (Sandia, Isleta) into distinct Pueblos separated by a dozens of non-Tiwa speaking Pueblo groups. See Richard I. Ford, Albert H. Schroeder, and Stewart L. Peckham, "Three Perspectives on Pueblo Prehistory," in *New Perspectives on the Pueblos*, ed. Alfonso Ortiz (Albuquerque: University of New Mexico Press, 1972), 19-39.

<sup>94</sup> Ibid 37-39. Ford, Schroeder and Peckham disagree as to Tewa origin, with Ford and Schroeder believing pre-1300 A.D. Tewa sites originate from the upper San Juan area while Peckham believes they emerged from the upper Río Grande valley.



Owinge, the ancestral home of natives of San Juan Pueblo (*Ohkay Owingeh* in the native Tewa), was abandoned on the eve of the Spanish incursion in 1540. Archaeologist Kurt Anschuetz argues that these sites, rather than a sign of permanent abandonment, evidence cyclical habitation and organizational flexibility that served the Tewa well during Spanish colonization.<sup>95</sup>

North of the Tewa Basin, Picurís (*Pinguiltha*, in their native Tiwa) grew to an estimated maximum population of about two-thousand by 1630.<sup>96</sup> Isolated by mountains and confined by narrow valleys, Picurís faced agricultural limitations that obliged its people to engage in varied economies including trade with the Apaches, who even maintained seasonal shelters near the pueblo to avoid winter travel. Reports by early Spanish explorers marveled at the sheer size of and defensible nature of Picurís. The massive nine-story Pueblo was reported to boast six-foot-tall parapets on the roofs, from which stones were hurled upon their enemies.<sup>97</sup> The nearby Pot Creek Pueblo, occupied between 1100-1320, grew to a maximum of one-hundred and twelve rooms in a massive,

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<sup>95</sup> Kurt F. Anschuetz, "Room to Grow with Rooms to Spare: Agriculture and Big-Site Settlements in the Late Pre-Columbian Tewa Basin Pueblo Landscape," *Kiva* 73:2 The Rio Arriba (Winter 2007); 173-196, 178, 183, 188. See also, Albert H. Schroeder, "Shifting for Survival in the Spanish Southwest," in *New Spain's Northern Frontier: Essays on Spain in the American West, 1540-1821*, ed. David J. Weber (Albuquerque: University of New Mexico Press, 1979), 237-255.

<sup>96</sup> Donald N. Brown, "Picuris Pueblo," in *Handbook of North American Indians, Vol. 9, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 268-270.

<sup>97</sup> Albert H. Schroeder, "Pueblos Abandoned in Historic Times," in *Handbook of North American Indians, Vol. 9, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 250.

multistoried Pueblo on the Río Grande del Rancho, which also was the site of an Apache camp used during trade with Picuris and Taos Pueblos.<sup>98</sup>

Some archaeologists argue that Pueblo culture at the time of Spanish discovery was at its peak. Linda Cordell, however, considers the era immediately before Spanish exploration to be one of social reorganization. She writes that Pueblo peoples dealt with climatic changes, a wave of refugees from Four Corners sites, and increased interaction with plains and Great Basin peoples, particularly the Apaches and Navajos.<sup>99</sup> More recently, ethnohistorian William B. Carter has argued that Spanish entry into the Southwest upset long-established and constantly renegotiated alliances between Pueblos, Apaches and Navajos, especially by labeling non-sedentary, agricultural peoples *indios bárbaros* (wild Indians). This simplistic distinction, according to Carter, drove Spanish conceptions of native peoples, shaped their policies on treating natives and distinguishing one group from another, and informed their policies toward native intercultural relations. Spanish policies gradually drove a wedge between Pueblo and non-Pueblo peoples.<sup>100</sup>

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<sup>98</sup> Patricia L. Crown, "Evaluating Construction Sequence and Population of Pot Creek Pueblo, Northern New Mexico," *American Antiquity* 56:2 (April 1991): 291-214.; and Donald N. Brown, "Picuris Pueblo in 1890: A Reconstruction of Picuris Social Structure and Subsistence Activities," in *Picuris Pueblo through Time: Eight Centuries of Change in a Northern Rio Grande Pueblo*, ed. Michael A. Adler and Herbert W. Dick (Dallas: William P. Clements Center for Southwest Studies, Southern Methodist University, 2000). See also David E. Stuart, *Pueblo Peoples on the Pajarito Plateau: Archeology and Efficiency* (Albuquerque: University of New Mexico Press, 2010).

<sup>99</sup> Linda Cordell, *Archaeology of the Southwest*, 2<sup>nd</sup> ed. (San Diego: Academic Press, 1997), 399, 438-439.

<sup>100</sup> William B. Carter, *Indian Alliances and the Spanish in the Southwest, 750-1750* (Norman: University of Oklahoma Press, 2009), 139-140. See also David J. Weber, *Bárbaros: Spaniards and Their Savages in the Age of Enlightenment* (New Haven: Yale University Press, 2005); James F. Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill, NC: Omohundro Institute of Early American History and Culture, Williamsburg, Virginia, and University of North Carolina Press, 2002); Estevan Rael-Gálvez, "Identifying Captivity and Capturing

When Spaniards entered what today is called New Mexico from Mexico four hundred and seventy-four years ago, they encountered a complex and vibrant Pueblo world. Rather than observing a cohesive civilization, Spaniards found diverse Pueblo societies conducting distinct relationships with non-Pueblo Indian peoples, building and destroying alliances, and moving across a post-Chacoan Pueblo complex that sometimes experienced abundance and peace, but also famine and war. The pre-Columbian Pueblo world was far from edenic. Historian John L. Kessell writes that evidence of warfare lies in petroglyphic and pictographic drawings and depictions of weapons used for purposes other than hunting.<sup>101</sup>

Francisco Vásquez de Coronado marched into this world in 1540, eager to find his own Tenochtitlán to conquer and riches to seize. His search for the mythological Seven Cities of Cibola was guided by the reports of fray Marcos de Niza, who in 1539 led an ill-fated expedition that included Estaban the Moor, or Estevanico, the former slave who wandered across the present-day Southwest with Alvar Nuñez Cabeza de Vaca after being shipwrecked on the coast of Texas. Estevanico met his death at Cibola (Hawikku), where he reportedly demanded women or bore a rattle from an enemy tribe, and was killed by the Zuñi, who had probably heard news of Spanish belligerence to the south. After reports of Estevan's death, Niza returned south to Nueva Galicia with stories of wealthy population centers to the north. Coronado, then governor of Nueva Galicia, with

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Identity: Narratives of American Indian Slavery, Colorado and New Mexico, 1776-1934" (Ph.D. Diss., University of Michigan, 2002). For a treatment of the plains cultures see Pekka Hämäläinen, *The Comanche Empire* (New Haven: Yale University Press, 2008) and Gary Clayton Anderson, *The Indian Southwest, 1580-1830: Ethnogenesis and Reinvention* (Norman: University of Oklahoma Press, 1999).

<sup>101</sup> John L. Kessell, "A Long Time Coming: The Seventeenth-Century Pueblo-Spanish War" *New Mexico Historical Review* 86:2, (Spring 2011), 141-156, 142.

the support of Viceroy Antonio de Mendoza, garnered investors, mortgaged his land and profitable *encomienda* (a grant of native labor and tribute defined by an area), and organized an expedition that eventually made its way into the middle Río Grande Valley and the heart of the Pueblo world.<sup>102</sup>

Coronado's force of over two thousand Spaniards, African slaves, and Indian allies, was met with Pueblo suspicion and resistance. After fighting with Zuni warriors, Coronado received an emissary called Bigotes from Pecos Pueblo, who led Coronado's lieutenants, Hernando de Alvarado and García López de Cárdenas, to the Llano Estacado. Alvarado and Cárdenas set up camp in the middle Río Grande Valley near a cluster of Tiwa-speaking Pueblos they called Tiguex. Cárdenas forced the abandonment of a Pueblo, Alcanfor, to provide a winter camp for the massive expedition. Coronado arrived with his main army for what turned out to be the extraordinarily harsh winter of 1540-1541. Spanish brutality increased as the winter wore on, and other Tiguex Pueblos were abandoned to avoid harsh punishments. A siege marked with small skirmishes became known as the Tiguex War, in which the Spanish annihilated every last defiant pueblo. After laying waste to what was once one of the most powerful Pueblos of the middle Río Grande Valley, Coronado rode east in pursuit of Quivira.<sup>103</sup>

In his nearly two years among Pueblo peoples, Coronado engaged in an obstinate diplomacy. His apparent manipulation of whole Pueblo villages into war or enthusiastic cooperation was long interpreted as either a testament to Spanish power and diplomacy

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<sup>102</sup> Richard Flint and Shirley Cushing Flint, "Francisco Vázquez de Coronado," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://newmexicohistory.org/people/francisco-vazquez-de-coronado> (accessed 20 April 2014).

<sup>103</sup> Ibid. See also Richard Flint, *No Settlement No Conquest: A History of the Coronado Entrada* (Albuquerque: University of New Mexico Press, 2008), especially 185-186.

or, conversely, Spanish brutality and coercion. In reality, Coronado came into a diverse world of alliances and grievances, and many Pueblos were willing to use the Spanish intruders and their power to tip the scales their favor. Pecos headman Bigotes notably offered his people's assistance to the Spanish against the Tiwas in return for a settlement in the Río Grande Valley for Pecos Pueblo. Coronado's expedition ended in 1541 when the outbreak of the Mixtón War in Nueva Galicia obliged the governor's return. His two-year expedition set the tone for the next century and a half of Pueblo-Hispano relations.<sup>104</sup>

For the next forty years, New Spain grappled with the failure of colonial expansion and Indian rebellions, including the nearly forty-year Pan-Indian Chichimeca Rebellion (1550-1590). As Coronado retreated to Nueva Galicia, his forces divided and returned home piecemeal. Legends of what happened to his army included that a portion of his Tlaxcalan auxiliaries remained with Pecos and were either integrated into the tribe or traded as slaves through its vast regional trade network. In 1581, Fray Agustín Rodríguez and Francisco Sánchez Chamuscado departed Santa Barbara and travelled north, up the Conchas River and into the Río Grande Valley. The Rodríguez-Chamuscado expedition visited north as far as Taos and west to Acoma and Zuñi. The expedition returned one year later after Chamuscado died. In 1583, Antonio de Espejo, an indebted entrepreneur, reached the Galisteo Basin, where he found silver deposits. Espejo returned south down the Pecos River into modern-day Texas, where he wrote glowing accounts of New Mexico and petitioned to establish settlements there, but he died en route to Spain in 1585. Five years later, Gaspar Castaño de Sosa led an

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<sup>104</sup> Ibid, 185-186.

unauthorized expedition from modern Coahuila, warring with Pecos and visiting Tesuque and other Tewa and Tano Pueblos before settling in Ohkay Owingeh to pan for gold. Castaño de Sosa returned to Mexico in chains, but brought a Tano Pueblo woman from San Cristóbal Pueblo, who would prove crucial to future attempts at settlement.<sup>105</sup>

Regardless of what happened to Coronado's army, the dismal failure of his expedition inaugurated a new phase of Spanish designs on the Southwest. Mendoza's hesitancy to launch a new expedition created a gap that a young Juan de Oñate would fill. Oñate came from elite stock. His Basque father, Cristobal Oñate, enriched his family and investors through war, the Chichimeca Rebellion (Mixtón War), and silver mining in Zacatecas. Juan married Isabel Tolosa Cortés de Moctezuma, the granddaughter of Hernán Cortés and Tecuichpotzin Ixcaxochitzin, an *encomendera* (an owner of an *encomienda*) and the daughter of the last Aztec emperor Moctezuma Xocoyotzin. By 1593, the wealthy Juan de Oñate served as *alcalde mayor* (a local, administrative and judicial official) of San Luís Potosí and shortly thereafter vigorously lobbied Viceroy Luís de Velasco II for the royal contract to colonize Northern New Spain. Velasco granted him the royal contract in 1595 and Oñate, as governor and *adelantado* (a military title gained by service to the Crown), began assembling an expeditionary force.

In January 1598, Oñate left Santa Bárbara, Chihuahua, with 129 soldiers and about 450 other men, women and children. Historian John L. Kessell writes that Oñate's

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<sup>105</sup> Elinore M. Barrett, *Conquest and Catastrophe: Changing Rio Grande Pueblo Settlement Patterns in the Sixteenth and Seventeenth Centuries* (Albuquerque: University of New Mexico Press, 2002), 41-42. John L. Kessell, *Spain in the Southwest: A Narrative History of Colonial New Mexico, Arizona, Texas, and Californina* (Norman: University of Oklahoma Press, 2002), 70-75. See also Richard Flint and Shirley Cushing Flint, "Gaspar Castaño de Sosa," *newmexicohistory.org*, *website of New Mexico Office of the State Historian*, <http://newmexicohistory.org/people/gaspar-castano-de-sosa> (accessed 21 March 2014).

group attracted many would-be settlers because of his authority as *adelantado* to grant titles such as *hidalgo* (nobility<sup>106</sup>), land through *mercedes* (land grants) and tribute through the *encomienda* (grants of Indian labor and produce). By the time he entered New Mexico, he had one thousand head of livestock. “Although Oñate called it an army,” Kessell writes, “this was a migration. . . . Settlement had eclipsed exploration.”<sup>107</sup>

Oñate’s settlers treaded through a “polyglot Pueblo world” of eighty-one Pueblos: Piros in the south, Tiwas in the north, Pecos to the east, and Zuñis and Hopis to the west. After encamping briefly at Santo Domingo, the largest Río Grande Pueblo that the soon-to-be colonists encountered, Oñate led his settlers up La Bajada and into the Tewa world. His expedition passed through the lands of Tetsugeh (Tesuque), Po’suwageh (Pojoaque) and Powohge Owinge.<sup>108</sup> Oñate settled at San Juan de los Caballeros, on the site of a former Tewa Pueblo called Caypa, close to San Juan Pueblo and its exploitable resources.<sup>109</sup>

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<sup>106</sup> *Hidalgo* is the contraction of *hijo de algo*, literally, “son of something,” something being riches in the form of specie, land or influence. The *Siete Partidas* suggests that the word *hidalgo* derives from *itálico* a man with full Roman citizenship. *Las Siete Partidas*, V. I-III, trans. Samuel Parsons Scott, ed. Robert I. Burns (Philadelphia: University of Pennsylvania Press, 2001).

<sup>107</sup> John L. Kessell, *Spain in the Southwest*; Rick Hendricks, “Juan de Oñate, Diego de Vargas, and Hispanic Beginnings in New Mexico,” in *New Mexican Lives*, ed. Richard W. Etulain (Albuquerque: University of New Mexico Press, 2002), 45-77, 44-47, 54-56.

<sup>108</sup> Sandra A. Edelman and Alfonso Ortiz, “Tesuque Pueblo,” in *Handbook of North American Indians*, Vol. 9, *Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 332; Marjorie F. Lambert, “Pojoaque Pueblo,” *Ibid.*, 327; Sandra A. Edelman, “San Ildefonso Pueblo,” 309.

<sup>109</sup> John L. Kessell, *Pueblos, Spaniards, and the Kingdom of New Mexico* (Norman: University of Oklahoma, 2008), 99; “San Gabriel de Yunque-Ouinge, San Juan Pueblo, New Mexico,” National Parks Service American Latino Heritage Site, (accessed online at [http://www.nps.gov/nr/travel/american\\_latino\\_heritage/San\\_Gabriel\\_de\\_Yunque\\_Ouinge.html](http://www.nps.gov/nr/travel/american_latino_heritage/San_Gabriel_de_Yunque_Ouinge.html), August 29, 2014). See also Marc Simmons, *The Last Conquistador: Juan de Oñate and the Settling of the Far Southwest* (Norman: University of Oklahoma Press, 1993), 91-100.

Oñate attempted to bring all Pueblos in New Mexico, whose population was estimated at thirty-five thousand, under Spanish control. After narrowly escaping a trap set at Acoma Pueblo, Oñate set off westward to the Pacific in the fall of 1598. Returning sooner than planned because of an early winter storm, he learned of the death of his nephew, Juan de Zaldívar at the hands of the Acomas. With Zaldívar's brother, Vicente, Oñate plotted his revenge, and on January 21, 1599, he travelled to the *peñol* (mesa) of Acoma to lay siege to the defiant Pueblo. After a three-day siege, eight hundred Acoma natives, including women and children killed by both Spanish and Pueblo soldiers, lay dead. Five hundred survivors were tried at Santo Domingo, where Captain Alonso de Montesinos represented the defendants in a trial for the death of Juan de Zaldívar and his soldiers.<sup>110</sup>

Gaspar Pérez de Villagr , the expedition's historian, recounted the battle and trial of Acoma warriors in his epic poem, *Historia de Nuevo M xico*.<sup>111</sup> Genaro Padilla writes that Villagr  subtly questions the brutal Spanish colonial enterprise, which the Acoma warriors resisted. The governor nonetheless issued a harsh sentence, condemning all women older than twelve and all men between twelve and twenty-five to twenty years of servitude. Children under twelve were to be placed under the care of Franciscan priests. All men over the age of twenty-five were condemned to losing one foot and then to twenty years of servitude. Whether the mutilation was carried out is doubtful, and no Spanish colonial record refers to *un cojo*, or a one-footed slave. Oñate's harsh

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<sup>110</sup> Hendricks, "Juan de Onate, Diego de Vargas, and Hispanic Beginnings," 52; Kessell, "The Seventeenth-Century Pueblo-Spanish War," 152. David J. Weber, *The Spanish Frontier in North America* (New Haven: Yale University Press, 1994), 85-86.

<sup>111</sup> Gaspar P rez de Villagr , *Historia de la Nuevo M xico: A Critical and Annotated Spanish / English Edition, translated and edited by Miguel Encinias, Alfred Rodr guez and Joseph P. S nchez* (Albuquerque: University of New Mexico Press, 1992).



punishment of Acomans has nonetheless informed public perceptions of the brutality of Spanish colonialism in general.<sup>112</sup>

Oñate's fanatical punishment of Acoma averted his focus from other problems, namely, the poor condition of his colony. By 1600, his towns were overpopulated with new colonists and Acoma refugees. While he persecuted Acoma, some colonists fled his starving settlements. Miserable, they referred to the annual climate as "*nueve meses de invierno, tres de infierno*," or "nine months of winter, three of hell." Describing Oñate's mistakes, Kessell writes, "Waging war and peace with the Pueblo proved not so critical to Oñate's enterprise as the mood of his own colonists."<sup>113</sup> Oñate's brutality weakened his colony. His exploitation of Ohkay Owingeh brought overcrowding, disease and resentment. He founded San Gabriel del Yunque at Yunque-Owinge, another abandoned Tewa pueblo west of the Río Grande in an attempt to ease the pressure on colonists, but he still relied on Pueblo stores to feed his fledgling colony.<sup>114</sup>

In 1601, dozens of unhappy and hungry families abandoned San Gabriel and fled south while Oñate was on the Plains in search of Quivira. With his colony in crisis, Oñate responded the only way he knew how: ordering the beheading of the leaders of the fleeing faction. By 1603, Taos Pueblo led a revolt against Spanish rule, which Oñate quashed by killing the leader of Taos Pueblo. The colonists deserting New Mexico had long made their way south to Santa Bárbara, where they found protection from Oñate. By 1606, Oñate simultaneously resigned his commission and was recalled by the King

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<sup>112</sup> Kessell, *Spain in the Southwest*, 84.

<sup>113</sup> Ibid.

<sup>114</sup> Hendricks, "Juan de Onate, Diego de Vargas, and Hispanic Beginnings," 52-53.

Phillip III of Spain. He spent the rest of his life fighting charges of mismanaging the colony, brutalizing its settlers, and punishing the native populations .<sup>115</sup>

Historian Rick Hendricks marks the resignation of Oñate as a major transition in colonial policy when New Mexico shifted from a proprietary to a royal colony. Pedro de Peralta recolonized New Mexico in 1610, moving the capital from San Juan to Santa Fe. Peralta brought brief stability to the colony. For the next seventy years, colonial New Mexico steadily grew. The elites were given *encomiendas*, grants of native labor and tribute. Friars were charged with winning native souls for God and fought to control native lives and labor. Abuses by both clerics and *encomenderos*, who sought to extract the maximum profit from their lands, wore on the Pueblos. They were caught in a dysfunctional colony between civil and ecclesiastic officials. For decades, Pueblos would play clerical and civic leaders against one another. But the pressures of drought and famine, war and nomadic raids, and exploitation and oppression took their toll on Pueblo people. Disease, more than any other single element or any individual, caused havoc on their world.<sup>116</sup>

In *Conquest and Catastrophe*, geographer Elinore Barrett demonstrates that seventeenth-century epidemics caused greater shifts in the Pueblo world than did conquistador cruelty or clerical fanaticism. The culprit in the precipitous decline in Río Grande Pueblo population was not the violence of Spanish conquistadors, consolidation under missionaries, coerced labor, or even increased grants of land to colonists. From the 1590s to the 1630s, the Pueblo population remained steady while the number of Pueblos

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<sup>115</sup> Ibid.

<sup>116</sup> Hendricks, "Juan de Onate, Diego de Vargas, and Hispanic Beginnings in New Mexico," 57; Joseph P. Sánchez, Robert L. Spude, and Art Gómez, *New Mexico: A History* (Norman: University of Oklahoma Press, 2013), 9-15.

decreased, from eighty-one in 1598 to perhaps thirty-one by 1680. A population that was estimated at 60,000 in 1600 dropped to 30,000 by 1640. Pueblos consolidated into larger communities to defend better against increased Apache raids. Spanish policies consolidated Pueblos and other native peoples into *congregaciones* (religious reservations organized around a parish) and *reducciones* (reservations to settle non-sedentary Indians), making them more vulnerable to disease outbreaks. And tribute taxes assessed at the household level encouraged larger households of extended family units.<sup>117</sup>

Epidemic outbreaks in the 1630s triggered Pueblo radicalism. Zuñis killed fray Francisco Letrado in 1637. A *mestizo* named Diego Martín led a 1639 uprising at Taos that killed a friar and two soldiers. Priests and governors worried that *mestizos*, the mixed-blood progeny that made up the majority of the colonial non-Pueblo population, were especially susceptible to Pueblo radicalism.<sup>118</sup> Andrew Knaut notes that contact between Spanish and Pueblo peoples was constant. Just as Pueblo people adopted Spanish customs, habits and lifeways, there was a reciprocal borrowing of Pueblo ways among Spaniards. Colonial agriculture, for instance, was most successful when colonists emulated their Pueblo neighbors and often even more successful when they seized Pueblo land. Pueblos constantly complained of encroachment, but Spanish leaders also lamented the “uncivilizing” of the colonial population as Spanish settlers adopted Pueblo ways, including Pueblo folk healing and witchcraft that the Spanish merged with their own *curanderismo* (folk healing) and *brujerismo* (witchcraft).<sup>119</sup>

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<sup>117</sup> Barrett, *Conquest and Catastrophe*, especially Chaps. 3 and 4..

<sup>118</sup> Kessell, *Pueblos, Spaniards*, 125

<sup>119</sup> Andrew L. Knaut, “Acculturation and Miscegenation: The Changing Face of the Spanish Presence in New Mexico,” in *What Caused the Pueblo Revolt of 1680?* ed. David J. Weber (New York: Bedford/St. Martins, 1999), 115-127, 120-122. See also,

Colonial New Mexico also suffered crippling disunity. Clerics used the Inquisition as a political tool to remove governors who resisted their mission and refused to police Pueblo morality. Many governors were openly corrupt. Governor Luis de Rosas (1637-1641) operated an *obraje* (textile factory) in Santa Fe with Pueblo and captive Indian labor, and taxed nearly anything that came through his office. His brutalization of both colonists and Pueblos led to his murder while he was under arrest in Santa Fe to await trial for his misdeeds. In 1640, a smallpox epidemic devastated the Pueblos, killing as many as a full tenth of their population. After 1650 New Mexico's climate became drier and from 1666 to 1672, a severe drought hit the already reeling Pueblo villages. Drought and famine killed 450 Humanas Pueblo natives. By 1670, all Tompiro Pueblos were abandoned, and Esteban Clemente, the Spanish-appointed Pueblo governor of the Salinas and Tano Pueblos, who had previously renounced Pueblo religion, rebelled against the Spaniards and ordered his pueblos to drive Spanish horse herds into the mountains. He was executed by authorities for his rebellious turn. In 1672, the Jumano Indians at Abo revolted, burning their church and killing their friar. The weight of the civil and ecclesiastic turmoil, coupled by disease and drought, proved too much for the Pueblos to bear.<sup>120</sup>

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Andrew L. Knaut, *The Pueblo Revolt of 1680: Conquest and Resistance in Seventeenth-Century New Mexico* (Norman: University of Oklahoma Press, 1995). For more on witchcraft in New Mexico, see Malcolm Ebright and Rick Hendricks, *The Witches of Abiquiú: The Governor, the Priest, the Genízaro Indians, and the Devil* (Albuquerque: University of New Mexico Press, 2006).

<sup>120</sup> Knaut, "Acculturation and Miscegenation," 122; Kessell, *Pueblos, Spaniards*, 94. Ramón A. Gutiérrez, "Franciscans and the Pueblo Revolt," in *What Caused the Pueblo Revolt of 1680?* ed. David J. Weber (New York: Bedford St. Martin's Press, 1999), 41-53; Gutiérrez, *When Jesus Came, the Corn Mothers Went Away*, 57.

Ramón Gutiérrez notes that a Pueblo population of 40,000 in 1638 had dropped to 17,000 in 1679. Severe conditions radicalized Pueblos Indians, and the Spanish responded with increased repression. Franciscan priests, in particular, physically abused *caciques* (Pueblo religious leaders), confiscated religious relics, and ordered the destruction of ceremonial kivas. Van Hastings Garner disregards religious repression as a central reason for the Pueblo Revolt. He argues that material deprivation through forced labor (*encomienda*) and the Spanish inability to prevent Indian raids galvanized Pueblos more than religious destruction, and that the divide between clerical and civil officials was overstated.<sup>121</sup>

In 1675, Governor Juan Francisco Treviño submitted to pressure from Franciscan priests to crack down on native ceremonial and religious practices. Treviño arrested and hung four religious leaders, including one from Nambé (*Nambe Oweenge* in the native Tewa), and ordered the whipping of seventy-five other Pueblo religious leaders. As the governor prepared to execute other men, dozens of Pueblo warriors, many of them Tewas, arrived at the outskirts of the colonial capital and demanded the return of their priests, medicine men and governors. Among those released was Po'Pay (spelled by the Spanish Popé), a San Juan medicine man who immediately began planning a revolt against Spanish rule.

Popé left San Juan and relocated to Taos, where he organized the uprising. Scholars have inferred that his decision to leave his native San Juan Pueblo reflected his distrust of his own Pueblo's relationship to and increasing dependence on the Spanish,

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<sup>121</sup> Van Hastings Garner, "Seventeenth Century New Mexico, the Pueblo Revolt, and Its Interpreters," in *What Caused the Pueblo Revolt of 1680?* ed. David J. Weber (New York: Bedford St. Martin's Press, 1999), 55-80.

particularly for defense from the increasing Apache and Navajo attacks. His increasing radicalism seems to have worn on San Juan, especially after he ordered the death of his own son-in-law, the Spanish appointed governor Nicolás Bua, for his pro-Spanish attitude. Popé and other revolt leaders conferred with other Pueblos and Apache allies, ingeniously obscuring their meetings by convening during feast days, when Pueblos would visit other Pueblos without arousing the suspicion of Spanish clerical and secular leaders. They avoided Spanish allies like Pecos Pueblo leader Juan de Ye, as well as caciques from the Tano Pueblos of San Marcos and La Cienega, who opposed the revolt. Whole Pueblos like Isleta and Pojoaque were excluded, either because of assumed allegiance to the Spanish or because of actual Spanish civil and clerical observation and regulation of Pueblo activities.<sup>122</sup>

This abuse and repression made revolt leaders appear prophetic. Popé was a millennialist and spoke of Pueblo gods abandoning Pueblo peoples until the Spanish and their religion were expelled from the Pueblo world. He promised liberation from oppression and abundance in place of famine in the restored Pueblo world. Domingo Naranjo, a *coyote* (mixed blood) from Santa Clara, raised in Pueblo traditions, suggested using a knotted cord of tallow that would be untied each day until the day of the revolt. Along with Alonso Caiti of Santo Domingo (whose half-brother, Pedro Marquez, was a Spanish leader fighting against the revolt), Naranjo was one of many mixed bloods who led the Pueblos in rebellion. That group also included Francisco El Ollita, a *coyote* from San Ildefonso.<sup>123</sup>

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<sup>122</sup> Knaut, *Pueblo Revolt of 1680*, 169; Roberts and Roberts *New Mexico*, 50; Sando, *Pueblo Profiles*, 13.

<sup>123</sup> Kessell, *Pueblos, Spaniards*, 125.

The leaders of the revolt planned to unleash the uprising on August 11, 1680, the feast day of San Lorenzo. The fiesta de San Lorenzo came before the supply caravan arrived from Chihuahua with more ammunition and horses. The Spanish would be weak and vulnerable. Tesuque natives Nicolás Catua and Pedro Omtua were chosen as runners who would distribute the knotted cords timing the revolution, but were captured and tortured by *maestre de campo* (chief of staff to the governor) Francisco Gómez Robledo, necessitating the early start of the uprising. In the early morning hours of August 10, 1680, Tesuque Pueblo's resident priest, Padre Pío, awoke to find the Indian village abandoned. Pío was killed in a volley of arrows, but his guard, Pedro Hidalgo, escaped and sent word to Santa Fe. Pojoaque Pueblo natives killed don Joseph de Goitia, Captain Francisco Ximenes and his family, and Petronila de Salas and her eight children.<sup>124</sup>

Pueblos first scared off horses and mules, impeding Spanish defense, mobility and communication. The Spanish had no real military to counter the revolt. Their settlements were spread thinly along the Río Grande and its tributaries and authorities could barely muster a dozen well-armed troops in one area. When colonists finally organized, their arm-bearing soldiers numbered only 150: Pueblos forces, which included Navajo and Apache allies, numbered about 8,000. Pueblos isolated the Río Arriba from the Río Abajo and blocked all roads to the capital. Within a few hours, 401 settlers and 21 Franciscan priests, many of whom welcomed martyrdom, were killed. The survivors gathered at the Governor's Palace in Santa Fe in the north and at Isleta Pueblo in the south.

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<sup>124</sup> Marjorie F. Lambert, "Pojoaque Pueblo," in *Handbook of North American Indians*, Vol. 9, *Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 324-329.

The siege of Santa Fe thus began. Revolt leader Juan el Tano, likely of Galisteo Pueblo, demanded the release of all Pueblo prisoners, including his own wife and child. He also ordered all Apache, Navajo and Mexican Indians be turned over to Pueblos. When Governor Antonio de Otermín refused, Tano led the despoliation of the barrio of Analco, which housed many Mexican Indian allies, killing many of its residents.<sup>125</sup>

By August 21, Indian forces had cut off the water supplies of the barricaded Spanish. In the early morning hours of August 22, Otermín led the Spanish in a final assault on Pueblo forces, killing 350 warriors and dislodging the remainder long enough to flee toward Isleta. Otermín had planned to rally with southern forces, charge back north, and retake the Spanish colonial capital, but he found Isleta abandoned. Lieutenant Governor Alonso García had already led the surviving *abajеños* (those living in south of La Bajada) and Isleta Pueblo allies to El Paso. On the retreat south, the Spanish encountered mutilated bodies, Catholic sacramental objects smeared with feces, and fields and whole villages burned to the ground. Tewa Pueblos' participation in the 1680 Revolt suggests that the costs of the Spanish presence, including the *encomienda* and religious repression, outweighed the benefits of Spanish defense. Though Popé (Ohkay Owingeh) is popularly accepted as the leader of the revolt, the structure of Pueblo leadership suggests that the revolt had multiple leaders.<sup>126</sup> Revolt leaders from the Tewa Basin pueblos included Popé and Tagu of San Juan; Diego Xenome of Nambé; Francisco El Ollita and Nicolás de la Cruz of San Ildefonso; Domingo Naranjo and Cajete of Santa Clara; Antonio Malacate and Domingo Romero of Tesuque; and Luís Tupatú of Picurís

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<sup>125</sup> Knaut, *Pueblo Revolt of 1680*, 169-175.

<sup>126</sup> Stefanie Beninato, "Popé, Pose-yemu, and Naranjo: A New Look at Leadership in the Pueblo Revolt of 1680," *New Mexico Historical Review* 65:4 (October 1990): 417-435.



Pueblo, a Tiwa (non-Tewa) Pueblo. Tupatú was one of Popé's lieutenants who after the revolt helped enforce Popé's orders for Pueblos to expunge Spanish influence from their lives. Tupatú, along with Alonso Caiti of Santo Domingo, travelled across the restored Pueblo world, imploring Puebloans to return to traditional religion, abandon Christian names, and destroy churches, crosses and Christian images. By Popé's orders, Tupatú and Caiti demanded that Pueblo men abandon wives married through Catholic ceremony or face expulsion and ordered that all Pueblos destroy Spanish livestock and fruit trees and refrain from planting wheat and barley.<sup>127</sup>

Despite the absence of the Spanish, the Pueblo world was difficult to restore. Spanish flora and fauna had changed the riparian landscape of New Mexico. Diseases had also decimated the Pueblo populations, and the Pueblo world, which had been contracting by 1630, continued to shrink after 1680. Piro, Tompiro, Jumano and Tehua peoples east of today's Manzano Mountains abandoned sites at Abo and Quarai in the 1670s. When Otermín attempted a reconquest in 1681, he sacked Sandia Pueblo, burning it to the ground. Sandia refugees left the middle Río Grande valley, some fleeing to Hopi, where they established Payupki on Second Mesa and others to *Sima*, a Tewa Basin site occupied by other Tiwa and Tano refugees who settled over the deserted La Cañada land grant.<sup>128</sup>

After 1683, Otermín was replaced as titular governor by Domingo Jironza Petríz de Cruzate, whose attempts at reconquest were foiled by Indian uprisings in the El Paso area, expeditions against Apaches, and an interregnum, during which he was removed as

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<sup>127</sup> Knaut, *Pueblo Revolt of 1680*, 168-172; Kessell, *Spain in the Southwest*, 148.

<sup>128</sup> Elizabeth A. Brandt, "Sandia Pueblo," in *Handbook of North American Indians*, Vol. 9, *Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 345.

governor and replaced by Pedro Reneros de Posada. Jironza returned as governor of New Mexico and mounted a bloody battle against Zia Pueblo in 1689, capturing Keresan leader Bartolomé de Ojeda, who detailed events in western Pueblos during the revolt. He described the death of his own grandmother, a “Christian mestiza” named Juana Maroh, who was stripped naked, whipped, and paraded through Acoma. Tied to two Franciscan priests, Maroh was stoned and stabbed to death. Ojeda recognized the utility of allying with Spaniards against his Keresan and Tanoan enemies, and would become an invaluable collaborator that aided the Spanish reconquest.<sup>129</sup>

Notwithstanding his participation in restoring the Pre-Columbian Pueblo world, Tupatú is believed to have taken part in deposing Popé, perhaps as early as 1682 or as late as 1689. Tupatú may have allowed some useful Spanish practices to remain, including the planting of wheat. Winter wheat in particular would have been beneficial to his home pueblo of Picurís, which sits at a high altitude (7,500 feet) with a cold climate and remarkably short growing seasons. Most Pueblos continued using horses, and many kept livestock. More pragmatic than the fanatical Popé, Tupatú was too busy fighting to keep his influence over Tewa Pueblos to purge the Pueblo world of Spanish influence. His own personal relationships revealed the complications of decades of Pueblo-Hispano contact. Tupatú was married to a niece of Spanish soldier Miguel Luján, one of Vargas’s Reconquest lieutenants who had fled during the Pueblo Revolt. From his

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<sup>129</sup> John L. Kessell, *Spain in the Southwest: A Narrative History of Colonial New Mexico, Arizona, Texas, and Californina* (Norman: University of Oklahoma Press, 2002), 156. For more on Ojeda’s background see also, John L. Kessell, “The Ways and the Words of the Other: Diego de Vargas and Cultural Brokers in Late-Seventeenth-Century New Mexico,” in *Between Indian and White Worlds: The Cultural Broker*, ed. Margaret Connell Szasz (Norman: University of Oklahoma Press, 2001), 25-43; and, Jones Jr. *Pueblo Warriors and Spanish Conquest*, 38-42.

initial involvement in the 1680 Revolt, Tupaú offered both fierce resistance and close collaboration with Spanish leaders for the next three decades. His experience suggests that no hard lines could be drawn between Pueblo and Spanish society in colonial New Mexico.<sup>130</sup>

After the revolt the Spanish were surprised and disconsolate. They believed a faction, possibly led by mixed bloods, *coyotes* and *mestizos*, had disturbed the peaceful Spanish and Pueblo relations and imposed their radical views on Pueblo Indians. Governor Antonio de Otermín and Fray Francisco de Ayeta blamed Satan for inspiring such ungodly acts against elite Spaniards like themselves, whom they saw as agents of the Holy Spanish Crown and instruments of Christ. Gutiérrez writes that Franciscans accepted and celebrated the martyrdom of Franciscan friars killed in the revolt, but denied the culpability of the twenty-one martyrs in causing the Pueblo upheaval. Writing in 1967, Franciscan historian Angelico Chávez claims that mestizos, not pure Pueblos, led the revolt. Focusing on Domingo Naranjo, a Santa Clara Pueblo native who descended from a *mulato*, Chávez observes strict interpretive divisions between Pueblo and non-Pueblo Indians and even deeper divisions between Pueblo Indians and their Hispano counterparts. He considers Naranjo the embodiment of *Poseyemo*, a deity who appeared as the devil incarnated as a black giant during the Revolt.<sup>131</sup>

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<sup>130</sup> José Antonio Esquibel, "Tupaú and Vargas Accords, 1692: Orchestrating Peace in a Time of Uncertainty, 1692-1696," *El Palacio*, 111:1 (Spring 2006): 16-18.

<sup>131</sup> Angélico Chávez, "Pohé-yemo's Representative and the Pueblo Revolt of 1680," in *What Caused the Pueblo Revolt of 1680?* ed. David J. Weber (New York: Bedford/St. Martins, 1999), 81-114, 87. For a Pueblo perspective on the Revolt, see Joe S. Sando, "Popé, the Pueblo Revolt, and Native Americans in Early New Mexico," in *New Mexican Lives: Profiles and Historical Stories*, ed. Richard W. Etulain (Albuquerque: University of New Mexico Press, 2002), 19-44. Sando provides what he calls an "imaginative

For all of his speculation, Chávez's research has at least partially revealed why the restored Pueblo world quickly fractured. According to Chávez, who cites a 1681 account taken by Otermín from a captured Alameda (Tiwa) Indian, Pope's leadership fell apart after the Revolt because he was feared, not loved. His radicalism, mimicked by El Saca of Taos (1690-91), aggravated many Pueblos, and the Tewa Pueblos allied with Picurís against Taos Pueblo to the north of the Tewa Basin and Keresan Pueblos to the south. The restored Pueblo world looked little like the one Popé envisioned and promised.

The brief unity that stretched across linguistic and geographic boundaries broke down as Pueblos from north to south rejected Popé's despotism. Popé was deposed perhaps as early as 1681. By 1683, Luis Tupatú emerged as the leader of the northern Pueblos, who warred with Keres tribes to the south. The horses and mules that were chased out of Spanish and Pueblo settlements during the Revolt were quickly acquired by nomadic Athabaskan tribes, which also faced drought and starvation, and which used these animals to increase the effectiveness of their raids. Tupatú's home pueblo of Picurís and many Tewa Pueblos suffered from increased Navajo and Apache attacks in the wake of the revolt.<sup>132</sup>

Tupatú is a fascinating and confounding colonial character who beautifully illustrates complexity of both inter-Pueblo and Pueblo-Hispano relations during the late seventeenth and early eighteenth centuries. He led his Pueblo, Tiwa speaking Picurís and *Tewa* Pueblos against two other factions, led by Taos and Pecos to the north and east, and

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reconstruction" of the planning meetings by Revolt leaders. Sando's work serves as a counterpoint to Chávez's work, but equally relies on speculation in place of evidence.

<sup>132</sup> Ibid, 87.

the Keresan Pueblos to the south and west, in a decade of warfare that succeeded the Pueblo Revolt.<sup>133</sup>

When don Diego de Vargas returned to the colony of New Mexico in the fall of 1693, Tupatú negotiated peace with him. José Antonio Esquibel writes that the Tupatú-Vargas peace accords reunited at least seven families of Spanish soldiers and Pueblo allies, extended families separated by the Revolt. Tupatú's own wife was the niece of Spanish captain Miguel Luján, who spoke fluent Tewa and returned with Tupatú's sister-in-law, who had fled the Revolt with Spanish colonists in 1680. Lucía Márquez, the widow of Spanish soldier Pedro Márquez and sister-in-law of revolt leader Alonso Caiti returned to her family in Nambé Pueblo. Though Tupatú wisely distrusted Spanish intentions, Vargas's accounts demonstrate a mutual respect between himself and Tupatú, referring to the Pueblo leader as "Don Luis."<sup>134</sup>

By 1693, Tupatú broke with Vargas. Three years later, Luís and his brothers, Lorenzo Tupatú (the governor) and Antonio Tupatú (the cacique), led Picurís in an unsuccessful revolt against the Spanish. Afterward, the Tupatú brothers abandoned their pueblo rather than ally with the Spanish in continued inter-Pueblo warfare. They fled to El Cuartelejo to live with a distinct Apache band on the eastern edge of *Apachería*, taking Tewas, Tanos and Santa Clara natives with them. Vargas captured Antonio, killing him for aiding the exit from Picurís to El Cuartelejo, and took his wife as a captive. The Picurís remained at Cuartelejo until 1706. Recent work on Pueblo lands contends that the

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<sup>133</sup> Jones Jr, *Pueblo Warriors and Spanish Conquest*, 40-42; Kessell, "The Seventeenth-Century Pueblo-Spanish War," 152.

<sup>134</sup> José Antonio Esquibel, "Tupatú and Vargas Accords, 1692," 16-18.

majority of the more than three hundred Pueblos gradually resettled Picurís in the ten years between the revolt and a 1706 effort to bring them all back.<sup>135</sup>

Two divergent stories of their exit and repatriation to the Jicarita valley emerge. One story states that Tupatú's brother, Lorenzo, sent an emissary to Spanish governor Francisco Cuervo y Valdés and asked to be repatriated. He claimed that they were abused by the Apache and were treated as slaves.<sup>136</sup> Another story claims that the Picurís were compelled to return from their sojourn under Spanish guard and that they were forcefully taken from their Apache brethren and longtime trade partners.<sup>137</sup> Regardless of the impetus, Governor Cuervo sent *sargento mayor* Juan de Ulibarri, the son of a mulatto slave and a veteran of Vargas's reconquest, to Cuartelejo where he negotiated with the Apache for the return of the Picurís. For reasons unknown, the Apache, bearing Christian crosses and relics, let them return; sixty-two Picuris, including Juan Tupatú, son of Pueblo revolutionary Lorenzo Tupatú, reunited with their people. Picuris would never revolt again. The Tupatús became trusted Spanish allies, who, along with Felipe and Juan de Ye of Pecos and Bartolomé Ojeda (Keres), commanded Pueblo troops in the defense of Spanish and Pueblo settlements from Navajo, Apache, and Ute raids in the early eighteenth century.<sup>138</sup>

Ulibarri's force included twenty-eight Spanish soldiers, twelve militiamen and one hundred Pueblo auxiliaries, the latter led by José López Naranjo, son of Revolt leader

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<sup>135</sup> Ebright, Hendricks and Hughes, *Four Square League*, 95-102.

<sup>136</sup> See María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Berkeley: University of California Press, 2002), 28-30.

<sup>137</sup> See Ebright, Hendricks, Hughes, *Four Square Leagues*, 100.

<sup>138</sup> Jones Jr. *Pueblo Warriors and Spanish Conquest*, 56. Chávez, "Pohé-yemo's Representative," 98-100; Shadow of the Reconquest - Culture Shocks, blog, <http://rockstoroads.blogspot.com/>, (accessed 21 July 2014).

Domingo Naranjo. Joseph López Naranjo, who was called Josephillo by the Spanish and “el Español” by the Pueblos because of his proficiency in Spanish, won praise from Vargas after his valiant leadership of Pueblo auxiliaries during the Reconquista and during the failed Revolt of 1696. Naranjo’s brother, Lucas, was among the leaders of the 1696 Revolt. Joseph proved his loyalty by beheading Lucas and presenting his head to Vargas.<sup>139</sup> Joseph’s leadership of Pueblo auxiliaries during the 1696 Revolt earned him the title *capitán de gente de Guerra* (literally, “captain of the men of war”; troop commander) an honor that annoyed Spanish soldiers who believed a mestizo commanding Indian troops was unworthy of such a title.<sup>140</sup>

How the Spanish colonial government organized land tenure before the Revolt remains unclear. Records of land exchanges and court decisions were destroyed by Pueblos during the revolt. Encomiendas, which were one of the only profitable enterprises in New Mexico and one of the most cited causes of the Pueblo Revolt, were granted widely by Spanish governors. Though they were empowered to grant lands to settlers and contemporary Spanish governors in other provinces did grant lands, no archive with precise information regarding land grants in pre-Revolt New Mexico has survived. This lack of records also leaves unanswered questions regarding the recognition of Pueblo lands by Spanish authorities.<sup>141</sup>

We do know that Pueblo rights were limited under Spanish rule, especially before the Pueblo Revolt. Under the Spanish system, much like in the American system, Indians

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<sup>139</sup> Chávez, “Pohé-yemo’s Representative” 100-101

<sup>140</sup> Shadow of the Reconquest - Culture Shocks, blog, <http://rockstoroads.blogspot.com/>, (accessed 21 July 2014). John L. Kessell, Rick Hendricks, and Meredith D. Dodge, eds., *A Settling of Accounts: The Journals of Don Diego De Vargas, 1700-1704*, vol. 6 (Albuquerque: University of New Mexico Press, 2002).

<sup>141</sup> Ebright, *Land Grants and Lawsuits*, 23-24.

were wards of the state. A 1571 decree required that they sell all real property before a judge. Decrees in 1573 and 1618 regulated their movement from town to town and further defined their rights as wards under the Spanish crown. The success of the Pueblo Revolt made the Spanish reassess their colonial plan. They had to shift their system from the repression of Pueblos under the greed of *encomenderos* and zeal of Franciscan missionaries to regulating the Spanish relationships with Pueblo peoples. The first step in this transformation was the reconquest of New Mexico, led by don Diego José de Vargas Zapata y Luján Ponce de León Contreras, a well-connected *peninsulare* (Spaniard born in the Iberian peninsula) who bought the governor's post.<sup>142</sup>

The traditional narrative of Vargas' peaceful reconquest describes his triumphant entry into Santa Fe and his warm reception by Picurís leader Luis Tupatú. But that story ignores the three years of war (1694-96) after the recapture of Santa Fe, and Vargas's skillful and often brutal manipulation inter-Pueblo rivalries.<sup>143</sup> In the Río Abajo, Vargas used Pecos leaders Juan and Felipe de Ye as allies in his war against southern Tiwas. Bartolome Ojeda, the Keresan ally who aided Vargas and carried on an internecine war against western Keres tribes, reportedly witnessed the brutal execution of his mestiza grandmother during the Revolt. This act alone unlikely compelled Ojeda to join Vargas and aid the Spanish in regaining control of New Mexico. Instead, Vargas offered the power that tipped the scales in Ojeda's favor in his war against other Keresan tribes and the ongoing war between Keres, Jemez, Taos and Pecos against Tewa Basin Pueblos and Picurís.<sup>144</sup>

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<sup>142</sup> Kessell, *Spain in the Southwest*, 160-163.

<sup>143</sup> Kessell, "The Ways and Words of the Other," 25-43.

<sup>144</sup> Kessell, *Spain in the Southwest*, 156.



Picurís warriors served as scouts in Vargas' grinding war with Taos Pueblo, until the Picurís fled to the plains to live with the Cuartelejo Apaches. Sandía Pueblo had been abandoned since 1681, its refugees moving west to live with the Hopi, where they would remain until 1742, when more than four hundred returned to the Río Grande Valley. By 1762, Governor Tomás Velez de Cachupín confirmed Sandía Pueblo's lands, which they now shared with displaced Hopi.<sup>145</sup>

Before the Pueblo Revolt of 1680, a village known as La Cañada stood on the south side of the Santa Cruz River. The destruction of documents during the revolt leaves uncertain the size or importance of the settlement. Nevertheless, the proximity of the Santa Cruz Valley to Nambé Pueblo to the southeast, and Santa Clara and San Ildefonso Pueblos to the southwest suggests that it may have been an invaluable settlement for both the missionary efforts of Franciscan friars and *encomendero* exploitation before the revolt.

As one of the northernmost Hispano settlements, La Cañada likely felt the wrath of the Indian rebellion early. At the time of its resettlement in 1695, San Cristóbal and San Lázaro Pueblo exiles took over the abandoned Spanish town of La Cañada.<sup>146</sup> All other southern Tewa (Tano) Pueblos, including San Marcos and Galisteo, were abandoned.<sup>147</sup> In spite of their appeals to be allowed to remain until harvest, Vargas demanded that the San Lázaro and San Cristóbal peoples relocate up the Santa Cruz

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<sup>145</sup> "Sandia Pueblo," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://newmexicohistory.org/places/sandia-pueblo> (accessed 12 October 2014).

<sup>146</sup> Santa Cruz Parish, *La Iglesia de Santa Cruz de La Cañada, 1733-1983* (Santa Cruz, NM: Santa Cruz Parish, 1983), 7; Frank D. Reeve, *History of New Mexico*, vol.1 (New York: Lewis Historical Publishing Co., 1961), 322; Eleanor B. Adams and Fray Angelico Chávez, *The Missions of New Mexico 1776* (Albuquerque: University of New Mexico Press, 1956), 72.

<sup>147</sup> Gutiérrez, *When Jesus Came, the Corn Mothers Went Away*, 157.

River to Chimayó and Pueblo Quemado. After they complied with Vargas's order, the San Lázaro and San Cristóbal natives joined the ill-fated Revolt of 1696. Escaping the punishment that would likely follow, the Indians fled north to San Juan Pueblo and west to Hopi-Tewa Pueblo of Hano in present Arizona.<sup>148</sup>

On April 22, 1695, Vargas arrived at La Cañada with a group sixty-six settlers and their families. He named the new settlement *La Villa Nueva de Santa Cruz de Los Españoles Mexicanos del Rey Nuestro Señor Don Carlos Segundo*. Ramón Gutiérrez notes that the invocation of the term *españoles* was a statement of differentiation from the Indians and an attempt to connect to the conquest more than a statement of pedigree or purity of blood.<sup>149</sup> Santa Cruz was soon struck with scarcity and starvation, caused by the settlers' lack of knowledge of the environment that led to massive crop failure. By September 1695, residents petitioned Governor Vargas for aid and permission to relocate to the other side of the Santa Cruz River.<sup>150</sup> De Vargas responded by installing a "missionary preacher as their guardian and minister" and, by October, bolstered the population with an additional twenty families recently arrived from Zacatecas. In February 1696, he responded to settler petitions and sent much needed aid in seeds and livestock.<sup>151</sup>

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<sup>148</sup> Santa Cruz Parish, *La Iglesia de Santa Cruz de La Cañada*, 7; Richard Stewart Ellis, "Santa Cruz: Authority and Community Response in the History of a New Mexico Town" (Ph.D. Diss. University of Oklahoma, 1980), 32. See also Edward P. Dozier, *The Hopi-Tewa of Arizona*. University of California Publications in American Archaeology and Ethnology, No. 44, (Berkeley: 1954); and, Michael B. Stanislawski, "Hopi-Tewa," in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 587-602.

<sup>149</sup> Gutiérrez, *When Jesus Came, the Corn Mothers Went Away*, 103.

<sup>150</sup> Santa Cruz Parish, *La Iglesia de Santa Cruz de La Cañada*, 10.

<sup>151</sup> Ellis, "Santa Cruz," 34-35.

San Ildefonso gave one of the strongest defenses against the re-imposition of Spanish power. From the highly defensible Black Mesa, Tewa Puebloans tenaciously fought Vargas's re-imposition of Spanish colonial rule. Rumors of an impending large-scale revolt, on par with the 1680 revolt, had swirled around New Mexico since 1694, when Vargas held the loyalty of only a handful of Pueblos, including eastern Keres and Pecos, but relied heavily on key Pueblo auxiliaries to consolidate control over the colony.<sup>152</sup> By 1696, a widespread revolt broke out, with only Tesuque in the Tewa Basin not participating. Unlike the 1680 revolt, no leader emerged and planning the revolt was left to competitive factions, which engaged in war with each other as much as with the Spanish. From the Black Mesa of San Ildefonso Pueblo, Lucas Naranjo briefly emerged as the leader of the most powerful faction until he was captured, killed, and beheaded by his brother, Joseph Naranjo, who was loyal to Vargas. Picurís was abandoned in light of the revolt, going the way of Sandia, Jacona and Cuyamungue, which were all vacated in the years following the 1680 Revolt and before the Vargas' Reconquista.<sup>153</sup>

By 1700, after twenty-years of intermittent war, Spanish-Pueblo relations changed. Now, they began cooperating against mutual enemies, the Apaches, Navajos, Utes, Comanches and other surrounding tribes that threatened to despoil both Spanish and Pueblo towns. Spanish colonial policies and the growing colonial population transformed relations between Pueblos and non-Pueblo Indians. The growing captive slave trade, in particular, embittered non-Pueblo Indians against both Hispano and Pueblo populations. *Genizaro* populations of detribalized Indians, which were largely former captives, but also included significant numbers of exiled Pueblo Indians, emerged from this tension

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<sup>152</sup> John L. Kessell, "A Long Time Coming," 152.

<sup>153</sup> Schroeder, "Shifting for Survival," 250.

and occupied both the physical and social periphery of northern New Spain, reshaping the borderlands milieu.<sup>154</sup>

From 1692 through the 1730s, the Spanish rebuilt their New Mexico colony. Scholars have reasoned that the Spanish needed to restore national pride after their humiliation in the Pueblo Revolt, when sedentary and seemingly passive agricultural peoples dislodged Spanish power on the edges of its empire. Appearing weak, the Spanish had to protect their vast unsettled claims in North America from other European powers, especially France, which traded with Pawnees west of France's principle settlements in French Louisiana and Illinois. The success of the restored colony of New Mexico also rested on the Spanish ability to re-establish the needed buffer between the populous settlements and the raiding tribes that wrought havoc on settlements in northern Mexico. Lastly, returning Pueblo Indians to the Catholic faith re-engaged the Spanish with evangelization of native peoples, still an essential part of the colonial process in the late seventeenth and early eighteenth centuries.<sup>155</sup>

While the rumored threat of other European powers motivated the protection of the colony, real challenges to the early colony came from the increasingly powerful nomadic tribes that surrounded it. When the Spanish and Pueblo were at war from the 1680s through the 1690s, Apaches and Navajos used horses for quicker and more precise raids. Governor Francisco Cuervo y Valdes attempted to strengthen the Spanish communities and defend Pueblo settlements with the use of Pueblo auxiliaries. His plan

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<sup>154</sup> Kessell, *Pueblos, Spaniards*, 3-5

<sup>155</sup> See Jim Norris, *After the Year Eighty: The Demise of Franciscan Power in Spanish New Mexico* (Albuquerque: University of New Mexico Press, 2000); John L. Kessell, *Spain in the Southwest*, 70-75; Calvin A. Roberts and Susan A. Roberts, *New Mexico* (rev. ed) (Albuquerque: University of New Mexico Press, 2006) 58-67; and Sánchez, Spude, and Gómez, *New Mexico: A History*, 57-61.

was to go on the offensive against the emboldened Navajos, who lived to the west of the principle Río Grande settlements. Captain Roque Madrid made a successful raid on the Navajos in 1705. Accompanied by three hundred Pueblo auxiliaries, Madrid burned Navajo maize fields and took women and children captive. Early eighteenth century Navajo raids slowed, but did not stop. The ever-more-powerful Comanche displaced the Jicarilla Apache from their homeland north of the Llano Estacado and controlled the vast territory that separated colonial New Mexico from colonial Texas.<sup>156</sup>

The end of the Spanish-Pueblo War tenuously united the Spanish and Pueblo world, but divided Pueblo villages into traditional and pro-Spanish factions. Inter-Pueblo relations changed as well. Many Pueblo communities did not trust each other after internecine wars that raged during the Spanish absence and continued after the Spanish reconquest. This enmity lasted until the 1720s, when relationships between Pueblos and Hispanos united to fight against increasing Apache and Navajo raids. Independent Pueblo relationships with Apache and Navajos tribes and bands defied Spanish control. The increasing use of Pueblo warriors as Spanish auxiliaries, however, deepened the growing enmity between Pueblos and their non-Pueblo trading partners.<sup>157</sup>

After the reconquest, the Spanish quickly reconfigured land tenure in the Tewa Basin, asserting their dominance and again replacing the native land systems with a Spanish land grant system. The Spanish crown seemed to learn the lesson of the Pueblo Revolt. Spanish colonial officials were ordered to avoid unnecessary impositions on

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<sup>156</sup> See Roque Madrid, *The Navajos in 1705: Roque Madrid's Campaign Journal*, ed., annot. and trans. by Rick Hendricks and John P. Wilson (Albuquerque: University of New Mexico Press, 1996).

<sup>157</sup> William B. Carter, *Indian Alliances and the Spanish in the Southwest, 750-1750* (Norman: University of Oklahoma Press, 2009).

Pueblo land when granting *mercedes*, and the Crown reissued colonial laws and distributed them throughout the empire. Among these codes were the *Siete Partidas*, the medieval statutory code compiled under Castilian King Alonso X (“El Sabio” or “the Wise”) and the *Leyes de las Indias*, or the *Laws of the Indies*, 148 crown ordinances issued in 1573, a full century before the Pueblo Revolt, which were either unknown to or ignored by many Spanish colonial officials.<sup>158</sup>

The *Leyes de las Indias* were a compilation of nearly a century of Spanish legal work. Abuses of colonial power had been quickly acknowledged by King Ferdinand II, who issued *Ley Burgos* in 1512, after Christopher Columbus’s decimation of Hispaniola and the destruction of whole native societies. After Bartolomé de las Casas issued his *Short Account of the Destruction of the Indies* in hearings in 1542, King Charles revised and strengthened these laws as the *Leyes Nuevas*,<sup>159</sup> which aimed to preserve the native populations and revise the destructive *encomienda* system to achieve these ends. Three decades later, in 1573 King Phillip II issued *Ordenanzas de Descubrimiento, Nueva Población y Pacificación de las Indias*, which imposed new regulations on Spanish discovery, on new Spanish settlement, and on the Spanish “pacification” of Indian populations.<sup>160</sup>

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<sup>158</sup> See especially, S. Lyman Tyler, *The Indian Cause in the Spanish Laws of the Indies: English translation of Book VI, 'Concerning the Indians,' from the Recopilacion de Leyes de los Reinos de las Indias* (Salt Lake City: University of Utah - American West Center, 1980).

<sup>159</sup> *Recopilación de leyes de los reynos de las Indias*, 5 vols. (1681; reprint, Mexico: M.A. Porrúa, 1987). The full title reads, *Leyes y ordenanzas nuevamente hechas por su Magestad para la gobernación de las Indias y buen tratamiento y conservación de los Indios*, or, “Laws and new orders written by Your Majesty for the governing of the Indies (New World) and good treatment and conservation of the Indians.”

<sup>160</sup> Tyler, *The Indian Cause in the Spanish Laws of the Indies*, 25-28.

While the Crown issued new regulations regarding the pacification of the Indies, New World administrators continued to press native populations for tribute and even forced captured natives to work as slaves in *obrajes* (textile mills typically operated with coerced labor), many of them privately run by civil and even ecclesiastical officials. In New Mexico, the decade leading up to the Pueblo Revolt was marked by droughts, famines, disease epidemics, and despotic governors and fanatical priests, who abused Pueblo Indian labor and punished their holy men as apostates. It remains uncertain whether Spanish legal codes, particularly those regulating the treatment of native peoples, made their way to the northern frontier. If they did reach outposts like New Mexico, most early colonial governors ignored them.<sup>161</sup>

Early land grants (allegedly) made to Pueblos on the eve of the Reconquest marked a new era in Pueblo-Spanish relations. The Spanish appeared to recognize native land rights and curbed colonial abuses of Pueblo Indians.<sup>162</sup> As early as 1689, expelled Spanish governors working from El Paso del Norte recognized the property rights of Pueblo Indians. This act had no real effect on the actual situation or on Pueblo ownership of land. Spain's recognition of Pueblo rights to their lands was done more to facilitate later civil administration and signal to Spanish settlers that Pueblo lands would be unavailable, in the hope to head off friction between colonists, missionaries,

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<sup>161</sup> Kessell, *Spain in the Southwest*, 159-165; Weber, *The Spanish Frontier in North America*, 125, 137-141; Roberts and Roberts, *New Mexico*, 58-67; and Sánchez, Spude, and Gómez, *New Mexico: A History*, 57-61.

<sup>162</sup> Native property rights were supposedly protected in the *Recopilación*. For nearly a decade, Spanish governors, nonetheless, carried out a series of punitive raids, seeking to weaken the Pueblo alliance, gather information, and ultimately resettle the former colony. See *Recopilación*, Book 6, Title 3, Law 20, quoted in G. Emlen, *Four leagues of Pecos*, 13.

administrators and Pueblo Indians. By recognizing Pueblo lands, governors also demonstrated to the Spanish crown that they were abiding by the Laws of the Indies.<sup>163</sup>

The story of the Pueblo land grants dates from the Reconquest, when Governor Domingo Jironza Petriz de Cruzate captured Keresan native Bartolomé Ojeda during his raid on Zia Pueblo in 1689. Jironza interrogated Ojeda, asking whether the Pueblos would again revolt. Ojeda answered generally that the Pueblos would not rise up against Spanish rule. He also described the exact boundaries of the Pueblos in metes and bounds, and Jironza tacitly recognized Pueblo ownership of their land.<sup>164</sup> Whether any actual grants were ever issued by Jironza remains in question. In 1891, handwriting expert William M. Tipton threw out the Cruzate grants as forgeries when examining Laguna Pueblo claims under the Court of Private Land Claims.<sup>165</sup> What remained were claims by

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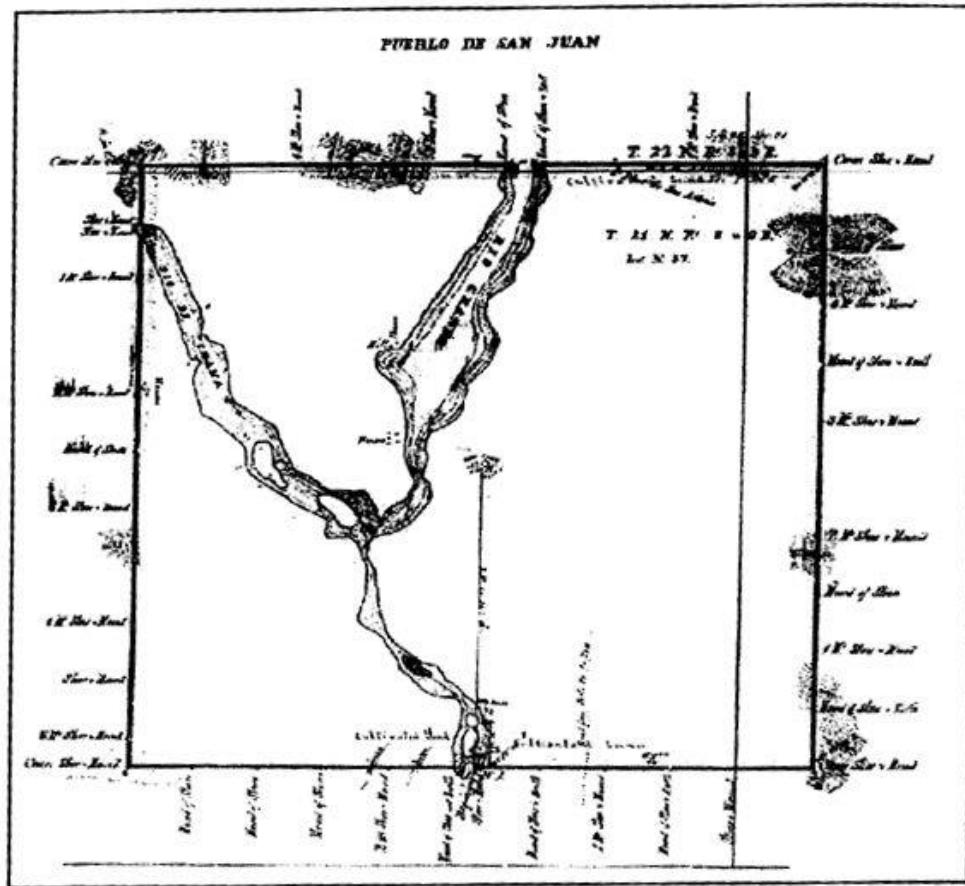
<sup>163</sup> Weber, *The Spanish Frontier in North America*, 131; Kessell, *Spain in the Southwest*,

<sup>164</sup> Sandra K. Mathews-Lamb, "'Designing and Mischievous Individuals': The Cruzate Grants and the Office of the Surveyor General," *New Mexico Historical Review* 71:4, (October 1996): 343, 355; see also Hall, *Four leagues of Pecos*, 82, 87.

<sup>165</sup> Tipton cited four irregularities that cast doubt on the legitimacy of the Laguna Pueblo land grant documents. First, the signature purported to be Jironza's seemed to be a forgery. Second, the name of Jironza's supposed secretary was written as "Pedro Ladrón de Guitarra" rather than "Pedro Ladron de Guevara," his secretary of war. Third, Laguna Pueblo emerged from the inter-Keresan war, which Ojeda participated in, after 1699 when Vargas, not Jironza, was governor. Laguna was made of largely Acoma dissidents and other Keresan refugees, but certainly did not exist in 1689, when Jironza (or Cruzate, as he is referred to in these spurious grants) was governor. Fourth, whole passages of the of the document seem to be reproduced from Antonio Barreiro's 1832 *Ojeada sobre Nuevo México*, written nearly 150 years after the Cruzate Grants were allegedly made. Rick Hendricks and Malcolm Ebright believe that only part of Tipton's criticisms hold, but do not defend the veracity of the documents, citing Mathews-Lamb and the type of paper used for the original documents, which they hold is mid-nineteenth century paper. See Ebright, Hendricks and Hughes, *Four Square Leagues*, 217-219. See also Mathews-Lamb, "'Designing and Mischievous Individuals,'" 342-345; and H. Bailey Carroll and J. Villasana Haggard, eds. *Three New Mexico chronicles: The Exposicion of Pedro Bautista Pino, 1812; The Ojeada of Lic. Antonio Barreiro, 1832; and the additions by Don Jose Agustin de Escudero, 1849* (Albuquerque: Quivira Society, 1942).



Pueblo Indians that their papers were either held in Santa Fe or taken by surrounding Catholic priests, local *alcaldes*, or Hispano settlers.



**Figure 2: San Juan (Ohkay Owingeh) Pueblo Map, c. 1860**

San Juan Pueblo (Ohkay Owingeh) proper was at the center of its four square league, east of the Río Grande. The pueblo was once located above the confluence of the Río Grande, at the center of the grant, and the Río Chama, running from the northwest corner to the center. Map by John W. Garretson, deputy surveyor. Sandra K. Mathews-Lamb, "Designing and Mischievous Individuals": The Cruzate Grants and the Office of the Surveyor General" *New Mexico Historical Review* 71:4 (October 1996), 346.

Even without the spurious 1693 Cruzate grants, Pueblo lands were protected under the *Recopilación de las Leyes de las Indias*, the codified Spanish “Laws of the Indies,” which instructed the proper settlement of the New World. The Laws of the Indies specified that *civilized* Indians should have sufficient “water, lands, woodlands,

access routes, and farmlands and an ejido one league long where the Indians can have their livestock without having theirs intermingle with others belonging to Spaniards.”<sup>166</sup>

The premium placed on limiting contact between Pueblos and Spaniards was thereby codified into Spanish colonization law. This practice had ramifications for legal interpretations centuries later.<sup>167</sup>

Practice defied codification. With Santa Cruz as a hub, the Spanish quickly expanded their settlements. They limited Pueblo lands and often invaded these reduced lands, which had imprecise boundaries that did not correspond to actual Pueblo usufruct rights. Despite the success of the Pueblo Revolt, the Spanish did not recognize Pueblo peoples as equals after the Reconquest. Myra Ellen Jenkins writes that Pueblo peoples were “(l)egally in a dual position, both vassals and wards” of the Spanish crown.

Attorney G. Emlen Hall agrees, and points out that the recognition of Pueblo lands and the Pueblo league (discussed below) was “based on societal welfare” and the “beneficent protection of a vulnerable indigenous population rather than the recognition of previously acquired property.”<sup>168</sup> The supposed issuing of Pueblo grants was not, then, recognition of Pueblo sovereignty. It was an attempt at anticipating and preventing conflict.

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<sup>166</sup> Ebright citing the *Recopilación*, in *Land Grants and Lawsuits*, 16-18; Mathews-Lamb, “Designing and Mischievous Individuals,” 343.

<sup>167</sup> Other than friars, settlers were never to stay on Pueblo lands or in the village proper. Friars jealously guarded their authority over the Pueblos, fighting *encomenderos* whose *encomiendas* undermined their missionary efforts, and nearby colonists who not only potentially encroached on native lands, destroying their physical health, but also provided a immoral example that would damage native piety.

<sup>168</sup> Jenkins, “Spanish Land Grants,” 114-115; G. Emlen Hall, “The Pueblo Land Grant Labyrinth,” in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987), 67-140, 77.

New Mexico historians have also debated the origin of the notion that Pueblo grants should be restricted to four square leagues, about seventeen thousand acres, measured from the center of the Pueblo village. Jenkins opines that the only reference to the four square league in Spanish law came from a 1573 *cédula* (writ) issued by King Phillip II, but that this law referred to grazing lands only.<sup>169</sup> More recently, Malcolm Ebright, Rick Hendricks and Richard Hughes have written that the four-square-league rule was generally accepted as standard law by 1704 and was referred to as the “laws of our sovereigns.”<sup>170</sup> During the eighteenth century, the four square Pueblo league caused exploitation and offered protection. Spanish authorities both ignored and upheld the rule, and Pueblo Indians proved able to defend their rights to their patrimony, even using Spanish law to acquire nearby grants that impinged their lands.

At their most basic level, land grants can be divided into two categories. First, grants, such as the Francisco Montes Vigil and Sebastián Martín grants were dispensed to an individual or to a group of individuals. Second, community grants such as the Santo Tomás Ápostol del Río de Las Trampas and Nuestra Señora del Rosario San Fernando y Santiago (Truchas) grants were given to a group of individuals and typically carried the name of a community or locale.<sup>171</sup> In their 2008 response to the 2004 GAO report on land grants, lawyers Ryan Golten and David Benavides provide an operational definition of community land grants, both contrasting them with private grants and emphasizing their unique impact on land tenure:

A community land grant was a very distinct type of land ownership pattern in New Mexico from an individual grant. Under Spanish and Mexican law,

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<sup>169</sup> Jenkins, “Spanish Land Grants,” 114-115.

<sup>170</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 7.

<sup>171</sup> Ebright, *Land Grants and Lawsuits*, 23-24.

community land grants were designed to directly provide the necessary resources to sustain an entire community. The key land ownership feature for community grants was true common lands, meaning lands that were not privately owned but were community-owned and freely used by all grant residents. A small portion of the lands within community grants were private, e.g, house lots and privately owned irrigated lands, but those private lands were surrounded by much larger expanses of common lands, to which all land grant residents had free access and which were critical to successful small-scale farming and stockraising activities upon which the local economy was based. Land grant boundaries were deliberately designated so as to encompass the various ecological zones that would contain the whole array of critical resources. The common lands could not be sold but were to be held in perpetuity by the land grant in its corporate capacity as a quasi-public entity.

In contrast, an individual land grant was regarded as private land in its entirety. Private grants were the private property of the grantee in their entirety, and their use, ownership, and marketability were purely private decisions. All decisions regarding the grant, e.g., who could enter and use the grant, or the sale of any portion of the grant, were the grantee's decision alone.<sup>172</sup>

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<sup>172</sup> Excerpt from David Benavides and Ryan Golten, *Response to the 2004 GAO Report* (Santa Fe: New Mexico Attorney General's Office, Gary King, Attorney General, Treaty of Guadalupe Hidalgo Division, 2008), 18-20; See also Malcolm Ebright, "The San Joaquin Grant: Who Owned the Common Lands? A Historical-Legal Puzzle," *New Mexico Historical Review* 57:1 (January 1982): 5-26; and G. Emlen Hall, "San Miguel del Bado and the Loss of the Common Lands of New Mexico Community Land Grants," *New Mexico Historical Review* 66:4 (October 1991): 413-432. Hall and Ebright both argue that common lands were *tierras concegiles* (council lands), a type of non private, semi public land that was at the disposition of a land grant, municipality or community. Contrasted to *tierras baldios* (empty lands) and *tierras realengas* (royal lands), *tierras concegiles* created semi-independent, semi feudal towns connected to weak governments in Santa Fe and Ciudad México. Ebright further argues that this division wore away with time, as private grants were often gradually transformed into *quasi-community* land grants through actual use. See also Ryan Golten, "*Lobato v. Taylor*: How the Villages of the Río Culebra, the Colorado Supreme Court, and the Restatement of Servitudes Bailed Out the Treaty of Guadalupe Hidalgo," *Natural Resources Journal* 45 (spring 2005):

Complications arise from this simplistic classification. Community leaders who organized the petition and wrote on behalf of the community grant were often listed as the *primeros pobladores* (first settlers) when the grant was made, and the petition and title papers were completed. Private grantees, on the other hand, often listed the names of settlers who pledged to settle on the grant if it was approved. These common-law practices gave rise to confusion over whether the grant was a community grant with the *primeros pobladores* listed first on granting paperwork, or whether the grant was a private one listing *all* settlers. This imprecision also allowed for mendacious interpretations by land speculators during the American territorial period, with adjudication going awry (see chapters 3 and 4). It also allowed the American judicial system to reject communal land ownership and reduce community land grants to a corporate land-holding system under the term “tenancies in common,” a legal interpretation effectively privatizing common lands and making them vulnerable to speculation.<sup>173</sup>

Common practices connected land use on both private and community grants. The basis of a communal land-use ethic was the *ejido*, the shared communal lands that were a part of community grants and that came to be a part of many private grants. *Ejidos* were a mix of traditional European concepts of property based on fee simple

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457-494; and, María E. Montoya, *Translating Property*, for the Sangre de Cristo Land Grant.

<sup>173</sup> See David Benavides and Ryan Golten, “Righting the Record: A Response to the GAO’s 2004 Report Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico,” *Natural Resources Journal* 48:4 (Fall 2008), 857-926, 871; see also Ebright, *Land Grants and Lawsuits*, 23-24; and John R. Van Ness, “Hispanic Land Grants: Ecology and Subsistence in the Uplands of Northern New Mexico and Southern Colorado,” in *Land Water and Culture: New Perspectives of Hispanic Land Grants*, ed. Charles L. Briggs and John R. Van Ness (University of New Mexico 1987), 141-214.

ownership that nonetheless retained usufruct rights. Though similar to Pueblo communal ownership, in which the Pueblo as a corporate body owned the land as private property, *ejidos* derived from post-feudal Castilian ideas of common property. Influenced by Islamic land-use philosophies, particularly the law of thirst, Spanish common land-use practices expressed the idea that no man shall have exclusive right to the resources of nature. The user could only call his or her own those things that he or she produced from the land in the form of crops, animals, or other goods. Thus, possession of the land was dependent on the act of using it. Though these lands were private in the sense that they were owned, anyone associated with a grant theoretically had rights to use the communal resources of grant and no individual rights preempted greater communal rights. Many private grants made in the Spanish-colonial period came to incorporate an *ejido*, albeit informally, over the course of the century.<sup>174</sup>

Private grants were the most-common early Tewa Basin land grants, and most early grants went to veterans of the Pueblo-Spanish War. In 1700, veteran José Trujillo, requested and received near San Ildefonso Pueblo lands that evolved into the villages of La Mesilla and Polvadera.<sup>175</sup> In 1707, Bartolomé Sánchez petitioned for and received a grant that skirted the entire western and southern boundaries of the San Juan Pueblo Grant, enveloping the entire tract that divided Santa Clara and San Juan Pueblo lands and creating a peculiar L-shaped grant that touched the Río Chama in the north and the Río Grande in the South.<sup>176</sup> This was possible because the disruption of Tewa pueblos in the

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<sup>174</sup> Ebright, *Land Grants and Lawsuits*, 11-28.

<sup>175</sup> J. J. Bowden “Jose Trujillo Grant,” from “Private Land Claims in the Southwest.” (M.L., Southern Methodist University, 1969), 577-583.

<sup>176</sup> See David Benavides and Ryan Golten, *Response to the 2004 GAO Report*, appendices, 21.

nearly-twenty-five-year Pueblo-Spanish War weakened Pueblo communities and made their lands vulnerable and available to new Spanish settlements.<sup>177</sup>

The lands of the Pueblos of Cuyamungue, Jacona, and Pojoaque immediately drew the interest of colonial elites. In 1699, Governor Pedro Rodríguez Cubero granted two parcels near Pojoaque Pueblo. The San Isidro tract went to Francisco de Anaya and later to Juan Trujillo, whose son-in-law, Juan de Mestas, received a disputed grant that ran along the southern boundary of the Pueblo of Pojoaque near the abandoned Pueblos of Cuyamungué and Jacona.<sup>178</sup> Mestas later sold his portion to Ignacio Roybal, who was granted the former lands of Jacona Pueblo by Governor Cubero in 1702.<sup>179</sup>

Myra Ellen Jenkins writes that when the Pojoaque Pueblo Grant was restored in 1707, two additional grantees of lands near Pojoaque sold their tracts to the pueblo. One sale was complicated when Miguel Tenorio de Alva resold his lands to Baltasar Trujillo and Pojoaque Pueblo appealed to Juan de Ateinsa, the *protector de los Indios*. Though Ateinsa petitioned Governor Juan Ignacio Flores Mogollón to revoke Trujillo's purchased grant, the case ended without resolution. Other portions of Pojoaque Pueblo lands, many falling outside the unsurveyed four-square-league Pueblo grant, were granted to non-Indians. Even Juan Paez Hurtado, the *capitán general* under Vargas, who served

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<sup>177</sup> Historian Myra Ellen Jenkins briefly recount Spanish land grants in the Tewa Basin in her "Spanish Land Grants in the Tewa Area" *New Mexico Historical Review* 47:2 (April 1972): 113-134.

<sup>178</sup> J. J. Bowden "Juan de Mestas Grant," in "Private Land Claims in the Southwest," 1969, [www.newmexicohistory.org](http://www.newmexicohistory.org), (accessed May 2013).

<sup>179</sup> J. J. Bowden "Town of Jacona Grant," in "Private Land Claims in the Southwest," 1969, [www.newmexicohistory.org](http://www.newmexicohistory.org), (accessed September 2012).

as acting governor following Vargas's second term, received a grant for lands between Pojoaque and Nambé from Governor Vargas in 1704.<sup>180</sup>

No colonial Tewa Basin grants were more controversial than the Town of Jacona Grant, Town of Chamita Grant and Matías Madrid Grant. The Town of Jacona was originally a private grant bestowed to Captain Jacinto Peláez in 1699 and purchased by Ignacio de Roybal, another conquest veteran, in 1702. Two years later, Roybal asked that the grant be enlarged to accommodate his livestock and to enable him raise sufficient food for his family, and Governor Vargas obliged. Nearly at the same time, Matías Madrid supposedly received his 1702 grant from Governor Vargas's successor, Pedro Rodríguez Cubero, who awarded the lands on the condition that they not infringe on previous vested rights. By 1704, Governor Juan Páez Hurtado pressured San Ildefonso to accept Ignacio Roybal's claim to lands well within the four square leagues promised to the pueblo. In 1715, Hurtado also revalidated Madrid's 1702 grant to Juana Luján, ignoring its dubious legality and obvious conflict with San Ildefonso Pueblo lands.<sup>181</sup> Madrid had previously attempted to sell the land to San Ildefonso, which refused to buy back its own land from the Spanish interloper. Luján ignored the shaky title and purchased the claim.

For the next fifty years, San Ildefonso fought for intervention by Spanish authorities against the extended families of Ignacio Roybal and Juana Luján, whose cattle herds routinely trespassed on its lands and destroyed the pueblo's gardens. The Roybal

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<sup>180</sup> Jenkins, "Spanish Land Grants in the Tewa Area," 119-120; Malcolm, "Advocates for the Oppressed," 312-313.

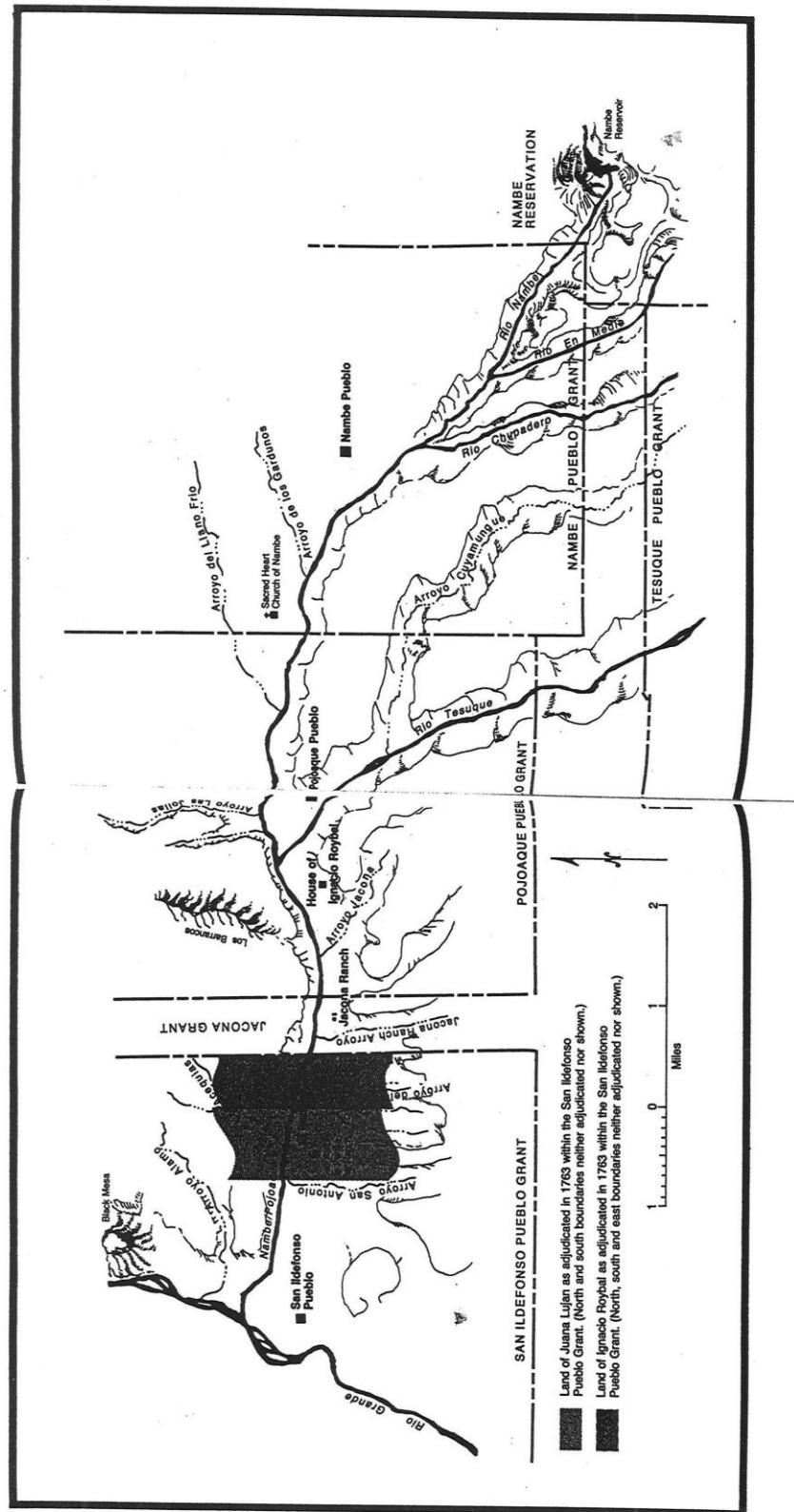
<sup>181</sup> Páez Hurtado, a prodigy of Vargas who twice served as governor (1704-1705, 1716-1717), revalidated the Madrid claim as *visitador general*, the official colonial inspector for New Mexico.



and Luján clans claimed that San Ildefonso Pueblo population possessed more lands than its shrinking population could use. The enlarged Roybal and Luján grants stretched far into the limited boundaries of the abandoned Jacona Pueblo. Both grants overlapped each other and infringed on the leagues of the both San Ildefonso and Pojoaque Pueblo grants. A survey in 1763 revealed that Roybal's claim penetrated deeply into San Ildefonso Pueblo's league, resulting in a lengthy lawsuit that was litigated into the American territorial era.<sup>182</sup> This 1763 decision limited Roybal's claim to the lands west of Juana

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<sup>182</sup> Hall, "The Pueblo Land Grant Labyrinth," 78-84. Hall writes that a 1763 decision of a Pueblo lawsuit confirmed that Roybal's amorphous claim lay wholly in the San Ildefonso Pueblo grant. The decision, however, only defined the western boundary of the grants, and only because it abutted the land claims of Juana Luján, who purchased her claim from Matías Madrid, who received a 1702 grant from Governor Pedro Rodríguez Cubero.



**Figure 3: Ignacio Roybal (Jacona) and Juana Luján Grants, c. 1765**  
The Roybal and Juana Luján Grants were among the most heinous encroachments on Pueblo lands. San Ildefonso Pueblo was particularly affected by the land dispute, which forced them into a decades long lawsuit with no resolution. G. Emlen Hall, "The Pueblo Land Grant Labyrinth" in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*. Charles L. Briggs and John R. Van Ness, eds. (Albuquerque: University of New Mexico Press, 1987), 106-107.

Luján's lands, which were stopped at to the eastern boundary of San Ildefonso Pueblo. Ignacio Roybal's house, nearly a mile east of the western boundary of Pojoaque Pueblo, was now far from his granted and recognized lands. After his heirs partitioned Roybal's lands in 1756, his son Mateo Roybal secured a confirmation of his lands by Governor Juan Bautista de Anza in 1782. The community of Jacona gradually came into being, along with Hispano communities at Nambé, Pojoaque, San Ildefonso and Cuyamungue in the early 1800s.<sup>183</sup>

In 1742, San Ildefonso faced yet another challenge when Governor Juan Domingo de Mendoza granted Santa Cruz resident Pedro Sánchez's request for lands near Pajarito Canyon, south and west of the pueblo. Longtime Santa Cruz alcalde Juan José Lobato put Sánchez in possession of the lands with San Ildefonso natives standing as witnesses. The next year, Sánchez devoted his energies to the Black Mesa Grant north of San Juan Pueblo, which he and his father-in-law, Miguel Quintana, won in 1731, but failed to occupy. Juan García de la Mora and Diego de Medina petitioned Governor Mendoza for the Black Mesa Grant, which they claimed that Sánchez abandoned. Mendoza agreed with their request and rescinded the grant from Sánchez and Quintana and granted the Black Mesa to García de la Mora and Medina.<sup>184</sup> When Sánchez died in 1749, his heirs claimed the grant as their property, even though Sánchez had abandoned the grant before perfecting title. Despite protests from San Ildefonso Pueblo, which led to its official

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<sup>183</sup> Ebright, *Land Grants and Lawsuits* 249-252; Hall, "The Pueblo Land Grant Labyrinth," 78-84.

<sup>184</sup> J. J. Bowden "Black Mesa Grant," in "Private Land Claims in the Southwest," 1178-1182.

revocation in 1763 (see below), the grant remained undisturbed and his heirs claimed the lands and sold them to José Ramón Vigil (my ancestor) in 1851.<sup>185</sup>

Other Tewa Basin Pueblos also faced outright intrusion by Hispano grants. The Town of Chamita Grant was given to Antonio Trujillo in 1713 by Governor Juan Flores Magollón (1712-1715). Trujillo was put in possession by Sebastián Martín, the Santa Cruz *alcalde* who owned the vast nearby grant (see below). Trujillo's requested tract sat at the center of the San Juan (Ohkay Owingeh) Pueblo Grant. Despite the obvious conflict, succeeding Governor Juan Domingo de Bustamante (1723-1731) complied with Trujillo's request to revalidate his grant. In 1740, a Spanish court heard the protest of San Juan Pueblo against the Chamita, but no administrative action was taken. Over the next century, Chamita served as a trading center and by the 1850s, it had grown into a town of thirteen hundred people, one of the largest settlements in the Tewa Basin.<sup>186</sup>

Santa Clara Pueblo also faced adversity in the reconfigured Spanish land system of the eighteenth century. Bounded by the Pojoaque Pueblo, Nambé Pueblo and Jacona Grants to the south, the Santa Cruz Grant to the east, and the Bartolome Sánchez Grant to the north, Santa Clara undertook litigation during the Spanish and Mexican periods to protect its lands from the devices of surrounding Hispanic settlers. When the heirs of Juan and Antonio Tafoya began to plant crops illegally on their Cañada de Santa Clara Grant in the mid-1700s, Santa Clara Pueblo successfully fought to keep it designated a grazing grant. This would prohibit the Tafoyas from irrigating with the Santa Clara Creek and negatively impact Pueblo irrigation. In 1763, Governor Tomás Vélez

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<sup>185</sup> Ebright, *Land Grants and Lawsuits*, 227-231; Hall, "Pueblo Land Grant Labyrinth," 80-85.

<sup>186</sup> J. J. Bowden, "Town of Chamita Grant" in "Private Land Claims in the Southwest," 1969, [www.newmexicohistory.org](http://www.newmexicohistory.org), (accessed 17 September 2013).

Cachupín voided the Tafoyas' property and granted Cañada de Santa Clara lands to the pueblo.<sup>187</sup>

Tewa Basin Pueblos faced increased land seizures by Spanish settlers for the next century. The next chapter continues to discuss how new land tenure patterns developed within New Mexico colonial society, drawing cooperation and protest from Pueblo Indians, who faced a growing Hispano population, which would eventually surround every Tewa Basin Pueblo. By the end of the eighteenth century, the carrying capacity of New Mexico's arid landscape limited settlement and forced Hispano and Pueblo populations, already confined by Indian raids, closer together. Changes in notions of race and purity wrought by economic progress in the late-Spanish-colonial period eased liberal transition to Mexican Republican notions of *igualdad* (equality) that were at the heart of Mexican Independence. But difficulties in the Mexican Era, as we will see, paved the way for American conquest and a new political order and land tenure regime.

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<sup>187</sup> Malcolm Ebricht, "Cañada de Santa Clara Grant," Land Grant / Pueblo Histories vol. 3 (Guadalupita, N.M.: Center for Land Grant Studies, 2006), 10-12: See also Ebricht, Hendricks and Hughes, *Four Square Leagues*, chap. 5, 149-168; For the Santa Clara population, see Nancy S. Arnon and W. W. Hill, "Santa Clara Pueblo," in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 298.

## Chapter 2: Shifting Land Tenure and Pueblo-Hispano Relations in the Tewa Basin in Colonial Spain and Republican Mexico, 1710-1848

Early-eighteenth-century grants established an exploitative land tenure pattern in the Tewa Basin. The colonial elite, many of them former members of Vargas's reconquest army, were awarded lands of the ailing Native pueblos, particularly those that had risen up against the Spanish in 1680 and 1696. But even the elite often treated their land claims with a communal consciousness. They invited both *indios* and *vecinos* to use or settle their lands and attempted to stabilize their corner of the colony and feel even a little less isolated. By the end of the eighteenth century, economic reforms and the emergence of new colonial economies signaled changes in both Spanish-Pueblo relations and the recognition of the ecological limits of the Tewa Basin. The declining Pueblo population faced challenges from *vecinos* outside the pueblos and from members inside their native communities. Some Pueblos had adopted Spanish culture and set aside Pueblo obligations or sold Pueblo lands for individual profit. These challenges of the late-Spanish-colonial period spilled into the Mexican Era, from 1821-1846. The advent of Mexican Independence complicated Pueblo relations with another foreign sovereign, now a republican government. Insufficient as they had been, Spanish protections for Pueblos were removed, and Hispanos who had yearned to possess Pueblo lands targeted these tracts with even more fervor.

Episodes of Pueblo-Hispano collaboration did emerge from the Mexican period, most famously in the Río Arriba Rebellion of 1837, and transferred to the early American period with the Taos Revolt of 1847. But U.S. expansion quickly brought New Mexico, along with half of Mexico's northern territory, under American control. This chapter ends by discussing the Treaty of Guadalupe Hidalgo of 1848, a document created to

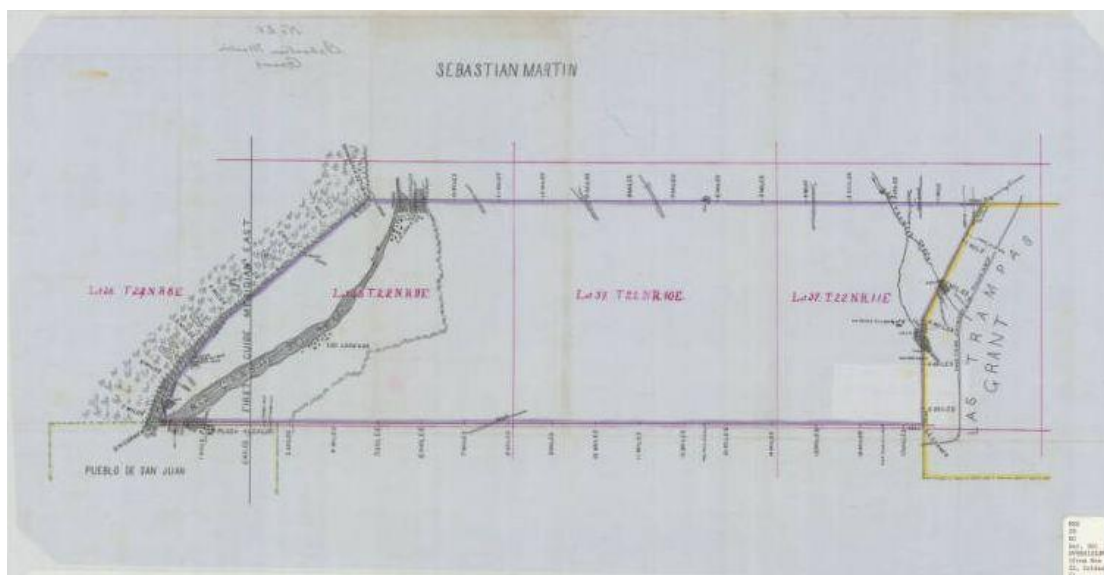
protect both Hispano and Pueblo land and water rights decades after the Treaty ended the Mexican-American War and brought the Southwest under the control of an expanding American empire.

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Despite land-tenure friction, the story of Hispano land grants in the Tewa Basin was, nonetheless, not one of outright exploitation or expropriation. Early grants to the colonial elite challenged concepts of what defined private and community lands, even divisions between Pueblo and Hispano communities. Sebastián Martín was a resident of Santa Cruz and a captain in the New Mexico militia when he received a land grant from Governor José Chacón in 1711. Born in New Mexico in 1672, Martín fought in the second Pueblo revolt and was rewarded with the enormous 54,387-acre grant at the site of an abandoned 1703 grant to other Spanish-Pueblo War veterans who failed to perfect their title. Positioned north of San Juan Pueblo, the grant embraced little irrigable land but offered vast grazing lands. Martín and his four brothers constructed *acequias*, cultivated fields, and rebuilt a large four-room house called “Nuestra Señora de la Soledad de Río Arriba,” which had occupied by Juan de Dios Lucero de Godoy before the Pueblo Revolt. Martín’s hacienda was complete with *torreones* (watch towers) to protect his grant’s inhabitants from Indian attack. He eventually acquired his brothers’ interests in the grant, and although he lost the deeds that evidenced his sole ownership, Martín had his grant reconfirmed to him 1712.<sup>188</sup>

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<sup>188</sup> Myra Ellen Jenkins, “Taos Pueblo and Its Neighbors, 1540-1847,” *New Mexico Historical Review* 41:2 (April 1966): 85-114, 100. Donald L. Lucero, *The Adobe Kingdom, New Mexico, 1598-1958* (Santa Fe: Sunstone Press, 2009), 150-151. “Nuestra Señora de la Soledad de Río Arriba” translates to “Our Lady of Solitude of the Río Arriba



**Figure 4: Sebastian Martín Grant, c.1870.** The massive Martin (1712) grant contained little arable land, but vast pasture lands. It stretched from San Juan Pueblo in the west to Picurís Pueblo in the east, and bordered the Town of Las Trampas Grant (1751), to which Martín donated a strip of land upon its founding. Oversize Folder 105, Series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, University of New Mexico, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3708/rec/34> July 15, 2014.

After 1712, the Sebastián Martín Grant's history diverged from typical private grant history. When Martín became *alcalde* (justice of the peace) of Santa Cruz, nearly eight miles south of his hacienda, in 1714, he faced the possibility of losing his grant for failure to maintain residence on it. He increased the population by constructing new ditches and opening new lands to cultivation while he offered the uplands as a de facto *ejido*, a tract of communal land, which settlers could use to graze their cattle, sheep and goats. San Juan Pueblo, which adopted yet compartmentalized many Spanish customs, also utilized the vast Sebastián Martín Grant, eventually grazing its own cattle on the *ejido* alongside their Hispano counterparts. Martín even granted a portion of his acreage

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[Upper River, or Upper Río Grande]”, perhaps a reflection of the isolated and barren landscape that the Sebastian Martín Grant occupied.



to San Juan Pueblo natives in exchange for their labor to construct the “first great irrigation ditch on the east side of the Río Grande.”<sup>189</sup>

The mutual use of the Martín grant did not, in and of itself, create amity and community between Pueblos and Hispanos. They more often engaged in disputes over grazing rights in the San Juan Pueblo area. In 1718, Hispanos were cited for and banned from using San Juan Pueblo lands. Spanish violations of Pueblo lands possibly a byproduct of the increased use of the Sebastián Martín Grant, which likely drew interest to the area. Quarrels like this had taken place since the seventeenth century and were for decades handled by *alcaldes* through customary law, which purposefully eschewed systematization and allowed local authorities to interpret the law in the context of each situation. When *alcaldes*, *teniente alcaldes* (subprefects), lieutenant governors and governors ruled against Pueblo title or interests, natives often took their complaints to the *protector de los indios*, or to *procuradores* who served in the *protector*’s absence, or even travelled to New Spain to advocate their rights. This common-law system contained the flexibility to allow local authorities to ensure that in legitimate disputes, decisions would be equitable. Although no parties won decisions completely in their favor, neither did they typically lose every legal point in a case. But this legal tradition also allowed patterns of abuse to flourish across decades, especially as the Hispano population grew and the Pueblo population contracted.<sup>190</sup>

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<sup>189</sup> Lucero, *Adobe Kingdom*, 150. Document 698, Juan Padilla, *Spanish Archives of New Mexico*, comp. and ed. Ralph Emerson Twitchell (Cedar Rapids, IA: Torch Press, 1914), 190-193.

<sup>190</sup> Ebright, *Land Grants and Lawsuits*. Chapter 2, “Lawsuits, Litigants and Custom in Hispanic New Mexico,” 57-70 is especially pertinent to common law.

The Sebastián Martín Grant continually evolved. Sometimes it appeared as a community grant; other times, a private grant. On some occasions, Martín took actions typical of an elite Spanish soldier in early colonial New Mexico. In 1706, he ignobly bought the lands of his deceased brother, Felipe, from his grieving widow. Felipe's children sued Sebastián in 1727 for a portion of the grant lands, winning tracts near San Juan Pueblo. In 1723, Martín had purchased lands near Taos Pueblo to expand his property along the Río Grande between the Santa Cruz de la Cañada and Taos, two of the largest Spanish towns north of villa de Santa Fe. Seven years later, Governor Juan Domingo de Bustamante ordered Martín to vacate the lands because of cattle encroachments on Taos Pueblo lands. Martín sued Bustamante, but he lost.<sup>191</sup>

Martín later proved willing to aid other colonial settlements. In 1751, he granted a strip of land to the Santo Tomás Apóstol del Río de Las Trampas Land Grant. This act enabled the community control of additional headwaters and aided the successful settlement of grant property vulnerable to Indian raids. By his death in 1763, Sebastián Martín had expanded his Nuestra Señora hacienda to create a twenty-four-room compound with a courtyard to protect further his lands and settlers on his lands from Indian attack.<sup>192</sup> In subsequent decades, the Sebastián Martín Grant remained an important resource to the larger regional population. Martín's heirs and other local elites used the vast tract to graze their livestock, as did the surrounding Hispanos and Pueblos, who treated its lands like the *ejido* of a community grant. His lands physically linked San

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<sup>191</sup> Lucero, *Adobe Kingdom*, 151-152; Jenkins, "Taos Pueblo and Its Neighbors," 93.

<sup>192</sup> Martín was 93 when he died on April 6, 1763, in San Juan de los Caballeros, New Mexico. See Alcalde, Sebastián Martín Serrano, Great New Mexico Pedigree Database, Hispanic Genealogical Research Center of New Mexico, <http://www.hgrc-nm.org/webtrees/individual.php?pid=I115519&ged=Great%20New%20Mexico%20Pedigree%20Database>; Lucero, *Adobe Kingdom*, 151-152.

Juan Pueblo with Picurís, and the two pueblos maintained their preconquest relationship by travelling across lands claimed by Martín.

Sebastián Martín was a confounding and contradictory character. At times he acted as the venal elite Spaniard; at others he was community-minded *patrón*. Martín's operation of his private grant represented a change that many early private Spanish grants gradually underwent. Land grant historian Malcolm Ebright considers private grants that eventually operated wholly or partly as community grants, "quasi-community grants."<sup>193</sup>

In 1725, Martín's brother Francisco Martín, along with Juan Márquez and Lasaro de Córdova, petitioned for and received a piece of land lying north of the Sebastián Martín Grant and along the Río Picurís. Referring to the funnel like shape of the narrow river valley, they called the property *el Embudo de Picurís*. According to Francisco Martín, Márquez and Córdova, the land was more than three leagues from Picurís and would not impair the rights of the pueblo. Picurís nonetheless disputed the grant during its inspection period and claimed usufruct rights over the valley, where the natives cultivated corn fields and grazed horses. Annoyed by Picurís's resolve to keep Spanish settlements far from its land, Governor Juan Domingo de Bustamante and Santa Fe

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<sup>193</sup> Malcolm Ebright, "Explanation of Types of Land Grants in New Mexico" <http://www.southwestbooks.org/granttypes.htm>. "Grants made to Hispano individuals who owned the entire grant and could sell it after the four year possession requirement was met. Unlike Hispano/private grants however, Hispano/quasi-community grants included an explicit or implied promise by the grantee to bring other settlers on the grant, and when those settlers arrived the grant would be operated like a community grant. The new settlers would receive tracts of private land with the implied right to use the unallotted land for grazing, wood-gathering, and other traditional uses. In US courts, these rights have been not enforceable by the users of the "common lands" unless they were expressed in writing. See *Lobato v. Taylor* opinion re the Taylor Ranch in the San Luis Valley."

*alcalde* Miguel José de la Vega y Coca ignored the pueblos protest and awarded the grant to Martín, Márquez, and Córdoba.<sup>194</sup>

Like other recipients of private grants, these three grantees lured settlers to their property to aid in perfecting title. Eight families settled San Antonio de Embudo, building a defensive plaza and *torreones* to protect themselves from Comanche and Ute raids, which plagued the northern stretches of the colony. Acequia historian and community scholar Estéban Arellano, an heir of Francisco Martín, hypothesizes that Francisco's defensible villages emulated Sebastián's compound at Nuestra Señora de la Soledad de Río Arriba.<sup>195</sup> Comanche raids had forced the abandonment of Embudo by 1750, but was later resettled. In 1776, Fray Francisco Atanasio Domínguez reported fourteen families totaling nearly seventy people were living on the grant, which gradually operated as a community rather than private grant.<sup>196</sup>

Many early-eighteenth-century private grants repeated patterns of appropriation and oppression that had emerged in the first decades after Reconquest. Through the 1730s, private grants often infringed directly on Pueblo grants. In 1731, colonial elites won confirmation of the Cuyamungue Grant, which included the lands of the abandoned Cuyamungue (K'uuyemugeh) Pueblo and abutted Tesuque Pueblo and lands of other wealthy landowners.<sup>197</sup> In 1739, *reconquista* veteran Vicente Durán y Armijo petitioned Governor Domingo de Mendoza for lands that, he claimed, bordered Nambé Pueblo. When Nambé protested the grant, Mendoza ordered Santa Cruz *alcalde* Juan García de

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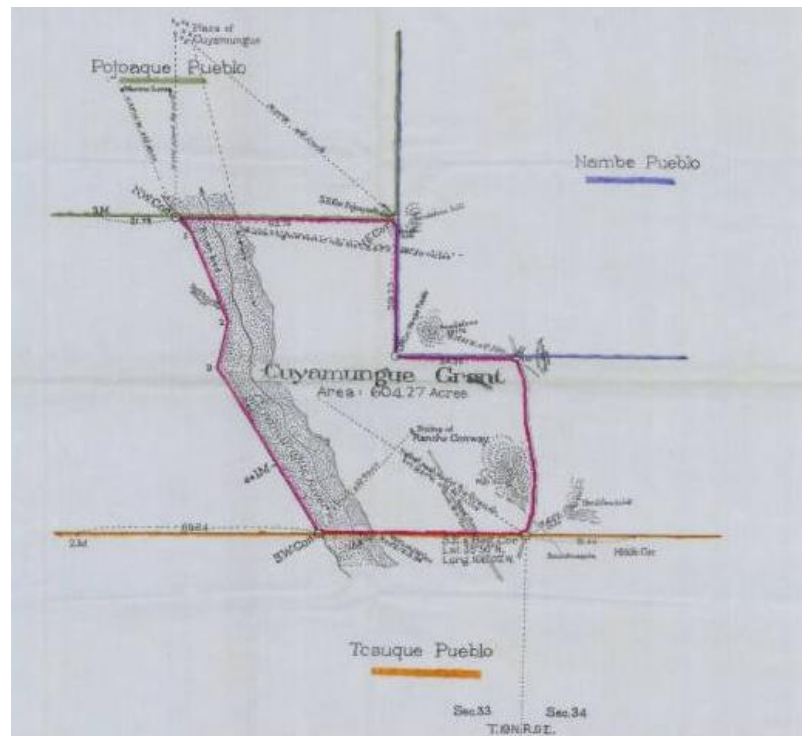
<sup>194</sup> Ebright, *Land Grants and Lawsuits*, 127-129.

<sup>195</sup> Juan Estevan Arellano, *Enduring Acequias: Wisdom of the Land, Knowledge of the Water* (Albuquerque: University of New Mexico Press, 2014), 8, 20-21.

<sup>196</sup> Ebright, *Land Grants and Lawsuits*, 130-131.

<sup>197</sup> J. J. Bowden, "Cuyamungue Grant" in "Private Land Claims in the Southwest," 1969, [www.newmexicohistory.org](http://www.newmexicohistory.org), (accessed 6 June 2012).

Mora to find comparable lands where Durán y Armijo could settle. Rather than locating tracts away from Nambé Pueblo, García de Mora approached the Nambé cacique and secured for Durán y Armijo two tracts amounting to about fifty-seven acres in the middle of the Nambé Pueblo Grant. Armijo sold these tracts to Gaspar Ortiz in 1798, and Ortiz's heirs retained the lands through the American territorial period, gaining infamy as the smallest grant (fifty-seven acres) approved by American courts.<sup>198</sup>



**Figure 5: Cuyamungue Grant, c. 1875.** Settled atop the ruins of the abandoned Pueblo de Cuyamungue, the Cuyamungue grant infringed on Nambé and Pojoaque Pueblo lands before it was confirmed for a mere 600 acres, the balance of a 5,000 acre claim that did not conflict with Pueblo lands. Oversize folder 74, series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3654/rec/3>

Private Spanish era-grants changed hands almost incessantly. Fervent speculators, many Hispano elites attempted to acquire massive tracts of land under the

<sup>198</sup> Jenkins, "Spanish Land Grants in the Tewa Area," 131.

guise of settlement, and then sold the land, parcel by parcel, to actual settlers who would irrigate and farm crops, and graze livestock. For more than seventy-five years after the Reconquest, elites in the Río Arriba jockeyed for land grants with no intention to make a home but to gain personal profit. In 1735, Sebastián Martín's brothers Geronimo and Ignacio petitioned Lieutenant Governor Juan Paez Hurtado for lands north of the Pueblo de Abiquiú and east of the Piedra Lumbre Grant. Conceding to their request, Hurtado granted a large, vaguely defined tract of grazing lands that he called the Barranca Grant.<sup>199</sup> Governor Gervasio Cruzat y Gongora immediately revoked the grant upon his return from México, but Geronimo Martín retained his claim to a tract that he cultivated.<sup>200</sup> The Plaza Blanca and Plaza Colorada Grants were granted north of Abiquiú in 1739, both lying east of Martín's land.<sup>201</sup> The massive Juan José Lobato Grant was given to the longtime Santa Cruz *alcalde* by Governor Joaquín Codallos y Rabal in 1744. Supplanting the 1724 Cristóbal Torres Grant, Lobato's tract conflicted with at least a half-dozen grants, overlapping at least four that were delivered into possession by none other than Diego Torres, Cristóbal's son.<sup>202</sup>

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<sup>199</sup> Ebright estimates the tract at twenty-five thousand acres. See the Center for Land Grant Studies' Land Grant Database Project (*online*) at [www.southwestbooks.org](http://www.southwestbooks.org).

<sup>200</sup> Malcolm Ebright, "Cañada de Santa Clara Grant," Land Grant / Pueblo Histories vol. 2, 1-3.

<sup>201</sup> Plaza Blanca Grant was estimated at sixteen thousand acres, the Plaza Colorado grant at 19,200 acres. See Malcolm Ebright, Preliminary List of Grants from the Land Grant Database Project, <http://www.southwestbooks.org/>, (accessed December 9, 2007-present): See also, Map, Tewa Management Area, Interdepartmental Rio Grande Board, 1937, U.S. Soil Conservation Service Region Eight Papers, MSS 289, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>202</sup> Malcolm Ebright writes that the Juan José Lobato Grant overlapped the following grants, though not all claims were legitimate: Antonio Salazar, Bartolome Trujillo, Manuela García de Rivas, Juan Estevan García de Noriega, Barranca, José Antonio Torres, Plaza Blanca, Plaza Colorado, Pueblo de Abiquiú, Polvadera, El Rito, Vallecito,

Like the Sebastián Martín Grant, the massive Lobato Grant was gradually transformed into a community grant. Estimated at between 100,000 and 200,000 acres, it also spawned speculation. Elite landowners Estevan García de Noriega and Antonio Ulibarrí petitioned Governor Cruzat y Góngora for portions of the Lobato Grant that they had cultivated before 1744, when Torres petitioned for the Lobato Grant. Others followed suit, asking for recognition of their *sitios* and *suertes* (the small privately owned tracts) inside the private Juan José Lobato Grant. Lieutenant Governor Hurtado again acted unilaterally and assented to their request, only to have Governor Cruzat y Góngora rescind Hurtado's actions and reject the smaller claims. Still, the communities persisted and the Juan José Lobato Grant stood as an unstable leviathan, accounting for nearly 10 percent of all land in the Tewa Basin, housing small communities vulnerable to later speculation.<sup>203</sup>

Private grants dominated the early Tewa Basin colonial landscape. After the Santa Cruz de la Cañada Grant was established as a community grant by Vargas in 1695, elite residents used the *villa* as the base from which they expanded Spanish possession of the Tewa Basin. But community grants did emerge in the 1730s with the Ojo Caliente Grant. Bestowed on Antonio Martín, the grant was abandoned by 1747, when brutal Ute and Comanche raids on Abiquiú and Ojo Caliente forced the contraction of Spanish settlements in the Tewa Basin. In 1751, Governor Tomás Vélez Cachupín and Lieutenant Governor Bernardo Antonio Bustamante y Tagle ordered the reoccupation of Ojo Caliente. Many settlers resisted the governor's orders. Santa Cruz *alcalde* Juan José

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Río del Oso, and Ojo Caliente. See Malcolm Ebright, "Juan José Lovato Grant," *Land Grant / Pueblo Histories* vol. 8, 1-7.

<sup>203</sup> Ibid.

Lobato, whose own grant also suffered Indian raids, implored the settlers to resettle the grant or lose their lands. Many Ojo Caliente *mercedarios* resettled, the grant, which retained a population from 1752 through 1765.<sup>204</sup>

By 1766, Ojo Caliente was again abandoned. Vélez Cachupín was completing his second term when the grant's erstwhile settlers cited the lack of a committed community population to fight or discourage Indian raids as the principal reason for their recurrent abandonment of their grant. They complained that many settlers simply used their *sitios* and *suertes*, which were designated for home plots, as grazing lands and left their untended animals to forage, a practice that drew more Indian raids. Vélez Cachupín's successor, Pedro Fermín Mendinueta (1767-1777), took a different approach to resettle the grant. When Mendinueta found *genízaros* (detribalized and Hispanicized Indians, many being former slaves) living on the grant alongside *vecinos*, he ordered that all Ojo Caliente settlers, regardless of race or class, be issued deeds recognizing their property rights.<sup>205</sup>

Ignoring Mendinueta's incentives, *vecinos* still refused to reoccupy the grant, even after Mendinueta threatened fines, jail time, and militia service as punishment. *Genízaros*, on the other hand, were willing to take the significant risk of living on the edges of the Spanish empire, where little to no protection from Indian raids was available. Malcolm Ebright notes that the *genízaro* population of Ojo Caliente included detribalized Utes, such as Andrés Muñiz, who seemed to serve as intermediaries between the *mercedarios* and the Ute and Comanche. But even the hardy *genízaro* settlers of Ojo

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<sup>204</sup> E. Boyd, "Troubles at Ojo Caliente, Frontier Post," *El Palacio* 64:3 (November-December 1957): 347-360; Malcolm Ebright, "Ojo Caliente Grant," *Land Grant / Pueblo Histories* vol. 10, 5-7, 10-12.

<sup>205</sup> *Ibid.*



Caliente eventually succumbed to raids, and the grant remained abandoned after Governor Juan Bautista de Anza's (1778-1788) peace with the Comanche and Ute. When Governor Fernando de la Concha re-granted Ojo Caliente in 1793, the grant was still largely a mixed-blood village with a few Spanish *vecinos* living among the largely *genízaro* population.<sup>206</sup>

*Genízaros* occupied an ambiguous place in colonial New Mexico. Maligned in the Spanish-colonial period and misunderstood under the regimes of both Mexico and the United States, *genízaros* are now a celebrated part of *nuevomexicanos*' complicated history. Historian James Brooks writes of *genízaros* as cultural intermediaries who bridged the important relationships between central Hispano communities and the so-called *indios bárbaros* who surrounded the weak northern reaches of the Spanish empire. The complex captivity and slavery system from which *genízaros* emerged early in the colonial period arguably held off outright warfare in favor of livestock and slave raids and reprisals, and redistributed human capital in a resource-poor and comparatively depopulated area.<sup>207</sup> Their introduction into colonial society was, nonetheless, through punitive raiding and slavery. Although illegal by Spanish law, slavery was simultaneously concealed, condoned and reinforced by Spanish and Mexican administrations desperate for frontier settlement and labor.<sup>208</sup>

Torn from their communities and traded through a vast slave network, *genízaros* occupied a middle ground, neither part of their former tribes nor of the society in which

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<sup>206</sup> Malcolm Ebright, "Ojo Caliente Grant," 12-21.

<sup>207</sup> Ibid. See also James F. Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill: Omohundro Institute-University of North Carolina Press, 2002), 71-75.

<sup>208</sup> Brooks, *Captives and Cousins*, 71-75.

they lived. The lack of a sizeable and malleable Pueblo population justified the kidnapping of young Indian women and children, especially Navajos, in the minds of many elite Hispano settlers.<sup>209</sup> Brooks claims that captives served as “agents of conflict, reconciliation, and cultural redefinition,” creating alliances in active ways beyond their status as a tradable commodity, and redefined and expanded the “cultural and geographic meaning of human exchange.”<sup>210</sup> Indian slavery and captivity connected empires and Indian nations in ways that other forms of exchange could not. *Genízaros* origin, nonetheless, came from violent raids, kidnapping of desirable women and young children servants and the murder of men and older boys.<sup>211</sup>

Estevan Rael-Gálvez’s portrays Indian captivity and *genízaros*’ relationship to Spanish-colonial towns as less benign and mines the lasting effect of slavery on Hispano villages and Pueblo communities. He focuses on American Indian captivity in north-central New Mexico and southern Colorado centered in Taos, Abiquiú, Santa Cruz de La Cañada and San Juan de Los Caballeros. Living on the periphery of Hispano settlements, *genizaros* lived between the Spanish and nomadic Indians on ground painted to justify the dichotomy of civility and barbarity in the Spanish-colonial narrative.<sup>212</sup> Imposing the system of debt peonage and trumpeting the rhetoric of “Christian rescue,” colonial elites and sub-elites successfully negotiated changes from monarchy to republicanism and

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<sup>209</sup> Ibid, 31, 88-89, 92-93.

<sup>210</sup> Ibid, 31, 71.

<sup>211</sup> Ibid.

<sup>212</sup> Estevan Rael-Gálvez, "Identifying Captivity, Capturing Identity: Narratives of American Indian Slavery, Colorado and New Mexico, 1776-1934" (Ph.D. Diss., University of Michigan, 2002), 40, 121-123.

democracy, while they ignored liberal demands to end Indian slavery and maintained dominance over natives and poor populations for several centuries.<sup>213</sup>

Colonial administrators such as Governor Juan Bautista de Anza thought of and treated Indian groups differently. Anza's perceptions were guided largely by the parameters of the long-negotiated Spanish-Indian relationships that varied from tribe to tribe and from Pueblo to Pueblo. *Nuevomejicanos*, excoriated by colonial administrators for their stubborn self-interest, appear differently in the borderlands milieu described by Brooks. As their interests paralleled, Hispanos and *genízaros* allied in common-usage, often created a unified voice, and aired their shared concerns to Spanish-colonial authorities Santa Fe. These short-term alliances were subject to the negotiation of both sides, and when their mutually created terms were breached, they quickly fell apart.<sup>214</sup>

*Genízaros* gradually became the core population of many communities. Colonial Santa Fe's *barrio* of Analco was a *genízaro* community occupied by Tlascalcan Indians before the Pueblo Revolt. *Genízaros* resettled the community after the Reconquest. In 1733, a diverse group of eastern detribalized Indians, who identified themselves as *genízaros*, petitioned Governor Gervasio Cruzat y Góngora for the lands of the abandoned Sandía Pueblo. Cruzat refused, and these *genízaros*, of Pawnee, Apache, Kiowa, Tano Jumano and Aa origin, remained in Indian Pueblos and Hispano land grant

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<sup>213</sup> Rael-Gálvez, "Identifying Captivity, Capturing Identity," 88.

<sup>214</sup> Brooks' discussion of the Comanche and Ute requests for an *establecimiento fijado* and Governor De Anza's mixed responses demonstrate that Indian communities expected the rights afforded to the Hispanos, including the establishment of fixed communities. This right, when acknowledged and granted, extended the rights of the *genizaros* beyond that of the Pueblos, who were significantly less able to negotiate their rights to land and suffered from Hispano and sometimes *genízaro* encroachments. See especially *Captives and Cousins*, 160-165. Perhaps more interestingly, it demonstrates the vastly different interpretation of paternalism by the Spanish Colonial administrators. Brooks provides an illuminating discussion of these differences in *Captives and Cousins*, 165-169.

communities, including the Plaza de los Genízaros in Belén. When the 1744 settlement of Abiquiú was abandoned in 1747 and again in 1748, Governor Vélez Cachupín turned to *genízaros* to resettle the town, which had routinely succumbed to Indian raids.<sup>215</sup>

Despite his misgivings about the *genízaro* character, Vélez Cachupín recognized their abilities in both fighting and making peace with the very nomadic Indians who threatened the survival of communities in colonial New Mexico. In *The Witches of Abiquiú*, Rick Hendricks and Malcolm Ebright credit Vélez Cachupín for recognizing the serial abuse that *genízaros* suffered as servants in Spanish households and for extending privileges held by *vecinos* to the growing *genízaro* population. His 1754 grant to the *genízaro* Pueblo de Abiquiú was truly revolutionary, elevating the social status of detribalized Indians, even if he did so by offering them a settlement that would be extraordinarily difficult to maintain. Vélez Cachupín, nonetheless, treated the *genízaros* as Indian subjects and organized their settlements like an Indian Pueblo, even assigning a patron saint, Santo Tomás, in naming the community, Santo Tomás del Pueblo de Abiquiú.<sup>216</sup>

According to Ebright and Hendricks, the 1754 Pueblo de Abiquiú Grant was settled primarily by a mix of detribalized Hopi, Plains Indians and Tewa exiles. Some were former servants and others were refugees who found home in a mixed community on the edges of Spanish civilization. Anthropologist Frances Leon Swadesh writes that Pueblo presence in *genízaro* communities such as Abiquiú was widespread: “In practice many *genízaros* were [also] Pueblo Indians who had been expelled from their home

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<sup>215</sup> Ebright and Hendricks, *The Witches of Abiquiú*, 27-30.

<sup>216</sup> *Ibid*, 38-45.



Treated at times as an Indian Pueblo and at other times as a community land grant, *el pueblo de Abiquiú* would confound government officials, petty bureaucrats and scholars. For decades they sought convenient, even dualistic definitions to understand and explain a complex community whose history defied easy classification. With their poor and less-powerful populations that lacked prestige, Abiquiú and Ojo Caliente served as important buffer communities, protecting central plazas and communities from Indian raids. But *genízaros* were far from the only colonial peoples placed in dangerous, contested zones. The Cañón de Carnué Grant in Tijeras Canyon was settled in 1763, as protection for the Villa de Albuquerque and other Río Grande Valley settlements.<sup>218</sup> As the Hispano colonial population grew, community grants on the periphery of core private grants, offered protection.

Although illegal, Hispano-Pueblo contact remained common throughout the Spanish and Mexican periods. Only by emulating Puebloan horticultural methods developed over centuries in cold high-desert climates were Hispano colonists able to adapt their foodways and agricultural techniques to unfamiliar soils and climates.

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<sup>218</sup> The Cañón de Carnué Grant was founded in 1763, when Governor Vélez Cachupín induced settlers to settle in the narrows of Tijeras Canyon as a way to protect the Villa de Albuquerque from raids by Comanches and Faraón, Carlana and Natage Apaches. The grant was abandoned by 1771, unable to withstand the pressure of Apache raids. In actions startlingly similar to those at Ojo Caliente, Governor Mendinueta ordered the reoccupation of the grant and turned to *genízaros* to resettle San Miguel de Carnué. When settlers resisted, he accused them of exaggerating the brutality of the raids and of returning to their vagrant ways. Albuquerque *alcalde mayor* Francisco Trebol Navarro ordered the destruction of the site a year later, fearing it would become an Apache camp site and only augment their ability to raid settlements along the Río Grande Valley. The grant remained abandoned until 1818, Governor Juan Bautista de Anza use of Comanche and Pueblo allies to curb Apache raids, allowing the enetual resettlement of the grant. See Robert Archibald, "Cañón de Carnué: Settlement of a Grant," *New Mexico Historical Review* 51:4 (October 1976): 313-328, and, Frances Leon Swadesh, "Archeology, Ethnohistory and the First Plaza of Carnuel," *Ethnohistory* 23:1 (winter 1976): 31-44.

Spanish colonists also imitated their native neighbors by gathering and hunting in the surrounding mountains and lowlands to supplement small yields from farm crops.

Settlers extended the riparian areas of small river basins and valleys by aggressively engineering acequia irrigation systems, often supplanting existing and abandoned Indian ditches.<sup>219</sup>

On newly created cropland, Spanish colonists altered the ecology of the Pueblo homeland, introducing cattle, sheep, apricots, peaches, plows, shovels, and hoes as well as indigenous agricultural methods indicative of their Mesoamerican roots. Though Pueblo natives successfully maintained their society apart from Spanish influence through selective borrowing of their animals, foods, and technology natives borrowed nonetheless. Those natives who ventured too far from tradition were cast out of native communities, joining the growing mixed-blood population on the periphery of the northern province.<sup>220</sup> With the unsolicited presence of Spanish colonists on or nearby Pueblo lands, the contact between “the natives and the newcomers,” although frowned upon by Franciscan missionaries, became frequent and routine.

With close and daily contact between Hispanos and Pueblos, *convivencia* (coexistence) grew.<sup>221</sup> The adoption of horses into plains and basin Indian societies

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<sup>219</sup> Devon G. Peña, “Los Animalitos: Culture, Ecology, and the Politics of Place in the Upper Río Grande,” in *Chicano Culture, Ecology, Politics: Subversive Kin*, ed. Devon G. Peña (Tucson: University of Arizona Press, 1999), 40.

<sup>220</sup> Swadesh, *Los Primeros Pobladores*, 40; and, Dunbar-Ortiz, *Roots of Resistance*, 13.

<sup>221</sup> Kessell, *Pueblos, Spaniards*, 5-7. In the introduction to his book, Kessell reminds readers of the less sensational aspects of colonial New Mexico. “Ordinary days when Pueblos and Spaniards laughed together, repaired a fallen wall, watered the sheep, or prepared for a buffalo hunt. While such mundane happenings went largely unnoticed, accounts of conflict, crime and punishment filled the archives. At the same time, some Pueblo Indians sought to assimilate Spaniards, as previous generations had done with other wandering peoples who possessed useful tools or knowledge. And more than a few

triggered defensive cooperation and encouraged the establishment of Hispano villages near Pueblos. At the same time, the Spanish missionary assault on native religion and tradition compelled Pueblo Indians to become more-guarded and cognizant of preserving their traditions while they incorporated Spanish technology, crops, and livestock, a process called compartmentalization by anthropologist Edward Spicer and applied to Pueblos by Santa Clara Pueblo anthropologist Edward P. Dozier.<sup>222</sup>

Dozier argues that Pueblo society remained largely unchanged through its selective adoption and deliberate compartmentalization of Spanish technology, diet and cultural traits. Writing from the Pueblo perspective, Dozier states, “Since Spanish contact, Pueblo socioceremonial compartmentalization, particularly the Spanish-Indian dichotomy, appears to have great permanence.”<sup>223</sup> In other works, Dozier cites the Pueblo practice of expelling members no longer living traditional lives as a means to preserve native traditions from Spanish influence. The movement of Hispanicized Pueblo expatriates partially explains complementary figures of Hispano population growth and Pueblo population decline in the eighteenth and nineteenth centuries.<sup>224</sup>

Thus, the barrier between Pueblo and Spanish villages was porous at best.

Scholars note that Hispano-Pueblo marriages numbered about three hundred unions

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Spanish colonists mixed ungrudgingly with their Pueblo neighbors . . . with notable exception of the 1680 Pueblo Revolt . . . Pueblos and Spaniards engaged in violence against each other only in exceptional cases . . . much of life . . . moved more quietly toward *convivencia*, coexistence, setting precedents for well-known accommodations of later centuries.”

<sup>222</sup> Edward Spicer, “Spanish-Indian Acculturation in the Southwest,” *American Anthropologist* 56 (1954): 663-678.

<sup>223</sup> Edward P. Dozier, “Río Grande Pueblos,” in *Perspectives in American Indian Culture Change*, ed. Edward H. Spicer (Chicago: University of Chicago Press, 1961), 175, 179.

<sup>224</sup> Edward P. Dozier, *The Pueblo Indians of North America* (New York: Holt, Rinehart, and Winston, 1970), 82-83.



between 1694 and 1846. Historian Ramón Gutiérrez, using the *diligencias matrimoniales* (pre-nuptial investigations) required by the Catholic church and the Mexican diocese of Durango, suggests Pueblo-Hispano intermarriage was the exception. His work on exogamy in Spanish and Pueblo villages, however, demonstrate significant and sustained connections between Pueblo and Hispano communities spanning the entire colonial era. From 1700-1846, fifty marriages connected Santa Cruz de La Cañada, the villa and oldest land grant in northern New Mexico and mother grant for most grants in the Tewa Basin, with Truchas and Chimayo. Over roughly the same period (1694-1846), two dozen marriages connected Santa Cruz with the Pueblos of Nambé (8), Pojoaque (5) and Picurís (11).<sup>225</sup> Though the rate was half that of inter-village Hispano marriages, Pueblo-Hispano intermarriage was nonetheless a significant practice, uniting Pueblo and Hispano peoples, communities and families.

A century and a half of adjacency surely wrought intimate relationships that even the *diligencias matrimoniales* could not record. In fact, Spanish population growth in times of little in-migration from Mexico suggests that rapid increases before 1790 can at least partially be attributed to Pueblo migration into Hispano villages. Pueblo expulsion of dissidents or nonconformists had retained the social and cultural integrity of their communities for centuries before Spanish contact. By the colonial era, Pueblo outcasts found receptive communities in New Mexico and enhanced the growth of the *genízaro* and poor Hispano population that settled community land grants.<sup>226</sup> These *genízaro* grants, such as Abiquiú and Ojo Caliente, often buffered the private land grants of the

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<sup>225</sup> Gutiérrez, *When Jesus Came, the Corn Mothers*, 284-289. See especially, Figure 9.2 (285) and Figure 9.3 (287).

<sup>226</sup> Ibid, 169, 304, 174. See also, Swadesh, *Los Primeros Pobladores*, 40; and, Roxanne Dunbar-Ortiz, *Roots of Resistance*, 13.

elite colonial Hispanos, who were largely responsible for the most destructive encroachment on Pueblo lands.<sup>227</sup> The Santa Gertrudis Lo de Mora Grant was petitioned by natives of Peñasco and Picurís, as well as by villagers from the Cristobal de la Serna Grant, whose ancestors were Puebloans from the abandoned Pueblo Quemado near Chimayó.<sup>228</sup>

The role that Pueblos played in colonial captivity and kinship is unfortunately lost in narratives fashioned from colonial correspondence. Both fluctuations and stagnancy in the Pueblo population were brought about by violent raiding and disease.<sup>229</sup> Pueblos appear almost as hapless victims reliant on Spanish diplomacy to compromise with Plains, Basin, and western natives, who raided Hispano and Pueblo villages.<sup>230</sup> Their relationship with genizaros, which included significant numbers of exiled or expelled Puebloans, is even more ambivalent, but very real through bonds of kinship and through trade and military relations.<sup>231</sup>

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<sup>227</sup> Dunbar-Ortiz, *Roots of Resistance* 14, 64-66.

<sup>228</sup> Members of the Cristóbal de la Serna Grant claim ancestry from Puebloan peoples of Pueblo Quemado, near Chimayó, stating that the village Llano Quemado, on the Cristóbal de la Serna Grant, gained its name from their ancestors memorializing their homeland. Heirs of the Cristóbal de la Serna Grant also notably perform Comanche dance rituals led by land grant leader Francisco “El Comanche” Gonzales. See Lamadrid, *Hermanitos Comanchitos*.

<sup>229</sup> Brooks, *Captives and Cousins*, 88, 214-216.

<sup>230</sup> Brooks, *Captives and Cousins*, 58-59. In his discussion of Captain Juan de Ulibarri and the 1706 repatriation of Picuris Pueblo Indians from the Apache El Cuartelejo, the Picuris natives are only empowered as much as they provide the goods for barter, but are portrayed to lack the diplomacy necessary to save their own people from slavery.

<sup>231</sup> For more on *genízaros*, see Ramón A. Gutiérrez, “Indian Slavery and the Birth of Genízaros,” in *White Water Shell Place: An Anthology of Native Reflections on the Founding of Santa Fe, New Mexico*, ed. F. Richard Sanchez (Santa Fe: Sunstone Press, 2010) 39-56; Gutiérrez, *When Jesus Came, the Corn Mothers Went Away*, 200-205; and Doris S. Avery, “Into the Den of Evils: The Genízaros of Colonial New Mexico” (master’s thesis, University of Montana, 2008).

Pueblo warriors played an important role in the defense of the often feeble colony during the eighteenth century. Vargas relied on leaders such as Bartolomé Ojeda, Juan de Yé and Joseph Naranjo to fight other Pueblos in sporadic internecine warfare. Historian Oakah Jones writes that Pueblo auxiliaries evolved into a significant part of the colonial military force countering nomadic raids and often dwarfed the small citizen militia recruited or drafted from Hispano villages.<sup>232</sup> Along with genízaros, Pueblos were preferred to these often unwilling Hispano soldiers. Spanish captains attributed Pueblo intensity in battle to long-held animosities between the Pueblos and nomadic enemies. But their knowledge of multiple languages and cultural habits of nomadic enemies made them critical assets in making both war and peace. Campaigns against Apaches, Navajos, Comanches and Utes were typically organized at and launched from Indian Pueblos. Toward the end of the Spanish colonial campaigns against the surrounding native tribes, Pueblos and Hispanos integrated into the same military regiments in their campaigns against the raiding nomadic Indians.<sup>233</sup>

The Pueblos' legal and economic status under the Spanish crown further complicated their relationship with the growing non-Pueblo population. As wards of the Spanish crown, Pueblo Indians needed the representation of colonial bureaucrats, both *protectores de indios* and *procuradores* in legal matters. As colonial vassals, they owed their allegiance to a foreign sovereign, who attempted to regulate their relationships with non-Pueblo peoples, both Hispanos who surrounded and coveted their lands, and semi-nomadic tribes whose relationships with Pueblos worsened during the long eighteenth century. Despite the lack of direct representation in the courts, scholars have argued that

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<sup>232</sup> Jones, Jr. *Pueblo Warriors and Spanish Conquest*, 171-179.

<sup>233</sup> *Ibid.*, 107-109, 142.

Pueblos understood their legal rights and protected their lands from Spanish encroachment and themselves from missionaries' abuses.<sup>234</sup>

After the Pueblo Revolt, however, the crown took measures to guard against further revolts that threatened Spanish control of the northern frontier. It published and distributed the Laws of the Indies, granting Indians their traditional lands, and assigning legal protectors to represent Indian communities in courts and other measures. Charles Cutter's and Malcolm Ebright's examinations of the office of the *protector de los Indios* have revealed the complexity of Pueblo Indian status in colonial New Mexico. The *protectores* effectively served as the natives' legal voice in everything from complaints about abuses at the hands of friars to land disputes with surrounding villages. Though the office lay vacant from 1717-1810, argues Cutter, the Pueblos' previous experience with the *protectores* had prepared them to utilize *procuradores* effectively in their stead.<sup>235</sup> Ebright writes that Pueblos faced decades without protection between 1717 and 1749, when Governor Tomás Vélez Cachupín arrived in New Mexico and proved the most energetic and evenhanded governor of the early colonial era.

According to Ebright, what set Vélez Cachupín apart from other governors was his equitable treatment of *all* native groups within his jurisdiction, including both Pueblo and non-Pueblo Indians. Governor Gervasio Cruzat y Góngora (1731-1736) had denied a 1731 petition of *genízaros* living in Belén for the site of the abandoned Sandia Pueblo. The governor wanted to assign the *genizaros* to standing pueblos rather than assign them their own lands. The *genízaros* replied that they were unwanted by the Pueblos, but

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<sup>234</sup> See Charles R. Cutter, *The Protector de Los Indios in Colonial New Mexico* (Albuquerque: University of New Mexico Press, 1986), and Ebright, "Advocates for the Oppressed," 305-339.

<sup>235</sup> Cutter, *The Protector de Los Indios*, 107.

Cruzat stood his ground.<sup>236</sup> Governor Joaquín Codallos y Rabal grew incensed when Antonio Casados, the *genízaro* captain of Belén, attempted to press his case for the protection and rights of *genízaros* on the Belén Land Grant with the viceroy in México City. But Vélez Cachupín's governorship in the mid-eighteenth century (1749-1754; 1762-1767) and Juan Bautista de Anza's in the late eighteenth century (1778-1788) empowered *protectores de los indios* like Felipe Tafoya and Carlos Fernández to achieve an impressive level of legal equity.<sup>237</sup>

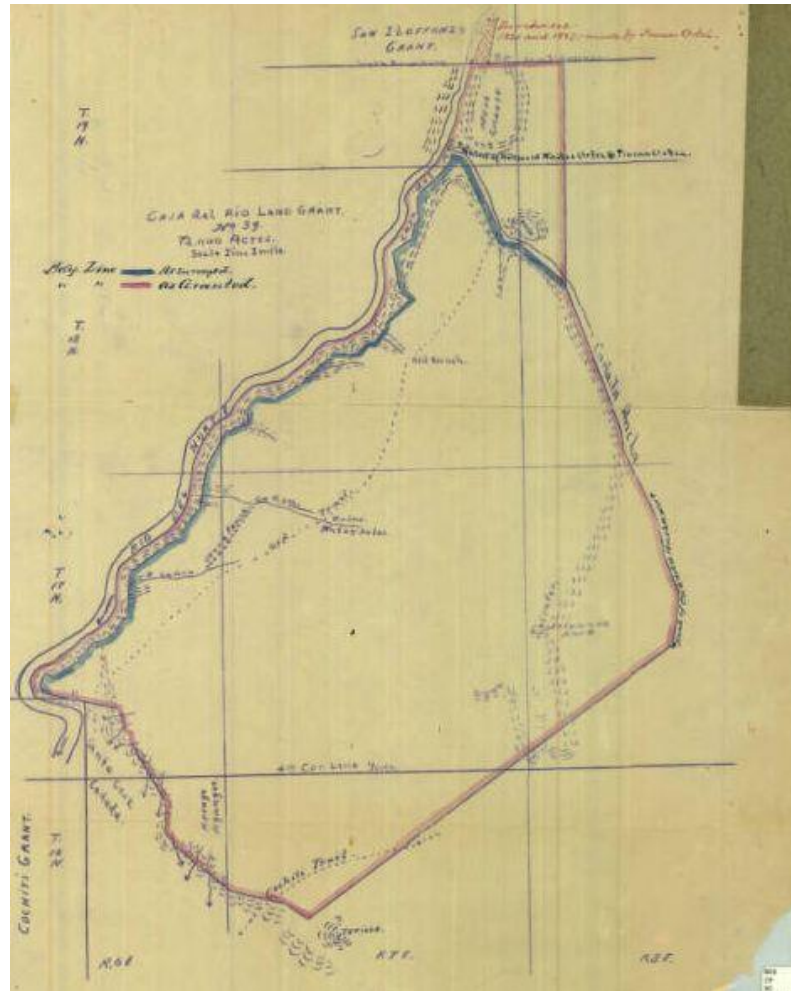
Vélez Cachupín's predecessors, however, continued to award largely private grants to Spanish settlers. In 1742, Governor Gaspar Domingo de Mendoza, who approved the Durán y Armijo Grant on Nambé lands in 1739, dispensed the Caja del Río Grant to Captain Nicolás Ortiz for his military service to the colony.<sup>238</sup>

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<sup>236</sup> Ebright, "Advocates for the Oppressed," 305-339; 316-318.

<sup>237</sup> Ibid, 333.

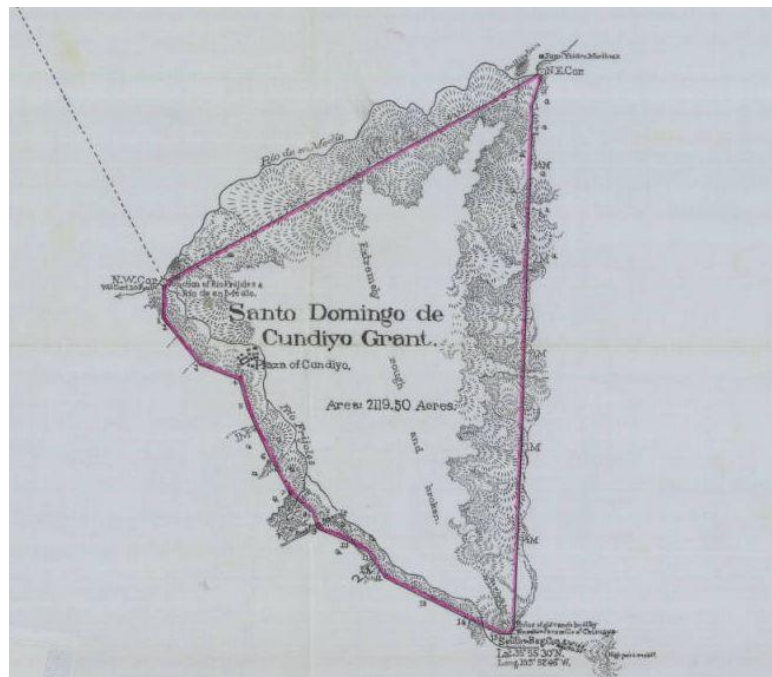
<sup>238</sup> Benavides and Golten, *Response to the 2004 GAO Report*, appendices, 44-45. See also J. J. Bowden "Gaspar Ortiz Grant," from "Private Land Claims in the Southwest."



**Figure 7: Caja del Rio Grant, c. 1880.** (from collection) “Sketch of Caja del Rio Land Grant No. 39. 72,000 Acres. Blue line represents areas surveyed, red line denotes land granted. Canada Ancha arroyo connecting to Rio Grande at Mesa Gigante.” Oversize Folder 22, Series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/ref/collection/NMWaters/id/1964>

Mendoza also awarded the Black Mesa Grant, west of the Sebastián Martín Grant and north of San Juan Pueblo, to Santa Cruz *alcalde* Juan García de la Mora and Diego de Medina. He then approved the 1743 petition of four Chimayó residents for the Santo Domingo de Cundiyo grant, which stretched from the headwaters of the Río Santa Cruz above Chimayó in the west to the Sierra Mosca in the east. The grantees soon dug acequias and brought the narrow riverine valley along the Río Cundiyo under cultivation.

Indian raids in the 1750s compelled settlers to maintain permanent residences in Chimayó and commute to their fields in Cundiyo. The grant was resettled by 1776, when Fray Domínguez visited the settlement during his inspection of New Mexico villages. Domínguez seemed skeptical of the Cundiyo population's origins when he remarked that the "citizens of this Cundiyo *pass* for Spanish. They speak a simple Spanish, as do their servants, who are of various classes."<sup>239</sup>



**Figure 8: Santo Domingo de Cundiyo Map, 1896-1900.** Cundiyo was granted in 1743. It lay east of Santa Cruz and Chimayó and south of the Truchas Grant. It claimed the illusive Pueblo Quemado Grant as its northern boundary. Oversize Folder 120, Series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3712/rec/11>

<sup>239</sup> Malcolm Ebricht, "The Cundiyo Grant," Land Grant / Pueblo Histories vol. 4, 3. Emphasis is mine. See also, Aerial Map of the Santo Domingo de Cundiyo Grant, September 30, 2011, Land Grant Studies Program, Southwest Hispanic Research Institute, University of New Mexico, Albuquerque.

The Santo Domingo de Cundiyo Grant was settled over the abandoned Diego de Velasco Grant. Governor Juan Domingo de Bustamante had granted the lands to the Reconquest veteran in 1725, but complaints by Nambé Pueblo about Velasco's abuses and absentee ownership led Governor Henrique de Olavide y Michelena to rescind the grant in 1738.<sup>240</sup> In 1743, Governor Mendoza apparently granted the San Francisco Javier del Pueblo Quemado Grant on another unoccupied portion of the former Velasco Grant. Citing anthropologist Charles Briggs, Ebright notes that the site was once a Tano Pueblo abandoned because of incessant Navajo and Apache raids. The name "Pueblo Quemado," which translates to "burned town," references the charred ruins of the abandoned Tano Pueblo.<sup>241</sup>

The original papers of the Pueblo Quemado Grant were lost, leading to confusion over the grant's boundaries. It was referenced as the northern boundary of the Santo Domingo de Cundiyo Grant in 1743. After abandonment in 1748, the Quemado Grant was resettled, and by Fray Dominguez's visit in 1776, Pueblo Quemado had grown to 52 families of 220 people.<sup>242</sup> In 1744, Governor Joaquín Codallos y Rabal approved Juan Benavides's request for a grant in the headwaters of the Río Tesuque, south and west of Tesuque Pueblo. Benavides had purchased the lands from Pedro Vigil, who had received

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<sup>240</sup> Document 1041, Diego de Velasco Grant, 1725, *Spanish Archives of New Mexico*, 313. See also, J. J. Bowden "Diego de Belasco Grant," in "Private Land Claims in the Southwest."

<sup>241</sup> Charles Briggs, "'Our Strength is the Land': The Structure of Hierarchy and Equality and the Pragmatics of Discourse in Hispano ('Spanish American') 'Talk about the Past.'" (Ph.D. diss., University of Chicago, 1980), 49. Malcolm Ebright, "Pueblo Quemado Grant," *Land Grant / Pueblo Histories*, vol. 13, 1. Truchas and Santa Cruz land grant heir John Chávez has commented that heirs of the Pueblo Quemado Grant, still living within its traditional boundaries in the village of Córdova, claim Tano ancestry and dispute that the Tanos ever abandoned the area. Personal communication with John Chávez, 2 June 2012.

<sup>242</sup> Benavides and Golten, *Response to the 2004 GAO Report*, appendices, 47.



the grant only a year earlier.<sup>243</sup> In 1752, Vélez Cachupín awarded the Cañón de Río Tesuque Grant to Juan de Gabaldón, his extended family and other settlers.<sup>244</sup> The grant abutted the Río de Tesuque Grant, and the nebulousness of the two grants' boundaries led to controversies during adjudication in the American territorial period. They also sat at the headwaters of the Río Tesuque, undoubtedly affecting the flow of waters to Tesuque and other Pueblos downstream. But during the defensive crisis of the 1750s, the Santo Domingo de Cundiyo, Pueblo Quemado, Río de Tesuque and Cañón de Río Tesuque grants expanded the settlement of the southeastern Tewa Basin, protecting both Santa Cruz and Santa Fe, to the south.

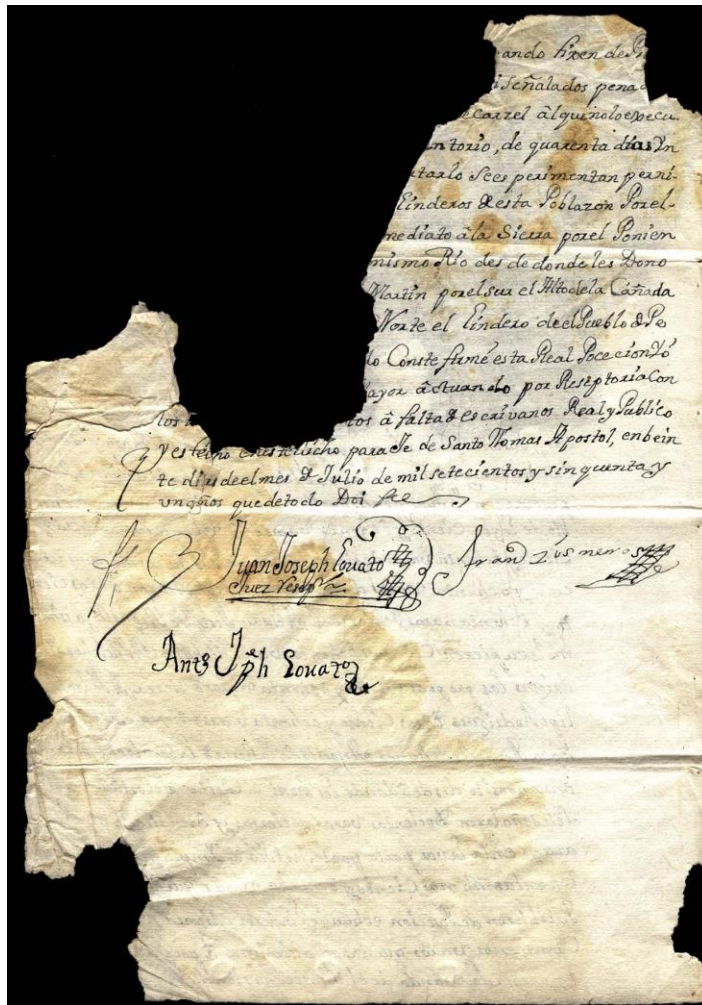
When Vélez Cachupín became governor in 1749, he inherited a colony weathering a defensive crisis and teetering on the verge of collapse. Santa Cruz, the oldest community at the heart of the Tewa Basin, was badly overpopulated and lacked sufficient grazing lands to sustain its population. To relieve this situation, Vélez Cachupín shifted the land tenure patterns in the Tewa Basin. He generally preferred community land grants and limited private grants during his first term. Vélez Cachupín's policies reflected his belief that communal grants created more-stable communities and the heirs were more invested in the success of the grant and less likely to abandon their private tracts when raids made life difficult or dangerous. In 1750, Vélez Cachupín contended with the abandonment of the Ojo Caliente (1751), Abiquiú (1747) and Embudo (1750) community land grants. Over the course of his two terms as governor from 1749-1754 and 1762-1767, he re-established Ojo Caliente, Abiquiú and Embudo

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<sup>243</sup> Ibid, 28.

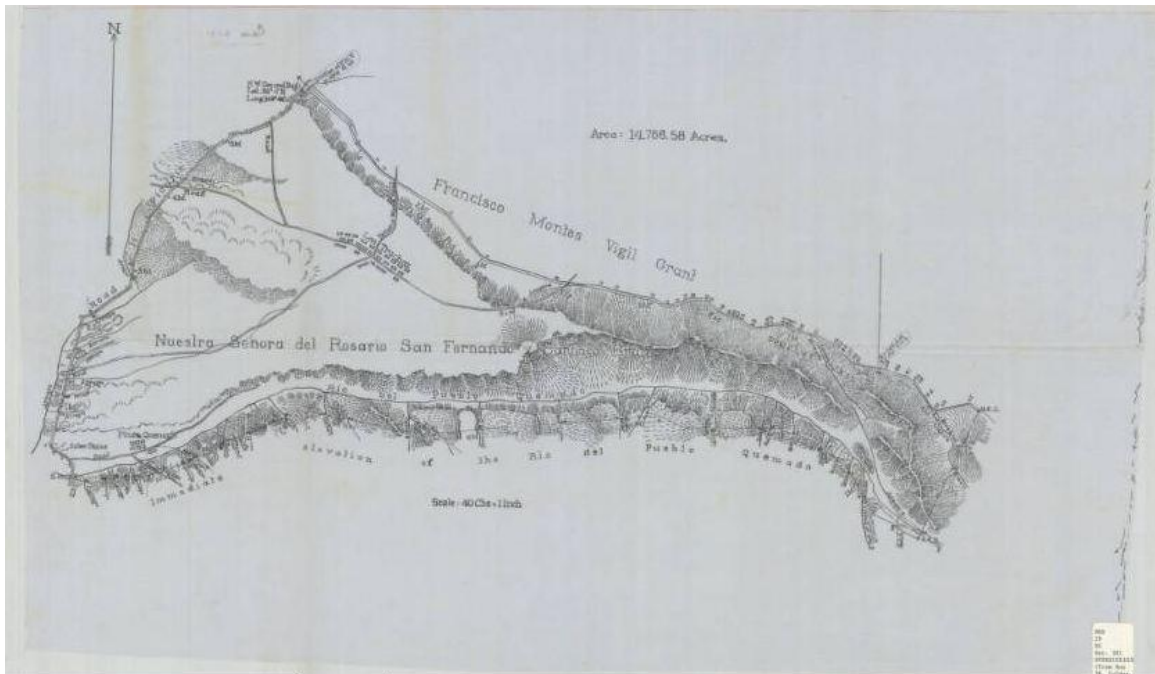
<sup>244</sup> See also, J. J. Bowden "Juan de Gabaldon Grant," from "Private Land Claims in the Southwest." See also Benavides and Golten, *Response to the 2004 GAO Report*, appendices, 57.

and created the Las Trampas and Las Truchas Grants, both of which survive to this day.<sup>245</sup>



**Figure 9: *Testimonio*, Town of Las Trampas Grant, 1751.** Signed by longtime Santa Cruz alcalde Juan José Lobato, the tattered original *testimonio* outlined private tracts assigned to the original settlers. New Mexico Office of the State Historian, [newmexicohistory.org](http://newmexicohistory.org)

<sup>245</sup> Malcolm Ebright, “Breaking New Ground: A Reappraisal of Governors Vélez Cachupín and Mendinueta and Their Land Grant Policies,” *Colonial Latin American Historical Review* 5:2 (spring 1996): 195-223, 199-201.



**Figure 10: Nuestra Señora del Rosario, San Fernando y Santiago del Río de las Truchas Grant, 1892-1896.** The 1754 Truchas claim absorbed the lands of Pueblo Quemado, much to the chagrin of heirs of the village of Quemado, known for more than a century as Córdova. Oversize Folder 122, Series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3714/rec/1>

Both the Las Trampas<sup>246</sup> and Truchas<sup>247</sup> grants have received considerable scholarly attention. Las Trampas was granted in 1751 with a considerable donation of land from Sebastián Martín, whose own private grant contained at least one community

<sup>246</sup> Malcolm Ebright, *Land Grants and Lawsuits*, 149-153; William deBuys, "Fractions of Justice: A Legal and Social History of the Las Trampas Land Grant, New Mexico" *New Mexico Historical Review* 56:1 (January 1981): 71-97; William deBuys, *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* (Albuquerque: University of New Mexico Press, 1985), 171-192; Mark Schiller, "The Loss of Las Trampas Common Lands," *La Jicarita* (August-September 2004) accessed online at <http://www.lajicarita.org/04augsep.htm>, May 2010.

<sup>247</sup> deBuys, *Enchantment and Exploitation*, 70-85; Malcolm Ebright, "Truchas Grant," *Land Grant / Pueblo Histories*, vol. 17, 4-6.; Mark Schiller, "The Truchas Grant: Nuestra Señora del Rosario, San Fernando y Santiago Grant," review by Malcolm Ebright, Center for Land Grant Studies, <http://www.southwestbooks.org/truchas.htm>, accessed September 2011.

that was vulnerable to raids. Ebright presumes that Martín hoped to obtain the good will of Vélez Cachupín and the labor of Las Trampas's settlers by donating land on the eastern portion of his grant to aid this new settlement.<sup>248</sup> Whatever his motivation, Martín donated some 1,640 *varas*<sup>249</sup> of land to the new settlement. While this constituted a very small portion of the Las Trampas Grant, it extended the tract to cultivable lowlands needed to make the grant tenable.

Vélez Cachupín quickly approved the petition of twelve families from Santa Fe's Barrio de Analco, a community inhabited by genízaros, mulattos and remnant populations of Mexican Indians who settled New Mexico after serving in Vargas's Reconquest. He instructed Santa Cruz alcalde Juan José Lovato to put the settlers into possession of the Santo Tomás Apostol del Río de Las Trampas Grant. Lovato assigned individual tracts and identified *tierras de pan llevar, aguas, pastos y abrevaderos* (wheat growing land, waters, pastures and watering places) and the massive *ejido*, which grantees would need for defense, for *cazas* (hunting grounds) and *leñas* (fuelwood). The Sebastián Martín Grant formed nearly the total western boundary of the grant. The southern boundary of the four-square-league Picuris Pueblo Grant abutted the northern portion of nearly half of the grant.<sup>250</sup>

Three years later in 1754, Vélez Cachupín approved the petition of eleven residents of Chimayó and Pueblo Quemado for the Nuestra Señora del Rosario, San Fernando y Santiago del Río de las Truchas Grant, a tract he had promised the residents when he granted the Las Trampas Grant in 1751. The grantees' intimate knowledge of

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<sup>248</sup> Malcolm Ebright, "Las Trampas Grant," *Land Grant / Pueblo Histories*, vol. 16, 2.

<sup>249</sup> A Castilian *vara* measures approximately thirty-three inches, the colonial equivalent of a yard.

<sup>250</sup> *Ibid.*, 3-5.

the tract suggests their use of it before they were officially allowed to settle the grant. Residents of both grants were pressured by Vélez Cachupín and Lovato to complete the construction of acequias and bring lands under cultivation as quickly as possible. The governor and alcalde understood that massive private grazing grants like Martín's were unlikely to develop communities needed to sustain a population in the rugged Sangre de Cristo Mountains, where long winters limited growing seasons, and intermittent raids by Utes, Comanches and Jicarilla Apaches terrorized residents.<sup>251</sup>

The two communities were complemented by a private grant Vélez Cachupín dispensed to Francisco Montes Vigil, II, an elite Hispano from Santa Cruz. Montes Vigil, who is one of my ancestors, was the son of Francisco Montes Vigil, I, a veteran of the Pueblo-Spanish War, who was granted the expansive Alameda Grant in the Río Abajo in 1710. He eventually sold the grant and moved to Santa Cruz de la Cañada, where he raised his family, including his son, the younger Francisco Montes Vigil.<sup>252</sup> The 1754 Francisco Montes Vigil Grant enveloped the entire mountain tract that divided Truchas and Las Trampas. When Vélez Cachupín approved the grant, he instructed Alcalde Juan José Lobato to ensure that the grant's boundaries did not infringe on the lands of the Las Trampas and Truchas grants. Melchor Rodríguez and Juan Arguello of Las Trampas and Salvador de Espinosa and Juan de Díos Romero from Truchas were present during the act of possession and lodged no protest. Ebright writes that the Montes Vigil grant was similar to the Sebastián Martín Grant, a large private grant that demonstrated aspects of a community grant. The Montes Vigil tract was a private grazing grant, with portions

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<sup>251</sup> Ebright, "Las Trampas Grant," 1-3, and Ebright, "Truchas Grant," 4.

<sup>252</sup> Document 1029, Francisco Montes Vigil, *Spanish Archives of New Mexico*, 310.

operating as common lands for residents from Truchas, Trampas and Santa Cruz de la Cañada.<sup>253</sup>

Though the Francisco Montes Vigil Grant was not given until 1754, the heirs of Montes Vigil and Martín had speculated in Pueblo land since the 1730s. In 1732, Pedro Montes Vigil, son of the elder Francisco Montes Vigil (I) and brother of the younger Francisco Montes Vigil (II), purchased a tract of Picurís Pueblo land from native governor Luis Romero.<sup>254</sup> Hendricks, Ebright and Hughes write that the community of Santa Bárbara was settled on Pueblo land along the Río Chiquito south and east of Picurís Pueblo in the early 1740s, possibly at the present site of Peñasco. Relatives of Sebastián Martín, including Jacinto, Antonio and Juan Francisco Martín, petitioned Governor Joaquín Codallos y Rabal for the grant in 1739, claiming that they wanted to offer protection to Picurís Pueblo. The pueblo, for its part, seemed to offer no protest, though Jacinto, who served as the lieutenant alcalde of Picurís, may have coerced the pueblo to remain silent. Codallos apparently allowed the community to remain, but did not recognize its lands with a formal grant.<sup>255</sup>

Settled on the western slopes of the Sangre de Cristo Mountains, the Las Trampas and Truchas grants faced the ecological limitations of their high altitude. Vélez Cachupín's designation of *pan de llevar* (wheat lands) suggests that other crops were difficult to produce in growing seasons cut short by late-spring frosts and early-autumn

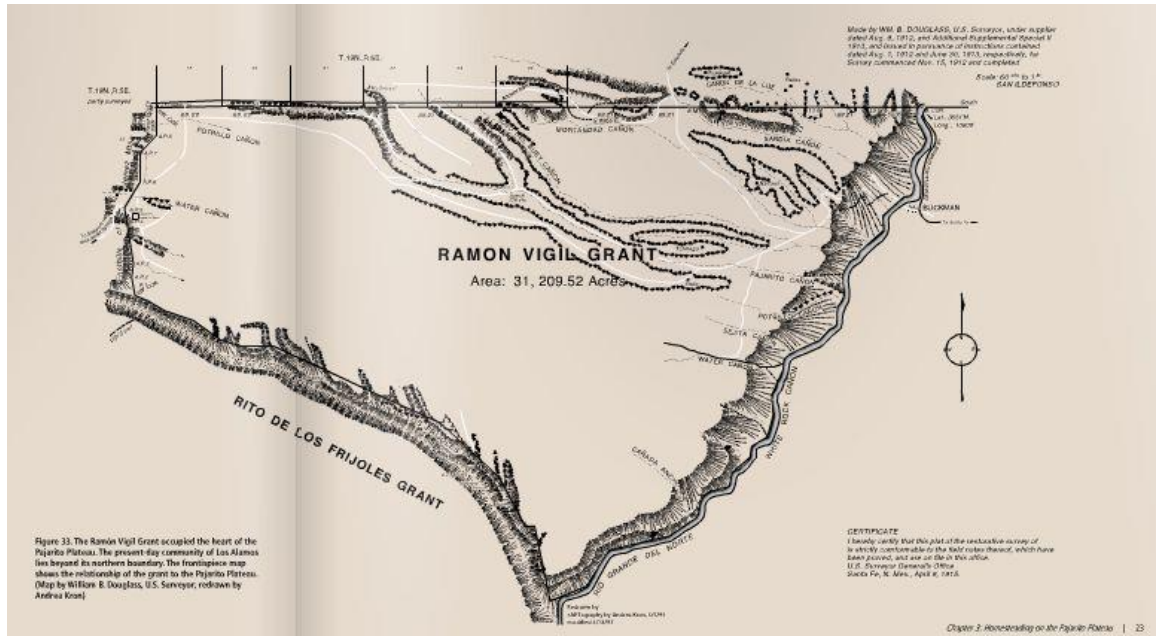
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<sup>253</sup> Malcolm Ebright, "Francisco Montes Vigil Grant," *Land Grant / Pueblo Histories*, vol. 5, 1-3.

<sup>254</sup> Document 1038, Luis Romero, Picuriés (sic) Indian, 1732. *Spanish Archives of New Mexico*, 311. James A. Vlasich, *Pueblo Indian Agriculture* (Albuquerque: University of New Mexico Press, 2005), 56. The Montes Vigil family also won the Peña Blanca Grant in 1754 (granted to Juan Montes Vigil by Governor Francisco Antonio Marín del Valle) and the disputed Conejos Tract in 1842 (granted to another Francisco Montes Vigil).

<sup>255</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 109-111.

snowfalls. Las Trampas and Truchas almost immediately engaged in disputes over the area's resources. In 1755, friction sparked when Trampas *herederos* (heris) attempted to appropriate for their exclusive use the Rito de San Leonardo del Ojo Sarco. Truchas won the support of Vélez Cachupín and exclusive use of the waters, only to have Trampas revive the dispute in 1836 and win use of this important water source.<sup>256</sup>



**Figure 11: Map of Ramón Vigil Grant, 1912.** The massive grant, which Malcolm Ebright labels as fraudulent, passed through the hands of a Spanish priest and the founder of the Los Alamos Boys school before its fell into the hands of Tewa Basin entrepreneur and sheepman Frank Bond, who later sold it to the federal government. Judith Machen, Ellen McGehee and Dorothy Hoard, *Homesteading on the Pajarito Plateau, 1887-1942* (Los Alamos, N.M.: Los Alamos National Laboratory, 2012), 23.

Vélez Cachupín achieved impressive transformations during both his two terms as governor. He rescinded the Tafoya Grant of the Cañada de Santa Clara and transferred its title to the Santa Clara Pueblo. In 1763, he revoked the massive Pedro Sánchez Grant

<sup>256</sup> John O. Baxter, *Dividing New Mexico's Waters, 1700-1912* (Albuquerque: University of New Mexico Press, 1997), 43-44. See also deBuys, *Enchantment and Exploitation*, 178.

/ Ramón Vigil Grant that threatened resources critical to San Ildefonso Pueblo. The grant was a private grazing grant encompassing much of the land below the Pajarito Plateau. The Sánchez / Vigil Grant also maintained the nearly constant interest of speculators. Originally granted to Pedro Sánchez in 1742, the grant was only lightly cultivated before Sánchez abandoned his claim and requested the vacant Bartolome Trujillo claim near Abiquiú. San Ildefonso Pueblo complained that the Sánchez / Vigil Grant invaded its Pueblo league, leading to its official revocation by Vélez Cachupín in 1763. Ramón Vigil, a descendent of the Montes Vigil clan and my matrilineal ancestor, nonetheless purchased the grant from Pedro Sánchez's heir Antonio Sánchez in 1851. Antonio sold his own and his seven siblings' interest. Vigil, who served as alcalde of Santa Cruz in the 1840s, was perhaps one of the richest men in the Tewa Basin. In 1856, represented by Supreme Court of New Mexico Territory Justice John S. Watts, he submitted his petition for confirmation of his grant, which was approved by it on June 21, 1860, the same day Congress confirmed the Sebastián Martín Grant.<sup>257</sup>

During his second term from 1762-1767, Vélez Cachupín deviated from his preference for community grants in the Tewa Basin. Responding to increased raiding by Utes and Jicarilla Apaches north and west of the Basin, Vélez Cachupín awarded the Piedra Lumbre and Polvadera grants to Pedro and Juan Pablo Martín Serrano, who had requested lands lost by settlers killed in Indian attacks. Descendants of Sebastián Martín, the Martín Serranos were granted the lands on the condition that they not impair the rights of other neighboring grants, particularly the Pueblo de Abiquiú, which Vélez

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<sup>257</sup> Ebright, *Land Grants and Lawsuits*, 231, 238-240. See also Malcolm Ebright and Rick Hendricks, "The Pueblo League and Pueblo Land in New Mexico, 1692-1846," in *Ysleta del Sur Pueblo Archives: A Project of the Ysleta del Sur Pueblo (Tigua Tribe of Texas) Tribal Council*, vol. 4 (El Paso: Sundance Press, 2000-2001): 90-155, 102-104.



Cachupín took great care to protect. When the Polvadera Grant was disputed by its previous owners, Vélez Cachupín proved hesitant to disturb Juan Pablo Martín Serrano's claim and awarded the plaintiffs land in the Río Abajo. In 1807, the heirs of Pedro Martín Serrano were awarded the Juan Bautista Valdez Grant by Governor Joaquín del Real Alencaster, who also awarded the vast Cañón de Chama Grant (or San Joaquín del Río de Chama Grant) north of the Tewa Basin. The Martín Serranos thus controlled hundreds of thousands of *varas* of largely grazing lands west of Abiquiú, on the Navajo-Apache-Ute frontier. Ebright claims that while the Martín Serranos operated the Piedra Lumbre as a private grant, the Polvadera and Juan Bautista Valdez grants came to be operated as quasi-community land grants.<sup>258</sup>

Vélez Cachupín's land grant strategy, which included both privileging community land grants and encouraging private grants to operate as communal lands, was only part of a broader policy to counter the Indian raids that threatened eighteenth-century colonial New Mexico. He mixed trade and warfare to achieve and maintain peace with the Comanche and Navajo. When his successor, Pedro Fermín Mendinueta, dismantled his diplomacy and re-engaged in war, the Tewa Basin's Pueblo and Hispano communities united in a defensive war against the Comanche to the east and Navajo to the west. This

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<sup>258</sup> Malcolm Ebright, "Piedra Lumbre Grant," *Land Grant / Pueblo Histories*, vol. 11, 3-5; "Polvadera Grant," *Land Grant / Pueblo Histories* vol. 12, 1-2; "Juan Bautista Valdez," *Land Grant / Pueblo Histories* vol. 7, 1-2. The community of Cañones, which operated as a community grant with *ejidos* and other communal land-management aspects, emerged from the Valdez grant. See Paul Kutsche and John R. Van Ness, *Cañones: Values, Crisis, and Survival in a Northern New Mexico Village* (Albuquerque: University of New Mexico Press, 1981); John R. Van Ness, "Hispanic Land Grants: Ecology and Subsistence in the Uplands of Northern New Mexico and Southern Colorado," in *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, ed. Charles L. Briggs and John R. Van Ness (Albuquerque: University of New Mexico Press, 1987), 141-214; and John R. Van Ness, *Hispanos in Northern New Mexico: The Development of Corporate Community and Multicommunity* (New York: AMS Press, 1991), 258-262.

policy evolved into so-called punitive expeditions, offensive raids that accelerated and expanded the captive slave trade and brought more Comanche and Navajo children and their mixed captives into Tewa Basin households.<sup>259</sup>

Between 1777-1787, Governor Juan Bautista de Anza restored peace to the colony, but in much more violent ways than Vélez Cachupín had. Anza inherited a colony in crisis after Mendinueta proved incapable of agile diplomacy and only provoked more brutal warfare, especially with the Comanches. After killing Cuerno Verde in 1779, Anza made peace with eastern Comanche leader Ecueraacapa and allied with the Comanche against their mutual enemy, the Apache, who had expanded their territory and power north and west of the Tewa Basin.<sup>260</sup> Anza oversaw a colony in transition, bringing a peace that allowed the colonial population to grow, its economy to prosper and a regional culture to flower.<sup>261</sup>

Relationships faltered with diminished Indian raids. Though Pueblos and *genízaros* were conscripted to defend the province's central settlements, the two communities disassociated as defensive necessities decreased. Spaniards used Pueblos as defenders of New Mexico's central settlements, but marginalized them in the economy that was growing under the Bourbon Reforms. The complex, racially divided caste system that placed Pueblos and *genízaros* at the bottom of colonial society gave way to

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<sup>259</sup> Malcolm Ebricht, "Breaking New Ground," 227-230. See also Brooks, *Captives and Cousins*, 119-122, 134, 194.

<sup>260</sup> Brooks, *Captives and Cousins*, 134-139. See also, Pekka Hämäläinen, *The Comanche Empire* (New Haven: Yale University Press, 2008), 103-111, 121; and Ned Blackhawk, *Violence over the Land: Indians and Empires in the Early American West* (Cambridge: Harvard University Press, 2006), 103-105.

<sup>261</sup> Ross Frank, *From Settler to Citizen: New Mexican Economic Development and the Creation of Vecino Society, 1750-1820* (Berkeley: University of California Press, 2000), explores a period of peace and economic growth in late colonial New Mexico.

an economically driven, class-based society. Variations in pedigree dissolved, and the administrative and ecclesiastic structures that once offered a textured depiction of colonial society were rendered two dimensional: citizens, called *vecinos*, and Pueblo Indians. Hispanos quickly took control of the barter economy that extended from northern Mexico to northern New Mexico and, that boomed following the decline of the nomadic raids, which had stifled colonial development for the better part of the eighteenth century. Hispanos increasingly co-opted traditional Pueblo crafts and sold them in a market they controlled. Hispanos also introduced the weaving loom, guaranteeing their superior productivity and disenfranchised *vecinos* began producing “Pueblo” pottery. As trade increased and the New Mexico economy expanded, Hispano-Pueblo relations soured.<sup>262</sup>

Demographic and economic growth only increased the competition for resources in the Tewa Basin. In 1795, Governor Fernando Chacón granted the Town of Cieneguilla Grant to a group of Hispanos led by José Sánchez, who had requested lands north and east of the Embudo Grant.<sup>263</sup> He conferred the Rancho del Río Grande Grant to Nicolás Leal and the heirs of Diego Romero,<sup>264</sup> who were heirs of the Cristóbal de la Serna Grant. The massive grazing grant lay east of the Cristóbal de la Serna and was granted to protect the small streams and springs that the residents of the Cristóbal de la Serna Grant depended on.<sup>265</sup> The approximately 100,000 acre Rancho del Río Grande Grant

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<sup>262</sup> Frank, *From Settler to Citizen*, 175.

<sup>263</sup> Ebright, *Land Grants and Lawsuits*, 131. J. J. Bowden “Town of Cieneguilla Grant,” in “Private Land Claims in the Southwest,” 1015-1021.

<sup>264</sup> J. J. Bowden “Rancho del Río Grande Grant,” in “Private Land Claims in the Southwest.”

<sup>265</sup> J.J. Bowden “Cristóbal de la Serna Grant,” in “Private Land Claims in the Southwest.”

approached the eastern boundary of Picurís.<sup>266</sup> Chacón also approved the Santa Bárbara Grant, a community grant, in 1796. The Santa Bárbara Grant was a subgrant that broke off the the eastern half of the Las Trampas Grant. Chacón awarded the grant to sixty-seven Las Trampas settlers, including distant relatives of Sebastián Martín. The grant recognized settlements, including Santa Bárbara, that had been growing in the eastern Las Trampas Grant for nearly fifty years at the turn of the eighteenth and nineteenth century. By the 1830s, Picurís both complained of Hispano encroachment from the Santa Bárbara grant and freely sold land along its southern boundary to local Hispanos.<sup>267</sup>

Sales of Tewa Basin Pueblo land by Pueblo Indians had taken place since the eighteenth century. The story of San Juan Pueblo native Juan Chiniagua's private claim, while rare, illustrates how changing colonial identities affected Pueblo land tenure. His claim would survive the Spanish, Mexican and American eras. In 1744, Chiniagua, petitioned San Juan leaders for a parcel of land so that he might live apart from the pueblo as a *vecino*, a Spanish-colonial citizen. The Pueblo Council reportedly granted his request as a way to limit Chiniagua's influence on other Pueblo men, especially given that he practiced Penitente rites.<sup>268</sup>

Chiniagua received from the Pueblo a three-hundred-yard wide tract (an estimated thirty to fifty acres) that stretched from the Río Grande at the Pueblo's heart to the foothills above the Pueblo to the east. But by 1747, only three years after the Pueblo

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<sup>266</sup> Malcolm Ebright, "Sharing the Shortages: Water Litigation and Regulation in Hispanic New Mexico, 1600-1850," *New Mexico Historical Review* 76:1 (January 2001): 3-45, 29.

<sup>267</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 118-119.

<sup>268</sup> Reports of the General Council of the Northern Pueblos, San Juan, signed by San Juan Governor Ventura Montoya, Lt. Governor Santano Archuleta, March 24, 1922, folder 159, box 9, Southwest Association on American Indian Affairs Records. New Mexico State Records Center and Archives. Santa Fe. (hereafter SWAIA Records)

granted his request, Chiniagua abandoned his newfound religious identity and elected to return to the Pueblo, resuming the practice of Pueblo ways. In 1762, however, he once again petitioned the San Juan Council to allow him to take up the same tract of land, live apart from the Pueblo, and resume his practices as a *hermano*, or Penitent brother. Again, the Pueblo granted his request. Upon Chinagua's death, however, his three children, all full-blooded San Juan Pueblo Indians, divided the tract and sold it to the surrounding Hispano population. Their Hispano progeny allegedly expanded this claim to sixteen hundred acres of the best irrigable lands at San Juan Pueblo.<sup>269</sup>

A case similar to Conjuebes took place in 1744 at Santa Clara Pueblo, but Santa Clara successfully defeated it. Roque Conjuebes, a Santa Clara Pueblo native, petitioned Governor Codallos y Rabal to emancipate him from Santa Clara Pueblo, grant him title to the assigned Pueblo lands that he cultivated, and make him a private citizen. Em Hall notes that by granting Conjuebes request, the governor violated both the corporate nature of Pueblo grants, wherein no Indian has individual title to Pueblo lands and Spanish legal principles codified in the *Laws of the Indies* which forbade the sale of Pueblo lands.<sup>270</sup> While adopting a Spanish identity, Conjuebes and his heirs gradually increased his allotment. In an 1815 decision, Governor Alberto Maynez confirmed the tribal disposition of all Pueblo lands, leading Antonio Conjuebes (Roque's grandson) to travel to Durango have his lands confirmed by *comandante general* Nemesio Salcedo. Salcedo's successor, Bernardo Bonavia, ordered Conjuebes to rejoin his Pueblo, return his lands to Santa Clara and retain rights under the authority of its leaders.<sup>271</sup>

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<sup>269</sup> Ibid.

<sup>270</sup> Hall, "Land Litigation and the Idea of New Mexico Progress," 50-51.

<sup>271</sup> Ibid.

San Ildefonso Pueblo experienced a period of crisis and disunity in the early Mexican period, and its people expropriated dozens of acres of Pueblo lands across a decade. In 1820, San Ildefonso governor Juan José and his *principales* allegedly sold 1,416 *varas* of land to Francisco Ortiz, who owned an estancia at Caja del Río, or the modern White Rock Canyon. Historians Myra Ellen Jenkins and John Baxter doubt the legitimacy of this sale, and opine that only three legitimate pre-American era sales were executed at San Ildefonso. Relying on Spanish archives, Baxter and Jenkins document only three sales in 1834, 1837 and 1841 that they could not cast doubt on. Deed abstracts completed during the Pueblo Lands Board hearings at San Ildefonso in 1929 tell a very different story.<sup>272</sup>

Abstracts for at least one dozen claims show a spate of sales from 1832 to 1837, executed by everyone from Augustín Roybal, a San Ildefonso governor, to a *principal* named Juan Miguel Guagu, and even Pueblo women María Luisa, Maria Ignacia Peña, and Juana and Dominga. Purchasers were typically Hispano men who already had claims on or near San Ildefonso Pueblo land. Juan Ponciano Sánchez aggressively purchased Indian lands to create a large contiguous tract within San Ildefonso's boundaries. Subsequently, he and his heirs parceled out and sold the lands. Juan Ignacio Gonzales replicated Sánchez's methods twenty years later, purchasing lands from Pueblo natives Ascension Peña in 1858 and Antonio Roybal in 1865. Felipe Ortiz, a *San Juan* Pueblo Indian who claimed San Ildefonso land, sold a tract to Francisco Antonio Maestas in April of 1842. Payment for these lands ranged from cows and bulls to five or seven

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<sup>272</sup> Myra Ellen Jenkins and John Baxter, "The Pueblo of San Ildefonso and Its Land, 1598-1900," undated, 51-54, unpublished manuscript, folder 14, box 52, Myra Ellen Jenkins Papers, Coll. M. 127, Center for Southwest Studies, Fort Lewis College, Durango, CO.

pesos, inexpensive costs for lands sold by a shrinking Pueblo seemingly desperate enough to sell off its lands.<sup>273</sup>

The wide participation of both natives and Hispanos in the San Ildefonso market suggests that the 1830s and 1840s may have been a time of crisis at San Ildefonso Pueblo. Internal factors are difficult to ascertain, but external factors are easier to document. They include the change from Spanish-colonial laws, which treated natives as a protected class of subjects, to Mexican republican laws, which considered all natives citizens bearing the rights and burdens of their free status. In the late-Spanish-colonial period, the Cortes de Cádiz's Constitution of 1812 began to apply liberal and progressive laws that the young Mexican republic took up with Independence in 1821 and through the liberal Mexican Constitution of 1824. Their combined effect was the privatization of public lands that specifically excluded *ejido* lands yet took direct aim at "surplus" Indian lands.<sup>274</sup>

While New Mexico was recreating connections to New Spain, the Spanish Crown's most important province was in the midst of revolution. After successfully defeating rebels in 1810 and again in 1813, Spain signed the Treaty of Cordoba in 1821, recognizing Mexican Independence. Under the newly independent Mexican government, indigenous communities, now made up of theoretically free citizens, lost the protection of a paternalistic state. The Mexican Constitutions of 1824 and 1835 stated an explicit aversion to communal property, which it viewed as a vestige of colonialism and a shackle

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<sup>273</sup> Title Abstract for claim of Martín Luján and Zenaida Sánchez de Luján, Private Claim No. 45, Parcels 1 to 13, San Ildefonso Pueblo, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.

<sup>274</sup> G. Emlen Hall and David J. Weber, "Mexican Liberals and Pueblo Indians, 1821-1829," *New Mexico Historical Review* 59:1 (January 1984): 5-32, 18-20; and Ebright, Hendricks and Hughes, *Four Square Leagues*, 36-39.

to economic development. Many indigenous groups in Mexico lost communal lands under liberal reforms, but Pueblos had derived their lands from royal land grants that had been protected from free-market exploitation. Mexican-period speculation was surprisingly unsuccessful in New Mexico, despite the changing conception of property in a free-market economy. Still, despite the break from Spain, the legal status of native property rights continued from Spanish-colonial to Mexican-republican rule. Under Spanish law, Pueblo lands were inalienable both by speculation by an outsider and by the willing sale by the Pueblos themselves. Outside Pecos Pueblo, whose residents decided to sell some of their land because of Mexican encroachments and internal population decline, no New Mexico Pueblos unwillingly lost lands by official action by the Mexican government in the Mexican period, despite the aggressive petitions of the surrounding elite Hispanos for their lands.

This does not mean that Mexican officials were sympathetic to Pueblo land tenure. In March of 1825, legislators of the *diputación* (legislative assembly) in Santa Fe met Pecos Pueblos claims to their rights to their Spanish league evocatively, stating that “just as old obligations have ceased, so have their privileges ended.” Even so, they proved unwilling to break up Pueblo lands without referring matters to the central government in Mexico City.<sup>275</sup> While Governor Antonio de Narbona was inclined to convert all Pueblo property into private land, the Mexican central government took a surprisingly conservative stand on Pueblo land rights. Decades later, Mexico would dismantle corporate and communal lands under the reforms of treasury secretary Miguel Lerdo de Tejada, whose “Ley Lerdo” privatized and commoditized common lands. In

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<sup>275</sup> Hall and Weber, “Mexican Liberals and Pueblo Indians,” 15.



the 1820s, however, the liberal Mexican government proved hesitant to dismantle communal lands, be they Pueblo or Hispano.<sup>276</sup>

During the Mexican era, Pueblo Indians were unwilling to become the casualties of land reform by hostile governments. Pecos Indians, for instance, demonstrated deep knowledge of their changing status when they protested Hispano encroachments.

Addressing Governor Manuel Armijo in 1829, they invoked their rights as citizens and asked whether the “right of ownership and security that every citizen enjoys in his possession has been abolished.”<sup>277</sup> Pecos Indians appealed successfully to regain their land. The change in sovereigns from Mexico to Spain created little change for Pueblo rights. The *disputación* of New Mexico refused to divide Pueblo lands as early as 1825 and rejected all attempts thereafter.<sup>278</sup>

One of the few Mexican Era Tewa Basin grants took aim at lands near Picurís Pueblo. By the beginning of the Mexican era, the Pueblo was surrounded by Hispano land grants, including Embudo in the west, Trampas and Santa Bárbara to the south and Rancho del Río Grande to the north. In 1816, a trans-mountain acequia was built by San Antonio de lo de Mora, a community founded by settlers from the Picurís area.<sup>279</sup> These settlers painstakingly constructed the acequia near the headwaters of the Río Pueblo, nearly seventeen miles upriver from the pueblo, which gradually could impact the flow of

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<sup>276</sup> Mark Wasserman, *Everyday Life and Politics in Nineteenth Century Mexico: Men, Women, and War* (Albuquerque: University of New Mexico Press, 2000), 8-10, 106-111.

<sup>277</sup> Hall and Weber, “Mexican Liberals and Pueblo Indians,” 19.

<sup>278</sup> *Ibid.*, 17.

<sup>279</sup> Leslie R. Kryder, “The Trans-Basin Acequias of the Mora Valley, New Mexico,” (n.p. 2010). Accessed online at [http://taosacequias.org/Documents/TheTrans-BasinAcequiasOfTheMoraValleyNewMexico\\_2010.pdf](http://taosacequias.org/Documents/TheTrans-BasinAcequiasOfTheMoraValleyNewMexico_2010.pdf).

the Río Pueblo's waters. The 1829 request for the Río de Picurís Grant threatened to fully enclose the Picurís with non-Indian settlements.<sup>280</sup>

Rafael Fernández and twenty-three Hispano residents of the Pueblo de Picurís requested the Río de Picurís Grant, but were turned down when Picurís native Mariano Rodríguez protested to the territorial deputation, claiming they were “speculators . . . not bona fide colonists.”<sup>281</sup> Fernández and the would-be settlers were allowed to harvest their crops, but ordered to vacate the lands after their crops were harvested. They ignored the order, establishing the communities La Placita del Río Pueblo on the edges of the Pueblo grant and Vadito, which wholly encroached on the Pueblo league, drawing additional protests in 1831 and 1833. The *diputación* reversed its earlier decision in 1833 and granted the Hispano settlers rights to their *suertes*, but held that the other lands requested were to remain as an ejido shared by Picurís Pueblo and the *vecinos* of Vadito.<sup>282</sup>

Throughout the brief Mexican period, a political struggle between centralists and federalists colored political affairs throughout the republic. Liberal reforms in the late-Spanish-colonial period, including the 1812 Constitution, had begun to empower the national legislature in Madrid, Spain. Under Mexico, these reforms were carried out on the local level. The first half-century of Mexican independence was unstable, as centralist and federalist factions alternated control of the national government, and imposed political constitutions that reflected their conservative or liberal ideologies. New Mexico was made a Mexican territory in 1824, the same year as the passage of the

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<sup>280</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 114-117.

<sup>281</sup> J. J. Bowden “Río de Picurís,” in “Private Land Claims in the Southwest,” 997-1002.

<sup>282</sup> Ibid.; Ebright, Hendricks and Hughes, *Four Square Leagues*, 114-117.

first liberal constitution, which called for a division of federal powers and popular representation. Unlike Mexican *states*, New Mexico and other territories had little control over their most important political offices, such as governor, who was still appointed by the central Mexican government in Mexico City.<sup>283</sup>

Hispanos in New Mexico gradually adapted to Mexican land policies as well. The land Colonization Laws of 1824 encouraged the economic development of Mexican hinterlands, creating so-called *empresario* grants and generating fear among New Mexicans that their land grants would soon be threatened. Instead, *nuevomexicanos* found characterizations of New Mexico as economically peripheral advantageous, and simply began recording with local officials title transfers within land grants. More transitions occurred in 1836, when centralists passed the conservative Constitution of 1836, which centralized government, strengthened executive power, and dissolved the national congress.<sup>284</sup>

The 1836 Constitution created the departmental plan, which reorganized New Mexico from a territory into a department with a high council in the departmental junta, seated in Santa Fe. Divided into *prefectos* (prefects) and *partidos* (subdistricts), the plan extended central Mexican power over departmental affairs. The *nuevomexicano* village of San Ildefonso which had grown with the lands sales of the 1820s and 1830s, housed a *partido*. Joseph Sánchez, Robert Spude, and Art Gómez write that *asambleas* (political assemblies, empowered by the central government to levy taxes) and *alcaldes constitucionales* (local mayors, elected under constitutional reforms) weakened the authority of the governor, who was still appointed by the central government. Battles

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<sup>283</sup> Sánchez, Spude, and Gómez, *New Mexico*, 74-78.

<sup>284</sup> Wasserman, *Everyday Life and Politics*, 19-20.

between the *diputación* (a three-member legislative body, empowered to make land grants) and the governor colored New Mexican affairs.<sup>285</sup> As Mexico sought to centralize power and modernize its economy, it levied new taxes that many New Mexicans of varying classes and regions simply refused to pay.

The tensions created by the reforms of a distant and disinterested government came to a head in 1836. Centralist president José Justo Corro appointed General Albino Pérez as governor, defying a tradition of selecting locally born *nuevomexicanos* for that post. Described as bold and brash, but also naïve and idealistic, Pérez quickly heightened tensions when he became embroiled in old political feuds with former governors Francisco Sarracino and Manuel Armijo, as well as Juan Estevan Pino, a local *político* and land speculator, and Juan Bautista Vigil. Pérez sought to crack down on illegal trade with Americans, impose new taxes and bring the department into solvency and self-sufficiency. Janet Lecompte writes that his taste for high-priced luxury items imported along the Camino Real offended local *nuevomexicanos*, who resented his crack down on commodities coming from St. Louis.<sup>286</sup> Pérez's plans to impose new taxes were also unrealistic in an undeveloped economy, a fiercely independent post-colonial population, and a colony suffering from increased Indian raids with weak defense provided by central authorities.

In 1837, *nuevomexicanos* from Santa Cruz de la Cañada and Chimayó rose in revolt against Pérez's reforms. Led by Antonio Abad Montoya and Juan José Esquibel, both of whom are my distant relatives, and Antonio Vigil of Truchas (known as *El*

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<sup>285</sup> Sánchez, Spude, and Gómez, *New Mexico: A History*, 78-84.

<sup>286</sup> Janet Lecompte, *Rebellion in Río Arriba, 1837* (Albuquerque: University of New Mexico Press, 1985), 11-15.

*Coyote*), arribeños (residents of the Río Arriba) formed a twelve-member council they called the *Cantón*, and drafted a proclamation decrying the excesses of the Departmental Plan and taxation, and affirming their love of God, their faith in Jesus Christ, and their love of the Mexican nation. The *Cantón* attracted disfranchised Hispanos and Pueblo Indians, particularly from San Ildefonso and Santa Clara. It attacked elite privileges, among them the excessive fees collected by priests for burials and baptisms. Padre José Antonio Martínez, who owned a vast hacienda and many Indian slaves outside Taos, complained about the reluctance of *nuevomexicanos* to pay the fees for basic Catholic sacraments. He informed Bishop Antonio de Zubiria in 1837, that the growing rebellion had forced him to give up his sacramental fees. He identified the rebels as the “turbulent inhabitants of Santa Cruz de la Cañada, who have always been the *sewage of New Mexico*.”<sup>287</sup>

Governor Pérez quickly traveled to Santa Cruz with a small force of regulars and a two-hundred-man militia of Santo Domingo, Cochití and Sandía Pueblo natives, who continued the military tradition of their Pueblo auxiliary ancestors. He was met by fifteen hundred to two thousand rebels at La Mesilla, south and west of Santa Cruz, who refused to negotiate and immediately engaged Perez’s militia. The Pueblo natives turned on Pérez, who fled to Santa Fe after the rebels took his militia’s cannon. Santo Domingo natives captured the governor and cut off his head, parading it through the streets of Santa Fe. Still condemning his luxurious tastes, they yelled, “You no longer will drink chocolate or coffee!”<sup>288</sup>

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<sup>287</sup> Lecompte, *Rebellion in Río Arriba, 1837*, 123-124. Emphasis is mine.

<sup>288</sup> Ibid, 22-34.

The rebellion spread, and José Gonzales, a vecino living at Taos Pueblo, emerged as its new leader. Natives of Taos Pueblo and Tewa Basin Pueblos joined Hispanos in the rebellion, which failed, however, to transition into a functional government. Gonzales proved incapable of controlling rebel factions and was rebuffed by the central Mexican government, which sought only to suppress the rebellion and kill its leaders. The Río Abajo, dominated by wealthier Hispanos who benefitted from Mexican economic reforms and the Camino Real trade, also felt threatened by the seeming anarchy in the Río Arriba. They drew up the Plan de Tomé, which identified Manuel Armijo as their leader, denounced the involvement of Pueblo Indians in the civil affairs including the rebellion, and disavowed the authority of the Cantón. With federal troops from Chihuahua, Armijo quickly crushed the rebellion, beheading its leaders in Truchas in October 1837, before he captured the original Cantón leaders Juan José Esquibel, Juan Vigil, Antonio Abad Montoya and his brother, Desiderio. On January 24, 1838, the four leaders were likewise beheaded. Afterward, rebels from Taos met Armijo at Pojoaque, where mixed Pueblo and Hispano forces eventually succumbed to Armijo's superior army. Gonzales, the rebel governor from Taos, who was cast by Padre Martínez as a *genízaro*, was taken to Santa Cruz and shot.<sup>289</sup>

Manuel Armijo thus began his second gubernatorial term by crushing a rebellion that seemed, for a moment, to dislodge another colony from the young Mexican republic. Barely two years after executing the leaders of the Río Arriba rebellion, he faced another challenge to Mexican governance in 1840. Mirabeau Lamar, the president of the Republic of Texas, attempted to engineer another rebellion against centralist Mexican

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<sup>289</sup> Ibid, 45-74.

authority to annex New Mexico as a part of Texas, which claimed the Río Grande as its western boundary. An expedition of over three hundred men set out from Austin, Texas, in June, 1841. Attacked by Kiowas suspicious of Anglo designs in the area, the expedition fragmented into small groups that arrived intermittently in New Mexico. The men appeared motley, half-starved tramps rather than soldiers of a conquering army. Arresting them near present-day Tucumcari, in San Miguel del Bado and in Santa Fe, Armijo treated the prisoners brutally before sending them to Mexico for central authorities to deal with.<sup>290</sup>

At the same time that he protected New Mexico from Texan encroachment, Armijo increased the influence of French and American traders, perhaps unintentionally reorienting New Mexico's economy from Mexico to St. Louis. Still, New Mexicans's distrust of a distant and foreign sovereign remained strong following the 1837 Río Arriba Rebellion. Governor Armijo had restored peace to the Mexican province, but hardly ameliorated the dissatisfaction of the rebels. Instead, Armijo spent the next nine years clinging to his control of provincial politics. While governor, he granted enormous land grants to friends and collaborators, speculators like Bartolomé Baca, Stephen Luis Lee and Narcisco Beaubien, the young son of French Canadian trader Charles Beaubien and María de la Luz. Guadalupe Miranda and Carlos Hipolote Trotier Beaubien received from Armijo a 1.7 million-acre grant. The entrepreneurs promised to develop the vast property which stretched from Mora in the south to present southern Colorado in the

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<sup>290</sup> Andrés Reséndez, *Changing National Identities at the Frontier: Texas and New Mexico, 1800-1850* (New York: Cambridge University Press, 2005), 197-212. See also William H. Wroth, "1841 Texas-Santa Fe Expedition," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://newmexicohistory.org/events/1841-texan-santa-fe-expedition> (accessed 11 October 2014).

north, the foothills of the Sangre de Cristos in the west to the stretches of the Llano Estacado in the east.<sup>291</sup> One-quarter interest was quickly transferred to Armijo and trader Charles Bent.<sup>292</sup> Some scholars and Armijo apologists have argued that he granted lands to empower Mexican citizens against the impending American invasion.<sup>293</sup> Others see the designs of a governor with an impressive ability to maintain authority and personal success across decades of change.

The invasion came in August of 1846, three months after the United States formally declared war on México. General Stephen Watts Kearny marched the Army of the West into Santa Fe. Armijo assembled a badly armed citizen militia of three-thousand and deployed them in Apache Canyon in the mountains west of Santa Fe, to await Kearny's coming. Diego Archuleta, who was supposedly bribed by American trader James Magoffin, led the small professional Mexican army to abandon its posts and travelled south. Armijo ordered his citizen militia to stand down and turn to Santa Fe, while Armijo retreated to Chihuahua. With few military matters to be settled in New

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<sup>291</sup> María E. Montoya, *Translating Property: The Maxwell Land Grant and the Conflict over Land in the American West, 1840-1900* (Berkeley: University of California Press, 2002), 32-35. "One Land, Many Hands: The Story of the Sangre de Cristo Land Grant," *newmexicohistory.org*, website of New Mexico Office of the State Historian, [http://www.newmexicohistory.org/landgrants/sangre\\_de\\_cristo/english/home.html](http://www.newmexicohistory.org/landgrants/sangre_de_cristo/english/home.html) (accessed 12 December 2014).

<sup>292</sup> William A. Keleher, *Maxwell Land Grant* (facsimile of 1942 edition) (Santa Fe: Sunstone Press, 2008), 39-40. See also Denise Holladay Damico, "Guadalupe Miranda," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://newmexicohistory.org/people/guadalupe-miranda> (accessed 1 November 2014).

<sup>293</sup> See, Rubén Sáñez, *New Mexico: A Mutli-History* (Alameda, N.M.: Cosmic House Publishing, 2002), 176; Ralph Emerson Twitchell, *The History of the Military Occupation of the Territory of New Mexico* (1909; reprint, New York: Arno Press, 1976), 268-269; David J. Weber, *The Mexican Frontier: The American Southwest under Mexico, 1821-1846* (Albuquerque: University of New Mexico Press, 1982), 190-195; and Max L. Moorhead, "The American invasion of 1846 as told by New Mexicans," *New Mexico Historical Review* 26:1 (January 1951): 68-82.



Mexico, Kearny split his forces and marched west to California in September 1846, leaving Colonel Alexander Doniphan and eight hundred men to keep order. The lack of resistance to General Kearny's quick entrance to and exit from New Mexico made some believe that Pueblo and Mexican citizens welcomed American rule. When Kearny left Santa Fe for California, he chose none other than Charles Bent, the longtime Taos resident and trader, as New Mexico's first American civil governor.<sup>294</sup>

As Doniphan departed to campaign in Chihuahua, Colonel Sterling Price of Missouri was left in charge of the military occupation of New Mexico. Charles Bent kept the helm of the civil government, which was governed under the Kearney Code, a mix of Spanish and Mexican law, Missouri state laws of the state of Missouri and Louisiana's Civil Code of 1825. A well-known civic leader and successful trader, who had expanded his influence in the Mexican and territorial eras through Bent's Fort on the Arkansas River, Bent seemed a logical choice to govern civil matters of the military occupation. But his arrogant and pejorative views of the Hispanos and Pueblos grated on the province's native populations. According to historian William Wroth, Bent considered the Hispanos the "most servile people that can be imagined." He believed that the "Mexican character is made up of stupidity, obstinacy, ignorance, duplicity and vanity."<sup>295</sup> Bent's clashes with Padre José Antonio Martínez bred animosity throughout Taos's Hispano community. Martínez was equally critical of Anglo and Hispano *políticos* and land speculators, and especially disdained the presence and influence of Americans in Mexican provincial affairs. Like Ceran St. Vrain and Carlos Beaubien,

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<sup>294</sup> Sánchez, Spude, and Gómez, *New Mexico*, 88-105.

<sup>295</sup> William H. Wroth, "Charles Bent, Biographical Sketch," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://newmexicohistory.org/people/charles-bent-bio> (accessed 15 October 2014).

Bent had married into the Jaramillo clan, one of the elite Hispano families in the Taos Valley, and he used his new familial connections to expand his economic influence and wealth.

Bilingual and well known over much of the territory, Bent had helped keep the New Mexican economy dependent on the Santa Fe Trail and under the economic sphere of Missouri and the Midwest. Kearny underestimated the resentment that American occupation generated. Charles Bent was well known, but also reviled over much of the territory. On January 19, 1847, angry over the American occupation, Hispanos and Pueblo of the Taos area rose in revolt. The leaders of the rebellion that would take Bent's life in early 1847 were characterized as uneducated and barbarous. In fact, many of New Mexico's leading citizens from Taos, Santa Cruz, Santa Fe, and Albuquerque had plotted to overthrow American rule. Diego Archuleta, the son of Mexican military commander of New Mexico Juan Andrés Archuleta and Tomás Ortiz, whose brother, Juan Felipe Ortiz, served as the vicar of Santa Fe, were among the conspirators. Bent clearly felt that the American military presence had both uncovered any legitimate plans for a revolt and intimidated all others from attempting one. His unguarded return to his residence in Taos spelled his doom.<sup>296</sup>

Led by Pablo Montoya and Taos Indian Tomasito Romero, the rebels of Don Fernando de Taos attacked Bent's house, killing him as he attempted to fend off the rebels and protect his family. He was shot in the face and chest with arrows several times before he was scalped in front of his family. Rebels destroyed all the papers they found

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<sup>296</sup> James A. Crutchfield, *Tragedy at Taos: The Revolt of 1847* (Plano, Tex.: Republic of Texas Press, 1995). See also David Lavender, *Bent's Fort* (Lincoln: University of Nebraska Press, 1972), 300-303, for a creative, though disputably accurate, version of the killing of Charles Bent.

in Bent's home in the belief that they were protecting title to their land claims. Carlos Beaubien's son, Narciso, was killed, along with Cornelio Vigil, the recipient of the vast Vigil and St. Vrain Grant in Southern Colorado. The next day, a mob of five hundred attacked the Turley's mill in Arroyo Hondo, north of Taos. In Mora, seven American traders were killed. Colonel Price left Santa Fe for Taos with more than three hundred troops and sixty-five volunteers, the latter organized by Bent's close friend and business partner, Ceran St. Vrain. They met 1,500 *nuevomexicanos* and Tewa Pueblo Indians in battles at Santa Cruz de la Cañada and again at Embudo Pass. Many were likely part of the 1837 Río Arriba rebellion. Defeated at both battles, remaining rebels retreated to Taos Pueblo and took refuge in the thick-walled adobe church, which was leveled by cannon fire, killing one-hundred and fifty rebels.<sup>297</sup>

Like the rebels in New Mexico, Mexican forces were outmatched by American armies and the U.S.-Mexican War ended almost as quickly as it began. American forces took control of the port of Veracruz by March 1847, depriving Mexico City of needed supplies, including arms. By the fall, the American military took Chapultepec castle in Mexico City, the home of the Mexican military academy. Mexican leaders divided on whether to pursue peace or to continue fighting the superior U.S. army. American president James K. Polk, the ardent expansionist who provoked the war when he deployed troops to south Texas in 1846, sent Nicholas P. Trist to negotiate a peace with Mexico. Polk instructed Trist to negotiate for Mexico's northern territories, lands that would extend the United States across the continent, achieving what many considered to

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<sup>297</sup> Crutchfield, *Tragedy at Taos*, 124; Wroth, "Charles Bent, Biographical Sketch." For an excellent account of long term territorial resistance to Anglo incursions, see Tobías Durán, "We Come as Friends: Violent Social Conflict in New Mexico, 1810-1910." (Ph.D. Diss., University of New Mexico, 1985).

be America's "manifest destiny." Unsure of Trist's intentions, Polk rescinded his authority, but not before Trist negotiated a treaty with Mexican president Manuel de la Peña y Peña, who assumed office after General Antonio López de Santa Anna resigned and Pedro María de Anaya refused to cede any land to the United States.<sup>298</sup>

The Treaty of Guadalupe Hidalgo was signed by Nicholas Trist on behalf of the United States and by Luis G. Cuevas, Bernardo Couto and Miguel Atristain as plenipotentiary representatives of Mexico on February 2, 1848, at the main altar of the old Cathedral of Guadalupe at Villa Hidalgo (today Gustavo A. Madero, D.F.), slightly north of Mexico City as U.S troops under the command of General Winfield Scott occupied Mexico City. Among its provisions was Article X, which stated that U.S. government would honor and guarantee all land grants awarded in territories ceded to the United States to citizens of Spain and Mexico by those respective governments. Article VIII guaranteed that Mexicans who remained more than one year in the ceded lands would automatically become full-fledged American citizens, and Article IX guaranteed that their property would enjoy all the rights and protections of all property rights. Recognizing the difficulty of developing the lands of "inferior" people, the U.S. Senate modified Article IX to state that Mexican citizens would "be admitted at the proper time" (as judged by Congress), instead of "admitted as soon as possible." It deleted Article X outright, which recognized the legitimacy of land grants, Hispano and Pueblo, private and community.<sup>299</sup>

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<sup>298</sup> Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990), 18-41.

<sup>299</sup> Griswold del Castillo, *Treaty of Guadalupe Hidalgo*, 43-46; Sánchez, Spude, and Gómez, *New Mexico*, 112-114.

Mexico protested the unilateral actions of the United States, and in May 1848, Mexico and the United States negotiated the three-article Protocol of Quetétaro, which elaborated on the American amendments. Most important for land grants was the second article, which confirmed the legitimacy of all land grants pursuant to Mexican Law. The United States ignored the protocol, stating that its representatives, like Trist, had overreached their authority in negotiating with Mexico.<sup>300</sup>

This violent transition of New Mexico into American rule colored the relationship between New Mexico's native populations and its appointed representatives. Many of these representatives carried with them pejorative views of both Mexicans and Pueblo Indians. They doubted the ability of either population, both of whom were technically citizens under Mexico, to understand, let alone to practice, the basic tenets of American democracy. While it was difficult for most outsiders to differentiate between many of the mixed Tewa Basin communities like San Ildefonso and Nambé, lines between Hispanos and Pueblos continued to harden. As the Pueblo population plummeted, the Hispano population boomed, exasperating already tense relations across the Tewa Basin.

This colonial interaction, a relationship between Hispanos and Pueblos created over two and a half centuries, would change. A part of this evolving relationship was a land tenure system that transformed across the colonial era in the Tewa Basin. It began with elites consuming lands as the spoils of the *Reconquista*. Relations changed with a tensely negotiated coexistence, including alliances against mutual enemies. But in times of peace, Spanish colonial expansion was colored by quarrels over water and land. Governor Tomás Vélez de Cachupín's administration of New Mexico demonstrated an

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<sup>300</sup> Griswold del Castillo, *Treaty of Guadalupe Hidalgo*, 46-55.

aggressive attempt at equity, which created new community grants, protected Pueblo lands from invasion, and forced the *genízaro* resettlement of abandoned communities. Governor Juan Bautista de Anza took up Vélez Cachupín's task and brought a new era of peace and prosperity through crisis and war. By the late colonial era, the booming Hispano population pressed even harder upon Pueblo resources and slowly grew its economy.

The Mexican era brought a new period of speculation, as elites and officials fought to gain Pueblo lands through so-called progressive Mexican land laws that marked the gradual rejection of communal land ownership. But Pueblos and Hispanos united when the young Mexican nation fought to tax the struggling territory while providing little defense and even less assistance. Their rebellion beheaded Governor Albino Pérez in 1837, a fundamentalist who believed he could create efficiency in the ancient colony. Charles Bent met the same fate ten years later, when Pueblos and Hispanos united, once again, to fight the imposition of a distant, foreign sovereign.

### Chapter 3: “Not a Feeling in Common”: Changes in Pueblo and Hispano Land Tenure in Territorial New Mexico, 1850-1876

New Mexico’s long territorial period from 1850-1912 spelled doom for both Pueblo and Hispano land grants. Heretofore, scholars have examined how the Pueblo Indians’ uncertain legal status withheld federal guardianship and left them vulnerable to land speculation, and how Hispanos were dispossessed of their land grants by both speculators and the federal government. These two histories have largely been narrated separately. Over the decades federal agents, politicians, lands speculators, and the native-born Hispano population debated the obligations of the Treaty of Guadalupe Hidalgo. Anglo and Hispano land speculators held that Pueblo Indians’ citizenship under the Mexican Republic continued under the United States. Nonetheless, Pueblo Indians received neither their full rights as U. S. citizens nor legal obligations due to them as a protected native population. Their numbers continued to decline and Hispanos took full advantage, buying, renting and seizing Pueblo lands, almost at will.

Hispano land grants faced similar challenges. The federal government created two mechanisms to examine the titles of land grants, and confirm or deny hundreds of claims to their native lands. When the first, the Office of the Surveyor General, which operated from 1854 to 1891, proved susceptible to corruption and ill-equipped to defend against the designs of land speculators, the federal government created a second, the Court of Private Land Claims (1891-1904), which aggressively defended against the corruption of the early territorial era. Legitimate claims were denied by the court and Hispano communities were denied access to lands that they depended upon, often for mere survival. Federal lands, meanwhile, increased as common lands were absorbed into the public domain, which grew even further with the creation of forest reserves in the

early 1900s. Caught in the fray were land grant communities, both Hispano and Pueblo, which lost their lands to the very lawyers who represented their petitions for confirmation. As the territory's economy modernized, speculators feigned development and invited investment that pushed Hispanos and Pueblos from their lands.

This chapter retells the story of land loss in early territorial New Mexico. This story is by no means new, but past histories have failed to draw explicit parallels between Pueblo and Hispano land loss, instead focusing on the role that Hispanos played in Pueblo dispossession while they were simultaneously deprived of their patrimony. The double colonial model, in which Hispanos, once the conquerors, join the Pueblos as the conquered, has understandably influenced how we conceive of the native land rights in the territorial era. But it also has drawn rigid lines between Pueblo and Hispano communities and renders a complex relationship, evolving over decades and centuries, into a simple two-dimensional portrait. This racial or ethnic binary has cast a long shadow over Pueblo and Hispano land rights and intercultural relations, and shaped how scholars and the general public perceive Pueblos and Hispanos as the opposite of each other.

In this chapter, I argue that Pueblo and Hispano lands were exposed to similar economic pressures and political processes, bent on removing communal control of properties and placing them on regional markets. During the territorial period, attorneys and land speculators served in various posts, ranging from Indian agents to special attorneys, from congressional delegates to surveyors general, further linking the dispossession of Hispano grants and the exploitation of Pueblo lands in an insidious capitalist project. Reframing the territorial experience of Pueblos and Hispanos offers us



the opportunity to re-examine land tenure in a new context, and helps make sense of the turmoil over land rights that continued to plague New Mexico in the early twentieth century.

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New Mexico's violent entry into the Union caused many observers and pundits to doubt that the foreign land would ever be worthy of statehood. Numerous social issues plagued the American territory, from public violence and political immaturity to illiteracy, Indian raiding, and slave trading. Racial biases against the Hispano and Indian populations shaded the Americans thoughts about New Mexico. The distrust of the Hispanos was arguably rooted in the Mexican-American War. Ongoing wars against nomadic tribes played into popular contemporary conceptions of the untamed West. In public and cultural discourse, Pueblo Indians were considered by many an anomaly, but another vanishing Indian race.

Early on, under American rule, the Pueblo and Hispano populations confounded the federal government's assumptions of race and citizenship. Ignoring the *Plán de Iguala*, which clearly made Pueblo Indians citizens under the Mexican republic, federal authorities debated whether the population that they inherited was fit for citizenship. The Mexicans who had participated ambiguously in their own governance under the Mexican flag from 1821-1846, were considered at best a burden to good government, but also a potential internal enemy under the control of foreign interests.

Senator William H. Seward of New York considered the Hispano population to be more Indian than European. Speaking before the Senate, Seward told his colleagues, "It is Indians, sir, that we have conquered." Seward, who overestimated the population of

the New Mexico territory, claimed that "European races" numbered only two thousand souls. In what was possibly a vague reference to the *genízaro* population, he numbered "10,000 creoles" as the "descendants of Spanish colonists." Finally, Seward counted "ninety thousand Indians, more or less mixed in blood, but all civilized and Christianized."<sup>301</sup> Governing New Mexico seemed an impossible task to the New York senator.

After the Charles Bent murder, Donaciano Vigil and Henry Connolly both briefly served as New Mexico's civil governor, an ineffectual post that was under the authority of the military governor. Vigil was an active land speculator who had collaborated with Armijo's army that suppressed the 1837 Río Arriba rebellion and who had served as secretary to the *Cantón's* government. He owned a portion of Pecos Pueblo which he had swindled from the heirs of Juan Estevan Pino,<sup>302</sup> who had originally purchased the land from the vanishing Pueblo in 1830.<sup>303</sup> Vigil became an indispensable resource to land speculators, who would tap the respected orator to testify to the veracity of a land grant's documents, title and boundaries, often in exchange for land or the relief of debt.<sup>304</sup> He served as acting civil governor after Charles Bent's murder in January 1847 through December 1847.

Henry Connolly, who married the widow of Mexican-Era governor Mariano Chaves (January –April 1844), was elected governor of New Mexico under a state

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<sup>301</sup> Richard Frost, "Aspects of Southern Tewa Land and Water Rights in the American Period," unpublished manuscript, August 24, 1979, Box 8, Folder 14, Ward Alan Minge Papers, UNM-CSWR, 10.

<sup>302</sup> Hall, "Giant Before the Surveyor-General: The Land Career of Donaciano Vigil," 71.

<sup>303</sup> G. Emlen Hall, "Juan Estevan Pino, "Se los coma": New Mexico Land Speculation in the 1820s" *New Mexico Historical Review* 57:1 (January 1982), 27-42; 33-34.

<sup>304</sup> Hall, "Giant Before the Surveyor-General," 68.

constitution that was annulled by the Compromise of 1850, passed by the United States Congress. He never assumed the office, but would later served as territorial governor under President Abraham Lincoln from 1861-1866. After General Stephen Watts Kearny's occupation of New Mexico in August 1846, New Mexico was controlled by military governors until 1851. Colonel Sterling Price commanded the occupying after Kearny's exit in September 1846 through October 1848, during which he led American forces to that crushed the 1847 Taos Revolt, killing four hundred Hispano and Pueblo rebels. Price's volunteer army was unpaid and lacked necessary supplies and turned to raiding the fields and stores of Hispanos and Pueblo Indians. By July 1847, Price was promoted to brigadier general. In Chihuahua he won the Battle of Santa Cruz Rosales in March 1848, more than a month after the Treaty of Guadalupe Hidalgo was signed.<sup>305</sup>

General Price remained in New Mexico as its defacto military governor until he was relieved by Lieutenant Colonel John M. Washington, a regular army officer who continued his predecessors' fight against Navajo raids on New Mexico villages. Washington was relieved by Colonel John Munroe, who served as New Mexico's military governor from October 1849 through March 1851. Munroe dealt with many loose ends, including Texas's claim that its western boundary extended to the Rio Grande, which would have made eastern New Mexico, including Santa Fe, a part of the Lone Star State. He convened the May 1850 assembly that ratified an anti-slavery constitution that aspired for statehood and elected Henry Connelly governor and Manuel Alvarez, who acted as Mexican consul during the occupation, as lieutenant governor. Munroe prevented Connelly and Alvarez from taking office, an action that led Kentucky

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<sup>305</sup> Joseph P. Sánchez, Robert L. Spude, and Art Gómez, *New Mexico: A History* (Norman: University of Oklahoma Press, 2013), 109-112.

Senator Henry Clay to characterize Munroe as an autocrat.<sup>306</sup> The resulting standoff lasted several months, but was relieved with passage of the Compromise of 1850.<sup>307</sup>

The Compromise of 1850 ended the controversy, as well as Texas's claim to half of New Mexico's territory. Introduced by Senator Clay in January 1850, the Compromise was a series of five bills that centered chiefly on the divisive issue of slavery, amending portions of the Fugitive Slave Act and abolishing the slave trade in Washington, D.C.. The Texas New Mexico boundary dispute was settled and California entered the Union as a free state. The Compromise created territorial governments in Utah and New Mexico.<sup>308</sup> James S. Calhoun was tapped by President Millard Fillmore to serve as the Governor of the Territory of New Mexico in December of 1850.

Calhoun, a Georgia born Whig politician, had been appointed by President Zachary Taylor to be superintendent of Indian Affairs in a recess appointment. Arriving in Santa Fe in 1849, he received little background or instructions on his mission as Indian agent, leading some to speculate that he was sent by Taylor as to foment a grassroots statehood movement. If this was the case, then Calhoun's covert task became irrelevant when Taylor died in office in July 1850. By December 1850, Calhoun had spent nearly

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<sup>306</sup> Melba Porter Hay, *The Papers of Henry Clay*, volume 10; *Candidate, Compromiser, Elder Statesman, January 1, 1844-June 29, 1852* (Lexington: University of Kentucky Press, 1991), 741.

<sup>307</sup> Ralph Emerson Twitchell, *The Leading Facts of New Mexican History*, Vol. 2 (1912; reprint, Santa Fe: Sunstone Press, 2007), 276.

<sup>308</sup> Holman Hamilton, *Prologue to Conflict: the Crisis and Compromise of 1850* (Lexington: University of Kentucky Press, 1964), 151-175. See also Mark Joseph Stegmaier, *Texas, New Mexico, and the Compromise of 1850: Boundary Dispute and Sectional Crisis* (1996; reprint, Lubbock: Texas Tech University Press, 2012).

eighteen months in New Mexico.<sup>309</sup> On his arrival, Calhoun immediately came under the influence of Joab Houghton, who was appointed a judge under the Kearny code and later served as territorial supreme court justice, and speculated in land grants during early adjudications. Houghton informed Calhoun's early understanding of New Mexico. On July 29, 1849, Calhoun wrote Indian Commissioner William Medill: "Pueblo Indians . . . [were] entitled to special consideration of the government of the United States. They are the only tribe in perfect amity with the government, and are an industrious, agricultural, and pastoral people [who by] Mexican statute . . . [were granted] the privilege of voting."<sup>310</sup> By November, Calhoun wrote Medill's successor, Orlando Brown, that an "eternal state of war, and reciprocal robbery" between Navajos and Pueblo and Hispano villagers existed, and that "Spaniards or Mexicans" were particularly incensed when American officials disallowed reprisals against Indian raids.<sup>311</sup>

Adrift at the edges of the new American empire, Calhoun furiously and frequently wrote to his superiors in Washington, D.C. His letters mostly alerted his superiors to the status of the inhabitants and conditions in the territory. His portrayal of the Mexican population was typical of an officer who who spent the last two years fighting in the unpopular Mexican-American war. While he privately disavowed the manner in which the United States took the Southwest from Mexico, Calhoun accepted conquest as bringing progress to an uncivilized land. In Calhoun's eyes, the remnant Mexican population was backward, superstitious, and idolatrous. In contrast, Calhoun saw the

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<sup>309</sup> Annie Heloise Abel, ed., *The Official Correspondence of James S. Calhoun While Indian Agent at Santa Fe and Superintendent of Indian Affairs in New Mexico* (Washington: Government Printing Office, 1915), 3.

<sup>310</sup> James S. Calhoun to William Medill, July 29, 1849, no. 1, in Abel, *Official Correspondence of James S. Calhoun*, 18.

<sup>311</sup> Calhoun to Orlando Brown, November 15, 1849, no. 22 in *ibid.*, 76.

Pueblos as the model Indians. God fearing, sedentary and practicing an agricultural tradition hundreds, perhaps even thousands of years old, these peace loving tillers of the soil, living in palace-like adobe complexes, sharply contrasted to the raiding tribes that surrounded Hispano and Pueblo settlements clustered along the Rio Grande.<sup>312</sup> He wrote Commissioner Medill that the Pueblos were suspicious of all federal agents in the territory: “We have associated with the Mexicans, for whom they have no respect.” Further, Calhoun claimed, “The Mexicans and the Pueblo Indians have not a feeling in common.”<sup>313</sup>

From his earliest letters, Calhoun reported Pueblo protests against Hispano encroachment. “Scarcely a day passes,” Calhoun wrote Commissioner Brown, “that complaints are not brought before me of Mexican aggressions.” These incessant complaints came from various Pueblos, including Santa Clara, San Ildefonso, San Juan, Tesuque, and Pojoaque in the Tewa Basin. At San Ildefonso, native leaders complained that “Mexicans, and others, were thrusting themselves into their Pueblos selling spirituous liquors, and creating great mischief and trouble.”<sup>314</sup> They also complained that Mexicans bore undue influence over their young men and appropriated native lands, daring the pueblo to take action. We can only guess whether these incursions were related to the sales by San Ildefonso tribal members to the surrounding population in the 1830s. The fact remained, however, that the Hispano population surrounding San

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<sup>312</sup> Calhoun to Medill, October 4, 1849, no. 5 in *ibid*, 37. See also, Ralph E. Twitchell “Pueblo Indian Land Tenures in New Mexico and Arizona,” *El Palacio* 12: 3,4,5 (March 1, 1922), 32-33, 38-43, 58.

<sup>313</sup> Calhoun to Medill, October 4, 1849, no. 5 in Abel, *Official Correspondence of James S. Calhoun*, 38.

<sup>314</sup> Calhoun to Brown, January 3, 1850, no. 29 in *ibid.*, 98.

Ildefonso took advantage of its declining population, which was estimated at 154 souls in 1860.<sup>315</sup>

Calhoun immediately appreciated the dismal state of Pueblos, whose populations and agriculture continued to decline. He observed that Pueblos sat on some of the richest agricultural lands in the territory and their lands would be as coveted by newcomers as they had been by the surrounding Mexican population. During inspections, Calhoun found whole Mexican villages on Pueblo reservations, as was the case at Peñasco, which sat on the lands of Picurís Pueblo and at Chamita, which lay wholly on the lands of San Juan Pueblo. This trespass of Pueblo lands was a constant complaint in Calhoun's visits with tribal leaders, many of who had grown accustomed to visiting Santa Fe to protest during the Mexican period. His interest in protecting their lands reflected his admiration for the Pueblos, perhaps originating from his observations of the tragic Cherokee removal in his native Georgia. Calhoun seemed to fear that Pueblo Indians would devolve to the practices of the surrounding nomadic tribes if the government did not protect them from the "uncivilized" Mexicans appropriating their resources.<sup>316</sup>

Calhoun cautioned Commissioner Brown against reducing the Pueblos onto one reservation, an action that would free up rich agricultural lands to development by American settlers:

The removal and concentration of the Pueblo Indians, is advocated by others. The bare suggestion of this measure to men, at this time, would produce a phrensy, a desperation of the most terrible character. But this result, that is, the removal and concentration of these Indians, may be peaceably accomplished in a few years. I

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<sup>315</sup> Sandra A. Edelman, "San Ildefonso Pueblo," in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 315.

<sup>316</sup> Ibid. Calhoun to Brown, January 23, 1850, no. 29 in Abel, *Official Correspondence of James S. Calhoun*, 100, and Calhoun to Brown, January 23, 1850, no. 40 in *ibid*, 148.

am not prepared to recommend the adoption of any measure looking to this result.<sup>317</sup>

The idea that all Pueblos would be aggregated on one reservation was not an empty threat. While Pueblos' status as subjects or citizens, government wards or members of the body politic was debated throughout the territorial era, American Indian policy decisions from the end of the Mexican American War consistently pushed Indians onto federal reservations. These reservations shrunk as non-Indians constituents pressed their representatives for supposedly unused reservation lands.<sup>318</sup>

Since approval of the Indian Removal Act of 1830, the United States aggressively had removed Indian populations from the proximity of Anglo settlements, and relocate them to the west and confined them into reservations.<sup>319</sup> Calhoun later warned the commissioner of Indian affairs that Pueblo removal could spark violence, and it could be “dangerous to the public tranquility to compel them [Pueblos] to a repugnant association with the people of New Mexico, as Citizens of the State or territory. Either would produce a bloody contest at this time.”<sup>320</sup> Instead, Calhoun believed that Pueblo lands

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<sup>317</sup> Calhoun to Orlando Brown, November 16, 1849, no. 22, in Abel, *Official Correspondence of James S. Calhoun*, 79-80.

<sup>318</sup> The reduction of tribes onto Indian reservations accelerated in the years following the Mexican-American War, which stimulated another wave of mass westward migration. The 1851 Indian Appropriations Act funded the creation of reservations in the American West, which were theoretically protected from encroachment by non-Indians by the federal government. Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1995), 531, 562-606.

<sup>319</sup> Richard White writes that reservations were at once isolating and integrative places that, despite their contradicting philosophies, became “the hallmark of American Indian policy in the West.” Richard White, *It's Your Misfortune and None of My Own: A New History of the American West* (Norman: University of Oklahoma Press, 1991), 92. See also, Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: Norton, 1987), 46.

<sup>320</sup> Calhoun to Orlando Brown, March 29, 1850, no. 50, in *ibid.*, 172.



should be surveyed, conflicting Hispano claims “ascertained,” and Pueblo lands enlarged where they were insufficient to support the village’s population.<sup>321</sup>

Both as Indian superintendent and as the first civil governor of the New Mexico territory, Calhoun struggled to balance two very different Indian policies. One focused on diplomacy and war with nomadic tribes that raided Pueblo and Spanish settlements. The other sought the protection of Pueblo lands, a policy that put him in direct conflict with Hispanos exploiting the end of Mexican-era protections. Calhoun could draw on decades of Indian policy created for nomadic or semi-nomadic tribes, but he struggled to make his superiors understand these agricultural Indians. Calhoun fought to repeal an 1847 statute by the provisional legislature that made Pueblos quasi-corporations vulnerable to lawsuits relating to land but unable to purchase land.<sup>322</sup> He remained an opponent of Pueblo suffrage, believing that Hispano and Anglo elites would manipulate their vote. Calhoun pushed for Washington to extend the protections of the Trade and Intercourse Act of 1834 to Pueblos:

Extend to them the protection of your laws regulating trade and intercourse with the various tribes of the United States, establish trading houses, liberally, give to them agricultural implements, for a few years, allow them blacksmiths, and carpenters, and locate among them such agents as will Americanize their *labor*, and *morality*, and you will, at an early day, discover the gratifying fact, that a more upright and useful people are no where to be found; fit to be associated with, and to have all the rights and privileges, of the body politic, at least, so far as the

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<sup>321</sup> Calhoun to Brown, November 16, 1849, no. 23 in *ibid*, 79-80.

<sup>322</sup> Deborah Rosen, “Pueblo Indians and Citizenship in Territorial New Mexico,” *New Mexico Historical Review* 78:1 (winter 2003): 4-7.

right of suffrage is concerned; or, if it should be preferable, you may then colonize them, without risking a convulsion.<sup>323</sup>

Calhoun thus advocated a policy that would also Americanize Pueblo agriculture, something that he considered the only viable defense against the designs of non-Indians who coveted Pueblo lands. His call for the examination of non-Indian claims to Pueblo lands would not be met for more than half a century, when the Pueblo Lands Board would investigate non-Indian claims on Pueblo grants.

Calhoun's desperation to protect Pueblo lands seemed to resolve in a formal treaty between the United States and the Pueblos. Tesuque, Santa Clara, and Nambe signed the treaty on July 7, 1850 and San Ildefonso signed a few days later. Thirteen Pueblos in all signed Calhoun's treaty, which Commissioner Brown authorized, despite misgivings by many observers who believed a Pueblo treaty was unnecessary for the Pueblos were never in a state of war with the U.S. government.<sup>324</sup> His efforts were negated when Congress refused to ratify the treaty. In December 1850, Calhoun reported that encroachment on Pueblo lands persisted.<sup>325</sup>

Calhoun's tenure as territorial governor was beset by the ongoing crisis between Hispano and Pueblo villages and by continued raiding by Apache and Comanche tribes. He also quarreled with military leaders, including Lieutenant Colonel Edwin V. Sumner, the military commander in New Mexico, and failed to extend both free schools and slavery into the territory. In May 1852, Calhoun escorted a delegation of Tesuque Pueblo

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<sup>323</sup> Calhoun to Brown, November 16, 1849, no 23 in Abel, *Official Correspondence of James S. Calhoun*, 79-80. Emphasis is mine.

<sup>324</sup> Calhoun to Brown, July 16, 1850, no. 71 in *ibid.*, 227. Peter M. Whiteley, "Reconnoitering 'Pueblo' Ethnicity: The 1852 Tesuque Delegation to Washington," *Journal of the Southwest*, 45:3 (autumn 2003): 437-518, 452.

<sup>325</sup> Whiteley, "Reconnoitering 'Pueblo' Ethnicity," 452-454.

leaders en route to Washington, D. C. Ailing since January, Calhoun travelled with his secretary, David Whiting, son-in-law and his daughters, but also with a coffin. He died near Independence, Missouri, on July 2, 1852.<sup>326</sup> The Tesuque delegation, headed by Carlos and José María Vigil, journeyed onward to Washington, where the natives pushed for recognition of their rights, as U.S. citizens, under the Treaty of Guadalupe Hidalgo, rather than for their protection by the federal government as wards.

Whiting travelled to Washington with the Tesuque delegation and escorted them to meetings with President Fillmore and members of Congress. He seemed to share Calhoun's growing distrust of the Hispano population. In August, Whiting wrote: "Governor Calhoun deemed it of the utmost importance that a delegation of Pueblo Indians should visit the States at this time, not only for the purpose of carrying out the policy of the Government towards them, but also to secure more firmly their confidence and esteem towards our people. *Evil disposed Mexicans* and others have been tampering with them and endeavoring to induce them to join in a scheme for the purpose of overthrowing the present government." Whiting's letter was already drawing a hard line between Mexicans and Pueblos in New Mexico, and ignored their cooperation in the Taos Rebellion five years earlier.<sup>327</sup>

Protecting Pueblo lands from serial incursions was an ongoing and impossible task for Calhoun's successors. Missourian Dr. Willian Carr Lane's brief tenure as governor and ex-officio Indian superintendent was marked by repeated visits from various Pueblo representatives, a habit perhaps created under Spain and Mexico and

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<sup>326</sup> Ibid, 460. Abel, *Official Correspondence of James S. Calhoun*, 3.

<sup>327</sup> Ibid, 462. Emphasis is mine.

magnified when Calhoun occupied the office.<sup>328</sup> Historian David Frost writes that Territorial Governor David Meriwether feared that Mexicans and lawyers would bankrupt pueblos through frivolous lawsuits.<sup>329</sup>

Politically, Pueblos were as disempowered as they were legally. The 1848 constitutional convention had limited voting to "free white male inhabitants residing within the limits of New Mexico." The Territorial Act of 1850 continued the exclusion of Pueblo Indians from political participation. By 1854, just as the surveyor general of New Mexico began sorting out centuries of grants and claims, the territorial government withheld the pueblos's right to participate in territorial elections, while upholding their right to internal governance, electing their own officials and ditch bosses. In 1847, the territorial legislature under the occupation had attempted what the *Lane v. Santa Rosa* (1919) and *U.S. v. Candelaria* (1926) cases would assert seventy years later: that Pueblos were properly considered a "corporate body" or a "juristic person," with rights to sue or to be sued or bring court action on their own behalf.

Amid this crisis in Pueblo affairs, the United States created the Office of the Surveyor General to adjudicate land grant claims protected under the Treaty of Guadalupe Hidalgo. William Pelham's onerous task was beset by numerous complications, but these impediments did not prevent him from quickly grasping the desperate state of Pueblos and the need to provide some legal defense of their lands. By 1856, Pelham had submitted the land claims of eleven native pueblos, including San Juan

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<sup>328</sup> For more on Indian affairs under Governor Lane, see Annie Heloise Abel, "Indian Affairs in New Mexico under the Administration of William Carr Lane. From the Journal of John Ward," *New Mexico Historical Review* 16:2 (April 1941): 206-232; and 16:3 (July 1941): 338-358.

<sup>329</sup> Frost, "Aspects of Southern Tewa Land and Water Rights," 28-29.

and Picurís, to Congress for confirmation. These claims were based on specious documents bearing the forged signature of Spanish governor Domingo Jironza Petríz de Cruzate, who allegedly granted the pueblos four-square-league grants in 1689.<sup>330</sup> Where Pueblos lacked title or grant papers, Pelham interviewed leaders about the existence of title papers. Santa Clara, San Ildefonso, Nambé, Pojoaque, Tesuque and other pueblos were all submitted for congressional confirmation.<sup>331</sup> Two years later, in 1858 Congress approved most Pueblo grants, including Picurís and all the Tewa Pueblo grants. All Pueblo grants received their patents in 1864, and the Pueblos became an anomaly as natives who held fee-simple title to their lands. Although lacking treaties with the United States, they were clearly Indian and considered so by both officials and citizens of the territory.

In 1863, President Abraham Lincoln issued silver-crowned canes to each Pueblo. According to Pueblo historian Joe Sando, Lincoln decided to award issue the canes as a belated recognition of Pueblo peoples. A recent documentary suggests that Michael Steck, superintendent of Indian affairs for the New Mexico Territory at the time, proposed to Lincoln the idea of issuing canes to Pueblo leaders, emulating a practice started by Spanish and Mexican governors.<sup>332</sup> According to Sando the canes' message was mixed: At once, they were symbols of Pueblo authority over their affairs and a reminder that they "owe allegiance to the United States of America. On the other hand, the canes are also symbols of the United States government's responsibilities and

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<sup>330</sup> Sandra K. Mathews-Lamb, "'Designing and Mischievous Individuals,'" 342-345, 355. See also Hall, *Four Leagues of Pecos*, 82, 87. See also, Ebright, Hendricks and Hughes, *Four Square Leagues*, 217-219.

<sup>331</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 244-245.

<sup>332</sup> *Canes of Power*, Silver Bullet Productions, Santa Fe, NM, 2012.

trusteeship of the Pueblos.”<sup>333</sup> Exactly what these responsibilities were for the Pueblos remained uncertain.

Historian Deborah Rosen contends that the debate over Pueblo Indian status as wards or as citizens spanned the entire territorial period. The 1876 *U.S. v. Joseph* decision was the outcome of this nearly thirty-year debate. Governors Calhoun and Meriwether, and Territorial Secretary W. W. H. Davis fought to repeal statutes that gave Pueblos legal power and voting rights, but that made them party to judicial proceedings and vulnerable to land speculation.<sup>334</sup> Judicial officials, including Justices John S. Watts and Warren Bristol of the New Mexico Territorial Supreme Court, cited lack of both formal treaties with the United States and the paucity of federally appointed Indian agents, along with the fact that Pueblos had full title to their land under U.S. law as proof they were not Indians.<sup>335</sup> Watts, along with Chief Justice Joab Houghton and Attorney General Stephen B. Elkins, were active land speculators who would benefit from the privatization of Indian land. Rosen argues that the legal ideologies of these officials reflected federal policies that promoted American individualism in the marketplace and civil society. This framework was sanctioned by the Supreme Court decision in *US v. Joseph* (1876), which upheld Pueblo citizenship and denied federal protection as Indians, and the Dawes Allotment Act of 1887, which broke up Indian reservations into family-sized parcels.<sup>336</sup>

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<sup>333</sup> Joe S. Sando, *The Pueblo Indians* (San Francisco: Indian Historian Press, 1976), 203-204.

<sup>334</sup> Rosen, “Pueblo Indians and Citizenship,” 4-7.

<sup>335</sup> Ibid, 10-11.

<sup>336</sup> Ibid, 20. Emlen Hall agrees: “In addition, Congress was about to embark on the federal policy of allotment, which was designed to accomplish for tribes covered by the 1834 act what the court had just accomplished for the Pueblos in the *Joseph* case: the

Even James S. Calhoun, who fought so passionately to preserve Pueblo Land and water rights, who considered the Mexican and Pueblo populations as absolutely separate, who more than any other individual can be credited with the confirmation and patenting of Pueblo grants, was confused over whether Article 9 of the Treaty of Guadalupe Hidalgo applied to Pueblo Indians, and whether Pueblo Indians were citizens or wards of the federal government.<sup>337</sup> In light of the confusion, and to guard the Pueblos against plundering by the surrounding non-Indian population, Congress passed a series of measures that effectively treated pueblos as wards. In 1870, it voted appropriations for Indian schools in Pueblo country. Two years later Congress formally began funding a Pueblo Indian agent, ending the era during which the territorial governor and Santa Fe Indian School superintendent served in that post. By 1875 the government also allowed salaries for interpreters at the Pueblo Agency.<sup>338</sup>

In 1874, Indian agent Edwin C. Lewis reported to Commissioner Edward Parmelee Smith, "In the event of the removal of the protection of the Government, many of these Indians would be deprived, by fraud, of their lands and, reduced to pauperism, [and] would soon follow the life and *habits of savage tribes*."<sup>339</sup> The fear that Pueblo Indians would move to a life of nomadic savagery and away from sedentary civility was held by many federal authorities and Indian reformers. That the Mexicans were barbarous marauders was left unspoken. The contrast of Pueblo civilization with

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termination of tribal holdings and their conversion into individual private ownership, as marketable as any other private land would be." Hall, *Four Leagues of Pecos*, 137. For more on federal-Pueblo relations, see Willard H. Rollings, "Indian Land and Water: The Pueblos of New Mexico (1848-1924)" *American Indian Culture and Research Journal* 6:4 (1982) 1-21.

<sup>337</sup> Frost, "Aspects of Southern Tewa Land and Water Rights," 17.

<sup>338</sup> *Ibid*, 34.

<sup>339</sup> *Ibid*, 21. Emphasis is mine.

Mexican barbarity played well in popular ideas of the “Wild West.” That discussion between two peoples was still a powerful notion among Progressive Reformers in the twentieth century.

Though Pueblo’s status remained a point of high political debate for decades, Hispano’s role in the territory seemed clearer to U.S. authorities and the American public. In her examination of race and law in nineteenth-century New Mexico, Laura E. Gómez found a federal government unwilling to accept the territory’s mixed-race Mexican population fully into the Union. She explains: “More than anything, it was New Mexico’s racial make-up that accounted for its lengthy status as a federal territory. Though substantial Indians lived in the territory, they were disfranchised. It was the majority-Mexican federal citizens whom Congress objected to including as state citizens.”<sup>340</sup>

According to Laura Gómez, part of the elite Hispanos’ claim to citizenship was their claims to whiteness and equality with Anglos. However, they rejected the citizenship of Pueblos, who were not white; and thereby denied all racial or ethnic connections between Pueblo and Hispano people.<sup>341</sup> But while Hispano elites may have distanced themselves socially and legally from Pueblo Indians, poorer Hispanos physically drew closer to them, utilizing their land and water to sustain a growing population that was ever-more dispossessed of their won natural resources. The adjudication of land grants by Congressional action bolstered and accelerated a process of dispossession that was decades, even centuries, in the making.

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<sup>340</sup> Laura E. Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2007), 45.

<sup>341</sup> Gómez, *Manifest Destinies*, 94-98.



The adjudication process began formally when the U.S. Surveyor General Act for New Mexico was passed on July 22, 1854. Like those in other states and territories, the New Mexico surveyor general was housed under the General Land Office in the Interior Department and was assigned the responsibility of surveying all public lands in the territory. But Congress also assigned the New Mexico surveyor, unlike other surveyors general, the responsibility of investigating all Spanish and Mexican land grant claims, as well as the land grants of the Pueblo Indians. Beyond validating land claims and identifying available lands for settlement, determining the status of land claims aided the United States in fulfilling its obligations under the Treaty of Guadalupe Hidalgo.<sup>342</sup>

In the act, Congress instructed the surveyor general to base his decisions regarding land grant claims on the “laws, usages, and customs” of Spain and México.<sup>343</sup> The surveyor general was to become “acquainted with the land system of Spain, by examining the laws of Spain; its ordinances, decrees, and regulations; and congressional acts and U.S. Supreme Court decisions that had addressed Spanish land grants in other parts of the United States.” To complete this formidable task, lawmakers instructed the surveyor to create his own archive of documents dealing with Spanish and Mexican land grants, land laws and a registry of all past Spanish and Mexican officials authorized to

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<sup>342</sup> 1854 Act, 10 Stat. 308, “An Act to establish the offices of Surveyor-General of New Mexico, Kansas, and Nebraska, to grant donations to actual settlers therein, and for other purposes.” July 22, 1854; U.S. General Accounting Office, *Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico: Report to Congressional Requesters*. GAO-04-59 (Washington D.C.: GAO, 2004), 54. See also, U.S. General Accounting Office, *Treaty of Guadalupe Hidalgo: Definition and List of Community Land Grants in New Mexico*. GAO-01-951 (Washington D.C.: GAO, 2001).

<sup>343</sup> Interior Department’s instructions to the Surveyor General, August 21, 1854 in GAO, *Treaty of Guadalupe Hidalgo: Findings and Possible Options*, 56.

issue grants. This was difficult given the relatively small budget granted to the office.<sup>344</sup>

Surveyors general, in actuality, relied on the documents that claimants used to evidence their claims, and only after decades did they accumulate a considerable archive with which to compare incoming documents and determine their validity.

The Office of the Surveyor General for New Mexico was also instructed to “treat the existence of a city, town, or village at the time the United States took possession as *prima facie* evidence of a grant.”<sup>345</sup> This language was taken directly from the surveyor general act for California. Unlike the hastened California confirmation process, which aimed at dispensing with land claims to achieve statehood as quickly as possible, the surveyor general operated in New Mexico for thirty-six years. Though Congress instructed the office to guard against fraudulent claims, multiple surveyors general, particularly T. Rush Spencer (1869-1872) and Henry Atkinson (1876-1884), duplicitously shepherded their friends’ and associates’ land claims through the confirmation process. They not only recommended the claims to Congress for recommendation, but also assured that surveyors hired to survey land claims would allow the most charitable interpretations and extend boundaries, giving many grants the “India rubber” quality that eventually attracted suspicion.<sup>346</sup>

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<sup>344</sup> GAO, *Treaty of Guadalupe Hidalgo: Findings and Possible Options*, 57-58.

<sup>345</sup> Malcolm Ebright writes that this presumption was removed under the Court of Private Land Claims, which “seized upon” the language of the Court’s establishing act, which read “No claim shall be allowed that shall not appear to be upon a title lawfully or regularly derived from the Government of Spain or Mexico.” Ebright, *Land Grants and Lawsuits*, 136-137.

<sup>346</sup> William A. Keleher, *Maxwell Land Grant* (1942; reprint, Santa Fe: Sunstone, 2008), 9. Keleher quotes Governor Lionel A. Sheldon’s 1883 report to the Secretary of the Interior, in which he states, “... surveys have been so erroneously made as to led to a belief that these grants are endowed with India rubber qualities.”

Historian Victor Westphall calls the surveyors general charge an “impossible task.” Indeed, when William Pelham arrived in New Mexico in 1854, he was ill-suited to review dozens of land claims. His inability to read or write Spanish made it nearly impossible to utilize the unorganized archive of Spanish and Mexican documents in Santa Fe. Surveyors general also lacked both the funds and the authority to investigate claims until they were petitioned in his office. The surveyor general was thus powerless and was disallowed from even investigating competing or contiguous claims on his own. Rather than a federal official empowered to do field surveys and interview claimants and other interested parties, the surveyor general became a static bureaucrat, ignoring conflicting claims and adjudicating on a first-come-first-serve basis. Despite its iniquitousness, the “first-come-first-serve” policy was embraced by the Court of Private Land Claims decades later.<sup>347</sup> In tying the surveyor general’s hands, U. S. Congress proved uninterested in adjudicating or confirming land grants justly or equitably.

Numerous Tewa Basin claims were submitted to the Office of the Surveyor General during Pelham’s term. He recommended the Sebastián Martín, Ramón Vigil, Baca Location 1, Gaspar Ortiz grants for Congressional confirmation, as well as the Town of Chamita and Town of Las Trampas claims. Though Las Trampas was correctly confirmed as a communal grant, Chamita was confirmed as an individual grant to Manuel Trujillo, the sole heir of Antonio Trujillo in 1859. Pelham’s inability to survey the grant, even superficially, inhibited his ability to understand the nature of the claim. Congress confirmed the grant in 1860, but not until an 1877 survey by deputy surveyors Sawyer

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<sup>347</sup> GAO, *Treaty of Guadalupe Hidalgo: Findings and Possible Options*, 57-58; Benavides and Golten, *Response to the 2004 GAO Report*, 58; Ebright, *Land Grants and Lawsuits*, 136-137. Victor Westphall, *Mercedes Reales: Hispanic Land Grants of the Upper Rio Grande Region* (Albuquerque: University of New Mexico Press, 1983), 85-88.

and McElroy did the federal government realize that the grant lay fully within the boundaries of San Juan Pueblo. It took no action on the situation until 1920, when Chamita heirs requested a patent for the grant amid the threat of ejectment lawsuits.<sup>348</sup>

In 1855, Tomás Cabeza de Baca petitioned Surveyor General Pelham for confirmation of his great-grandfather Luis María Cabeza de Baca's 1821 grant, which was overlapped by the 1835 Town of Las Vegas Grant. Luís María and his son, Juan Antonio, had both died from Navajo raids on the family's sheep range, leaving Francisco Tomás Baca to manage the massive grant. Francisco Tomás protested the Las Vegas Grant to Governor Manuel Armijo in 1838, alleging that Las Vegas and the Cabeza de Baca claim were for precisely the same lands. Armijo ignored the protest, and Pelham, after examining both claims, held hearings and recommended both grants to Congress for confirmation, leaving an impending legal battle. Represented by Territorial Supreme Court Justice John S. Watts, Baca's heirs offered to abandon their claim for equivalent lands elsewhere in New Mexico. In June 1860, Congress both confirmed the Town of Las Vegas Grant and authorized five tracts as compensation to the Baca family, creating the so-called Baca Float grants. The Baca Location Number 1 contained some 99,239 acres, including the Valle Grande, atop the Jemez Mountains west of the Tewa Basin.<sup>349</sup>

In June of 1859, Mariano Sánchez, as the sole owner of the Sebastián Martín grant, submitted his claim to Surveyor General Pelham, who recommended confirmation,

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<sup>348</sup> J. J. Bowden, "Town of Chamita Grant" in "Private Land Claims in the Southwest," accessed at [www.newmexicohistory.org](http://www.newmexicohistory.org), September 17, 2013; Benavides and Ryan Golten, *Response to the 2004 GAO Report*, appendices, 9.

<sup>349</sup> U.S. Department of Agriculture, Forest Service, *More Than a Scenic Landscape: Valles Caldera National Preserve Land Use History*, Kurt F. Anschuetz and Thomas Merlan, Rocky Mountain Research Station, General Technical Report RMRS-GTR-196 (September 2007), 30-33. See also Ebright, *Land Grants and Lawsuits*, 175-178.

save the portion Martín donated to the Las Trampas Grant in 1751. Congress approved the grant on June 21, 1860. Later, in 1876, it was surveyed at 51,387.20 acres.<sup>350</sup> In 1856, Ramón Vigil was represented by Justice Watts when he submitted his petition for confirmation of his grant. Pelham recommended the grant to Congress, which approved it on June 21, 1860, the same day Congress confirmed the Sebastián Martín Grant. The Martín grant would gradually draw timber and grazing interests, but the Vigil grant would change hands, from Vigil to Father Thomas Aquinas Hayes in 1879 for \$4,000. Hayes inflated the price through a false sale in 1881 and eventually sold the grant for \$100,000 in 1884.<sup>351</sup>

Unwieldy claims to vast grants flooded Pelham's office, and he was unprepared to scrutinize such large claims. Grants were traditionally described by metes and bounds and it was difficult for Pelham to ascertain their true boundaries. The landmarks described in the petitions were unlikely to be found on maps available to him, and witnesses supplied by the claimants were almost certain to corroborate the names assigned to hills, rivers, and even-smaller landmarks like old trees and unique outcroppings of rocks. Most claims that were recommended by Pelham were approved by Congress by 1860, the same year that he left the office, but most were not surveyed until 1877, when the actions of his successors began drawing scrutiny. By the time he reported his last claims, Pelham was disillusioned with the elasticity of the process and

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<sup>350</sup> J. J. Bowden, "Sebastian Martin Grant," in "Private Land Claims in the Southwest," accessed at [www.newmexicohistory.org](http://www.newmexicohistory.org), (accessed October 10, 2011).

<sup>351</sup> Ebright, *Land Grants and Lawsuits*, 231, 238-240. See also Ebright and Hendricks, "The Pueblo League and Pueblo Land in New Mexico, 1692-1846," 102-104.

recommended both that a commission be appointed to examine claims and that the interest of the government be represented in future adjudication proceedings.<sup>352</sup>

During the next three decades, over two-dozen other Tewa Basin grants were submitted to the Surveyor General's office. Surveyors General T. Rush Spencer, James K. Proudfit, and Henry M. Atkinson all recommended these grants to Congress for confirmation, but the pace of confirmation slowed after the end of the Civil War. Changes in land speculation complicated the process. Early lawyers turned speculators were paid in cash or, more often, by a portion of the confirmed lands. The confirmation process became more lengthy and now involved much more than submitting the claim to a surveyor general. lawyers could easily exercise influence over the Santa Fe-based surveyor general, convincing but Congress to act on the claims of their clients was much more difficult. This often fell to New Mexico's territorial delegates, men compelled to use their office for their own private business interests. Stephen B. Elkins was one of these men.

In 1873, Elkins was elected congressional delegate for the Territory of New Mexico. The affable Elkins had moved to New Mexico less than a decade earlier and was quickly elected to the territorial legislature, amassing a political following and gaining the post of territorial district attorney in 1866-1867. With Thomas B. Catron, his roommate back at the University of Missouri, Elkins speculated in land grants. Together, he and Catron gained interest in the Santa Gertrudis lo de Mora grant. Elkins energetically pursued congressional confirmation on land grants, especially those in

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<sup>352</sup> Westphall, *Mercedes Reales*, 92.

which he and his business partners had interest. Of the seven grants confirmed and patented during Elkin's tenure as territorial delegate, Catron had an interest in five.<sup>353</sup>

The speculative habits of attorneys and politicians drew the suspicion of federal officials in Washington. This was especially true after the confirmation of the Maxwell (Beaubien-Miranda) and Sangre de Cristo Land Grants for 1.7 million and 1 million acres, respectively. Lawyers active in the early era of land adjudication successfully enlarged land grants in the Tewa Basin as well. The enormous Juan José Lobato Grant was expanded from 100,000 to 205,615 acres, overlapping fourteen other grants, including the Abiquiú, Barranca, Plaza Blanca, Plaza Colorada, Polvadera, Vallecito, Ojo Caliente and the Town of El Rito Grants. When heirs or claimants of these grants protested, most were rejected outright. The Abiquiú, Plaza Colorada and Plaza Blanca Grants were the only ones confirmed within the Lobato Grant. Their combined 33,000 acres reduced the Lobato Grant to 172,615 acres. Some smaller claims were approved for at least their houses and ranches in small claims court, but the Lobato Grant nonetheless impacted multiple superior claims, including the Manuel Garcia de las Rivas and Juan Estevan García de Noriega (another of my maternal ancestor) claims.<sup>354</sup>

Overlapping claims were commonplace in the early proceedings of the surveyor general. The first-come-first-serve policy allowed inferior claims to win out and encouraged land speculators to pursue larger tracts and push for their confirmation. The Court of Private Lands Claims that succeeded the Surveyor General's office accepted the

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<sup>353</sup> Westphall, *Mercedes Reales*, 156-157. For more on Stephen B. Elkins, see Oscar Lambert, *Stephen B. Elkins: American Four-Square* (Pittsburgh: University of Pittsburgh Press, 1955).

<sup>354</sup> Malcolm Ebright, "Juan José Lobato Grant," *Land Grant / Pueblo Histories*, vol. 8 (Guadalupita, N.M.: Center for Land Grant Studies, 2005), 1.

first-come-first-serve policy despite the inequity and dispossession it caused.<sup>355</sup> The ineffectiveness of the surveyor general in scrutinizing fraudulent claims and implementing the provisions of the Treaty of Guadalupe Hidalgo has led to ample criticism. Ebright claims that the federal government deprived land grants of due process of law: “The surveyor was merely a passive agent of the government, and the procedure before his office was not really an adjudication at all.”<sup>356</sup>

Land speculators and former business partners Catron and Elkins would meet again, this time on opposite sides of a lawsuit that would decide the fate of Pueblo Indian lands. Appointed the U.S. attorney of the Territory of New Mexico in 1872, Catron used this political post for his own economic and political advancement. Em Hall writes that Catron’s quarrels with the Taos County Democratic Party political machine led to his prosecution of two cases, *U. S. v. Santistevan* and *U. S. v. Joseph*. Juan Santistevan and Antonio Joseph were Taos natives, owners of portions of the Antonio Martínez Grant and active in Taos County politics. Both men led a Democratic walkout of the 1872 Territorial Legislature, protesting the election of Republicans in a Democrat-controlled house.<sup>357</sup>

Catron’s predecessor as U.S. attorney was none other than his former legal partner and close friend Stephen B. Elkins. Whereas Elkins had pursued only fines, not eviction, in his 1867 case against Benigno Ortiz, who trespassed on Cochiti Pueblos lands, Catron sought legal resolution to the larger Pueblo lands question in U. S. courts and the

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<sup>355</sup> David Benavides and Ryan Golten, *Response to the 2004 GAO Report* (Santa Fe: New Mexico Attorney General’s Office, Gary King, Attorney General, Treaty of Guadalupe Hidalgo Division, 2008), 57.

<sup>356</sup> Ebright, *Land Grants and Lawsuits*, 38-41.

<sup>357</sup> Hall, *Four Leagues*, 121.



opportunity for political revenge against his enemies in Taos County. Elkins had claimed that the 1834 Non-Intercourse Act, which prohibited all unregulated trade with Indian tribes, did not apply to New Mexico, even though the act was explicitly extended to the territory in 1851. In preparing his cases against Joseph and Santistevan, Catron built his prosecution from recent case law, both the 1867 *US v. Ortiz* decision and the 1869 *US v. Lucero* decision, another case prosecuted by Elkins while U.S. attorney.

Like the *Ortiz* suit, *Lucero* dealt with fines levied against trespass on Cochiti Pueblo lands, this time by José Juan Lucero of Peña Blanca. In *Lucero*, Territorial Supreme Court justice John S. Watts borrowed heavily from late justice John Slough's opinion in the *Ortiz* case, which drew wildly on Mexican history and cited the Plán de Iguala, the Treaty of Córdoba and Mexican president Benito Juárez's misconstrued Pueblo blood as proof that the Pueblos were bona fide citizens of the United States. For his part, Watts did differentiate between federal Indian policy and Pueblo's status as citizens under the Treaty of Guadalupe Hidalgo:

This court, under this section of the Treaty of Guadalupe Hidalgo, does not consider it proper to assent to the withdrawal of eight thousand citizens of New Mexico from the operation of the laws, made to secure and maintain them in their liberty and property, and consign their liberty and property to a system of laws and trade made for wandering savages and administered by the agents of the Indian department . . . For the Indian department to insist, as they have done for the last fifteen years, upon the reduction of these citizens to a state of vassalage, under the Indian intercourse act, is passing strange. A law made for wild, wandering savages, to be extended over a people living for three centuries in fenced abodes and cultivating the soil for the maintenance of themselves and families, and giving an example of virtue, honesty, and industry to their more civilized neighbors, in this enlightened age of progress and proper understanding

of the civil rights of man, is considered by this court as wholly inapplicable to the pueblo [sic] Indians of New Mexico.<sup>358</sup>

Although driven by Catron's will to punish his political enemies, the *US v. Joseph* case would seemingly force the United States to face the question of the Pueblos' status as either Indians or citizens. Instead, the *Joseph* case, as argued by Catron to the New Mexico Territorial Supreme Court, only discussed the nature of the Pueblos' titles to their land grants. Rosen writes that the U.S. Supreme Court followed suit, upholding New Mexico's rejection of federal oversight and "declining to take broader issues of Pueblo Indians' legal status." Further, she contends that in the *Joseph* decision, the U.S. Supreme Court narrowly interpreted its own laws and held that because Pueblos were not recognized by a legal or ratified treaty, they were not wards of the government and were not due federal protection. It also held that the Pueblos held title to their lands, because they were recognized by a federal patent. Their claim was thus superior to any claims of the United States, meaning that the federal government could not protect the title of lands to which it had only an inferior claim. This obscure legal distinction justified the federal government abdication of all oversight of Pueblo rights, including those to their lands.<sup>359</sup>

The impetus for the *US v. Joseph* case came from none other than Antonio Joseph. His Portuguese father had come to Taos after being shipwrecked off the Gulf coast of Texas. Antonio was born in Taos in August of 1846, merely a week after

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<sup>358</sup> 1 N.M. 422 *United States of America v. José Juan Lucero*, Supreme Court of the Territory of New Mexico. January 1869. See also, Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990) 91-92, 101-102. Griswold del Castillo discusses the effect of the Treaty of Guadalupe Hidalgo on Pueblo Indians from the *Lucero* case through the New Mexico Supreme Court's *Tenorio v. Tenorio* decision (1940), which asserted that the Treaty did not protect Pueblo Indian rights.

<sup>359</sup> Rosen "Pueblo Indians and Citizenship," 10.

Colonel Stephen Watts Kearny entered New Mexico. When he was a child, Joseph and his mother were taken captive by marauding Apaches, who burned his father's store. He was rescued by Colonel Sterling Price, baptized by Padre Antonio José Martínez, after whom he was named, and later attended Bishop Jean Baptiste Lamy's school in Santa Fe and business college in St. Louis. After his father's death in 1862, Joseph took over the mercantile and busily set about speculating in lands in the Taos area. He gradually expanded his holdings, claiming lands on the Antonio Martinez, Antoine Leroux and Arroyo Hondo grants.

Joseph's claim to ten acres of Taos Pueblo land drew the pueblo's protest, and U.S. Attorney Catron pushed the case all the way to the United States Supreme Court in 1876. In that court, Joseph was represented by none other than Stephen B. Elkins, the very attorney who had lost the *Ortiz* and *Lucero* cases defending Pueblo lands. Now, he defended Joseph's non-Indian claim to Pueblo land.<sup>360</sup> On May 7, 1877, Associate Justice Samuel Miller delivered the court's opinion: because the United States had no jurisdiction over Pueblo lands, it was not a party to private claims against Pueblo title. Disputes over non-Indian claims could be meted out in court where illegitimate claims would surely fall.<sup>361</sup> Rosen writes that while the *Ortiz*, *Lucero* and *Santistevan* decisions on Pueblo land tenure were decided in the context of local interests, the U.S. Supreme Court's *Joseph* decision "reflected and expressed a strong national sentiment in favor of advancing American individualism and expanding economic markets."<sup>362</sup>

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<sup>360</sup> Rosen, "Pueblo Indians and Citizenship," 17.

<sup>361</sup> Ibid, 18-19; Hall, *Four Leagues*, 133-137.

<sup>362</sup> Rosen, "Pueblo Indians and Citizenship," 20.

Antonio Joseph's speculation in Pueblo and Hispano lands demonstrates both his locally informed habits and his interest in inviting broader investment in northern New Mexico. Legally, Pueblo grants were now completely vulnerable to outside speculation. In light of the *Joseph* decision Congress, advised by the Board of Indian Commissioners, redoubled its efforts to protect the Pueblos in ancillary ways. In 1883, Congress began formally designating Pueblo appropriations for agricultural implements, seeds and ditch construction. The Santa Fe Indian School was created in 1890<sup>363</sup> and Congress began funding the Presbyterian founded Albuquerque Indian School in 1891<sup>364</sup>. In 1899 Congress legislated the position of special attorney for the Pueblo Indians. By 1905, the Appropriations Act held that the lands and livestock of Pueblo Indians were free territorial taxation.<sup>365</sup>

In 1880 Joseph relocated to Ojo Caliente where he built a hotel and health resort and sanitarium. He claimed proprietary use of the springs, which had been used by Hispanos, Pueblo and other Indians for centuries. Why Joseph relocated from Taos is unknown. An ardent Democrat, Joseph fought the Republican territorial establishment in vain until 1884, when a split in the territorial Republican Party helped Joseph win election as delegate to Congress for the New Mexico Territory. The presidency of Grover Cleveland assured that Joseph would not only retain his post, but would control the small but invaluable federal patronage, which endeared elected officials to voters.

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<sup>363</sup> In a confounding twist, it was none-other than Antonio Joseph who petitioned Congress for the creation of the Santa Fe Indian School as territorial delegate in 1885. The school formally opened in 1890. See Sally Hyer, *One House, One Voice, One Heart: Native American Education at the Santa Fe Indian School* (Santa Fe: Museum of New Mexico Press, 1990).

<sup>364</sup> Historic Albuquerque, Inc., "Albuquerque Indian School," <http://www.historicabq.org/albuquerque-indian-school.html> (accessed 2/21/2015).

<sup>365</sup> Frost, "Aspects of Southern Tewa Land and Water Rights," 34.

Joseph served as New Mexico's delegate to Congress for the next ten years, longer than any other territorial delegate.<sup>366</sup>

A political opportunist, Joseph held his own political fortunes above New Mexico's. For instance, he refused to support outright L. Bradford Prince's unending pursuit of New Mexico statehood. In his early years as a delegate, Joseph supported bills for New Mexico statehood until it appeared Republicans would control the territory, whereupon he withdrew his support. Joseph favored political expediency above New Mexico's political maturation, and for this he was widely criticized in the local press which publically doubted the rare times that he promised to support bills requesting a statehood enabling act. When questioned on the floor of Congress about his tepid and tardy support for New Mexico statehood, Delegate Joseph cited both unresolved Indian depredation claims and unresolved land claims, complicated by clouded Spanish and Mexican title as cause for his sudden about-face. The people of New Mexico, claimed Joseph, believed only statehood offered resolution to these problems.<sup>367</sup>

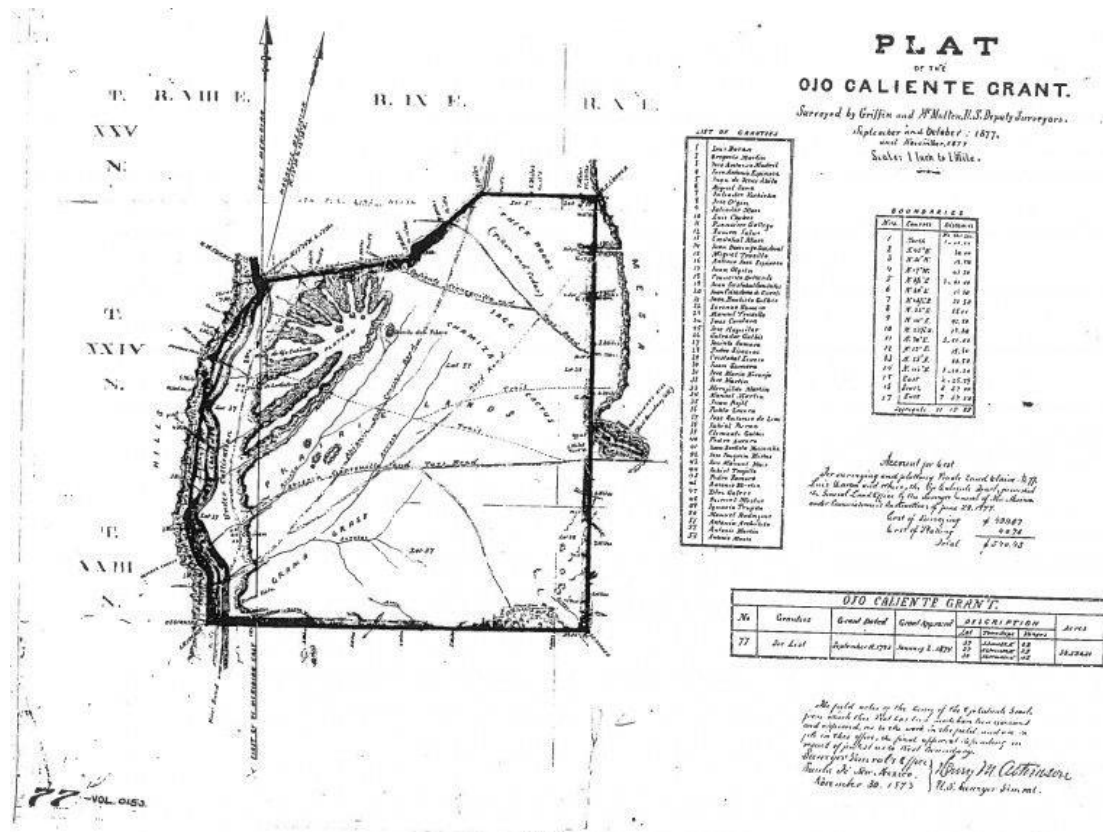
Joseph likely would not have supported statehood if he had known it would eventually alter the land market and curb land speculation. Before he moved to Ojo Caliente in 1880, he had expanded his land holdings by speculating and eventually gaining title to the Ojo Caliente Land Grant. Exactly how he gained title remains unclear. Malcolm Ebright's research has uncovered Joseph's practice of distributing \$1.00 bills to the heirs of the Cieneguilla Grant east of the Embudo Grant and adjacent to Ojo Caliente, in order to obtain title to the entire grant. The Cieneguilla heirs believed

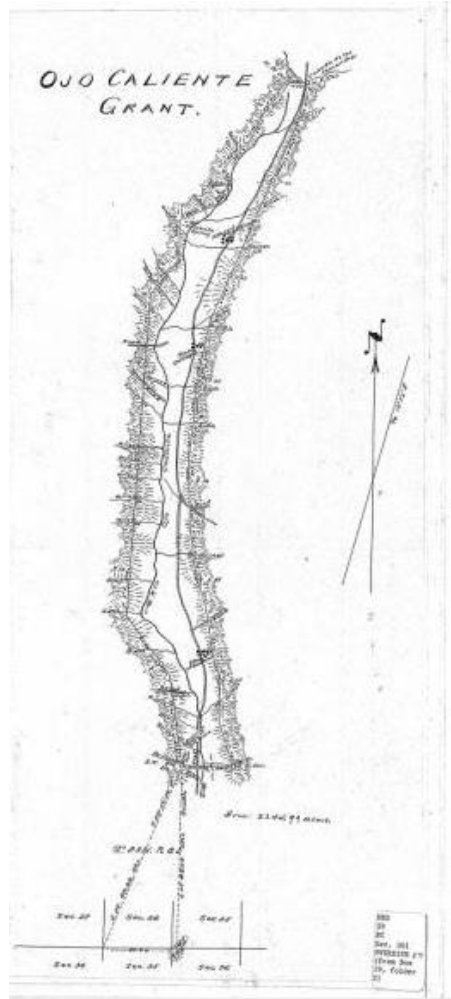
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<sup>366</sup> Hall, "Pueblo Labyrinth," 128-132.

<sup>367</sup> Lamar, *The Far Southwest*, 143, 157-158. See also, Malcolm Ebright, "Ojo Caliente Grant," *Land Grant / Pueblo Histories* vol. 10 (Guadalupita, N.M.: Center for Land Grant Studies, 2006), 23-26.

that they were only granting right of way or paying to have their title revalidated. Instead, Joseph proved successful in using the same methods of duplicity, bribery and coercion that Thomas Catron and Alois Renehan famously used in Mora and Trampas, distributing dollar bills for thousands of acres of land.<sup>368</sup>





**Figure 13: Survey of the Ojo Caliente Grant, 1877.** The 2,244 acres represented in this survey illustrate the effect of the CPLC's 1894 decision, which rejected all of the uplands east of the Río Ojo Caliente in the western reaches of the grant. folder 57, series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/catron/id/876/rec/1>

We can only infer how Joseph came to own most of the Ojo Caliente Grant, but his actions at the adjacent Cieneguilla Grant provides clues. After distributing dollar bills to gain interest in the Cieneguilla Grant, Joseph filed his claim to undivided title, which he also did at Ojo Caliente. In 1878, Joseph objected to an 1877 survey conducted by the deputies of the U.S. Surveyor General's office granting him only 38,000 acres. He claimed he owned the entire land grant commons of 44,000 acres. When the Surveyor

General's Office failed to take final action on his claim, he filed his case in 1892 in the Court of Private Land Claims, whose founding legislation he helped pass.<sup>369</sup>

Represented by fellow land grant speculator Napoleon B. Laughlin, Joseph submitted his claim to what he called the "Antonio Joseph Grant." His petition included a chart crudely abstracting title to all the deeds that represented his claim to undivided interest in the grant, including fifty-three shares representing the fifty-three original settlers. Ebright comments that at least thirty-five of these fifty-three shares of interest carry a convoluted story of previous sales to land speculators Antonio Maes and Salvador Lucero. Despite these uncertainties and the objection of Jesús María Olguin and other heirs of Antonio Olguin, an original Ojo Caliente settler, the CPLC awarded Antonio Joseph title to the entire Ojo Caliente Grant. But Chief Justice Joseph R. Reed's decision in April 1894 held that Ojo Caliente's eastern and western boundaries rested at the foothills adjacent to the Ojo Caliente River. Reed's conclusion reduced the acreage to just 2,244 acres.<sup>370</sup>

Antonio Joseph, who infringed on both Taos Pueblo's lands and robbed Ojo Caliente of its patrimony, was an enterprising speculator in both Hispano and Pueblo lands. And he was far from alone. Again, Pueblo and Hispano lands were subject to the same political, legal and economic pressures. In fact, many of the same attorneys and jurists served the dispossession of both communities. Stephen B. Elkins both defended Pueblo land tenure and the claims of non-Indians as New Mexico's district attorney (1866-1867), attorney general (1867), and as U.S. attorney (1867-1870). As territorial

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<sup>369</sup> Malcolm Ebright, "Ojo Caliente," in *Rio Arriba: A New Mexico County*. ed. Robert J. Tórréz and Robert Trapp (Los Ranchos, NM: Rio Grande Books, 2010), 333-348.

<sup>370</sup> Ebright, "Ojo Caliente Grant," 27.



delegate in 1876, he infamously pursued Congressional approval of the partition suit, and when Congress refused, he engineered a territorial statute that allowed for partition of all property, but was aimed at partitioning large land tracts on Hispano grants. When Thomas B. Catron served as the U.S. attorney (1872-1878), his defense of Pueblo lands was motivated more by the spirit of vengeance on Taos Democrats Juan Santistevan and Antonio Joseph than his obligation or desire to protect Pueblo lands. Ebright, Hendricks and Hughes comment that soon after he lost the *Joseph* case, Catron used the Supreme Court's decision to substantiate his own claims to Pueblo lands.<sup>371</sup>

Just as Pueblo land tenure was still under assault, Hispano land grants likewise faced a new era of speculation. When the Surveyor General's Office proved itself more able to guard against fabricated or inflated claims, speculators began working to influence the office. They were successful with Surveyor T. Rush Spencer (1869-1872), who approved the survey of the Maxwell Land Grant while he worked for the Maxwell Land Grant and Railway Company and gained interest in the Mora Land Grant with Elkins and Catron.<sup>372</sup> His successor, James K. Proudfit, was also involved in speculation, investing in the cattle companies and land grants that he adjudicated. Proudfit later pressed Congress to scrutinize claims and suggested a claims commission that would address complaints of collusion and unethical legal practices.<sup>373</sup> Henry Atkinson (1876-1884) took up Spencer's mantle and partnered with Thomas B. Catron, William

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<sup>371</sup> Ebright, Hendricks and Hughes initially downplay the role that political reprisal played in Catron's prosecution of the Joseph and Santistevan, but later point out that Catron would use the decision to protect his own land claims. Ebright, Hendricks and Hughes, *Four Square Leagues*, 251-255.

<sup>372</sup> Westphall, *Mercedes Reales*, 181.

<sup>373</sup> *Ibid*, 100-101.

McBroom and booster Max Frost, approving an additional survey of the Maxwell Grant while speculating in the massive Anton Chico Grant.<sup>374</sup>

Ryan Golten and David Benavides explain the influence of Samuel Ellison on Proudfit and Atkinson.

Samuel Ellison was a prodigious land grant attorney in the 1870s and brought more land grants into the adjudication process than any other attorney. For some reason he has escaped careful scrutiny. He represented 23 of the 49 claims that came before Proudfit (and 13 of the 35 that came before Proudfit's successor Atkinson). These claims followed a similar pattern in which Ellison made anonymous claims for land grants that eventually were recommended as private land grants. The initial petitions for the Town of Vallecito de Lovato and the Petaca land grants, for example, included witness depositions for claims that Ellison himself provided. In both cases Samuel Ellison delivered to James Proudfit a petition and a series of witnesses. This pattern was suspicious (Julian noted the unusual patterns of Ellison's petitions in a series of reports to the General Land Office) and was replicated in other claims. Samuel Ellison had a unique knowledge of the system of Mexican land grants and understood evidence necessary to make claims for adjudication. Proudfit and Atkinson, meanwhile, actively invested in land grants and incorporated cattle companies in land grants petitioned by Ellison.<sup>375</sup>

Even as surveyors general partnered with attorneys and created development corporations to invite investment, the environment of speculation was in a period of transformation. The massive tracts on which lawyers gained an undivided interest were still protected by communal ownership. To break this corporate hold on the grant, Stephen B. Elkins attempted to get Congress to pass legislation that allowed the

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<sup>374</sup> Ibid, 101-102. See also, Ebright, *Land Grants and Lawsuits*, 41-42.

<sup>375</sup> Benavides and Golten, *Response to the 2004 GAO Report*, appendices 80-81.

partitioning of property, a legal device common in American property law. When legislation died in committee, Elkins enacted a partition statute in the New Mexico Territorial Legislature in 1876, the same year that the *Joseph* case created similar vulnerabilities on Pueblo lands.

The partition statute now allowed lawyers to sue for partition at any district court in the territory. When an equitable partition was impossible to achieve, a result that was likely as heirs held varying interest in their grant, the grant went up for a public sale. Lawyers typically worked with business partners, who would buy the grant for pennies on the dollar. Partition was particularly destructive of community and quasi-community land grants, which were now dispossessed of the *ejido* that made their communities sustainable.<sup>376</sup>

New Mexico's early territorial era inaugurated a period of speculation on both Pueblo and Hispano lands. Despite Calhoun's attempts to protect Pueblo lands, his successors were unable to stop the Hispano invasion of Pueblo lands and the designs of land speculators. The early adjudication of land grants under an ill-equipped and unprepared Surveyor General's Office allowed attorneys to speculate in grant lands and dispossess their Hispano communities. Antonio Joseph, Stephen B. Elkins and Thomas B. Catron were among the most well known and active lands speculators. They ventured to gain title to Hispano land grants and, though they were charged with protecting Pueblo Indian lands, they also unencumbered these lands of federal protection.

The year 1876 proved to be an important and transitional one for Hispano and Pueblo communities and their lands. In the next chapter, we will see how the invasion of

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<sup>376</sup> Ebright, *Land Grants and Lawsuits*, 42-43.

Pueblo lands increased after the *US v. Joseph* decision. We will also see how the partition statute offered a new legal device to dispossess community grants of their lands, and initiated a new era of speculation, during which the ominous influence of the Santa Fe Ring led to the closing of the Surveyor General's Office and the creation of the Court of Private Land Claims (CPLC). Despite the Supreme Court's disavowal of its fiduciary duties toward Pueblo Indians, Congress provided a special attorney for Pueblo Indians. The first Pueblo attorney, George Hill Howard, used this position as an inroad to land grant speculation and used the partition suit to dispossess grants in the Tewa Basin of their common lands. Later special attorneys served as federal attorneys in CPLC hearings, as counsel to Hispanos fighting Pueblos over precious water resources, and as agents for investors purchasing former Pueblo and Hispano lands. By the end of the territorial era, connections between Hispano and Pueblo land tenure undeniable.

## Chapter 4: Speculation and Appropriation in Late Territorial New Mexico, 1876-1912

Non-Indian encroachment on Pueblo lands grew in the decades after the *Joseph* case. Emboldened by the federal government's formal disavowal of its guardianship of Pueblo lands and people, renters overstayed their leases on and squatters moved onto Pueblo lands, refusing to leave. Indian agents implored Pueblos to discontinue leasing tracts to Hispanos, especially to cattlemen, whose herds routinely overgrazed already barren Indian lands. By the 1890s, Pueblo governors and tribal members unilaterally sold their lands to non-Indians. In these same decades, Hispano land grants faced a more stringent adjudication process when the Court of Private Land Claims replaced a Surveyor General's Office too prone to corruption. Both Pueblos and Hispanos suffered irretrievable land loss during the Gilded Age, although the forces of attrition were sometimes dissimilar.

Despite the rigidity of the the CPLC, speculation in Hispano grants continued. Scholars have argued that the assault on Hispano land grants was motivated by American legal notions of communal property as unproductive and contrary to free-market capitalism.<sup>377</sup> The same rationale, exalting individualism as the path toward native assimilation, underlay the Dawes Severalty Act of 1887, and was at play in the *Joseph* case, which undermined the tribal control of communal lands. The similarities in Pueblo and Hispano land loss in the Tewa Basin went beyond fin de siècle federal philosophies. Personal fortune also drove the plundering and dispossession of Pueblos and Hispanos.

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<sup>377</sup> Ebright, *Land Grants and Lawsuits*, 51-52, 137; David Correia, "Land Grant Speculation in New Mexico During the Territorial Period" in David Benavides and Ryan Golten, *Response to the 2004 GAO Report* (Santa Fe: New Mexico Attorney General's Office, Gary King, Attorney General, Treaty of Guadalupe Hidalgo Division, 2008) appendices, 73-109, 95-97.

George Hill Howard, the first special attorney for Pueblo Indians, left his office in scandal when he solicited loans from Laguna Pueblo, which he was unable to repay.<sup>378</sup> He quickly turned to land speculation on the Petaca and Juan José Lobato land grants. William H. Pope served as a federal attorney in the Court of Private Land Claims before serving as the special attorney for the Pueblos. Despite this experience, he later upheld the *U.S. v. Joseph* decision, only to be overturned by the U. S. Supreme Court. Lawyers A. J. Abbott, Francis C. Wilson, Jacob H. Crist, Richard H. Hanna and Ralph E. Twitchell all speculated in land grants before or after leaving their post as special Pueblo attorney.

Infamous land speculators Thomas B. Catron and Alois B. Renehan predictably held land claims to Pueblo lands. Less known among historians are attorneys like Edward Hobart, who served as the U.S. surveyor general from 1889-1893 and left his office to embezzle half of Santa Clara Pueblo's land; he was represented by none other than Judge A. J. Abbott, the immediate past Pueblo attorney, charged with protecting the Pueblo from this very type of action. Speculation by attorneys united Pueblo and Hispano land tenure, both of which faced not only similar philosophies bent on their dispossession, but also a cadre of attorneys seeking to profit off tribal and communal lands. The season for speculation was wide open in land grant country. This chapter discusses this new era of land speculation, marked by the *U.S. v. Joseph* decision and the partition suit that created new vulnerabilities for Pueblo and Hispano communities.

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<sup>378</sup> Frost, "Aspects of Southern Tewa Land and Water Rights," 74, 77-78.

After the 1876 *Joseph* decision made Pueblos and their lands more vulnerable to outside speculation, Congress funded agents, schools, farmers and a special attorney for Pueblo Indians. The rampant speculation in Hispano land grants also drew federal intervention. Clarence Pullen briefly served as surveyor general (1884-1885) and was followed by George Washington Julian (1885-1889). Chosen by President Grover Cleveland to clean up New Mexico politics, Julian invited national attention and unprecedented scrutiny to the territorial dominance by the Santa Fe Ring.<sup>379</sup> Other surveyors general had been influenced by land speculators, but he adopted an adversarial stance toward all land claims. Julian reexamined over thirty claims approved by his predecessors that awaited Congressional action: he rejected over twenty, returning to the federal government over four million acres of land. These included the Cieneguilla, Francisco Montes Vigil, Juan Bautista Valdez, Petaca, Polvadera, and Antonio de Salazar Grants in the Tewa Basin.<sup>380</sup>

Though Julian certainly thwarted the claims of unscrupulous speculators, he unfortunately also blocked legitimate claims. His call for reform was, in part, responsible for the closing of the Office of the Surveyor General and the creation of the Court of Private Land Claims. Julian posited that common lands were never the actual property of the heirs and that neither the Spanish crown nor the Mexican government had intended to relinquish title to their subjects and citizens when a grant was made. His theory would be

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<sup>379</sup> George W. Julian, "Land Stealing in New Mexico," *North American Review* 145 (July 1887), 17-31.

<sup>380</sup> Ebright, *Land Grants and Lawsuits*, 43-45. Benavides and Golten, *Response to the 2004 GAO Report*, 73-75.

adopted and embellished by Matthew G. Reynolds, the United States attorney for the Court of Private Land Claims.<sup>381</sup>

In his history of the Court of Private Land claims, historian Richard Bradfute lauds Reynolds guarding against fraudulent claims. Lands that were a part of rejected claims were returned to the public domain and kept out of the hands of speculators. Bradfute writes: “Reynolds seemed dedicated to the defeat of as many grants as possible. If he could not defeat them, he strove to reduce acreage as much as possible.”<sup>382</sup> While his suspicion guarded against fraudulent claims, it created a hostile legal environment that unjustly reduced the lands of community and quasi-community land grants.

To fight against fraudulent claims, Reynolds hired William M. Tipton, who had served in the surveyor general’s office since 1876 and was familiar with the territory’s archives, witnesses, and speculators. Henry Ossian Flipper, first black graduate of Westpoint and a former buffalo soldier, collected and translated Spanish and Mexican laws under Reynolds, and later served as an assistant to Secretary of the Interior Albert B. Fall. William H. Pope served as the assistant U.S. attorney under Reynolds. Pope would later serve as special attorney for Pueblo Indians, federal district judge for New Mexico’s Fifth Judicial District, chief justice of the territorial New Mexico Supreme Court and finally as federal judge for the new state of New Mexico in 1912, where he upheld the *Joseph* decision in the *U.S. v. Sandoval* case (see Chapter 5).

Scholars and land grant heirs studying the Court of Private Lands Claims (CPLC) have pointed to Reynolds’s clear advantage in CPLC adjudication proceedings. Through

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<sup>381</sup> Benavides and Golten, *Response to the 2004 GAO Report*, 73-75.

<sup>382</sup> Richard Wells Bradfute, *The Court of Private Land Claims: The Adjudication of Spanish and Mexican Land Grant Titles, 1891-1904* (Albuquerque: University of New Mexico Press, 1975), 222.



his assistant, Henry Ossian Flipper, he compiled a translation of Spanish and Mexican land laws. His *Spanish and Mexican Land Laws: New Spain and Mexico* became the authoritative text on all questions regarding the Spanish and Mexican policies. This text was used not only by his office, which scrutinized all land claims, but also by the CPLC itself, whose justices adjudicated them.<sup>383</sup>

Guided by Reynolds's interpretations of Spanish and Mexican laws, the CPLC took a hostile stance toward land claims. This attitude intensified over its thirteen-year tenure and it was manifested in decisions that destroyed communal land grants by removing the *ejido*, the communal lands that made villages sustainable. That known land speculators were either forwarding their own claims or representing the claims of others only invited more scrutiny by the CPLC. At the same time that legal devices operated to dispossess land grants, developing markets transformed lands that barely sustained their small communities. These *ejidos* were already stretched to their ecological limits, but drew investment to develop its resources and produce material goods that were sold on erratic regional markets.

The CPLC's rejection of the Embudo land grant provides a case in point. Granted in 1725, heirs petitioned Surveyor General John Clark for confirmation in 1863, and when no action was taken, they filed their claim with the CPLC. Land-speculator Napoleon Laughlin, who represented Antonio Joseph at the neighboring Ojo Caliente Grant, represented the Embudo heirs, who were led by Antonio Griego. When Griego presented a certified copy of the title papers drafted by alcalde José Campo Redondo in 1786, Assistant U. S. Attorney William Pope protested that there was no way to test their

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<sup>383</sup> Matthew G. Reynolds, *Spanish and Mexican Land Laws: New Spain and Mexico* (St. Louis: Buxton and Skinner Stationery Co., 1895).

veracity and that *alcaldes* did not have the authority to make copies of the grant's title papers.<sup>384</sup>

Malcolm Ebright comments that Pope's position ignored the lack of *escribanos* (scribes or notaries) in New Mexico. In fact, *alcaldes* were often the only official available to make official copies of land grant paperwork. In the Embudo case, the CPLC departed from the surveyor general's practice of recognizing the presence of a community as *prima facie* evidence that the community held legal title to its lands. The Supreme Court decision in *Hayes v. United States* in 1898 held that claims not "lawfully and regularly derived from the Government of Spain or Mexico" would not be recognized, meaning that the presence of a community was no longer accepted as evidence of the grant. With two of the five justices dissenting, the CPLC, nonetheless, rejected the Embudo Grant, creating legal vulnerabilities that affected the grant through the 1970s, when the Bureau of Land Management attempted to make heirs pay the federal government for their own home lots.<sup>385</sup>

Lawyers Ryan Golten and David Benavides write that the federal government played a key role in dispossessing land grants both during and after the confirmation process. Through its decisions, the federal government created weak spots in the legal armor for land grants. Its positions almost guaranteed that attorneys representing land grants on contingency fee agreements would turn to communities' only asset, its land, when recouping their losses. Lawyers also used the partition suit to pry apart land grants,

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<sup>384</sup> Ebright, *Land Grants and Lawsuits*, 130-133. See also U.S. General Accounting Office, *Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico: Report to Congressional Requesters* (Washington, D.C.: GAO, 2004), 112.

<sup>385</sup> Ebright, *Land Grants and Lawsuits*, 137-142.

which would sell at auction, netting for lawyers their fee and removing communal lands that were integral to a community's survival. Golten and Benavides write that partition suits, empowered when community grants were misidentified as *tenancies-in-common*,<sup>386</sup> extended the speculation and exploitation of community land grants. They consider *tenancies-in-common* a fabrication, a “federal invention for community land grants,” and impeach the federal government for its role in making communities susceptible to the designs of speculators.<sup>387</sup>

Confusion over the nature of grants seeded fertile ground for fraudulent and enlarged claims. The Spanish system of metes and bounds was responsive to the limits of the natural environment, shaping petitions that attempted to include the resources necessary to sustain a community. It was also imprecise, leaving uncertainty that allowed for wild speculation on the former lands of many Spanish and Mexican grants. The Pueblo Quemado Grant, on the eastern edge of the Tewa Basin, was one of these cases. Likely settled at the end of the seventeenth century, Quemado was restricted by its high altitude and the narrow canyon in which it lay. While the canyon provided protection from Apache and Comanche raids, it also ensured that the population would never grow too large.

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<sup>386</sup> Attorney G. Emlen Hall explains that Pueblo Indian land grants were considered perfected community land grants, while non-Indian community land grants were considered imperfect community grants. In the perfected community (Pueblo) grant, the Pueblo itself owned those lands around the settled areas of the grant. This “surplus land” was the private property of no particular resident, but the Pueblo as a whole. In *U.S. v. Sandoval* (1897), the court reasoned that in the imperfect (Hispano) municipal grants, the unallotted common land still belonged to the government, not to the local grant, and was always subject to national control and disposition. See Hall, *Four leagues of Pecos*, 321, fn. 90.

<sup>387</sup> Benavides and Golten, *Response to the 2004 GAO Report*, 26.

By the 1850s, the Quemado Grant held a small population of less than two-hundred souls, which lived along the narrow river canyon, but used the surrounding lands to provide pastureland, hunting grounds and range for gathering herbs and wild fruits. The age of the grant created an opportunity for speculation in the lands west of Quemado and north of Santa Cruz de la Cañada. Three equally shoddy and competing claims emerged on March 3, 1893, the last day to file claims before the court. Thomas Catron, in one of his earlier ventures into lands speculation in the Tewa Basin, would claim that the Quemado Grant embraced perhaps 280,000 acres, an acreage that would have made the grant overlap the Santa Cruz de la Cañada and San Juan Pueblo grants. Pueblo attorney George Howard Hill filed a protest on behalf of San Juan Pueblo. Other protests were filed on behalf of the Sierra Mosca, Diego de Velasco and Pueblo of Nambé by U.S. Attorney Matthew G. Reynolds, and Assistant U. S. Attorney William H. Pope filed claims on behalf of the Santa Cruz de la Cañada Grant, Nuestra Señora del Rosario San Fernando y Santiago del Río de las Truchas Grant, the Santo Domingo de Cundiyo Grant, the latter two of which mention the existence of the Quemado grant in the boundary descriptions of their grants.<sup>388</sup>

A 1900 hearing revealed that the 1895 survey of the Nuestra Señora del Rosario San Fernando y Santiago del Río de las Truchas Grant had already encompassed most of the Pueblo Quemado claim, leaving the village of Quemado (later renamed Córdova) with no title. The neighboring village of Truchas held it. With no title papers to support their claim or contest Truchas's awarded boundaries, Catron and the other attorneys

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<sup>388</sup> Benavides and Golten, *Response to the 2004 GAO Report*, 31. Malcolm Ebright, "Pueblo Quemado Grant," *Land Grant / Pueblo Histories* vol. 13, 9-10

abandoned the case.<sup>389</sup> The nearby Santo Domingo de Cundiyo Grant faced similar issues.

Cundiyo was represented by Ralph Emerson Twitchell, who had arrived in New Mexico in 1882 and quickly became an avid researcher in the Spanish and Mexican archives in Santa Fe. Twitchell filed one of many conflicting claims to the Cundiyo Grant on March 3, 1893, the last day that claims could be filed in the Court of Private Land Claims. He eventually struck a deal, however, with attorneys Thomas B. Catron, Charles Coons and Robert Gortner to merge their claims into one and split the contingency lawyers' fees. Twitchell then knowingly filed claims representing Antonio Vigil for the Diego de Velasco Grant on the same day as the Cundiyo claim, which declared for precisely the same land as the Cundiyo Grant. The Velasco claim was unsuccessful; the Cundiyo claim, estimated at over twenty-thousand acres and stretching west beyond the Sierra Mosca, was rejected by the CPLC and reduced to just over twenty-one hundred acres. Cundiyo heirs were issued a patent for these lands in 1903. Golten and Benavides comment that Twitchell seemed uninterested in the case and did not protest the vast reduction of the grant, but rather accepted it without consulting his clients.<sup>390</sup>

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<sup>389</sup> Benavides and Golten, *Response to the 2004 GAO Report*, 31.

<sup>390</sup> Malcolm Ebright, "The Cundiyo Grant," *Land Grant / Pueblo Histories*, vol. 4, 4-6. See also Bowden, "Santo Domingo de Cundiyo Grant," in "Private Land Claims in the Southwest", accessed online at [http://newmexicohistory.org/filedetails\\_doc/php?fileID=24782](http://newmexicohistory.org/filedetails_doc/php?fileID=24782), (accessed 13 August 2011); See also Bowden "Diego de Belasco Grant" in "Private Land Claims in the Southwest" accessed online at [http://newmexicohistory.org/filedetails\\_doc/php?fileID=24783](http://newmexicohistory.org/filedetails_doc/php?fileID=24783) (accessed 11 August 2011); See also, New Mexico Legal Rights Demonstration Land Grant Project, *The New Mexico Legal Rights Demonstration Land Grant Project: An Analysis of the Land Title Problems in the Santo Domingo de Cundiyo Grant* (Albuquerque: Legal Aid Society of

U.S. Attorney Reynolds's hostility toward communal land ownership met its highpoint in the 1894, when the CPLC ruled that the common lands of the San Miguel del Bado Grant belonged to the federal government, not the grant itself. Reynolds reasoned that the Spanish crown only granted the *sitios* and *suertes*, the small allotted tracts of private lands, when it issued community land grants. The CPLC, nonetheless, confirmed the 315,000 acre grant, but Reynolds appealed the decision to the U. S. Supreme Court. Overruling the CPLC, the Supreme Court, reduced the San Miguel del Bado Grant to 5,000 acres immediately adjacent to the Pecos River, depriving heirs of the vast common lands on which they grazed their herds.<sup>391</sup>

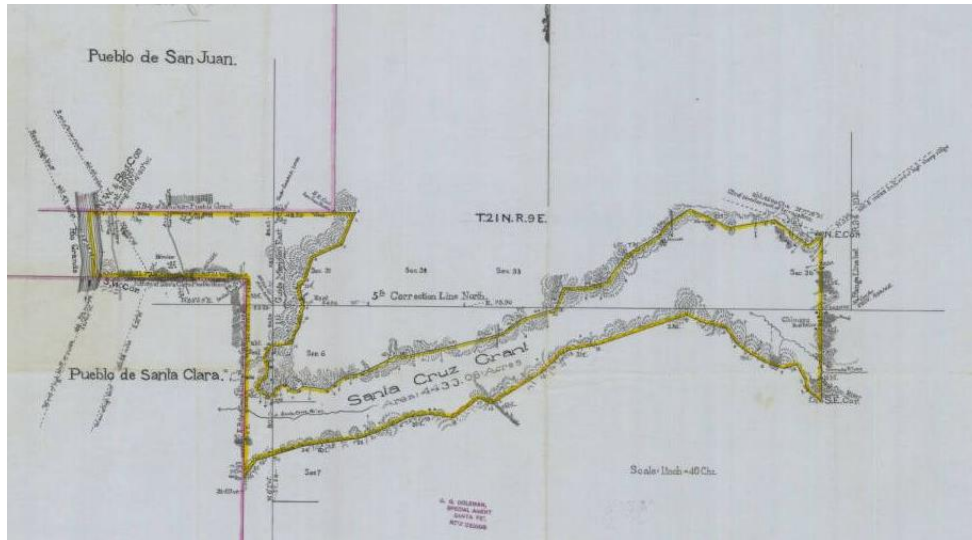
While the CPLC decided against applying the decision retroactively, it withdrew its approval of communal lands on other grants that had yet to be patented. The Santa Cruz de la Cañada Grant was reduced from 48,000 acres to 4,567.6 (see Figures 13 and 14); the Cañon de Chama, north and west of the Tewa Basin, from 472,737 acres to a paltry 1,422.62 acres. In all, nearly 1.137 million acres were rejected, leaving barely 16,485 acres in the hands of seven community grants.<sup>392</sup>

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Albuquerque, 1976), which analyses the difficulty in ascertaining the land rights to the Cundiyo grant 230 years after it was received from Spain and seventy years after its patent was issued by the federal government. See also Benavides and Golten, "Righting the Record: A Response to the GAO's 2004 Report *Treaty of Guadalupe Hidalgo: Finding and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico*," *Natural Resources Journal* 48 (fall 2008): 857-926, 901-902.

<sup>391</sup> G. Emlen Hall, "San Miguel del Bado and the Loss of the Common Lands of New Mexico Community Land Grants," *New Mexico Historical Review* 66:4 (October 1991): 413-432; Malcom Ebright, "The San Joaquin Grant: Who Owned the Common Lands? A Historical-Legal Puzzle," *New Mexico Historical Review* 57:1 (January 1982): 5-26; and Placido Gómez, "Comment: The History and Adjudication of the Common Lands of Spanish and Mexican Land Grants," *Natural Resources Journal* 25 (October 1985): 1039-1080.

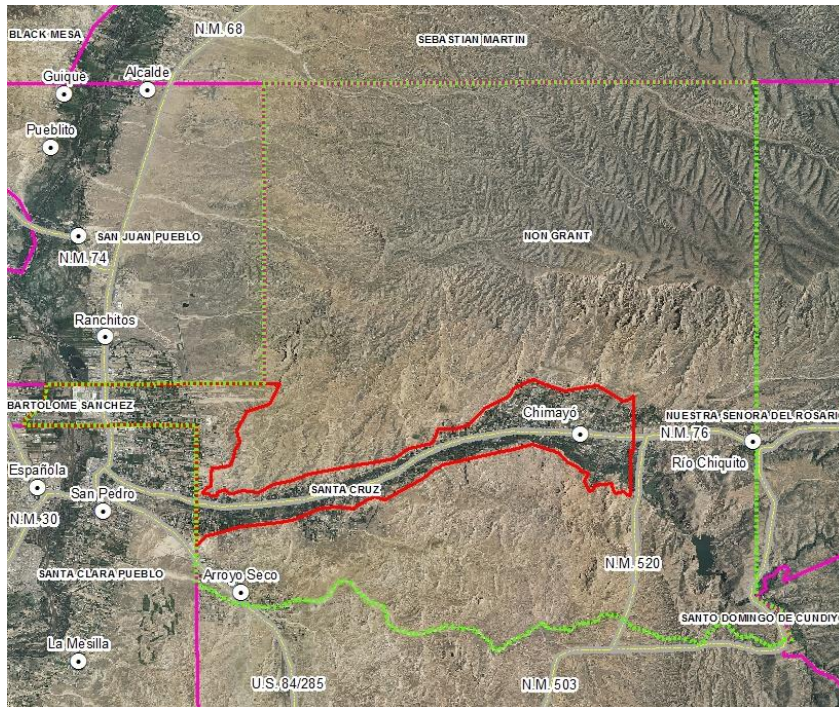
<sup>392</sup> GAO, *Treaty of Guadalupe Hidalgo: Findings and Possible Options*, 110-118. The U.S. v. Sandoval decision (1897) directly affected seven community land grants: Cañon



**Figure 14: Santa Cruz Survey, 1898-1899.** This Clayton Coleman survey estimated the reduced Santa Cruz de la Cañada Grant at 4,433.08 acres, a far cry from the 40,000 plus acre tract granted by Governor Vargas in 1693. Oversize Folder 114, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3670/rec/55>

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de Carnue, Cañón de Chama, Don Fernando de Taos, Town of Galisteo, Petaca, San Miguel del Bado, and Santa Cruz. The seven grants claimed 1,136,903 acres, but the decision, which reduced grants to their private tracts, restricted the grants to a total of 16,485.24 acres. See GAO, *Treaty of Guadalupe Hidalgo*, 113. The UNM Land Grant Studies Program's mapping project estimated in 2012 that current federal lands on these rejected former common lands totaled at least 659,732.186 acres, meaning that the federal government was the biggest beneficiary of its conservative interpretation of the true ownership of community land grants' common lands.

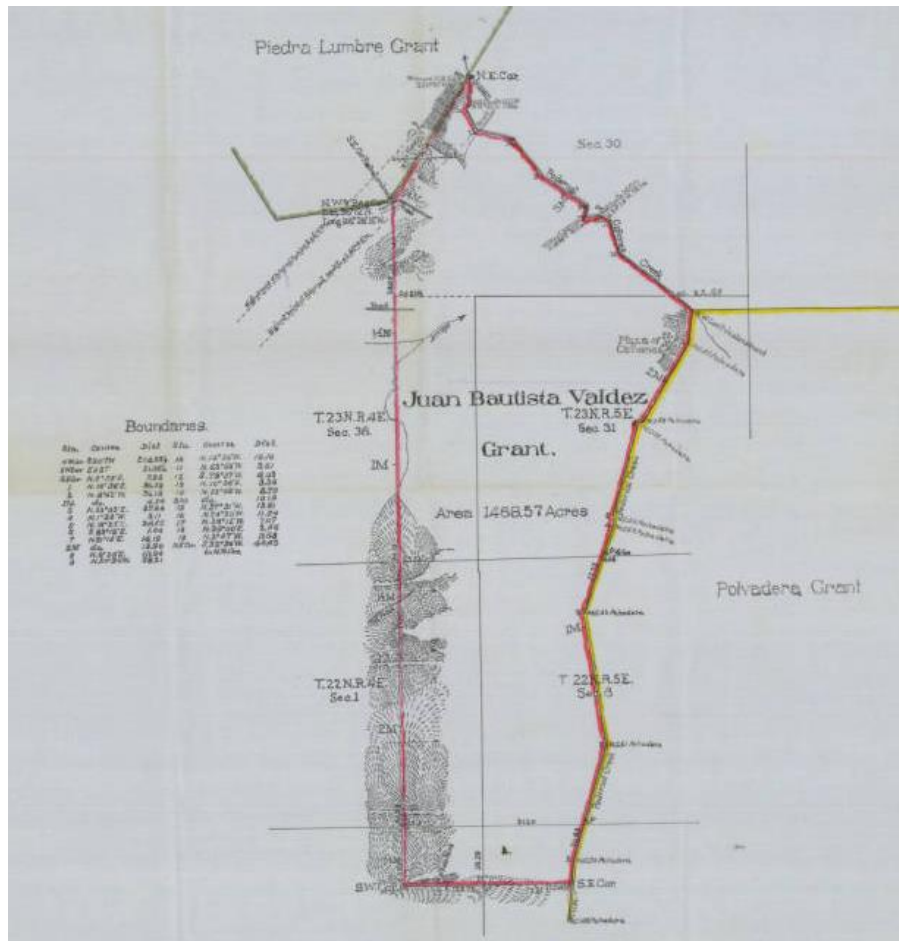


**Figure 15: Santa Cruz de la Cañada, 2011.** The area outlined in red conforms to the 1899 Coleman survey. The larger area, outlined in green, portrays the historic boundaries of the grant, which ran against the eastern boundary of San Juan and Santa Clara Pueblo and the southern boundary of the Sebastián Martín Grant. Land Grant Studies Program, University of New Mexico, 9-30-2011, map by E. Storey and J. Jaramillo.

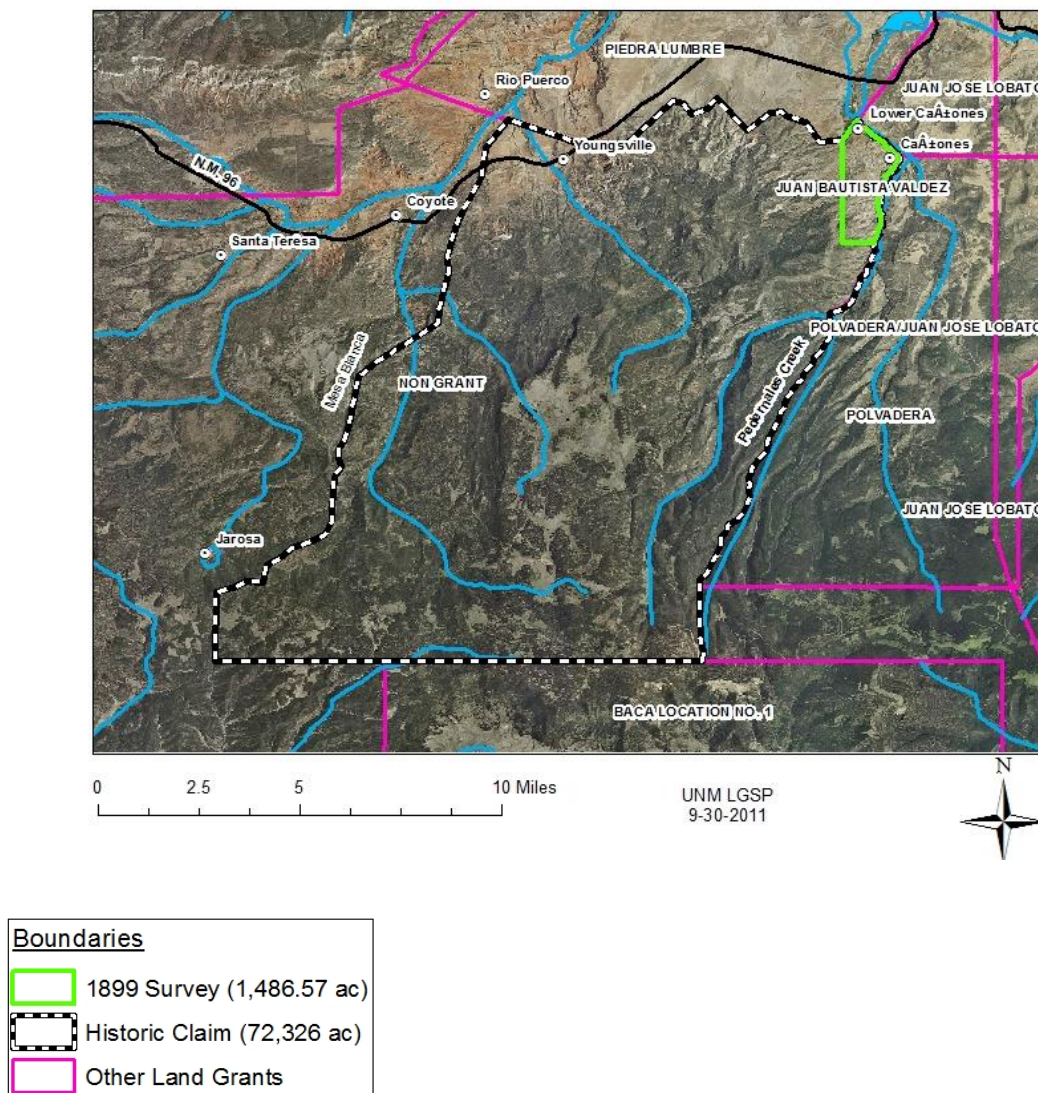
The Juan Bautista Valdez Grant had a similar fate. Surveyor General Julian had rejected two competing claims to the grant, the Encinias Tract and the Cañon de Pedernales claim, arguing that the first lacked proper documentation and the second was “patently fraudulent.” The CPLC followed Julian’s lead in 1898 and confirmed only the agricultural and residential tract to the heirs of Juan Bautista Valdez, the *poblador principal* (first settler) of a community grant. The grant was thus reduced from a 60,000 to 256,000 acre claim to a mere 1,468.57 acres (see Figures 15 and 16 below).<sup>393</sup>

<sup>393</sup> Ibid, 104; Benavides and Golten, *Response to the 2004 GAO Report*, appendices, 56-57.





**Figure 16: Juan Bautista Valdez Grant survey, 1899.** The survey of the greatly reduced Valdez Grant, showing 1,468.57 acres. Folder 106, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3663/rec/3> See Paul Kutsche and John R. Van Ness, *Canones: Values, Crisis, and Survival in a northern New Mexico Village* (Albuquerque: University of New Mexico Press, 1981), 115.



**Figure 17: Juan Bautista Valdez Map, 2011.** A historical representation of the original claim, with the approved tract highlighted in green in the northeast corner of the grant. UNM Land Grant Studies program, 9-30-2011, map by E. Storey and J. Jaramillo

The pressures of a changing economy and their traditional modes of life ill-suited to adapt to these changes made Hispanos vulnerable to speculation and development. They dealt with these changes by appropriating lands of the even-more vulnerable Pueblo Indians, the single group more susceptible to the economic disruptions than they were. George Hill Howard again served as the first special attorney for Pueblo Indians from

1897-1899. Howard arguably served the Tewa Basin Pueblos well. He filed an adverse claim against the Pueblo Quemado claim in 1897 on behalf of San Juan Pueblo, even though it sat more than twenty miles from San Juan. In 1898, he filed a request to docket a Santa Cruz Land Grant claim, asserting that it infringed on the lands of Santa Clara Pueblo. He represented Nambé in its case against surrounding Hispano *parciantes* (someone who shared water rights from an *acequia*) in 1899.<sup>394</sup>

Before he served as the first special attorney for the pueblo Indians, Howard was a successful land speculator in the northwest corner of the Tewa Basin, and he had speculated in Arizona land grants in the 1870s before coming to New Mexico.<sup>395</sup> He relocated to New Mexico with his son, George Volney Howard, in the 1880s. In 1892, the father and son incorporated the Northern New Mexico and Gulf Railroad headquartered in El Rito, New Mexico.<sup>396</sup>

The elder Howard represented both the Piedra Lumbre and Juan José Lobato Grants in the northwest corner of the Tewa Basin in 1894. Historian David Correia writes that Howard teamed up with Amado Chávez and won *una tercera parte* (one-third part interest) as compensation for his representation of a group of Piedra Lumbre claimants in the CPLC. He faced none other than Thomas B. Catron, who was apparently hired by Piedra Lumbre heirs to advance their claim, despite the fact that Howard was already retained. Catron was buttressing his claims in the area, particularly the Tierra

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<sup>394</sup> Malcolm Ebright, "Juan José Lovato Grant," Land Grant / Pueblo Histories vol. 8, 7-9; Malcolm Ebright, "Piedra Lumbre Grant," Land Grant / Pueblo Histories vol. 11, 8.

<sup>395</sup> Howard sold the rights to the San Ignacio del Babocomari land grant in 1877. See, Jane Eppinga, "Henry O. Flipper in the Court of Private Land Claims: The Arizona Career of West Point's First Black Graduate," *Journal of Arizona History*, 36 (spring 1995), 33-54, 43.

<sup>396</sup> *The Railway Age*, Vol. 40, July 1-December 31 (Chicago: Railway Age Company, 1905), 433.

Amarilla Land Grant, which he had mortgaged for \$250,000.<sup>397</sup> When the court approved the Piedra Lumbre on August 30, 1893, Howard held one-third interest and Catron and his clients held the remaining two-thirds interest. The grant was surveyed for almost fifty-thousand acres in 1897, patented in 1902 and partitioned by 1903.<sup>398</sup> Howard controlled the northern third of the grant and Catron the southern two-thirds. Ebright writes that Catron became the agent for the entire grant and all heirs lost all interest to Catron and Howard.<sup>399</sup> Howard proved even-more successful on the Juan José Lobato Grant east of the Piedra Lumbre. He worked with Catron and Alois B. Renehan to partition the Lobato soon after gaining interest in the grant in September 1901. While lawyers were often successful in receiving a full third of the grant for their representation, Howard won *half* the grant, which he partitioned with other land speculators.<sup>400</sup>

Once more, while Howard speculated on Hispano land grants, he did protect the interests of Tewa Basin Pueblos. When the CPLC rejected the majority of Santa Clara Pueblo's claim to the Cañada de Santa Clara Grant, the grazing grant that Vélez Cachupín confiscated from the Tafoyas 130 years earlier, Howard pursued approached Edgar Lee Hewett to aid him, not knowing that Hewett had other designs for the sacred pueblo lands. The Santa Clara claim to the canyon grant was restricted to the riparian lands along the Santa Clara Creek and the watershed that supported the land was now vulnerable to abuse and appropriation (see maps below).

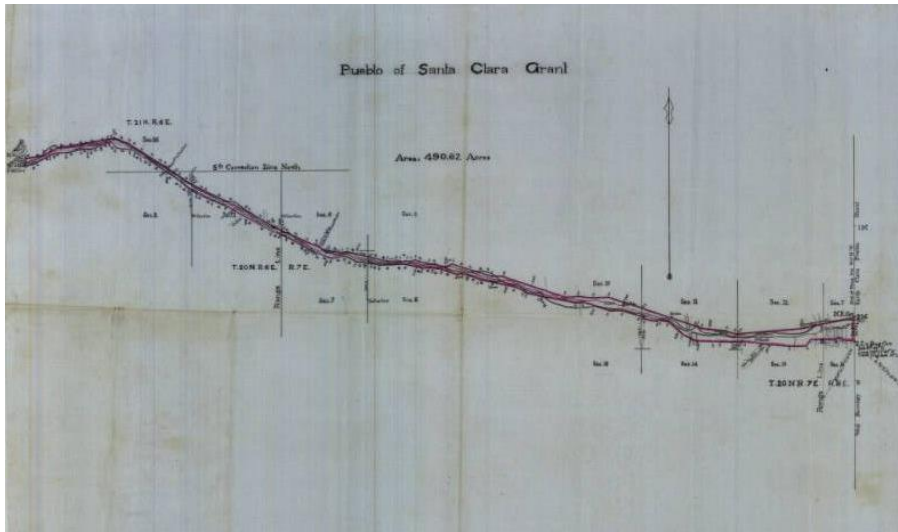
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<sup>397</sup> Correia, *Properties of Violence*, 67.

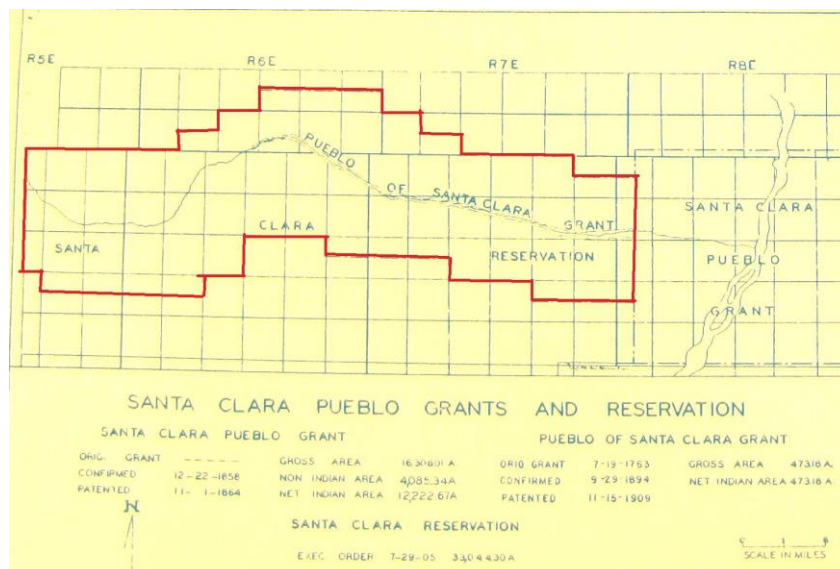
<sup>398</sup> Ibid, 56.

<sup>399</sup> Ebright, "Piedra Lumbre Grant," 8.

<sup>400</sup> "Catron and Renehan sued by Lobato Heirs," *Santa Fe New Mexican*, undated, likely 1908, Elisha V. and Boaz W. Long Papers, NMSRCA, Santa Fe, NM.



**Figure 18: Cañada de Santa Clara, 1899.** The Santa Clara Pueblo was robbed of the majority of the Cañada de Santa Clara Grant by a 1894 CPLC decision that claimed the grant only embraced those lands immediately adjacent to the Río Santa Clara, also called the Santa Clara Creek. See Malcolm Ebright, Rick Hendricks and Richard W. Hughes, *Four Square Leagues: Pueblo Indian Land in New Mexico* (Albuquerque: University of New Mexico Press, 2014), 160-161. Folder 1, Series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3679/rec/2>



**Figure 19: Cañada de Santa Clara Grant, within Santa Clara Reservation, 1940.** UPA Land Use Division, Land Status Report, 1940, Box 9, Folder 11, Ward Allen Minge Collection, MSS 815, Center for Southwest Research, University Libraries, UNM, Albuquerque.

Santa Clara's desperate state led President Theodore Roosevelt to grant the pueblo a thirty-three thousand acre Executive Order reservation in 1905, restoring much of the Cañada de Santa Clara lands rejected by Julian almost two decades earlier. But the rangelands were hardly a replacement for richer lands east of the Río Grande lost more than a decade earlier. Most of Santa Clara's nine hundred and two claims were in this vast tract, and nearly all derived from the unscrupulous actions of a Santa Fe lawyer named Derwent H. Smith, who had represented the Pueblo in its attempt to gain full title to the Cañada de Santa Clara Grant in 1891. The agreed-upon attorney's fee was sixty acres of land within the original Santa Clara Grant. Smith apparently tricked the pueblo into deeding away eight thousand acres of land and allegedly visited the pueblo in October 1891, distributing one hundred silver-dollar coins to Indians in exchange for their mark on quit-claim deeds, a practice evidently commonly used by lawyers tricking native communities out of their lands. Smith conveyed the land to his wife, Helen, then, in 1893, he sold Santa Clara's eastern lands to Edward F. Hobart, the former surveyor general, who also busily speculated in San Ildefonso Pueblo lands. Hobart understood the legal and ethical implications of purchasing Pueblo lands: in 1894, he was appointed the interim head of the Ramona Indian School in Santa Fe, charged with supervising federal Pueblo agents.<sup>401</sup>

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<sup>401</sup> "Pueblo Attorney – A Purely Political Appointment," *Twelfth Annual Report of the Executive Committee of the Indian Rights Association* (Philadelphia: Office of the Indian Rights Association, 1894), 51-53; see also, Jenkins, "The Pueblo of Santa Clara and Its Land, 1598-1900," unpublished manuscript, Folder 8, Box 60, Myra Ellen Jenkins Papers, Coll. M. 127, Center for Southwest Studies, Fort Lewis College, Durango, CO, undated, 75a-75e.



Hobart's absurd claim went unchallenged for more than a decade. He cordoned off a two- hundred-acre tract that he irrigated from acequias fed directly from the Río Grande and created the Santa Cruz Land and Irrigation Company to attract both purchasers and investors. Historian Myra Ellen Jenkins posits that Santa Clara's distrust of lawyers and lack of funds delayed any legal action to reclaim its lands.<sup>402</sup> When the Pueblo did file a suit of ejectment against Hobart in 1901, it sat unanswered for almost a decade. In the interim, Special Attorney for the Pueblos William H. Pope, who filed the case, left for a judgeship in the Philippines and was replaced by none other than A. J. Abbott, an attorney with little Indian-law experience, who had represented Hobart against Pope's original 1901 complaint.<sup>403</sup>

In 1909, Santa Fe District Court judge John R. McFie dismissed the case, again for want of prosecution and declared Hobart's deed valid. He cited the territorial statute of limitations, stating that ten years had passed since the filing of the case, and ordered Santa Clara to pay Hobart's court costs. Meanwhile, Hobart began dividing the land, granting some to his son, Horace Hobart, and selling tracts to dozens of Hispanos, including Felipe Sandoval, whose sale of liquor on Santa Clara lands in 1911 would bring on federal guardianship of Pueblo peoples and their lands. Other purchasers included Fredric Seward Blackmar, an Española dentist, who also served as an agent for the Delaware-based Copper Canyon Mining Company. By 1911, Francis C. Wilson assumed the post of special attorney for the Pueblos and filed another ejectment suit, this time,

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<sup>402</sup> Myra Ellen Jenkins, "The Pueblo of Santa Clara and Its Land, 1598-1900," 75c-75e.

<sup>403</sup> *Pueblo of Santa Clara v. Edward F. Hobart*, case 4319, 1901; "Pueblo Attorney – A Purely Political Appointment," 52; for information on William J. Pope, see Mark B. Thompson, "William H. Pope," *newmexicohistory.org*, *website of New Mexico Office of the State Historian*, <http://www.newmexicohistory.org/filedetails.php?fileID=23332> (accessed 11 July 2013).

against all claims deriving from Hobart's phony purchase in 1891. Hobart and Blackmar secured a dismissal on the grounds of McFie's 1909 decision. All other claimants remained in legal limbo.<sup>404</sup> At the same time, the Santa Claras fought opposition to the expansion of their 1905 executive order reservation and battled the creation of the "Cliff Dwellers" and "Cliff Cities" National Parks, which were to complement Bandelier National Monument, but would be carved from Santa Clara's executive order lands.<sup>405</sup>

Indian pueblos in the Tewa Basin continued their gradual agricultural decline. Still, the population of many pueblos increased slowly during the territorial period. San Juan and Santa Clara maintained stable population growth, despite the ongoing incursions onto their lands by outsiders. Extra-tribal marriage in both the case of Santa Clara and San Juan can account for modest population growth.<sup>406</sup> Others, like San Ildefonso and Tesuque maintained a small population in the early territorial period only to drop sharply by the 1870s,<sup>407</sup> and still others, such as Pojoaque and Nambé,<sup>408</sup> continued a gradual population slide that had begun in the Spanish-Colonial era, continued through the Mexican Republic period and hastened until near extinction during the American territorial and early statehood periods. Indian agents reported that the Pojoaque natives were literally pushed off their lands and gradually moved in with the Nambé. They did

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<sup>404</sup> *Pueblo of Santa Clara v. F.S. Blackmar, E. F. Hobart, et. al.*, Case 1331, March 15, 1911.

<sup>405</sup> Richard Ellis, "Santa Clara Pueblo," 5-6, unpublished manuscript (1970), Folder 9, Box 60, Myra Ellen Jenkins Papers, Coll. M. 127, Center for Southwest Studies, Fort Lewis College, Durango, CO. See also Rothman, *On Rims and Ridges*, 106-116. For a more detailed discussion of Santa Clara Pueblo area in the late territorial and early era, see Chapter 2.

<sup>406</sup> Arnon and Hill, "Santa Clara Pueblo," 298; Ortiz, "San Juan Pueblo," 293.

<sup>407</sup> Edelman and Ortiz, "Tesuque Pueblo," 333; Edelman, "San Ildefonso Pueblo," 315.

<sup>408</sup> Speirs, "Nambé Pueblo," 319; Lambert, "Pojoaque Pueblo," 327.

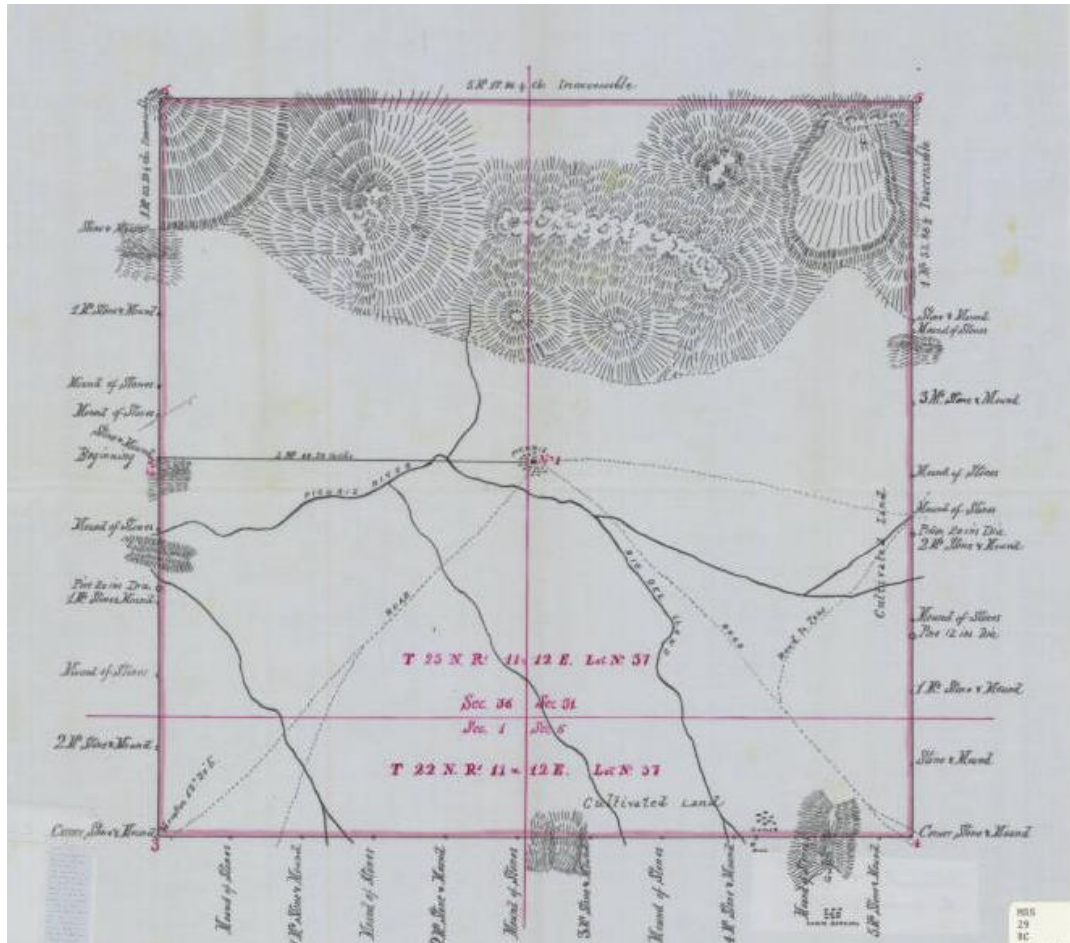


not report, however, the extent to which Hispanos and these southern Tewa Basin Pueblos intermarried, cohabitated or had children together.<sup>409</sup>

From the beginning of the American territorial era, Picurís Pueblo faced incursions by surrounding Hispanos. Its 1850 population was estimated at 222, a new low. The Picurís protests against the Embudo Grant were ignored in 1725, and Picurís lost agricultural plots that it planted in the box canyon west of the pueblo village. Over a century later, the Río de Picurís Grant legitimated Vadito, a Hispano settlement along the Río Pueblo that encroached on the pueblo's eastern lands. The community of Río Lucío grew on the Río Santa Barbara, but was tolerated, perhaps even encouraged, for mutual defense against Apache and Comanche raids. Communities growing on the Las Trampas Grant also impacted Pueblo resources. Llano de San Juan Nepomuceno, for instance, was built along the Río Santa Barbara and Río Chiquito, two tributaries that eventually fed into the Río Pueblo de Picurís on the pueblo grant. Their growth threatened to deplete waters for Picurís, but had a direct impact on Embudo, which held superior rights to waters that eventually flowed to its community through the Río Embudo.

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<sup>409</sup> Vlasich, *Pueblo Indian Agriculture*, 125, 133.



**Figure 20: Picurís Survey Map, c. 1870.** At the center of its four league grant, Picurís was surrounded by Hispano community grants, whose populations encroached on pueblo lands since the colonial era. The Embudo Grant lay to the west, the (rejected) Río de Picurís Grant and the Santa Barbara grant to the east. The Pueblo was boxed in on the north by Picurís Peak and the Las Trampas Grant to the south. Folder 102, Series 301, Thomas B. Catron Papers, MSS 29, Center for Southwest Research, University Libraries, UNM, Albuquerque. Accessed online at <http://econtent.unm.edu/cdm/singleitem/collection/NMWaters/id/3695/rec/5/rec/5>

When these communities remained small and outside the Picurís grant, the pueblo endured. By the 1780s, communities proliferated out of the Sebastián Martín, Embudo and Las Trampas grants. The granting of the 1796 Santa Barbara Grant brought increased settlement along the Río Pueblo and its principle tributaries. Communities, such as La Placita del Río Pueblo, initially sat on the edge of the pueblo grant. In the 1820s, Hispanos began settling on the Picurís grant so that by the 1850s, Peñasco, Vadito

and Chamisal grew on the Pueblo league. By the end of the territorial era, they were the Jicarita valley's largest non-Indian settlements.<sup>410</sup>

The adjudication of the grants that surrounded Picurís affected the pueblo in different ways. The Sebastian Martín was among the first Tewa Basin land claims adjudicated by the Surveyor General's Office. In June of 1859, Mariano Sánchez, as the sole owner of the grant, submitted his claim to Surveyor General Pelham, who recommended confirmation, save the portion Martín donated to the Las Trampas Grant in 1751. Congress approved the Martín Grant on June 21, 1860. It was surveyed at 51,387.20 acres in 1876. Speculation on the Martín Grant gradually closed the traditional use of its lands as an informal commons by Hispano communities, and Picurís and San Juan Pueblos, all of which had come to rely on access to its resources.<sup>411</sup>

The Santa Barbara Grant was held in large part by Napoleon B. Laughlin, the lawyer who took one-third of the grant as his fee. Laughlin eventually lost most of the grant to tax seizures when Taos County instituted an aggressive policy of suing property owners for failure to pay taxes in the early twentieth century. In 1907, A. B. McGaffey formed the Santa Barbara Tie and Pole Company to provide timber to the Atchison, Topeka and Santa Fe Railroad. The name came from the Santa Barbara grant on which McGaffey initially concentrated his lumbering. In a few years, he sold the operation to the railroad, which subsequently expanded onto the adjacent Rancho del Río Grande Grant north of the Rio Pueblo. Until the 1920s, some 400,000 rail ties were taken annually from the mountains north and south of the Rio Pueblo. In 1928, the last year of

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<sup>410</sup> Bowden, "Santa Barbara Grant" in "Private Land Claims in the Southwest," 993-996; Bowden, "Río del Picurís Grant" in *ibid.*, 997-1001.

<sup>411</sup> Bowden, "Sebastian Martin Grant," in "Private Land Claims in the Southwest," accessed at [www.newmexicohistory.org](http://www.newmexicohistory.org), October, 2011.

operation, the Santa Barbara Tie and Pole Company moved only 106,000 trees down to the Rio Grande.<sup>412</sup>

The commons of the Sangre de Cristo grant north of Taos was lost in the same way. The New Mexico economy that had boomed from the 1880s through the early 1900s brought higher land values. This, in turn, generated higher taxes which created another pressure on land grant communities whose traditional economies did not generate the cash to pay them. In 1902, the heirs of the Sangre de Cristo Grant formed the Defensive Association of the Land Settlers of the Rio Costilla to fight incursions and lawsuits deriving from unpaid back taxes. The association would disband in 1921, after losing most of its cases, only to reunite in 1941 when tax sales, again, threatened grant land.<sup>413</sup>

Contention between Hispanos and Pueblos across the Tewa Basin grew as the booming Hispano population increasingly encroached on Pueblo lands. In 1903, Santa Clara Pueblo governor Diego Naranjo complained Northern Pueblo Superintendent C. J. Crandall of a “Mexican goat herder” who not only grazed his herds on lands belonging to the pueblo but also forbade Santa Clara natives from digging clay used for their pottery.<sup>414</sup> Three years later, Santa Clara governor Leandro Tafoya asked Crandall that he remove from their reserve Jemez Forest guards who allowed the cutting and sale of

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<sup>412</sup> David F. Myrick, *New Mexico's Railroads: An Historic Survey* (Golden, CO: Colorado Railroad Museum, 1970), 173, 174.

<sup>413</sup> “One Land, Many Hands: The Story of the Sangre de Cristo Land Grant,” *newmexicohistory.org*, website of New Mexico Office of the State Historian, [http://www.newmexicohistory.org/landgrants/sangre\\_de\\_cristo/english/home.html](http://www.newmexicohistory.org/landgrants/sangre_de_cristo/english/home.html) (accessed 12 December 2014).

<sup>414</sup> Governor Diego Naranjo to Superintendent C. J. Crandall, September 9, 1903, Letters of the Indian Agencies, 1794-1988, Entry 38, Records of the Bureau of Indian Affairs 1793-1989, Record Group 75, National Archives – Rocky Mountain Region, Denver.

timber in Española.<sup>415</sup> Santa Clara day-school teacher Clara True confirmed “Mexican” stock grazing and timber cutting on Santa Clara’s lands. True implored Crandall to obtain a letter from the New Mexico Territorial Supreme Court explicitly stating the Pueblo’s rights. This would discourage further trespass by Mexican cattle and annul the decisions of “the Mexican justice of San Pedro,” who prohibited the Pueblo governor from holding cattle until restitution was paid. Besides failing to maintain their cattle, True remarked, the Mexicans were remiss in providing timber for the Santa Clara Pueblo Ditch, whose damaged headgate needed repair to maintain flow for the mutual use of Mexicans and Indians.<sup>416</sup>

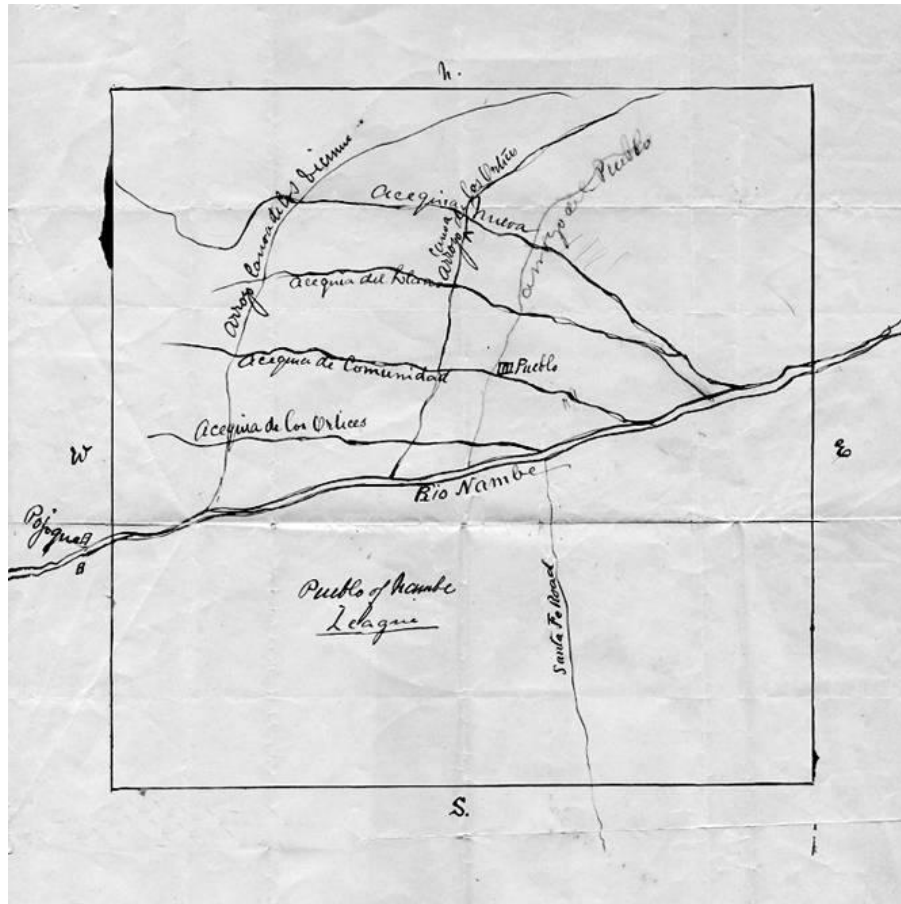
Over the hills at Nambé, relations between Hispanos and Indians of the Pueblo of Nambé were no better. In 1899, José A. Ribera, involved in land disputes for decades in Nambé, Cochiti, and Santo Domingo Pueblos, led *parciantes* in a dispute over the status of water rights on private claims on Pueblo lands. Purchases and seizures of Nambé’s lands altered the control of Nambé waters, and Hispanos insisted that Pueblo Indians submit to the authority Hispano *mayordomos* (ditch bosses) rather than their governor on shared acequias. Nambé Pueblo governor Francisco Tafoya conversely maintained that that all waters running through the Pueblo were subject to the disposition of the governor

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<sup>415</sup> Letter from Governor Leandro Tafoya to Superintendent C. J. Crandall, November 30, 1906, Letters of the Indian Agencies, 1794-1988, Entry 38, Records of the Bureau of Indian Affairs 1793-1989, Record Group 75, National Archives – Rocky Mountain Region, Denver.

<sup>416</sup> Letters from Clara D. True to Superintendent C.J. Crandall, February 16 and 19, 1906, Letters of the Indian Agencies, 1794-1988, Entry 38, Records of the Bureau of Indian Affairs 1793-1989, Record Group 75, National Archives – Rocky Mountain Region, Denver.

and were never community or public acequias subject to territorial water law but private ditches owned by the pueblo and managed according to its needs, rules and customs.<sup>417</sup>



**Figure 21: Sketch map of Nambé acequias, undated.** The Pueblo, pictured at center, protested the Acequia Nueva, the northernmost acequia on this sketch map, which took waters from the Río Nambé above acequias it controlled. Box 1, Folder 12, Indian Affairs Collection, MSS 16, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>417</sup> Statement of Francisco Tafoya, Governor of Pueblo of Nambé, August 21, 1899 in re *Jose A Rivera, et al. v. The Pueblo of Nambé et al.* Case no. 4088, and *Acequia del Llano, et al. v. Acequia de las Joyas, et al.*, Case no. 1901, Folders 11-12, Box 1, Indian Affairs Collection, MSS 16, Center for Southwest Research, University Libraries, UNM, Albuquerque. See also, legal documents regarding *Jose Rivera vs Nambé Pueblo* (1899) regarding acequias, Folders 1-2, Box 1, Holm O. Bursum Papers. MSS 92. Center for Southwest Research, University Libraries, UNM, Albuquerque.

While in the midst of their battle for water rights, the walls of the Nambé Pueblo Catholic Church collapsed, and native Catholics exchanged parcels of Pueblo land for Hispano laborers to make repairs. Land and water, the essential elements of Nambé Pueblo's life, were increasingly commodified in the market place and traded to surrounding Hispano population that had settled near or squatted on Pueblo lands for centuries.<sup>418</sup>

The coming of American entrepreneurs reshaped the economy of northern New Mexico. Alienated from traditional land bases, where farmers and pastoralists once benefitted from vast common lands to pasture their cattle and sheep, Hispanos could no longer maintain the meager subsistence they had for centuries. For instance, Arthur Rochford Manby expanded his holdings in and around the Taos area, utilizing dispossessed Hispanos to watch his flocks and water his fields.<sup>419</sup> Manby's Taos-area enterprise, popularized by Frank Waters, was small nothing compared to that of Frank Bond, the Scottish transplant whose legacy still lives on in the Española Valley.

The federal government was in a quandary. With little arable land available in the Española Valley and its vicinity, expanding the agricultural land base for the Pueblos in a meaningful way was a difficult challenge. Land was available for purchase, but these tracts were largely the dry uplands used for grazing by homesteaders and valley farmers, public domain that they were reluctant to relinquish to Indians. The executive order reservations created for Nambé and Santa Clara were carved out of these uplands.

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<sup>418</sup> Claim of Jose Inez Roybal, Nambé, Juan Vigil, Gov., Eufasio Trujillo, Lt. Gov. March 24, 1922, Reports of the General Council of the Northern Pueblos, Box 9, Folder 161, SWAIA Records, NMSCRA, Santa Fe. The report claims that the land, some ninety-plus acres, was deeded by a Catholic faction of Nambé Pueblo who did not have the right to pass title.

<sup>419</sup> Frank Waters, *To Possess the Land: A Biography of Arthur Rochford Manby* (Chicago: Swallow Press, 1973). See also, James S. Peters, *Headless in Taos: The Dark Fated Tale of Arthur Rochford Manby* (Santa Fe: Sunstone Press, 2012).

Nambé's problems with Hispano encroachment languished in the early twentieth century. Indian agents and superintendent Clinton J. Crandall petitioned their superiors for aid in acquiring additional lands. On September 4, 1902, President Theodore Roosevelt created the Nambé Pueblo reservation, which adjoined the pueblo's lands on the southeast corner of its grant. The 6,776 acre executive order reservation retained squatters who refused to leave. Agapito Herrera was threatened with legal action and hired the Gortner-Catron law firm to press his case, but he was eventually removed. Alois B. Renehan, however, was developing a power plant on the lands at the time of purchase and was allowed to remain on reservation lands, at least temporarily.<sup>420</sup>

Santa Clara had long faced encroachment as well. Pueblo Attorney George Hill Howard had initiated investigations to gain land near the pueblo, preferably a contiguous tract to serve as a buffer. He soon found that Edgar Lee Hewett planned to establish there the Pajarito National Park, which threatened sacred sites and lands that the Santa Clara valued deeply. By 1903, Crandall was pursuing another executive order reservation. Roosevelt created the 33,000-acre Santa Clara Indian Reservation on July 29, 1905, which stretched from the western edge of the Santa Clara Pueblo Grant to the eastern edge of the Baca Location No. 1, atop the Pajarito Plateau. Santa Clara regained their full claim to the Cañada de Santa Clara Grant, which had been reduced by the Court of Private Land Claims a decade earlier.<sup>421</sup>

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<sup>420</sup> Richard Ellis, "Nambé Pueblo," 26-28, folder 7, box 59, Myra Ellen Jenkins Papers.

<sup>421</sup> Richard Ellis, "Santa Clara Pueblo," 2-5, folder 9, box 60, Myra Ellen Jenkins Papers. See also Ebright, Hendricks and Hughes, *Four Square Leagues*, 149-168; and Adrea Lawrence, *Lessons from an Indian Day School: Negotiating Colonization in Northern New Mexico, 1902-1907* (Lawrence: Kansas University Press, 2011), 19-22, and Rothman, *On Rims and Ridges*, 106-116.



Fear of the expansion of reservation lands and creation of additional national parks provoked non-Indians in the Tewa Basin. Pajarito Mesa homesteader H. H. Brook implored New Mexico delegate William H. Andrews to block the transfer of Forest Service lands to the jurisdiction of the Indian service. Citing lost school revenues from timber sales and grazing fees, Brook exposed deep, racist bias against the Pueblo Indians, whom he believed were wasting productive lands. Brook wrote, “The Indians are now quarrelsome, unreasonable and arbitrary and this addition would swell them up, encourage a belligerent spirit, and promote dissatisfaction, broils and probably serious fights.” He claimed that “scores of homesteads, through the loss of grazing privileges, would be rendered valueless and practically confiscated,” and that “an outrageous hardship would be worked on the poor people dependent on this area for fuel, timber for grazing their few work horses and milch (sic) cows.” Closing his letter to Andrews, Brook declared, “The Indians *now stand steadfastly in the path of prosperity*. To put more land under their wasteful and blighting control would make prosperity and development impossible and unknown . . . [it would be a] ridiculous outrage”<sup>422</sup>

Brook eventually abandoned his homestead, which had grown to over 800 acres thorough purchases. He sold his lands to Ashley Pond in 1917 and relocated to Las Cruces, where he became the state’s first extension farmer at the New Mexico College of Agriculture and Mechanic Arts.<sup>423</sup> Political and economic forces that drove speculation and development in the territorial era remained influential in early statehood. Though the CPLC may have dislodged the overt manipulation of the adjudication process by the

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<sup>422</sup> Brook to Andrews, February 2, 1911, Folder 3, Box 2, Pueblo Indians Collection, 1959-176, NMSCRA, Santa Fe. Emphasis is mine.

<sup>423</sup> Judith Machen, Ellen McGehee and Dorothy Hoard, *Homesteading on the Pajarito Plateau, 1887-1942* (Los Alamos, NM: Los Alamos National Laboratory, 2012), 58-59.

speculators (notably those associated with the Santa Fe Ring), the achievement of statehood brought the opportunity for these very speculators to cash in on overburdened portfolios and, they hoped, realize schemes decades in the making. Many Ring members struggled to develop massive tracts more often gained by deceptive means.<sup>424</sup> George Hill Howard's irrigation scheme on the Juan José Lobato Land Grant, for instance, never realized the profits that he promised investors. Alois Renehan, who never sought political office, remained in the courtroom, gaining a reputation as the young state's best trial lawyer. Thomas Catron, who so brilliantly epitomized the legal manipulation, political corruption and financial scheming of the Santa Fe Ring and perhaps of the entire territorial era, was much more successful in realizing his plans.

Catron's long tenure and arguable dominance of territorial politics still flourished when the forty-seventh state's first legislature elected him to one of two senatorial seats. In 1912, Catron had been in the state for forty-six years. Over the years, he partnered with a half dozen other lawyers, developers and land speculators, including Wilson Waddingham, Charles Spiess, Alois Renehan and Frank Clancy, the state's first Attorney General. After having served in various political posts throughout the territorial era, Catron was more than ever in a strong position to develop his considerable land holdings, which, many people believed, would skyrocket with statehood.<sup>425</sup>

By 1912, Catron owned properties in dozens of land grants and held interests in the Juan José Lobato and Caja del Rio Grants, as well as tracts of land at San Juan Pueblo in the Tewa Basin. Despite his well-known duplicity, simultaneously representing and

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<sup>424</sup> Benavides, *Lawyer-Induced Partitioning of New Mexican Land Grants*, 15.

<sup>425</sup> Victor Westphall, *Thomas Benton Catron and His Era* (Tucson: University of Arizona Press, 1973).

dispossessing grants, Catron was still hired as an attorney by grant after grant. When the CPLC closed and new claims could no longer be made, Catron turned again to the partition suit to pursue confirmed land claims. And after a sabbatical from political appointments, Thomas B. Catron, a man who controlled politics and land speculation across the territorial era, served as one of New Mexico's first Senators. Albert Fall, another noted land speculator, served as the other.<sup>426</sup>

Fall's tenure in New Mexico was short compared to Catron's, but he was far from a neophyte when it came to land speculation. The Kentucky-born Fall was only in his mid-twenties when he moved to Mexico, drawn by an arid climate that would relieve his respiratory problems. He established his law practice in Las Cruces in 1891 after working in mining interests in El Paso and northern Mexico, and focused on Mexican law. Described as a "master of sulphurous phrases and political vitriol," Fall spent the 1890s butting heads with the Republican establishment and dabbling in southern New Mexico politics, using his newspaper, the *Independent Democrat*, to gain the political loyalty of the Las Cruces Hispano population. He served in both the upper and lower house of the New Mexico Territorial Legislature and gained Democratic presidential appointments as associate justice of the New Mexico Supreme Court (1893-1895) and twice as territorial attorney general (1897 and 1907).

Amidst the flowering of his political fortunes, Fall changed party allegiance, and a state Republican Party that had spent well over a decade fighting his political influence now welcomed it. As a delegate to the 1910 Constitutional Convention for New Mexico Statehood, Fall cemented his status as a Republican political leader in New Mexico. He

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<sup>426</sup> Ibid.

made his mark, and his money, however, in defending irrigation, development and mining companies, and railroad and industrial interests, in which he invested heavily in southern New Mexico through the 1910s.<sup>427</sup> Fall believed it was his responsibility to ensure that all western resources remained available for speculation and development. As senator, Fall continued his interests in developing the tribal lands of the Mescalero Apache and expanding resource extraction in the region's newly created national parks and forest reserves. Fall challenged the executive orders and legislation that kept large swaths of federal lands out of the hands of developers. Through inventive interpretations of the law, he proved averse to "unproductive" uses of land, and when President Warren Harding appointed Fall secretary of the interior in 1921, he sought to use his post to expand private interests hold on public lands.<sup>428</sup>

Catron and Fall are both the most-notable and most-blatant examples of land speculation and political manipulation thriving well after the CPLC closed. When Fall's action had alienated many members of the state republican party, they used the opportunity to dispose themselves of Catron, asking Catron not to run for Senator in 1916. Fall failed to acquiesce to party demands and defiantly ran again in 1918, winning re-election and proving his surprising popularity with the New Mexico electorate. Catron's political career was over, but Fall's was in full bloom. Though hated by both Democrats and Republicans at home in New Mexico, Fall was well connected in the Senate and enjoyed relationships with key figures in the Republican Party, including

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<sup>427</sup> David H. Stratton, "New Mexico Machiavellian? The Story of Albert B. Fall." *Montana* 7 (1957): 2–14. See also Frank Clifford, "Albert Fall: New Mexico's Dark Knight," *El Palacio* 117 (Spring 2012): 52-59.

<sup>428</sup> Lawrence C. Kelly, *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983), 99-107.

Warren G. Harding, Harry Daugherty and Edwin C. Denby. Daugherty and Denby would gain infamy alongside Fall for their involvement in the Teapot Dome Scandal, yet another example of Fall's belief that public lands and resources were there for those with the ambition and knowledge to exploit them.<sup>429</sup>

In New Mexico, Fall's career in speculation differed from that of his fellow New Mexico senator. Where Catron's career in lands speculation was the perpetual investment and outright ownership in broad swaths of land across the entire state, Fall lacked the monies to take such an aggressive approach. The younger Fall had come to New Mexico in the late 1880s, when the Surveyor General Julian and CPLC had made speculating in land grant lands more difficult. Fall's experience in mining served him better in southern New Mexico, a more-industry-friendly environment free of the progressive criticism of Taos and Santa Fe residents. He considered Catron's incautious approach to speculation unappealing, since owning land included the liability of maintaining them before and beyond its peak profitability. Fall quickly passed on land investments in El Paso and southern New Mexico in the 1880s, realizing he lacked the capital to develop these investments. His relentless speculation in the water rights of Mescalero Apache Indian Reservation lands that abutted his Three Rivers Ranch proved his willingness to develop his own profits at the expense of public and tribal lands, which he saw as one in the same.<sup>430</sup>

In his second senatorial term, his zealous pursuit of federal public lands manifested in a bill that would sell ten percent of the public domain at auction and use the

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<sup>429</sup> Ibid. See also, Gordon R. Owen, *The Two Alberts: Fountain and Fall* (Las Cruces, N.M.: Yucca Tree Press, 1996).

<sup>430</sup> Kelly, *The Assault on Assimilation*, 173-174.

proceeds to build access roads to these lands. Timber and mineral rights would remain with the government, which would have little reason not to develop lands augmented by private investment. Fall positioned his lands to be included in an All Year National Park, which would blend private and public lands and placed his ranch at the center of a federally funded development and increase its value exponentially. It also would have opened the Mescalero Indian Reservation to oil, natural gas, and mineral leases that Fall had previously engineered on the Navajo Reservation, extending the General Leasing Act into Indian Country.<sup>431</sup>

Fall speculated in the investment and development of New Mexico's resources, leveraging his political connections and knowledge of local situations for the financial support of would-be industrialists. He never controlled the natural resources his counterparts did. Unlike Elkins and Catron, whose names are ascribed to land speculation in New Mexico, Fall came to New Mexico comparatively late, after the heyday of land grant speculation. But when speculators failed to develop markets they often hurried and struggled to rid themselves of what they growingly considered liabilities. Catron famously balanced a portfolio of hundreds of thousands of acres of land interests but was comparably poor in liquid assets. His son, Charles, proved much more willing to part with lands gained by his father, disposing of lands before they reached their maximum value, but reducing his risk in the process.<sup>432</sup>

The division between Pueblos and other Indians, however, had deeper roots than the *US v. Joseph* decision, which was unlikely to be a point of significant discussion in

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<sup>431</sup> Ibid.

<sup>432</sup> Bryan W. Turo, "An Empire of Dust: Thomas B. Catron and the Age of Capital in the Hispano Borderlands, 1868-1921." (Ph.D. diss., University of New Mexico, 2015).

the churches and pastures of Hispano villages dotting the Rio Grande and its tributaries. Throughout the Spanish period, colonial institutions, both ecclesiastic and civil, differentiated between Pueblos and the *indios bárbaros* who surrounded colonial settlements in the northern frontier of New Spain. Augmented by the complex caste system evidenced and maintained in official records, the racial division between Pueblos and other Indians would not fade in the comparably brief Mexican period when *castas* were done away with under the Plán de Iguala. Rather, Mexican governance explicitly granted citizenship to civilized and progressive Indian groups, New Mexico's Pueblos included, while Mexican Indian policy toward non sedentary or semi-sedentary groups differed little from previous Spanish policy. Through the American territorial period, how *nuevomexicanos* comparatively interacted with Pueblo and non Pueblo Indians upheld colonial ideas that distinguished between the two groups. They continued to baptize their Pueblo neighbors and fight with their communities for resources, but also continued to trade with and enslave the marauding Indians who posed less and less a threat to their communities.<sup>433</sup>

Commenting on Pueblo-Hispano relations, historian Richard Frost writes:

The pueblos had their own historic reasons for resenting the Hispanos, and the American agents invariably shared the social prejudice against lower-class Spanish-Americans of their fellow Anglos, invariably calling them "Mexicans." It is also undoubtedly true that the Pueblo agents could rail with impunity against Mexicans, and for a federal agency that was as vulnerable politically as the Office of Indian Affairs – whose natural constituency, the Indians, was disfranchised and without effective voice in Congress – it must have provided some relief. Pueblo agents rarely name the BIA's enemies in New Mexico politics, but

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<sup>433</sup> Rael-Gálvez, "Identifying Captivity, Capturing Identity," 323.

Commissioners in Washington could be expected to raise no objection to criticism of an ethnic group that had extremely little political power in the national capital. That “Mexicans” did harass the Pueblos, of that there is no question; but the Indians’ problems lay deeper, in the deterioration of their geographic environment, and that went untouched by federal policy.<sup>434</sup>

The same desperation, communal fissures or corruption that led individual Pueblo Indians to sell their land out from under their community had long allowed for the speculation in Hispano-owned grants. As fragile, agrarian and typically subsistence communities fractured under the stress of a land-adjudication system that privileged the “progressive,” or capitalistic, use of land over traditional land use, both the poor and desperate, and the wealthy and opportunistic turned to Pueblo lands for relief. Hispanos relied on adverse possession to uphold their rights to the lands they took and more and more turned to politicians to intercede and crush any efforts by Indian agents and advocates to stop or slow the rapid loss of land.

The common thread that united the dispossession of Hispano and Pueblo community lands is a free-market assumption, the idea that so-called progressive conceptions and extractive use of land was desired by and would benefit all communities, regardless of their race or ethnicity, of their cultural values and religious traditions, and of their complex histories. The partition statute, the *U.S. v. Joseph* decision and *U.S. v. Sandoval* (1896) decision all assumed that the communal nature of property ownership imposed an unnecessary burden on the individual or private interests from within and outside of the grant. These measures held that the law should not protect or help these impediments. They all assumed that given the opportunity, members of Hispano and Pueblo communities wanted their membership in a community reduced to an interest or a

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<sup>434</sup> Frost, “Aspects of Southern Tewa Land and Water Rights,” 48-49.



share in an economic enterprise. Further, it presumed that members of these native communities yearned to place these shares on the market, alienating land for individual or private profit.

Desperation heightened tensions between Indian pueblos and Hispano villages, tensions that had long simmered and occasionally boiled over since the colonial era. By 1904, Pueblos and their Hispanos neighbors had already spent the last decade of the territorial era engaged in lawsuits. Indians complained bitterly to Indian agents, superintendents, and school teachers of flagrant invasions of Pueblo lands and appropriation of Pueblo resources. Still, there remained the practice by individual members of Pueblos and sometimes their governors of selling off Indian lands as an individual marketable asset rather than a Pueblo's patrimony. This informal practice, rare in the Spanish colonial era and somewhat more common in the Mexican era, became routine in the American territorial era. After the *US v. Joseph* case confirmed the legality of these sales in 1877, the practice increased and accelerated.<sup>435</sup>

The challenges that plagued land grants throughout the territorial era flowed into the statehood period. In his recent extensive study of the Santa Fe Ring, historian David L. Caffey writes that land claims offered attorneys the opportunity "to obtain wealth and property." He explains:

"The process for consideration of land claims provided such an opportunity, as cash-poor claimants had little choice but to pay for legal services in land. From the early years of territorial administration, attorneys, some of whom were also public officials, represented the claimants. Among them, judges Joab Houghton,

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<sup>435</sup> Vlasich, *Pueblo Indian Agriculture*, 99.

John S. Watts, attorney generals Hugh Smith and Merrill Ashurst, and supreme court clerk Samuel Ellison represented at least thirty-eight claimants in confirmation proceedings. Stephen Elkins, Thomas Catron and Henry Waldo were part of a second wave of attorneys who acquired property in this manner. Charles Catron, A.B. Renehan, and other lawyers carried the practice into a new century.”<sup>436</sup>

Land grants and legal cases were a western bonanza for lawyers in New Mexico.

In the waning days of the territorial era, after the closing of the CPLC on June 30, 1904, land tenure issues deeply influenced racial, ethnic, political and economic interactions in the Tewa Basin. The resolution of the land-title question was one of the conditions for statehood. These controversies plagued the territorial era and hampered investment and development. At face value, these conditions had been met; millions of acres were stripped from communities and placed either in the public domain or in the capitalist land market, which commodified homelands and assured buyers of opportunities to acquire and improve former land grant lands. While land left Hispano ownership en masse compared to piecemeal loss by Pueblos, the result was no less devastating. Put simply, for both Hispano and Pueblo communities, the land problem was far from solved.

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<sup>436</sup> David L. Caffey, *Chasing the Santa Fe Ring: Power and Privilege in Territorial New Mexico* (Albuquerque: University of New Mexico Press, 2014), 107.

## Chapter 5: The Pueblo Land Question in the Tewa Basin in Early New Mexico Statehood, 1912-1922

On January 6, 1912, President William Howard Taft signed into law the congressional bill that granted New Mexico statehood. Six decades as a federal territory had shifted New Mexico's political and economic orientation from a neglectful and distant Mexico to an exploitative yet equally distant United States. Statehood was touted as the great equalizer in the Union and as a grand opportunity for the common man to improve his fortunes. The state's native peoples, Indians and Hispanos, benefitted very little from the change in New Mexico's political status.

Indian pueblos and Hispano land grant communities staggered into the statehood period, weary from decades of land speculation by Anglo outsiders and some wealthy *nuevomexicanos*. The Pueblo population continued to drop under U.S. sovereignty. Pojoaque Pueblo was on the verge of extinction, with the majority of its remnant population scattered among surrounding Tewa Pueblos. Hispano grant communities remained vulnerable to the land speculation that had ravaged communal lands throughout the territorial era. The Santa Fe Ring still operated in New Mexico, its leaders retaining political power. Thomas B. Catron, considered by many the Ring's leader, became the state's first U.S. senator. Most importantly, the Ring's legal tools, particularly the partition suit, still threatened every Spanish and Mexican grant with dissolution and division. The speculation in grant lands and the disintegration of land grant communities continued and even accelerated during early statehood.

Just as these communities were made vulnerable by property laws and legal decisions averse to communal land ownership, so too had Indian pueblos suffered speculation of their lands. This chapter will confront the Pueblo lands question, which

hung menacingly over the young state. Hardening the struggle over Pueblo lands was the growing division between Hispano and Pueblo communities. For many reformers, the boundaries between Pueblo Indians and New Mexico Hispanos were unambiguous and permanent. The fight against the Bursum Bill and the passage of the Pueblo Lands Act of 1924, exposed the ambiguities that divided Indian Pueblos and Hispano villages, and both reformers and bureaucrats applied an increasingly black and white and conflictive understanding of the two communities at both micro and macro levels. As we shall see below, understandings of race, ethnicity, and culture were bound up in Anglo ideas that identity was permanent, biological and even primordial, especially in the case of identifying who was and was not “native” or “Indian.”

This dualism obscured the centuries-old complex relationship between Pueblos and Hispanos. Undoubtedly, the booming *nuevomexicano* population took advantage of the shrinking Indian population’s seemingly vacant lands and oral agreements, not recorded on paper, supposedly justified apparent invasions. Hispanos undeniably occupied sacred Pueblo lands and violated sacrosanct Indian rights. But within this story of Hispano aggression lies another, where Pueblo Indians voluntarily alienated their lands. For instance they sold their property as payment for services rendered. In one case, Nambé paid Hispano artisans to repair its crumbling Catholic Church with tracts of Pueblo land. Across the basin, Pueblos sold land as individuals. They had seemingly adopted European conceptions of property and alienated tribal land from the community for their own personal profit. Both friends of the Pueblos and attorneys for the “Mexican settlers” conceived of and imposed an absolute division between the two communities.

John Collier and the more-radical Pueblo advocates viewed Pueblo and Hispano relations as wholly exploitative, with Indians always losing in the bargain.

This chapter seeks to demystify and question the native primordialist rhetoric embodied in the writings of Collier and other Progressive Era Indian allies and the celebratory Spanish-colonial rhetoric of elite Hispanos and Hispanophiles alike. This chapter also explores the complexity of race in the Pueblo Lands Board era. Spanish and Mexican settlers were not the saviors of the Pueblos as Hispanophiles would argue. Nor were they categorically the Pueblos's enemies, as the more radical Pueblo advocates posited. A more accurate and nuanced interpretation lies somewhere between the two extremes.

Chapter 5 re-iterates one of this dissertation's central contentions: that histories of Pueblo Indian and Hispano land tenure habitually emphasize conflict and ignore parallels in their shared land tenure history. Examining both tenures together in the Tewa Basin demonstrates that both communities were subject to similar legal, economic and political processes that dispossessed communal societies of the land and water resources they depended on. Like their Spanish-colonial forbears, Hispanos in the late nineteenth and early twentieth century took part in the dispossession of Pueblo communities and put formerly communal land on a market of mixed private and communal ownership. They acted as they had been acted upon, displacing communities adjacent to their own former communal lands from which they were displaced. Some of these Hispanos imposing on Pueblo lands had considerable wealth, grazed herds of cattle, and relied on Pueblo lands to expand their herds. They accumulated dozens, sometimes even hundreds of acres, by coercing Pueblo leaders to grant boundless leases or even make outright sales of land.

More often, however, the most destitute Hispanos took advantage of the equally desperate Indian Pueblos and bought lands from Pueblo leaders who saw their communities shrinking and who believed that their communities were on a path to extinction.

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The status of Pueblo lands was vigorously debated during the statehood movement and the early twentieth century. No less vexing was the contest between federal and territorial and later state governments for New Mexico's lands. Although the federal government declared its control over New Mexico Indian affairs, including those of the Pueblos, in the 1910 statehood Enabling Act, the state of New Mexico deemed Pueblos subject to state courts and capitalist markets. In New Mexico's state courts, the Pueblos were not part of Indian Country and their land was unprotected by federal statute or legislation. The presence of Indian agents, who ineffectively protested land invasions, had deterred neither territorial courts nor officials from considering Pueblo lands as New Mexico's in their decisions and policies. Federal agents who staffed Indian schools in Santa Fe and Albuquerque were no more a restraint. Both the Board of Indian Commissioners and the Indian Rights Association sent agents, emissaries, and academics to study and report back on the status of Pueblo tribes suffering under federal inattention. New Mexico state officials ignored the evident cultural and racial traits that confirmed Pueblos as Indians. Their aim was to establish state hegemony over Indian affairs in defiance of the federal government.

By confirming and reasserting its jurisdiction over Pueblo affairs through the Enabling Act of 1910, the federal government now had to reverse its neglect of its

fiduciary duty to Pueblo Indians. Over fifty years of benign neglect had left Pueblo lands susceptible to sale and invasion. Much Pueblo land expropriation happened years before passage of the Dawes Severalty Act of 1887, which legislated the reduction of federal oversight of native communal property and forced native heads of household to accept land parcels from their tribal patrimony. Pueblos had fought the expropriation of their lands in territorial courts until 1876. That year, the U.S. Supreme Court ruled in *U.S. v. Joseph* that because Pueblo Indians had been citizens under Mexico, they were likewise citizens under the United States and were due no special federal protection of their communal lands. The mounting loss of Pueblo lands from 1848 on forced to the surface legal questions that the federal government wanted to avoid: what was the federal government's responsibility in protecting Pueblo lands? When and where did its obligation start? Were Pueblo Indians state wards like other tribes, even though no Pueblo treaties explicitly recognized the role of the federal government in acting as a "Great Father?"

Questions of official policy toward the Pueblos were avoided by federal officials. Rather, the U.S. Congress enacted a hodgepodge of laws and funding that treated Pueblos as Indians and wards of the government. A special 1876 congressional act granted them Pueblos Indian agents, a deliberate measure responding to the *U.S. v. Joseph* decision that had withdrawn federal protection. The Pueblo's children were sent to industrial schools in Santa Fe and Albuquerque built respectively in 1889 and in 1891. In the late 1890s, legislators appointed a special attorney for Pueblo affairs to aid Indian agents in navigating territorial and federal laws, and to aid Pueblos in retaining their land and water

rights. Still, the federal government generally ignored the issue its authority over the Pueblos.<sup>437</sup>

Even with statehood, the federal government still allowed state courts, state officials, and Hispanos to continue preying on Pueblo lands. Pueblo Indians, through their agents and through their own intercession, begged the federal government to exercise its legal jurisdiction over Pueblo lands, something the Enabling Act seemed to infer. As early as 1852, Tesuque Pueblo had sent a delegation to Washington to ask that the federal government fulfill an 1850 treaty never ratified by Congress, and as late as 1912, a mixed Pueblo delegation attempted to deed their lands to the federal government for twenty-five years.<sup>438</sup> Their complaints fell on deaf ears. In 1911, however, Felipe Sandoval, a bootlegger selling alcohol to Santa Clara natives, opened the door for Pueblos to press their case for federal protection by the federal government.

Who Felipe Sandoval was remains a mystery. A Felipe Sandoval was listed as an owner of a private claim on San Ildefonso Pueblo in 1926. He may have been the “Felipe Sandoval” that bought Santa Clara Pueblo land from Edward Hobart in 1910. The commonness of his name makes it pure speculation whether the two Sandovals were, in fact, the same man. Selling alcohol to Pueblo and Hispano villagers had been a lucrative trade in northern New Mexico for decades. Correspondence of the era refers to “Taos lighting” and “*la mula blanca*” or “white mule,” a potent moonshine that varied greatly

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<sup>437</sup> Frost, “Aspects of Southern Tewa Land and Water Rights,” 32.

<sup>438</sup> For more on the 1852 Tesuque delegation to Washington, see Peter M. Whiteley, “Reconnoitering ‘Pueblo’ Ethnicity: The 1852 Tesuque Delegation to Washington,” *Journal of the Southwest* 45:3 (autumn 2003): 437-518. For an account of the 1912 attempt by ten Pueblos through Pueblo attorney Francis C. Wilson to deed their land to the federal government, see B. Alan Dickson, “The Professional Life of Francis C. Wilson of Santa Fe: A Preliminary Sketch,” *New Mexico Historical Review* 51:1 (January 1976): 35-55, 29-42. See also Hall, *Four Leagues of Pecos*, 207.



but was always distilled from common local ingredients. Its consumption in these communities of destitute populations became an epidemic. Catholic priests and Protestant missionaries denounced the bootlegging, and Indian agents demanded federal aid to stop the trade.<sup>439</sup>

Sandoval was cited by Agent William “Pussyfoot” Johnson in 1911, on the eve of statehood and arrested in early 1912. The ensuing trial over a seemingly minor act offered the state and the federal government and opportunity to plead their case for holding legal jurisdiction over Pueblo lands. Alois B. Renehan, already a prominent trial attorney deeply involved in land and estate litigation, represented Sandoval. He argued that Pueblos were Indians in neither their habits nor their history; thus Sandoval was innocent of the charge of distributing liquor to a restricted population. He further argued that Pussyfoot Johnson, a federal Indian agent without the legal power to make arrests, had no authority to detain Sandoval. Deciding otherwise, argued Renehan, would uphold a federal prohibition of liquor sales to Pueblo Indians but one that had been refuted by the New Mexico territorial courts in numerous decisions and would ultimately cause New Mexico to enter the Union on a footing unequal with other states.<sup>440</sup>

As special attorney for the Pueblos, Francis C. Wilson argued that Sandoval’s sale of liquor to Pueblo Indians was, indeed, a violation of federal statute, specifically the 1834 and 1851 Trade and Intercourse Acts and a special 1897 act that explicitly forbade the sale of intoxicating substances to all Indians, who were wards of the state. Wilson’s legal task was a difficult one. He argued his case for federal jurisdiction over the Pueblos against decades of territorial case law that had denied it. And he litigated before Justice

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<sup>439</sup> Hall, “Pueblo Land Grant Labyrinth,” 113.

<sup>440</sup> Hall, *Four Leagues*, 203; Hall, “Pueblo Land Grant Labyrinth,” 113.

William H. Pope, who, in 1907, had ruled that the special federal act of 1897 did not apply to the Pueblos. Judge Pope was no novice to land grant law, Pueblo affairs, and the scope of federal jurisdiction. As an assistant to U.S. Attorney Matthew G. Reynolds during the tenure of the Court of Private Land Claims, Pope had assisted Reynolds's efforts to reserve as much land as possible for the federal government by rejecting often-legitimate land claims on dubious grounds. He then served the second special attorney for Pueblo Indians, following the tenure of George Hill Howard, who speculated in the Hispano lands grants and was even implicated in the sale of Pueblo lands. While assistant U.S. Attorney, Pope fought in the courts to maintain federal power over New Mexico's lands, but he enforced the decision in the 1876 *U.S. v. Joseph* case, specifically that the Pueblos were not, by legal definitions, "Indians." Convincing Pope to change a mindset built over decades would surely be challenging.<sup>441</sup>

Few were surprised by Judge Pope's decision. In July 1913, he ruled in favor of the defendant: Felipe Sandoval's sale of alcohol to Santa Clara Pueblo natives violated no law. Pope used the *Sandoval* case to argue that federal control over Pueblo lands under the 1910 Enabling Act was null and void because that legal provision would remove state control over New Mexico's public and private lands. He largely agreed with Renehan's defense, especially his argument that the State of New Mexico could not be asked by the federal government to cede its authority over such a large portion of its lands, and thus put itself on lesser footing than that of other states. Renehan claimed victory, and

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<sup>441</sup> Mark B. Thompson, "William H. Pope," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://www.newmexicohistory.org/filedetails.php?fileID=23332> (accessed 11 July 2013).

although Wilson doubted that an appeal would be successful, he nonetheless filed an appeal and the case went to the U.S. Supreme Court.<sup>442</sup>

Wilson, the Pueblo's special attorney whose duty it was to protect Pueblo lands, had to hide his involvement in divesting the declining Pojoaque Pueblo of its lands. Pojoaque Pueblo had remained small throughout the Spanish and Mexican periods, numbering seventy-nine people in 1712 and dropping to fifty-three by the end of the eighteenth century. In 1870, its population numbered thirty-two and by 1890 it increased slightly to forty. By the end of the nineteenth century, Hispano encroachment on Pojoaque's fertile lands accelerated the depopulation, making it impossible for the pueblo to administer religious ceremonies or secular affairs.<sup>443</sup> First published in 1907, Fredrick W. Hodge's *Handbook on North American Indians* described Pojoaque Pueblo as abandoned and John P. Harrington's *Ethnobotany of the Tewa Indians*, published nine years later, confirmed that during fieldwork in 1909, no Pojoaques lived at the pueblo, though two Pojoaque families resided in Santa Fe and one in Nambe.<sup>444</sup> Through the 1920s, Pojoaque could claim no population until José Antonio Tapia led an effort in the early 1930s to create a "new Pojoaque," fenced the Pojoaque Grant, evicted "Spanish-Americans," and resettled fourteen Pojoaque natives.<sup>445</sup>

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<sup>442</sup> Hall, *Four leagues of Pecos*, 208-213.

<sup>443</sup> This included assigning lands to individual Indians, maintaining acequias and resolving disputes amongst users both inside and outside the Pueblo and protecting Pueblo lands from encroachment. See Sando, *Pueblo Nations*, 113

<sup>444</sup> See "Pojoaque" in *Handbook of American Indians North of Mexico*, ed. Fredrick W. Hodge (Washington: Government Printing Office, 1907), 274; Wilfred William Robbins, John P. Harrington and Barbara Freire-Marreco, *Ethnobotany of the Tewa Indians* (Washington: Government Printing Office, 1916), 103; and Marjorie F. Lambert "Pojoaque Pueblo" in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 324-329.

<sup>445</sup> Lambert "Pojoaque Pueblo," 327.

Wilson worked closely with Pojoaque Pueblo leaders willing to sell the pueblo's lands. In 1913, the abovementioned José Antonio Tapia and Wilson claimed Tapia was the last surviving Pojoaque Pueblo Indian. With Wilson's help, Tapia attempted to sell all of Pojoaque's remaining lands that had not been bought or claimed by surrounding Hispanos to California investor D. C. Collier for three-thousand dollars. In 1914, during the process of clearing title to Pojoaque's lands, Wilson left his position as pueblo attorney for his complicity in arranging the sale to D. C. Collier. Wilson had also recently represented D. C. Collier in his attempt to purchase Pecos lands. Wilson's legal partner, Melvin Dunlavy, represented Tapia, answering opposing claims by Pojoaque Indians descendants. Dunlavy considered the claims null and void because the plaintiffs had left the grant and "on account of the Pojoaque Indian custom had severed their right therein."<sup>446</sup>

When a survey of prospective lands revealed roughly one-third of the Pojoaque grant was occupied by Hispano settlers, Wilson filed a quiet title suit on behalf of buyer D. C. Collier and Company in January of 1914 to clear title to the entire grant. The suit doubted the title of anyone other than Tapia, the self-proclaimed last-remaining legitimate heir of Pojoaque Pueblo, who proved willing to part with what remained of the Pojoaque's lands. Switching sides after the sale, Wilson filed complaints on behalf of Pojoaque Pueblo descendants and expatriates living at Nambé Pueblo. As their private

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<sup>446</sup> Hall, *Four Leagues*, 208-213; Reports of the General Council of the Northern Pueblos, Pojoaque, signed by Pojoaque heirs Marcos Tapia, Augustin Vigil, Eufrasio Trujillo, March 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe. Notice that Eufrasio Trujillo, the lieutenant governor of Nambé, is a signatory of the Pojoaque report, perhaps testimony to claims that Nambé Pueblo "took in" dispossessed Pojoaque refugees.

counsel, he protected their land grant in a way he did not as the government-appointed and salaried attorney.<sup>447</sup>

While former U.S. Pueblo attorney Wilson was deeply involved in the sale of the Pojoaque Pueblo Grant, he remained suspiciously silent on the *U.S. v. Sandoval* case pending decision in the U.S. Supreme Court. He had written the plaintiffs' motion on behalf of the United States. Pueblo attorneys had long fought the expropriation and exploitation of Pueblo lands by non-Indians. Both New Mexico territorial and state governments were adverse to communal land ownership and were determined to privatize all village lands, whether they were Pueblo or Hispano community land grants. Likewise, the federal government, uninterested in Pueblo welfare and bound by the *U.S. v. Joseph* decision, considered Pueblos as U.S. citizens and their lands private property held in corporate ownership. The Enabling Act of 1910, however, confirmed federal jurisdiction and responsibility for Pueblo Indians and their lands.

As Indian Pueblos and Hispano villages engaged in battles over land and water rights and simultaneously traded and sold land, the U.S. Supreme Court issued its opinion in the *U.S. v. Sandoval* case. Writing the majority opinion, Justice Willis Van Devanter, the court's Indian law expert, declared that Pueblos were Indians in "race, custom and domestic government." Despite their "sedentary rather than nomadic" habits and "inclinations ... to peace and industry," they lived in "separate and isolated communities," adhered to "primitive modes of life, largely influenced by superstition and fetishism," and governed themselves according to "crude customs inherited from their ancestors." In short, they were a "simple, uninformed and inferior people." Commenting

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<sup>447</sup> Hall, *Four Leagues*, 208-213.

on the *U.S. v. Sandoval* opinion, lawyer and historian G. Emlen Hall points out that those uncivilized characteristics that qualified Pueblos as Indians in Devanter's mind could have applied equally to *nuevomexicanos* surrounding the Pueblos and often occupying their lands.<sup>448</sup>

*Sandoval* (1913) reversed the *Joseph* decision (1876), which effectively privatized Pueblo lands and unburdened the federal government of Pueblo guardianship. From 1876 through 1913, Pueblo lands had been opened to the market, and buyers actively sought individual Indians willing to disregard tribal claims or authority and sell parcels to non-Pueblos. As the Pueblo population continued its steady decline, Pueblo governors themselves began to expropriate land, often for their own personal benefit. Hispanos took advantage of lands lying fallow or vacant, often renting them for several seasons before declaring the lands their own. This process took place while tribes across the region were subject to severalty under the 1887 Dawes General Allotment Act. For a quarter century, the Dawes Act alienated tribal lands by individualizing communal ownership, and subjected the balance to homesteads and resource extraction. Consequently, the *Joseph* case informally achieved the same ends as the infamous Dawes Act, causing or justifying the expropriation of hundreds of acres of tribal lands. Although the federal government was the guiding hand of severalty, its neglect allowed Pueblo lands to leave Pueblo hands.

*Joseph* cited the granting of royal land grants and the Pueblos' constitutional status as Mexican citizens as further proof that they were Indians in neither race nor custom. Hall points out that the centuries of Pueblo Indian land tenure issued from

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<sup>448</sup> Ibid., 204-207.

succeeding sovereigns' notions of their civilization. "At Valladolid," writes Hall, "Indians had proved their humanity and had won crown protection for their lands. In the *Joseph* decision the court had rewarded their civilization by removing that protection. In the *Sandoval* appeal, the Pueblos won back protection only by proving their inferiority."<sup>449</sup> *Sandoval* affirmed federal guardianship over Pueblo peoples and property, reversed decades of territorial jurisprudence, and ruled invalid decades of political decisions prejudicial to Pueblo land tenure.<sup>450</sup> No less significant is that *Sandoval* threw into legal limbo hundreds of Hispano land claims amounting to thousands of acres and the entire northern New Mexican towns of Española, Peñasco, and Taos.<sup>451</sup>

The *Sandoval* decision initially did little to affect the land tenure practices on Pueblo lands.<sup>452</sup> The decades-long practices of squatting, leasing, selling, and reselling Pueblo lands did not to halt. Months after statehood, while the *Sandoval* decision was in appeal, Special Attorney Wilson had travelled to Washington, D.C., with representatives

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<sup>449</sup> Hall, *Four Leagues*, 205. Hall's statement is somewhat problematic, considering no Pueblo Indians represented an Indian perspective in the case, let alone "proved their own inferiority."

<sup>450</sup> Ibid. See also Rosen, "Pueblo Indians and Citizenship in Territorial New Mexico," 1-8. Rosen contends that the debate over Pueblo Indian citizenship spanned the entire territorial period, during which politicians fought statutes granting Pueblos legal rights but making them party to judicial proceedings and vulnerable to land speculation. Judicial officials cited lack of both formal treaties with the United States and U.S. Indian agents among them, along with the fact that Pueblos had full title to their land under U.S. law as proof they were not Indians.

<sup>451</sup> Geographer Alvar W. Carlson is perhaps most critical of Hispano encroachment on Pueblo lands. He is arguably averse to Hispano claims to disenfranchisement through land dispossession in general. See Alvar W. Carlson, *The Spanish-American Homeland: Four Centuries in New Mexico's Río Arriba* (Baltimore: The Johns Hopkins University Press, 1990), 46-52, and "Spanish American Acquisition of Cropland within the Northern Pueblo Grants, New Mexico," *Ethnohistory* 22 (Spring 1975): 95-110.

<sup>452</sup> Hall, "The Pueblo Land Grant Labyrinth," 114.

of ten pueblos seeking to deed their land to the federal government for twenty-five years.<sup>453</sup> While the Interior Department considered the proposal, New Mexico's congressional delegation, including Senators Albert B. Fall and Thomas B. Catron, and Representative George Curry, blocked any action on the Pueblos' proposal. However, *Sandoval* affirmed the U.S. government's jurisdiction over Pueblo lands and annulled New Mexico's jurisdictional claims. In 1914, the federal government finally set out to understand what its guardianship of Pueblo lands entailed.

The federal government could no longer ignore the encroachment on and exploitation of Pueblo lands. Decades of sales and Hispano impositions had created huge islands of Hispano ownership or occupation of the Pueblos of San Juan, Santa Clara, and Nambé. Pojoaque Pueblo was seemingly abandoned by Indians, who had been absorbed into Nambé. In 1914, U.S. Surveyor Francis C. Joy resurrected a 1911 Department of Interior proposal to investigate northern New Mexico's lands thoroughly and began surveying private claims within Pueblo lands. Joy's methods, which were intensely debated for the next fifteen years, were more sociological than legal. When surveying a Pueblo, he asked the claimant of private tracts to show him the land they claimed. Joy did not ask to see deeds, titles, or any other proof of ownership. Joy's survey revealed over three thousand non-Indian claims, totaling between twelve thousand and seventeen thousand acres of the most fertile Pueblo land. The federal government's stated objective was to give Pueblo attorneys precise information about non-Indian claims, but many non-Indian owners immediately interpreted the Joy survey as federal recognition of their

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<sup>453</sup> B. Alan Dickson, "The Professional Life of Francis C. Wilson of Santa Fe: A Preliminary Sketch," *New Mexico Historical Review* 51:1 (January 1976), 35-55, 39-42. See also Hall, *Four Leagues*, 207.



claims. With the Joy survey in hand, owners of private tracts sought legal patents to their lands, fenced their claims, and even filed suits to confirm their validity.<sup>454</sup>

The erection of fences on native lands infuriated Pueblos. They responded by tearing down the fences of non-Indians, only to suffer further trespass of Hispanic or Anglo livestock onto their land and even more property destruction. The resulting cattle losses brought complaints from Indians and non-Indians as well, leading Pueblo agent P. T. Lonergan to bring a lawsuit against the non-Indian trespassers in San Juan Pueblo in 1916. Assistant Interior Secretary and future New Mexico senator A. A. Jones successfully stopped the eviction of non-Indians at San Juan and forced Lonergan to withdraw his suit, which certainly would have confirmed federal jurisdiction over Pueblo lands, before it went to trial. Controversies over the Joy survey roiled though the tenure of Pueblo Attorney Jacob H. Crist, Wilson's successor. Crist pursued congressional aid against trespass at San Juan Pueblo in 1916.<sup>455</sup>

Two years later in 1918, Agent Lonergan, in trouble equally for his agitations on behalf of Pueblo Indians and for his irritation of Pueblo Indians, was transferred from New Mexico, and the Pueblo Agency was split in two. Horace J. Johnson and Leo Crane served as agents of the Pueblo Agency now divided into northern and southern jurisdictions. Working in a climate more favorable to the Pueblo cause, Crane and Johnson nonetheless believed that they were the Pueblos' last and best hope and aggressively defended native lands. They even confiscated trespassing Hispano cattle.<sup>456</sup>

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<sup>454</sup> Kelly, *Assault on Assimilation*, 193-195; Hall, *Four Leagues*, 214-215.

<sup>455</sup> Hall, *Four Leagues*, 214-215.

<sup>456</sup> Kelly, *Assault on Assimilation*, 195-198. Crane's defense of Pueblo resources was highly paternalistic and contradicted his views of Pueblo Indians as unfit for citizenship, their religious leaders as despotic rulers and their governors as "superstition ridden

From the 1913 through 1918, New Mexico state courts routinely dismissed lawsuits regarding Pueblo lands. Justices cited federal jurisdiction, or simply let them sit on the docket unanswered. Then, in 1918 former New Mexico Supreme Court justice Richard H. Hanna accepted appointment as Special Attorney for the Pueblos.

In 1919, Hanna began filing in U.S. District Court ejectment suits to remove settlers from San Ildefonso, Santa Clara, San Juan, Taos, Tesuque, and Sandia Pueblos. In the past, suits initiated by Pueblo Indian agents, superintendents, or attorneys had taken a piecemeal approach to evict non-Indian owners. Hanna's suits advocated an uncompromising interpretation of the *Sandoval* decision, which New Mexico attorneys embroiled in land litigation and speculation had dismissively written off as the "liquor case." Hanna's legal position denied the validity of *all* non-Indian claims to patented Pueblo land, regardless of the tenure of the claimants or the legitimacy of their title, whether proven by deed or tax payment.<sup>457</sup>

Pueblo Indian agents Johnson and Crane, emboldened by Hanna's legal actions, more aggressively protected Pueblo lands. But both were involved in disputes with Pueblo leaders, and after Secretary of the Interior Albert Fall transferred L. A. Dorrington, a special inspector of Indian affairs, Crane and Johnson were likewise removed by the middle of 1922.<sup>458</sup> In light of the Hanna suits, banks were hesitant to

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savages," holders of exhausted offices "with no control over their own people." See also Leo Crane, *Desert Drums: The Pueblo Indians of New Mexico, 1540-1928* (Glorieta, NM: Río Grande Press, 1972), 257-274. See also Kelly, *Assault on Assimilation*, 204, regarding Pueblo complaints against Crane's autocratic rule and his undermining of Pueblo internal governance with Indian judges.

<sup>457</sup> Hall, "Pueblo Labyrinth," 215.

<sup>458</sup> A military prison director in the Philippines after the Spanish-American War, Dorrington spent nine years travelling across the West and troubleshooting problematic Indian reservations. For more on Colonel LaFayette A. Dorrington, see box 1 of 6 (New

give loans or mortgages to owners or buyers of private lands situated on Pueblo grants. The largely Hispano settlers were unable to borrow on their land claims or gain mortgages to make improvements and were left in a state of tenancy. Drier conditions in the Southwest and Rocky Mountain West, along with the decreased need for American agricultural and pastoral production with the end of World War I, led to a decline in access to migratory wage labor upon which villages had become dependent.<sup>459</sup>

The *Sandoval* and *Lonergan* decisions and Hanna ejectment suits, combined with the steady stream of complaints by Pueblo agents and Office of Indian Affairs employees, alerted Congress to a growing problem in New Mexico. When the House Subcommittee on Indian Affairs held hearings in Tesuque on May 16, 1920, its members found that Pueblo land issues involved more than Mexican bootleggers and their unruly cattle. José Ramos Archuleta of San Juan, with Congressman Benigno C. Hernández translating for him, addressed the committee: “This is the situation in regard to our lands: There have been some lands that have been sold by members of our tribe. There is other land that we do not know how people came into possession of. There is other land that was probably squatted upon.”<sup>460</sup> Committee chairman Homer P. Snyder retorted, “As I understand it the Government originally set aside sufficient land for these Indians to make a living upon and they have let the land get away from them.” Archuleta replied:

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Mexico - Crown Point, Jicarilla, Mescalero, Pueblo, San Juan, Southern Ute, Zuni), Investigative Records of Colonel L. A. Dorrington, 1913-1923, Records of the Bureau of Indian Affairs, Record Group 75. San Bruno, CA, National Archives at San Francisco.

<sup>459</sup> Sarah Deutsch, *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880-1940* (New York: Oxford University Press, 1987), 107.

<sup>460</sup> Statement of Jose Ramos Archuleta, of Puebla (sic), San Juan, in U.S. Congress, House, Subcommittee of Committee on Indian Affairs, *Hearings*, 66<sup>th</sup> Cong., 1<sup>st</sup> Sess., 16 May 1920, 595-596.

No, we have not let the lands get away from us. I understand and we contend that these sales that they have been made since the government surveyed these grants for us and set apart this land are not legal. We claim that these fellow members of our tribe who have sold this land had no legal right to sell it because this was tribal property. . . we are continually exhorting our people not to sell our lands, and so members of our tribe have secretly made sales[,] claiming that they are only leasing the land.<sup>461</sup>

Archuleta's testimony alone muddled the legal picture of land ownership among Pueblos and Hispanos.

The testimony of Porfirio Mirabal and Lorenzo Martínez of Taos Pueblo and of Northern Pueblo superintendent Horace J. Johnson demonstrated that the problems facing San Juan were more widespread among the Pueblos than was thought. When Mirabal and Martínez testified that the bulk of Taos Pueblo's tillable lands were under cultivation by neighboring Hispanos, Representative Hernandez, a native of Taos, responded, "As a matter of fact, you lease a considerable amount of the tillable land to the people who live around you there, don't you?" Martínez confirmed the observation, but explained that the "leasing has been referred to many of the inspectors" and that he had "always been opposed to leasing the cultivated land of my people." Pressed by Hernández, Martínez stated, "Yes, there is a class of Indian that when they cannot find feed for their family they do it."<sup>462</sup>

In his testimony, Johnson addressed the questionable Pueblo practice of leasing lands to non-Indians, suggesting that the Pueblos' internal traditions of granting usufruct rights rather than fee-simple deeds to individual Pueblo members had led to the alienation

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<sup>461</sup> Ibid 597-598; Hall, *Four Leagues*, 221-223.

<sup>462</sup> Statement of Porfirio Mirabal, Taos Pueblo, *ibid.*, 604.

of lands that were unrequested and unused. San Ildefonso was a case in point. Johnson testified that at San Ildefonso, non-Indian land claims derived from three major parcels that had been divided over decades. The first two were purchased from the Pueblo Council by local Hispanos in the 1700s, but the third was illegitimate. It had been enlarged and segregated from contiguous Pueblo lands by the moving of the highway in the late nineteenth or early twentieth century. Johnson reiterated the opinions of Mirabal and Archuleta. He stated that he was not in favor of Pueblos being made U.S. citizens, for “they are surrounded by a population that is not friendly to them.” If a “white man as a representative of the Government cannot get justice in one of our courts here . . . I do not know how an Indian can get it.”<sup>463</sup> Rather than appealing to federal fiduciary obligations to Pueblo Indian wards, Pablo Abeyta, the renowned orator of Isleta, bluntly remarked, “An Indian is not a part of you and you are not a part of us.”<sup>464</sup>

The Committee ended its survey of Pueblo affairs with the testimony of Alois B. Renehan, defense counsel in the *Sandoval* case and the legal representative of non-Indian claimants in the San Juan, San Ildefonso, Santa Clara and Picuris ejectment suits, and of Río Arriba merchant Frank Bond, a longtime client and the largest claimant of Santa Clara Pueblo land. In his lengthy testimony before the committee, Renehan admonished the Supreme Court’s 1913 *Sandoval* ruling and the defense of Pueblos by their advocates and attorneys. “The Pueblo Indian,” claimed Renehan, “is quick to pick up on notions beneficial to him,” and they “have lain outdoors absolutely in waste. . . The Indians [have] paid no attention to it whatsoever.” After chastising Pueblos for their inefficient use of their land, Renehan painted a rosy picture of Pueblo-Hispano relations. Though strife

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<sup>463</sup> Statement of Horace J. Johnson, Superintendent of Northern Pueblos, *ibid.*, 606-609.

<sup>464</sup> Statement of Pablo Abeyta (sic), Isleta Pueblo, *ibid.*, 692.

marked relations until the Taos Rebellion in 1847, afterward “matters quieted down and the utmost harmony has prevailed between the Mexican people and the Indians.”<sup>465</sup>

Referring back to the 1919 Hanna suits, Renehan stated, “It seems now, in light of two suits recently filed in the US District Court here, that there is a *project* to upset all of the titles which the *Mexicans* and *Americans* living upon the Indian grants have believed that they possessed for years.” Always prone to exaggeration, Renehan portrayed the Hanna suits as a conspiracy against the New Mexican citizenry. Perhaps more telling is that he separated the citizenry into two groups, “Mexicans *and* Americans,” though Hispanos were citizens protected by the same legal rights as their Anglo counterparts. As for Bond, when the committee asked him to substantiate his claim with title, he offered only a deed, revealing that New Mexico had no practice of abstracting titles before 1856, and most towns kept no records until obligated to do so in 1883. Renehan then cited Pueblo Indians’ oral traditions as another reason that no records of lands being sold to Mexicans existed in any archives.<sup>466</sup>

Pueblo leaders would later accuse Hernandez of misrepresenting their statements at the 1920 hearings, but the essential points of contention were now clear in the record and the land-tenure situation was more complex than initially believed. Rather than a simple legal scenario wherein Congress would evict recent squatters from Pueblo Indian reservation lands, the testimony of Pueblo leaders, government bureaucrats and attorneys for Hispano and Anglo settlers revealed that individual Pueblo Indians had sold or were selling their lands, acting as fee-simple owners of the greater Pueblo patrimony. This

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<sup>465</sup> Statement of Alois Renehan, *ibid.*, 647-667. Emphasis is mine. See also, Statement of Frank Bond, *ibid.*, 673-674.

<sup>466</sup> Statement of Alois Renehan, *ibid.*, 647-667.

legal problem might not have arisen had the federal government made Pueblos wards of the state decades earlier.

While the congressional hearings at Tesuque revealed how extensive and complicated disputes over Pueblo land tenure had become, they offered neither a legal alternative nor a legislative solution to the Hanna suits. Hanna's invocation of the *Sandoval* decision jeopardized not only those people directly threatened with eviction. State politicians who had shaped territorial jurisprudence and law and held the federal government at bay during the territorial years, were no less affected. They were not going to forsake New Mexico's control over its lands, and fought desperately to retain that authority.

Just as New Mexico's political leaders were reluctant to abandon to Washington their power over land decisions, New Mexico farmers, both Hispano and Pueblo, held on to age-old traditions that blurred the line between private and public lands. Since the Spanish-colonial era, Hispano communities had released their cattle on the stubblefields after harvest, an act that brought them closer to their settlements. Called *derrota de mieses*, literally meaning "tearing the cornfields," the practice had temporarily converted all lands from private to public and brought cattle into agriculture fields to help the soil recover by depositing nutrient-rich manure. In time, Pueblos had adopted the practice, eventually generating intra-Pueblo disputes between so called "progressive" and "traditionalist" factions, the latter disallowing Spanish practices on Pueblo lands.<sup>467</sup>

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<sup>467</sup> Joseph Melchor of Cochiti Pueblo wrote Pueblo Superintendent C. J. Crandall, protesting the prior actions (fall 1922) of Cochiti Pueblo governor Marcial Quintata, who corralled his father Juan Pablo Melchor's cattle when the elder Melchor released them "*a derrotar los mieses*," or to "graze the stubblefields." See Joseph Melchor to C. J. Crandall, September 8, 1923, Folder 3, Box 2, Records Concerning Claims Before the

Hispanos had gradually expanded this grazing practice in the twentieth century with little regard to the wishes of Pueblo Indians or their need of the stubblefields for their own cattle. On the eve of statehood in 1912, state and federal officials had attempted to work out a compact by which neighboring “white and Mexican settlers” were given notice if their cattle trespassed on Pueblo Indians’s conspicuously marked lands. Thereafter, their cattle would be seized, and they would have to pay a penalty of one dollar per head of cattle and less for sheep. But Office of Indian Affairs representatives and New Mexico state officials were at an impasse. While the *Sandoval* case was still in litigation, Indian agents clashed with local authorities. The former were anxious to exercise federal plenary power over Indian lands defined in the 1910 Enabling Act for New Mexico statehood, while the latter sought to preserve the primacy of New Mexico territorial law and local control. On April 20, 1912, Indian Agent and Santa Fe Indian Industrial School Superintendent H. F. Coggeshall had reported to Commissioner of Indian Affairs Cato Sells that he had taken up 101 cows trespassing on Santa Clara Pueblo lands.<sup>468</sup> Two days later, he wrote U.S. Attorney Stephen B. Davis to request legal

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Pueblos Land Board, 1924 – 1941, Entry 13, Records of the Bureau of Land Management, 1685 – 2006, Record Group 49, National Archives - Rocky Mountain Region, Denver, CO. Crandall was in conference with Governor Quintana regarding damages from this practice on the tribe’s fruit orchard by cattle from “Mexicans at Peña Blanca.” Similar issues were also disrupting nearby Santo Domingo Pueblo through the nearby village of Sile, where Crandall reprimanded the Lieutenant Governor for renting the land without recording the leases. “The reason for this,” warned Crandall, “is if the Indians lease the land, there is a danger that Mexicans will get hold of your land and that someday they might claim the same land as theirs.” See C. J. Crandall to Governors of Santo Domingo, Cochiti, San Felipe, May 1924, Folder 3, Box 2, Records Concerning Claims Before the Pueblos Land Board, 1924 – 1941, Entry 13, Records of the Bureau of Land Management, 1685 – 2006, Record Group 49, National Archives - Rocky Mountain Region, Denver, CO.

<sup>468</sup> H. F. Coggeshall to Commissioner of Indian Affairs, April 20, 1912, folder 121, box 3, Records of the Pueblo and Pueblo and Jicarilla Indian Agencies, NM, Entry 86,



action against the trespass of stock on San Juan Pueblo lands. Davis replied that Pueblo lands were private property and that the natives could impose whatever fine they saw fit.<sup>469</sup> Coggeshall reiterated the problems to Commissioner Sells, this time informing him that cattle easily trespassed on Santa Clara grant and executive-order reservation lands by public roads leading to grazing land in the Jemez Forest Reserve. Coggeshall believed all Mexicans transporting cattle to the forest reserve should pay a nominal fee of one cent per head of sheep and two cents per head of cattle, for their animals were sure to stray from the public road into Santa Clara lands.<sup>470</sup>

Coggeshall's actions caught the attention of local officials. Over a year and a half, he continued impounding cattle that trespassed on Pueblo lands. But what had changed was the legal climate in which Coggeshall protected Pueblo lands. When he started the process in 1912, Judge Pope upheld the authority of territorial law over Pueblo lands; by 1914, Pope's decision had been reversed by Justice Van DeVanter's *Sandoval* decision, and federal agents more willingly tested this affirmation of federal authority over native lands. Commissioner Sells informed Coggeshall, that Senator Thomas B. Catron had requested a report regarding the cattle seizures and that New Mexico attorney general Frank W. Clancy questioned the legality of his impounding cattle, regardless of trespass. Clancy opined that the laws Coggeshall was attempting to enforce were intended to discourage intentional pasturage of stock on native lands, not incidental

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Records of the Bureau of Indian Affairs, 1793-1989, Record Group 75, National Archives - Rocky Mountain Region, Denver, CO. One of the offending cattlegrowers was my great great grandfather, Juan Lu s Garc a, who maintained a nearby homestead at the foot of the Pajarito Plateau.

<sup>469</sup> H.F. Coggeshall to Stephen B. Davis, US Attorney, April 22, 1912, April 20, 1912, folder 141, RG 75, Entry 86, NA-RMR, Denver.

<sup>470</sup> H.F. Coggeshall to Commissioner of Indian Affairs, April 22, 1912, folder 141, RG 75, Entry 86, NA-RMR, Denver.

damage caused when Indian lands were used as a passage to private or other federal lands. Clancy wrote Catron, his former law partner, that Coggeshall had no authority to take up trespassing cattle, and he could be prosecuted under territorial law. Clancy asked Catron to take up the matter with the Indian office and “prevent Mr. Coggeshall from annoying people.”<sup>471</sup>

Clancy had also been in correspondence with José A. Ribera of Peña Blanca, who had been cited for his cattles’ trespass onto the lands of Cochiti. “This action of Mr Coggeshall is absolutely without any authority under the law,” wrote Clancy. “Mr. Coggeshall’s action, in effect, makes him a court to adjudicate the penalty and an office to collect it.”<sup>472</sup> Coggeshall meanwhile wrote the commissioner of Indian affairs to complain of the grazing practices of Mexicans on the lands of Santo Domingo and Cochiti Pueblos. He reported that Mexicans at Sile and Peña Blanca “consider Indian lands to be for their common benefit and have turned their stock out to graze on Indian lands.”<sup>473</sup> When Ribera was questioned by Coggeshall about the trespass of his stock onto the Cochiti Pueblo Reservation, he explained that “they [*nuevomexicanos*] always used Indian lands for their own benefit and could not see buy (sic) that they would not continue to do so.” Attorney General Clancy was so outraged by Coggeshall’s tactics that he engineered a Joint Memorial in the New Mexico State Legislature condemning the practices.<sup>474</sup>

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<sup>471</sup> F.W. Clancy to T. B. Catron, August 17, 1914; T.B. Catron to Cato Sells, August 24, 1914; Cato Sells to H.F.Coggeshall, August 27, 1914; in *ibid*.

<sup>472</sup> F.W. Clancy to José A. Ribera, Cochiti, August 17, 1914, in *ibid*.

<sup>473</sup> HF. Coggeshall to Commissioner of Indian Affairs, November 6, 1914, in *ibid*. See also Malcolm Ebright, *Land Grants and Lawsuits*, 18.

<sup>474</sup> Joint Memorial #7, Legislature of the State of New Mexico, Session Laws of 1912, 301.

Despite Coggeshall's impoundments, New Mexico state leaders still believed that their laws superseded federal statutes enforced by U.S. agents on Pueblo reservations. Laws and the legal code created over the sixty-two year territorial period were incorporated into the new state's legal codes, and territorial jurisprudence, which had shaped the legal knowledge of jurists and lawyers alike, lived on in early New Mexico statehood. Their defense of the precedence of New Mexico territorial law over federal law united all New Mexico politicians, Republican and Democrat, Hispano and Anglo alike. Although the 1910 Enabling Act explicitly ended New Mexico's jurisdiction over Pueblo Indian lands, political leaders in early statehood fought to maintain control over Pueblo lands and undertook an elaborate, even convoluted interpretation of recent Supreme Court decisions and federal mandates to uphold their authority. They did so by narrowly interpreting judicial decisions regarding Indian land. Their reading reduced *Sandoval* to the "liquor case," which did not affect other types of commerce, especially land sales. In their interpretation *Sandoval* especially did not wholly transform the Pueblo's non-Indian status, which had been affirmed earlier in the *Joseph* case. New Mexican authorities also questioned the applicability to Pueblos of land laws created for Indians in other part of the United States. Finally, they simply ignored federal authority over Indian lands, claiming, with some truth, that it rendered New Mexico unequal to other states and forced unnecessary legal and economic hardship on the new state.

Pueblo Attorney Richard Hanna's ejectment suits meanwhile posed a real threat to non-Indian's private claims on Pueblo lands. Jurisdiction over Pueblo affairs and lands proved more complicated than a simple judicial statement. What were, for instance, the Pueblos's water rights in relation to those of surrounding villages and other users? Were

rights to waters flowing through Indian pueblos not subject to state courts and jurisdiction? Would the federal government seize control of water resources, a power typically held by states? Hanna's suits offered no answers to these larger questions and the Congressional Hearings at Tesuque in 1920 did little to calm growing concerns over the potential of the litigation to displace thousands of Hispano and Anglo settlers across New Mexico. These claimants hardly took the threat of litigation lying down. Many turned to Alois Renehan, the lawyer and noted land speculator, who had won the first round of the *Sandoval* fight, to defend the validity of their claims.

In March of 1921, the U.S. District Court filed an injunction against Hispanos's exploiting grazing lands within the exterior boundaries of the Santa Clara and San Ildefonso Pueblo grants, bringing the direct judicial action that Pueblo governors had requested from Clinton J. Crandall and Clara D. True decades earlier.<sup>475</sup> Renehan defended Hispano grazers against the injunction. Clara True, meanwhile, had aboutfaced from aiding Pueblos's defense of their lands to making her own claims against them. Living on a tract of land that was well within the San Ildefonso Pueblo Grant, True led an effort to defend land claims against the 1919 Hanna ejectment suits. The meddlesome Indian Rights Association representative, who fell in and out of the employment of the Indian Service as a Santa Clara Pueblo day school teacher and who eventually became

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<sup>475</sup> Writ of Injunction No. 734, In Equity, United States of America v. Antonio Vigil, et. al., U.S. District Court, Judge Colin Neblett, presiding, March 14, 1921, Box 11, Folder 13, Renehan-Gilbert Papers, NMSRCA. Among the grazers cited are my great grandfather, Adolfo García, great-great grandfather, Juan Luís García, and a great uncle and Río Arriba county clerk, Filogonio Rodríguez.

superintendent of the Española valley's public schools, was among the first to organize non-Indians and recruit Renehan to the settler cause.<sup>476</sup>

True organized the San Ildefonso Committee, an organization of non-Indians defending their claims, and served on the Executive Committee with Martín Luján and Perfecto Gallegos.<sup>477</sup> From 1920-1921, the Committee had collected \$1,100 to pay Renehan either to defend the claimants' case in court or to lobby Congressional intervention to block the Hanna ejectment suits. True wrote the general counsel of the Denver and Rio Grande Railroad to solicit funds for a case that made "victim of all of us," pleading for the company to send something on behalf of "widows with children in the orphan asylum."<sup>478</sup> Renehan, meanwhile, worked with Congressman Nestor Montoya to introduce legislation to "adjust controversies affecting small holding claims."<sup>479</sup> While Renehan busily organized settler committees and Congressmen to fight the ejectment suits, the New Mexico Republican Party's "Old Guard" approached the ejectment suits as an opportunity to fix the woes of an ailing party.

Amid Congressional hearings and the turmoil of the 1919 Hana ejectment suits, the New Mexico Republican Party had readied itself for the 1920 campaign. Having divided into Old Guard and progressive camps, Republicans made blocking or throwing

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<sup>476</sup> Tisa Wenger, "Land, Culture, and Sovereignty in the Pueblo Dance Controversy," *Journal of the Southwest* 46:2 (summer 2004): 381-412, 386.

<sup>477</sup> Clara True to Alois B. Renehan, 7 March 1921, Box 9, Renehan-Gilbert Papers, NMSRCA, Santa Fe. The San Ildefonso Committee fractured when Gallegos came to distrust True's and Renehan's influence. See True to Renehan, 15 and 19 March 1921, Box 9, *ibid.* True also distrusted Martín Luján and suggested that Renehan "chase up the account of Martin Lujan [sic] in the First (National Bank) and see what shows up." True to Renehan, 13 June 1921, Box 9, *ibid.*

<sup>478</sup> Clara D. True to General Counsel of the Denver and Rio Grande Railroad, 21 February 1921, *ibid.*

<sup>479</sup> Renehan to Perfecto Gallegos, 22 April 1921, *ibid.*

out eviction suits a central part of their party's platform for the next four years, especially appealing to a northern Hispano constituency in a state of panic. With the notable exception of the progressive politician and newspaper publisher Bronson Cutting, the Republican Party was estranged equally from the common northern New Mexican voter and the Hispano *patrones* on whose support they relied. Killing eviction suits and clearing title to non-Indian claims on Indian lands would confirm the Republican's commitment to *nuevomexicanos*. It would also ensure that thousands of acres of valuable land remained on the private market.<sup>480</sup>

In his waning days as New Mexico's lone Representative to U.S. Congress, Benigno C. Hernández submitted a bill that both confirmed absolute federal jurisdiction in internal Pueblo matters and recognized non-Indian title to Pueblo lands through patents issued by a three-man commission. His successor, Nestor Montoya, sought to clear all small-holding claims in sweeping legislation that gained no traction. Despite attempts to unify its base, Republican Party leadership remained divided. Bad blood between former territorial governor Herbert J. Hagerman and Holm Bursum had boiled since 1906, when Hagerman removed Bursum as head of the Territorial Penitentiary for embezzlement. Senator Albert Fall had supported Bursum's gubernatorial bid in 1916, but they fell out in 1919-1920, when Bursum failed to back Fall's support of Warren Harding in the Republican presidential primary. With Harding's election, Fall won a seat in the new cabinet as secretary of the interior. Bursum was widely considered the most appropriate Republican to fill Fall's vacant senate seat. But Fall threatened to stay if incoming

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<sup>480</sup> Richard Lowitt, *Bronson Cutting: Progressive Politician* (Albuquerque: University of New Mexico Press, 1992), 195-212. See also, Phillip B. Gonzales, "El Jefe: Bronson Cutting and the Politics of Hispano Interests in New Mexico, 1920-1935," *Aztlán* 25:2 (fall 2000): 67-108, 68-71.

governor Merritt Mechem intended to appoint Bursum, which he did as soon as Fall took the helm of the Interior Department.<sup>481</sup>

Secretary of the Interior Fall immediately conferred with Commissioner of Indian Affairs Charles H. Burke and Attorney General Harry M. Daugherty about the Pueblo land situation. Fall implored Daugherty to appoint longtime New Mexico attorney and historian Ralph Emerson Twitchell as special government attorney for the Pueblo Indians. In March, 1921, Daugherty acquiesced, commissioned Twitchell special assistant to the attorney general for Pueblo Indians, and instructed him to prepare a historical and legal report on Pueblo land tenure and pursue suits of ejectment.<sup>482</sup>

Twitchell was well versed in the history of the speculation in Pueblo lands. In 1895, Twitchell with his first wife, Margaret Olivia Twitchell, purchased a tract of land from San Ildefonso Pueblo governor Domingo Peña, then quickly sold it to Cosme Herrera at a profit.<sup>483</sup> Twitchell remarried after the death of Margaret, and continued an unremarkable career as a land speculator, unsuccessfully filing claims on the Diego de Velasco and Santo Domingo de Cundiyo claims in the Tewa Basin.<sup>484</sup>

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<sup>481</sup> Kelly, *Assault on Assimilation*, 198-200; Forrest, *Preservation of the Village*, 56-58.

<sup>482</sup> Subcommittee of the Committee on Indian Affairs, *Survey of Conditions of the Indians in the United States: Hearings Before a Subcommittee of the Committee on Indian Affairs*, 71<sup>st</sup> congress, 2<sup>nd</sup> session, pt. 20, Pueblo Lands Board, May 2, 8 and 9 1931; January 26-30, 1932, 10764-10767. In his new position, Twitchell answered to the attorney general in the Department of Justice, where the special attorney for the pueblos was a Bureau of Indian Affairs position within the Department of the Interior.

<sup>483</sup> Twitchell was quite familiar with speculation in Pueblo land. His first wife, Margaret Olivia Twitchell, purchased a tract from San Ildefonso Pueblo (Domingo Pena was governor) in June of 1895, a parcel of land she quickly sold to Cosme Herrera on July 5, 1895 for \$75.00. Notes Regarding San Ildefonso Land Sales, Folder 3, Box 2. Indian Affairs Collection, MSS 16, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>484</sup> See Ebright, "Cundiyo Grant," 4-6. Ebright writes that Twitchell filed one of many conflicting claims to the grant on March 3, 1893, the last day that claims could be filed in

While Twitchell was compiling his report, the verdicts for ejectment suits filed by Pueblo attorney Richard H. Hanna were rumored to be issued soon. Fall interceded, once again requesting that Daugherty await Twitchell's report and delay New Mexico District Court judge Colin Neblett's pending decision on four ejectment cases naming six-hundred non-Indians as defendants.<sup>485</sup> Hanna and Francis C. Wilson, former law partners who succeeded one another as attorney for Pueblo Indians, were confident that Neblett's decision would favor the Pueblos and would call for the ejectment of all non-Indians from Pueblo lands. They believed Neblett's hands were tied by the *Sandoval* decision, which defined Pueblo lands as Indian Country, with explicit embargos against non-Indian land ownership. Wilson's confidence came with some hesitation, for he feared the social and political consequences of removing hundreds of Hispanos from lands they had farmed for decades and may have bought in good faith from Hispanos or even from Pueblo Indians themselves. Neblett yielded to Daugherty's request, allowing the

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the Court of Private Land Claims, but eventually struck a deal with attorneys Thomas B. Catron, Charles Coons and Robert Gortner to merge their claims into one and split the contingency lawyer's fees. Twitchell then knowingly filed claims representing Antonio Vigil for the Diego de Velasco Grant on the same day as the Cundiyo claim, which declared precisely the same land as the Cundiyo Grant. The Velasco claim was unsuccessful; the greatly reduced Cundiyo claim, which was estimated at over 20,000 acres, was approved and issued a patent for just over 2,100 acres in 1903. See also Bowden, "Santo Domingo de Cundiyo Grant" in *Private Land Claims in the Southwest*, accessed online at [http://newmexicohistory.org/filedetails\\_doc/php?fileID=24782](http://newmexicohistory.org/filedetails_doc/php?fileID=24782), accessed August 13, 2011; Bowden "Diego de Belasco Grant" in "Private Land Claims in the Southwest," accessed online at [http://newmexicohistory.org/filedetails\\_doc/php?fileID=24783](http://newmexicohistory.org/filedetails_doc/php?fileID=24783), (accessed 11 August 2011); See also New Mexico Legal Rights Demonstration Land Grant Project, *The New Mexico Legal Rights Demonstration Land Grant Project: An Analysis of the Land Title Problems in the Santo Domingo de Cundiyo Grant* (Albuquerque: Legal Aid Society of Albuquerque, 1976), which analyses the difficulty in ascertaining the land rights to the Cundiyo grant 230 years after the grant was received from Spain and seventy years after its patent from the federal government. Benavides and Golten, "Righting the Record," 901-902.

<sup>485</sup> Philp, *John Collier's Crusade for Indian Reform*, 30.



prospect that a legislative solution could offer the equity that a judicial decision could not.<sup>486</sup>

Twitchell's report pointed out the speculative habits of Spanish-colonial and Mexican officials, all the while turning a blind eye to their American successors. Many of these territorial land speculators were Twitchell's personal acquaintances, colleagues and adversaries, with whom he had partnered or whom he had fought during speculation in native lands. Twitchell's report, later republished in *El Palacio*, the magazine of the Museum of New Mexico edited by Twitchell's longtime friend and collaborator, Edgar L. Hewett, condemned Spanish "cupidity and despotic rule" that brutally subjugated a "peaceful, quiet and industrious people." Twitchell nonetheless highlighted the inconsistent Spanish administration of Pueblo lands, which sometimes allowed the intrusion of neighboring colonists but explicitly denied the right of Indians to sell their land under both the *Laws of the Indies* which governed the colonization of New Spain, and the *Ordenanzas de Tierras y Aguas* (Land and Water Ordinances), which sought to protect the tribes resources. In retelling New Mexico's Spanish-colonial land cases, which he mastered while organizing the Spanish Archives of New Mexico, Twitchell demonstrated how Spanish-Pueblo relations were a guardian-ward relationship, one that changed with Mexican Independence and the Plan de Iguala.<sup>487</sup>

The Plan de Iguala, which held that all former subjects of the Spanish crown were citizens of the Mexican Republic, transformed Pueblo Indians's status from crown ward to republican citizen. In its twenty-five years as a part of the Mexican Republic, New

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<sup>486</sup> Hall, *Four Leagues*, 224-226.

<sup>487</sup> Ralph E. Twitchell "Pueblo Indian Land Tenures in New Mexico and Arizona," *El Palacio* 12: 3-5 (March 1, 1922), 32-33, 38-43, 54.

Mexico never elected a legislative assembly, meaning that even if Pueblos were indeed citizens, they never had the opportunity to vote. New Mexico was generally governed under late-Spanish-colonial laws and Mexican officials continued to protect Pueblo lands, despite their own impulses to dismantle them and distribute them for wider benefit. Twitchell, nonetheless, wrote little of Mexican governance of Pueblo lands. According to him, the only significant action that Mexico took was granting Pueblo Indians citizenship, a decision that in Twitchell's mind, bound the hands of the Territorial Supreme Court when it recognized the right of Pueblos to sell their lands. Twitchell's unbalanced report commended the effects of the New Mexico Territorial Supreme Court to clear up the muddy land-tenure issue while it ignored the speculative habits of Justices John S. Watts and Kirby Benedict.<sup>488</sup>

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<sup>488</sup> Ibid, 42. John S. Watts served as the Chairman of the Territorial Supreme Court's Committee on Private Land Claims and authored briefs regarding land claims under the Treaty of Guadalupe Hidalgo. Watts also represented Ramón Vigil before the U.S. Office of the Surveyor General while Watts was an associate justice on the New Mexico Territorial Supreme Court; see Ebright *Land Grants and Lawsuits*, 231. Watts purportedly bragged that he handled forty-three land claim cases while he was still on the bench. See David Benavides, *Lawyer-Induced Partitioning of New Mexican Land Grants: An Ethical Travesty* (Guadalupita, NM: Center for Land Grant Studies, 1994), 15. For more on Judge Kirby Benedict, see Aurora Hunt, *Kirby Benedict, Frontier Federal Judge: An Account of Legal and Judicial Development in the Southwest, 1853-1874* (Glendale, CA: Arthur H. Clark Co., 1961), and Malcolm Ebright, "Kirby Benedict," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://newmexicohistory.org/people/kirby-benedict> (accessed 10 October 2013). Benedict wrote the first decision regarding land grants in territorial New Mexico in 1855 (*Pino v. Hatch*), in which he cast doubt on the granting authority of Mexican officials. See also Malcolm Ebright, "The Coyote Creek State Park: History of Title and History of Guadalupita and Mora Land Grants," submitted to the Commission for Public Records, Contract #09-36099-008720, 2009. In this report, Ebright credits Benedict with introducing the newly arrived Thomas Catron to the Mora and Guadalupita land grants in 1866, when he hired Catron while working on the case *Gold v. Tafoya*, in which Benedict argued that the Guadalupita Grant was invalid and its lands were public domain. Catron and Stephen B. Elkins eventually owned the controlling interest in the Mora Grant, which subsumed the Guadalupita Grant. When they partitioned the grant, only locals who had

By May 1922 Twitchell, as special attorney for the Pueblos, threatened to push forward with Hanna's ejectment suits if Congress provided no relief measure before it adjourned that session. Why Twitchell would threaten to go forward with legal action that he had no power to apply is puzzling. Fall had already convinced Daugherty to stop Neblett's ejectment-suit decision until Twitchell compiled a study of Pueblo lands. Twitchell had already issued the report and published it in *El Palacio*. He was also advising Senator Bursum on creating legislation to ameliorate the situation. It is perplexing to consider why Twitchell threatened to resume legal action while he was already a part of a process to provide Congressional relief. Like land litigators before him, he appears to have played all sides of the issue to feather his own nest.

Albert Fall's actions and intentions were much clearer. As secretary of the interior, he continued a life-long vocation, actively privatizing and corporatizing public lands and resources. For Fall, Pueblo Indian lands, like all other native lands, were a part of the public domain subject to national control and disposition. Keeping faithful to Republican campaign promises, Fall resurrected a skeleton proposal made by Alois Renehan. After the May 1920 Congressional hearings in Tesuque, Renehan had proposed to create a commission to examine non-Indian claims. His suggestion was to accept those dating before 1900 and examining the legality of those made afterward. Although he had opposed Bursum's appointment to his former seat, Fall now needed Bursum to propose the legislation. Whether Bursum took up Fall's plan out of naïveté, for the sake of the Republican Party in New Mexico, or to advance his political career remains unclear.

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deeds protecting their land or took possession of common lands received anything before Elkins and Catron received their share. See Ebright, "Coyote Creek State Park," 14-16.

The land tenure situation in New Mexico Pueblos still suffered from federal inattention. On February 8, 1922, Tesuque Pueblo Indians disputed E. D. Newman's claim to an eighty-acre tract and cut down recently erected fences that marked his claim. Newman warned everyone from Governor Mechem and Senator Bursum to Attorneys Alois Renehan and Francis C. Wilson that without favorable intervention, he would resort to his "only recourse – a Winchester."<sup>489</sup> Mindful that he needed to pursue legislation quickly if he hoped to win his senatorial seat in the upcoming special election, Bursum rushed two bills through Congress. (In the election, he faced none other than Richard H. Hanna, the very man who filed the 1919 ejectment suits.) Bursum submitted them to the Indian Affairs Committee, hoping to avoid review by the Interior Department, only to have them recalled by Secretary Fall.<sup>490</sup>

An infuriated Fall summoned Renehan and Twitchell to Washington to work with Bursum on a more sound bill that would satisfy both the settlers threatened with eviction and the government liable to protect Pueblo lands. In May 1922, Renehan, already representing non-Indian claimants in the Hanna ejectment suits, outlined for Bursum a bill that recognized two classes of claimants. The first were those who had adverse possession ten years prior to statehood and the second with adverse possession after statehood. The second class would pay the Indians the value of their lost lands based on their condition on January 6, 1902, ten years to the day before statehood and the date that

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<sup>489</sup> E. D. Newman to H. H. Johnson, Northern Pueblo Agent, et. al., February 9, 1922, "Indian Affairs, Pueblo of Tesuque, Controversy Over Fences," folder 50, box 2, Governor Merritt C. Mechem Collection, 1959-098, NMSRCA, Santa Fe.

<sup>490</sup> Donald R. Moorman, "A Political Biography of Holm O. Bursum, 1899-1924" (Ph.D. diss. University of New Mexico, 1962), 307-309; Kelly, *Assault on Assimilation*, 198-200. See also, Ron Hamm, *The Bursums of New Mexico* (Socorro, N.M.: Manzanares Street Publishing, 2012).

separated the two classes of claimants. He also stated that he had been in conversation with Governor Mechem, who agreed that water should be left out of the bill for jurisdictional reasons, namely that it complicated the convenient division between Indian and non-Indian *acequia* users.<sup>491</sup>

In July 1922 Renehan, Twitchell, and Bursum drew up Senate Bill 3855, resurrecting the recommendation Renehan had made to the House Committee in Tesuque two years earlier. According to the bill's provisions, settlers claiming tracts within Pueblo lands did not need to prove color of title, only adverse possession since 1910. The federal government would replace Pueblo lands lost to settlers with parcels from the public domain or with cash settlements. The 1914 Joy Survey, which many settlers had attempted to use to patent or fence their claims and which Pueblo Indians denied, would be applied to legitimate claims. Section 1 of the bill gave the federal government unprecedented control over the Pueblos's internal affairs, while Section 7 enabled federal courts to establish boundaries by decree. Section 10 served to restrict Pueblo water rights by time of decree, using the Joy Survey as *prima facie* evidence of boundaries. Nowhere in the bill was there a recognition of the Indians's wardship or need of government protection. Unusual to lands claims, the burden of proof rested on Indians, not non-Indian claimants.<sup>492</sup>

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<sup>491</sup> Kelly, *Assault on Assimilation*, 210-212, Philp, *John Collier's Crusade for Indian Reform*, 30-33.

<sup>492</sup> Moorman 310; Kelly, *Assault on Assimilation*, 210-212, Philp, *John Collier's Crusade for Indian Reform*, 30-33. As an example in regard to burden of proof in land cases in New Mexico, the Acts establishing both the Office of the Surveyor General of New Mexico (Act of July 22, 1854, ch. 103, 10 Stat. 308) and the Court of Private Land Claims (Act of March 3, 1891, ch. 539, 26 Stat. 85) placed on the claimants the burden to provide evidence of their claim in opposition to the property claims of the sovereign.

Renehan had spent the spring of 1922 simultaneously amassing throughout the Tewa Basin clients who were fighting the ejectment suits, and drafting legislation to ensure that a decision in Hanna's cases would never be entered. He wrote the Mexican ministers of foreign relations and finance to secure copies of codified laws of Spain and Mexico, and conferred with *nuevomexicano* lawyer and historian Benjamin M. Read, borrowing liberally from his extensive library and looking for evidence of Pueblo Indians's right to sell their land.<sup>493</sup> Clara True continued to help Renehan raise money to fund litigation and trips to Washington, and schemed to manipulate Española merchants Frank Frankenburger and Frank Bond, the latter whom neither True nor Renehan fully trusted.<sup>494</sup> Renehan provided True with a copy of Twitchell's *El Palacio* article, which True, traveling from household to household, used to aggravate settlers and orchestrate resentment and mistrust against Twitchell while she raised funds for Renehan's legal expenses.

In their correspondence, Renehan and True invoked reliable stereotypes of the "natives," those Hispano settlers whom they claimed to defend. True suggested that they aggressively court José Vigil of Velarde, a man who "has a million relations and his wife a million more." True also claimed that the natives elected her to the San Ildefonso Commission and wished to send her to Washington along with Renehan because the "natives tire of the natives" and of those "who take the money and double cross, *native*

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<sup>493</sup> Alois B. Renehan to Adolfo de la Huerta, Minister of Finance, Mexico, February 29, 1922; Alois B. Renehan to Albert J. Pani, Minister of Foreign Relations, Mexico, February 29, 1922; Benjamin M. Read to Alois B. Renehan, July 2, 1922, Box 9, Renehan-Gilbert Papers, NMSRCA, Santa Fe.

<sup>494</sup> Clara True to A. B. Renehan, 23 March 1922, Ibid. True commented that "Mr. Frankenburger can be trusted to the limit. I do not know about Mr. Bond. He is suave and one can't be sure of him always. You can handle him."

*fashion.*” And though Renehan for decades profited handsomely in defending Hispano lands, often at their expense rather than to their benefit, both he and True claimed that Hispanos’s cause lay near the heart. Writing to Bond, Renehan asserted that he was motivated only by “humanitarian concerns,” and True informed Francis C. Wilson that though she “no longer had any property interest inside any Indian grant, I have not lost my human interest in the big subject.”<sup>495</sup> In 1922, True warned Senator Bursum that the situation “in the back counties” was so fragile and bitter that “someday a *rabid* Penitente outfit will wipe a few Indian villages off the map of New Mexico unless something is done.” True’s depiction of the Hispano population as uncontrollable and prone to violence was held by many who believed that the Anglo population was like a dam, holding back the flood of barbarity that was bound to wash across New Mexico’s communities.<sup>496</sup>

Renehan, meanwhile, spent considerable time raising funds for his own expensive defense of Hispano claims to Pueblo lands. The vast majority of Hispano claimants to Pueblo tracts were so poor that they risked owning land with a cloud over its title. They held little cash and barely more liquid assets. His attempts to enlist local commercial and political leaders met resistance. Frank Bond, the Española merchant who more than anyone else controlled Tewa Basin markets, initially rebuffed Renehan’s request for support, even though Renehan had served as Bond’s legal counsel for more than a decade. In May 1922, Bond asked Renehan to reduce his fee from \$1,000.00 to \$750.00. He also suggested a number of “head men” among whom Renehan worked to raise funds.

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<sup>495</sup> Renehan to Senator Holm Bursum, November 29, 1922; and Clara D. True to Francis C. Wilson, December 3, 1922, *Ibid.* Emphasis is mine.

<sup>496</sup> True to Bursum, Fall 1922, Folder 2, Box 12, Bursum Collection, MSS 92, Center for Southwest Research, University Libraries, UNM, Albuquerque. Emphasis is mine.

They included Ramón Sánchez of Peñasco, which sat on Picuris Pueblos lands; Tomás Roybal for San Ildefonso claimants; Esquipula Girón and Martín Lujan of Pojoaque and Nambé; and José D. Montoya of the village of Chamita, a sub-grant of the San Juan Pueblo league.<sup>497</sup> True informed Renehan that José Vigil, a *partidario* (a sheep renter) of Frank Bond, was grazing one thousand ewes in the Valle Grande atop the Pajarito Mesa and was unavailable to fundraise for San Ildefonso.<sup>498</sup>

Renehan asked Ramón Sánchez and Father Peter Küppers in Peñasco to raise among their neighbors at least a hundred dollars to pay for Renehan's Washington expenses. In addition to Bond and Frankenburger, he even reached out to Mabel Dodge Sterne, the Taos patroness, to aid in organizing and fundraising for Taos claimants. Given that Dodge would soon marry Taos Pueblo native Antonio Luján, we might assume that she would oppose any effort to recognize non settler rights to Pueblo lands. But her house and twelve-acre lot, where she hosted renowned artists and writers, sat within the boundaries of the Taos Pueblo Grant. Renehan hoped that he could enlist her aid, or at least her pocketbook, without blatantly stating her obvious interest in the pro settler legislation.<sup>499</sup>

Renehan also approached José Ynes Roybal, one of the biggest claimants of Nambé Pueblo lands, to secure funds from Nambé claimants. Roybal had received a portion of his claim from the Nambé governor as payment for repairing the pueblo's church after a wall collapsed in 1906. In November of 1922, Renehan informed Bond that the National Federation of Women's Clubs were paying "a man named John Collier

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<sup>497</sup> Frank Bond to Renehan, May 9, 1922, Box 9, Renehan-Gilbert Papers, NMSRCA, Santa Fe.

<sup>498</sup> True to Renehan, May 9, 1922, *ibid.*

<sup>499</sup> Renehan to Mabel Dodge Sterne, May 9, 1922, *ibid.*



\$5,000.00 to raise propaganda” against the settler cause. Renehan also lampooned the New Mexico Association on Indian Affairs for hiring Francis C. Wilson for a twenty-five-hundred-dollar retainer. It was peculiar, Renehan thought, to hire a lawyer who was publicly associated with the demise of both Pojoaque and Pecos Pueblos. Renehan claimed that Wilson and Collier were visiting Kiwanis and Rotary Clubs, or were “in divers and sundry places, creating sentiment against the bill.”<sup>500</sup>

Renehan assured Bond that he was the most-learned and best-placed lawyer to protect settler interests. He defended Senator Bursum but warned of the influence of Charles Catron and Ralph Emerson Twitchell on Senate Bill 3855, the legislation introduced by Bursum and derived from Senate Bill 2274, which Renehan solely authored.<sup>501</sup> By fall 1922, when Bursum’s bill was receiving national attention, Renehan wrote him to disavow sections of S.B. 3855, particularly the Charles Catron authored Section 8, which could ostensibly revalidate old claims to already adjudicated private and community land grants. Twitchell reassured Renehan that this was not the case, but Renehan had his doubts. Renehan also questioned the place of water in the bill and believed that Catron and Twitchell underestimated the complications that would arise over water jurisdiction or adjudication.<sup>502</sup>

The complicity of the so-called and often self appointed “settler advocates” in the typically previous but sometimes concurrent dispossession of Hispano community grants begs a consideration: were men like Renehan, Bond and Catron now motivated by guilt to defend of Hispano land claims to Pueblo lands? Did they feel it was their duty to

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<sup>500</sup> Renehan to Frank Bond, November 29, 1922, *ibid*.

<sup>501</sup> *Ibid*.

<sup>502</sup> Renehan to Senator Holm Bursum, November 29, 1922, Box 9, Renehan-Gilbert Papers, NMSRCA, Santa Fe.

protect the rights of the disfranchised Mexican masses against the growing assault of progressive muckrakers and reformers? Among these unscrupulous operators, guilt was an unlikely motivator. Renehan and his law partner, Carl Gilbert, still speculated in community land grants while representing claimants in front of the Pueblo Lands Board. Others involved in the settlers' cause included Bond and Frankenburger. Frankenburger had organized the Española State Bank in 1916 and was actively involved in Río Arriba County politics. In 1923, when the small town of Española (population 500) was incorporated, he was elected its first mayor. His interests in the settler cause seemed both economic and political; he was reaching out to his eventual constituents.<sup>503</sup>

Frank Bond's involvement, however, was much more complicated. Ever since Hanna filed the ejectment suits in 1919, Bond complained bitterly to Renehan and True that he should not be expected to bear the expense of the settlers' legal defense. He cited what he considered to be his small claims within the Santa Clara Pueblo Grant, although his companies and associates held some of the largest claims to lands within the Santa Clara and San Juan grants as well as claims to San Ildefonso lands. In December 1922, Bond wrote Renehan: "I do not feel it was up to us to pay for your fees and expenses to Washington. Outside our buildings located in town, the land holdings of nearly any of the Mexicans is greater than ours."<sup>504</sup>

Bond's motivation went even beyond protecting his own direct economic interest in Pueblo lands. Since the 1912, he had steadily expanded his control over the lands and economy of northern New Mexico. Called the "Gentlemen Shepherd" by his

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<sup>503</sup> Robert J. Torrez, *Río Arriba: A New Mexico County*, ed. Robert J. Torrez and Robert Trapp (Albuquerque: Rio Grande Books, 2010), 169-171.

<sup>504</sup> Frank Bond to Alois Renehan, December 4, 1922, Box 9, Renehan-Gilbert Papers, NMSRCA, Santa Fe.

biographer, Bond held *partido* (rental) contracts for hundreds of *partidarios* on tens of thousands of sheep.<sup>505</sup> He controlled lands throughout the Tewa Basin, often by outright purchase. For instance, he came to own the sizable Ramón Vigil Grant skirting the Jemez on its eastern slopes (roughly thirty thousand acres), and the enormous and resource-rich Baca Location 1 Grant (estimated at ninety-nine thousand acres) in the center of the plateau. When the common lands of the Las Trampas Land Grant offered promises of timber, Bond bought in 1903 the twenty-six-thousand-acre *ejido* at an auction prompted by land speculators who had partitioned the grant.<sup>506</sup>

Over the next decade, Bond sold, and later repurchased, the Las Trampas Lumber Company. The company extracted very little actual timber, but served to advertise the grant for \$160,000, a ten-fold increase in the 1903 purchase price. Knowing that the Las Trampas grant conflicted with the Pecos Forest Reserve, Bond fixated on the idea of selling or trading the land to the federal government. Bond never realized this dream: the Las Trampas Lumber Company declared bankruptcy in 1926, and the George E. Breece Lumber Company bought the grant and traded it to the U.S. Forest Service, which incorporated the property into the Kit Carson National Forest.<sup>507</sup>

Bond's failure at Las Trampas hardly restrained his power to control the economy of the Tewa Basin. From the early 1890s through the 1920s, Bond systematically bought up grazing permits to forest lands from Hispanos and controlled those he did not own by owning the sheep that they grazed on these tracts. "Controlling the range by ownership

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<sup>505</sup> Frank H. Grubbs, "Frank Bond: Gentleman Sheepherder of Northern New Mexico 1883-1915," *New Mexico Historical Review* 35:3 (July 1960): 169-198; 36:2 (April 1961): 138-158; 36:3 (July 1961): 230-243; 36:4 (October 1961): 274-345; 37:1 (January 1962): 43-71.

<sup>506</sup> Ebright, *Landgrants and Lawsuits* 149-153; deBuys "Fractions of Justice," 81-91.

<sup>507</sup> deBuys, "Fractions of Justice," 81-91.

and lease and its users by their debts,” writes historian Hal Rothman, “Bond created an ironclad sphere of economic influence.”<sup>508</sup> Bond shrewdly understood that in the transition from a subsistence to cash economy lay economic opportunity. Thus, he gladly forwarded credit to customers unable to pay in cash; credit sales were twice cash sales and, though riskier, offered the greater potential profit, even if it meant employing lawyers like Alois B. Renehan as debt collectors. The greater portion of the valley’s Hispano population, along with significant numbers of local Pueblo Indians, were indebted to Bond, either in store credit at one of his many area mercantiles, as renters of his lands, or as *partidarios*, renters of his sheep.<sup>509</sup>

Bond’s extensive wool and sheep interests throughout New Mexico included partnerships in Roswell, Grants, Taos, Cuba, Cuervo, Encino, Wagon Mound, and Albuquerque. Española, where Bond made his home, was the headquarters of his empire. Over three decades, Bond made himself the financial heart of the Española valley and Tewa Basin economy. His continued domination of the valley’s economic life hinged on his control of a Hispano population that faced displacement first through the threat of ejectment suits in 1919-1921 and then through the debate and defeat of the Bursum Bill from 1922-1924. If this population was forced off its claims inside Pueblo lands, Bond would lose his customers, his debtors and tens of thousands of dollars of investments in the form of unpaid debt. Whether or not Bond wholly embraced or cynically rebuffed his

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<sup>508</sup> Rothman, *On Rims and Ridges*, 129.

<sup>509</sup> Ibid., 24-26, 128-132. Rothman recounts Bond’s practices of marginalizing Hispanos who refused to lease Bond’s sheep by restricting their access to grazing lands that Bond controlled. Grubbs “Frank Bond,” pt. 4, *New Mexico Historical Review* 36:4 (Oct. 1961), 284-287.

role as a *patrón*, his own personal financial interests compelled him to act on behalf of the “settlers.”

Renehan understood Bond’s importance to underwriting his expenses, and he urged Bond to use his influence to raise the funds that he refused to supply personally. In December 1922, he wrote Bond, “You have in a sense lost interest in the fight concerning settlers on Indian lands,” and added, “I can call to mind no one more interested than you through your investments and through the investments of friends and the homes and little farms of many of your customers in various places.”<sup>510</sup> Bond and Renehan argued over fundraising and Renehan’s travel costs, but Renehan leveraged monies from other merchants by using the promise of Bond’s support as an incentive to contribute. Bernalillo railroad promoter Sidney Weil, Chamita mercantile owner Sam Eldodt and Taos merchant Alexander Gusdorf all contributed to a settler-defense fund that Renehan labored to build.<sup>511</sup>

In the decade before the Bursum Bill, New Mexico politicians and attorneys had grappled with the Pueblo lands question and the implications of the 1913 *Sandoval* decision. Federal jurisdiction on Pueblo lands was stated in the 1910 enabling act but was ignored by New Mexico political leaders. The *Sandoval* case offered the opportunity for the federal government to affirm its guardianship of the Pueblos and their property rights. Ambiguities persisted when the 1914 Joy survey became a tool of dispossession rather than protection, for non-Indians considered the survey the federal affirmation of their land claims to Pueblo lands. Pueblo attorney Richard H. Hanna’s 1919 ejectment

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<sup>510</sup> Renehan to Bond, December 1, 1922, Box 9, Renehan-Gilbert Papers, NMSRCA, Santa Fe.

<sup>511</sup> Renehan to Bond, December 11, 1922, *ibid.*

suits forced the search for answers to legal questions about state and federal sovereignty, and New Mexico's jurists and legislators alike sought political solutions that offered nuanced decisions that the law could not. Ameliorating decades of federal neglect would nonetheless prove difficult.

The monumental change in almost four decades of property law offered life to a state Republican Party that was losing ground and in danger of becoming irrelevant to the Hispano population, a significant voting constituency that proved vital to progressive candidates by the end of the 1920s. Attorneys Alois B. Renehan, Charles Catron, and Ralph Emerson Twitchell defended Hispanos's property rights to Pueblo lands that they had appropriated by illegal or extralegal means. Beyond their mutual distrust, Renehan, Catron and Twtichell all speculated in land to varying extents and with different success, and shared an abiding proprietary interest in New Mexico's history. Each of these defenders would contribute to the Bursum Bill: Renehan drafted the skeleton proposal after the 1920 Congressional hearings in Tesuque; Ralph Twitchell wrote a lengthy historical report in the wake of the Bursum controversy, yet hid his own work authoring sections of the bill; and Charles Catron attempted to use the bill to inaugurate yet another era of land speculation by re-opening old land claims. All were active in the early years of the board, but the land board proved most rewarding to Alois Renehan, an attorney who spent the previous two decades dispossessing many Hispanos of their traditional lands. Over the next decade, his will to defend non-Indian claims was matched by progressive reformer John Collier's determination to protect Pueblo property rights.

## Chapter 6: Lawyers, Advocates and the Battle over the Pueblo Lands Bill, 1922-1924

From 1922 to 1924 politicians, attorneys, and advocates engaged in a national debate over the fate of Pueblo Indian lands. New Mexico's political leaders fought to maintain local control or state disposition over Pueblo lands, a status that had proved disastrous for Pueblos during New Mexico's long territorial period. Advocates, on the other hand, fought not for Pueblo disposition over their own lands, but for the federal government to resume its role as a fiduciary and take responsibility for the despoliation of Pueblo land and water. While advocates envisioned the federal rebuilding of Pueblo communities, New Mexico's attorneys and politicians fought to maintain the status quo in Pueblo affairs. Some, such as Charles Catron, hoped to revive the land market of the territorial era, when a disinterested and detached federal government ignored the actions of land speculators like his father, Thomas B. Catron, and their erstwhile collaborator, Alois B. Renehan.

The political will of the fading New Mexico Republican Party was eclipsed by the influence of progressive reformers. Whereas earlier generations of indiophiles sought largely to *preserve* Indian culture from extinction and segregate it from the influence of mainstream American society, many reformers hoped to *imitate* aspects of premodern Indian culture and expose the capitalist individualism of modern society to native communal ethos that might save American civilization from its inevitable decline. Both Pueblos and Hispanos were largely voiceless in a national debate that centered on the protection of their conflicting property rights.

This chapter discusses in depth the debate over legislation proposed to settle the Pueblo land question. This debate pitted the Republican political establishment against

progressive-reform advocates. Out of this rancorous debate emerged a discourse on race that united both the establishment politician and the progressive reformer, a dialogue that emphasized a stark distinction between Pueblo and Hispano communities. Although the previous chapter discussed how politicians and advocates organized non-Indian claimants in the Tewa Basin, this chapter pays close attention to debates among Pueblo advocates. It reveals the control of Pueblo advocacy in transition, moving from conservative national organizations to moderate, locally based, consensus-building organizations, finally to radical national groups that fought for the total reform of Indian affairs across the United States.

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While attorney Alois Renehan built his legal war chest, Senator Holm Bursum's hasty bills and Fall's hastier recall caught the attention of the Philadelphia-based Indian Rights Association (IRA). Mindful of the political climate of New Mexico through Clara True, who often served as its New Mexico field representative, IRA attorney S. M. Brosius and stalwart Roberts Walker alerted Indian-rights advocates to the pending legislation. Meanwhile, word of Bursum's bills of May of 1922 was circulating among Indiophiles across New Mexico, including Mary Austin, Mabel Dodge Sterne (Luhan), and a disenchanted progressive reformer and California social worker named John Collier. Invited by Sterne (Luhan) to New Mexico two years earlier, Collier found in Pueblo civilization what he called the "Red Atlantis," an almost-mythic communal



society popularly believed to be extinct, one that he thought, if replicated, could be the remedy for the afflictions of modern life.<sup>512</sup>

Collier came to New Mexico in 1920 seeking personal re-invention and, in the process, reinvented New Mexico. Always willing to buck the status quo, Collier was as zealous as he was unrepentant in his fight for Indian policy reform. Unlike his local counterparts, most of whom resented his intensity and immediate rapport with Pueblo leaders, Collier was willing to disrupt the local power structures which even radical reform-minded New Mexico residents accepted. Some saw in his fanatical pursuit of Native justice as an implicit criticism of their own reform advocacy. Others believed that their patronage of Indian culture was trivialized by Collier's activism, which reduced their work to that of the shallow consumption of Indian culture. In less than five years, Collier had alienated most local Pueblo advocates, while ingratiating himself with many Pueblo leaders.<sup>513</sup>

To contextualize John Collier in the Pueblo lands battle and to explain why he was so successful where others were not, it is useful to consider who Collier was and where he came from when he drove onto the Taos mesa on a snowy day in 1920. Born to a successful Atlanta family, Collier overcame the personal tragedy of a mother who died of addiction and a father who committed suicide to find academic success at Columbia University and the College de France in Paris. He developed a progressive social

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<sup>512</sup> Lawrence C. Kelly, *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983), 116-122; Kenneth R. Philp, *John Collier's Crusade for Indian Reform, 1920-1954* (Tucson: University of Arizona Press, 1977), 8-22.

<sup>513</sup> Kelly, *Assault on Assimilation*, 210-212; Philp, *John Collier's Crusade*, 36-40; Lawrence C. Kelly, "John Collier and the Pueblo Lands Board Act," *New Mexico Historical Review* 58:1 (January 1983): 5-34, 24-28; Hall, *Four Leagues*, 228-232.

philosophy critical of the destructive effects of the modern industrial age on humankind. In his analysis, western individualism and materialism had supplanted communal ideas and social responsibility, to create a society and a culture that valued the ephemeral and perishable over the permanent and sustainable.<sup>514</sup>

After working in settlement houses in the East, including the People's Institute on New York City's Lower East Side, Collier moved to California in 1919. Many regarded California as a Progressive paradise, a land where state and local governments funded reform projects like Americanization programs that sought to create a healthy and an integrated society. Collier found himself a bureaucrat in the California State Commission of Immigration and Housing, directing the adult-education programs and engaging in deeply unsatisfying work. Mabel Sterne had long invited Collier to visit Taos to see Pueblo culture, and finally, in 1920 he took her up on her offer.<sup>515</sup>

In Santa Fe, meanwhile, writers, artists, and scholars united to form the New Mexico Association on Indian Affairs in 1922. Led by Margaret McKittrick and Elizabeth Shepley Sergeant and poet Witter Bynner, writer Alice Corbin Henderson, *Santa Fe New Mexican* editor E. Dana Johnson, artist Gustave Baumann, the preeminent anthropologist and School of American Research founder Edgar Lee Hewett, Ina Sizer Cassidy and her husband, painter Gerald Cassidy, the NMAIA began to collect data assessing the extent of Pueblo land incursions. Studies of San Juan, Tesuque, San Ildefonso, Nambé and Santa Clara in 1922 revealed significant patterns. San Juan, despite its location at the confluence of the Rio Grande and Rio Chama, lacked sufficient food sources to support the pueblo and relied on high-priced food from Española,

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<sup>514</sup> Kelly, *Assault on Assimilation*, 5-13, 33-43; Philp, *John Collier's Crusade*, 8-17.

<sup>515</sup> Kelly, *Assault on Assimilation*, 118-120.

including meat that San Juan women took as pay for housekeeping in the Española Valley. Tesuque and San Ildefonso, at the end of the Tesuque-Nambe-Pojoaque watershed, lacked sufficient water for agriculture and had become dependent on wage work and aid from the Northern Pueblo Agency. All the studied pueblos suffered from childhood malnutrition, trachoma and tuberculosis.<sup>516</sup>

Whereas early reports had attempted a holistic review of the ills suffered by the northern Pueblos, NMAIA investigators gradually focused their efforts on identifying non-Indian claims on northern Pueblo reservations, paying special attention to large parcels and those with a greater history of conflict. A series of March 1922 reports presented to the General Council of Northern Pueblos provided a lengthy catalog of the most flagrant violations of Pueblo property rights. Reports for San Juan Pueblo stated that although “Indians concede a few sales [to non-Indians] in these claims, most of them they acquired by fraud from individual Indians by the sale of whiskey, loaning small sums of money, and trading inferior cattle, horses, etc. . . . Other schemes, too numerous to mention, were made use of to get the Indian’s land. . . . Sales were made by outlaw Indians who refused to obey Pueblo rules.” Among these “outlaw Indians” was one Juan Chiniaguan, who in the mid-1700s, abandoned the Pueblo twice to observe Penitente practices but accepted from the pueblo a “loan of land” which he sold to “Mexicans, who enlarged their claim to 200 acres.”<sup>517</sup>

The San Juan report suggests that Pueblo land expropriation was the result of a number a factors, including dissension among Pueblo members and speculation by

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<sup>516</sup> Provisional Data on the Economic Condition of Five of the Northern Pueblos, 1922, folder 161, box 9, SWAIA Records, NMSCRA. Santa Fe.

<sup>517</sup> Report on San Juan Pueblo, submitted by the General Council of Northern Pueblos to Commissioner of Indian Affairs, etc, March 1922, *ibid.*.

surrounding settlers, but the nefarious nature of Hispano land claims and Hispanos themselves was the focus of other reports. The Nambé report illustrated how the Pueblo's lands were lost to Hispano men who preyed on and married Pueblo women. The author doubted the validity of land claimed by José Ines Roybal, one of the Hispanos hired to repair the collapsed walls of the Nambé Catholic Church over a dozen years earlier. "The Mexican Usurper," the report closed, "has made great inroads on the Nambe [sic] Pueblo Grant."<sup>518</sup>

At San Ildefonso and Santa Clara, either Hispano purchases of land were less despicable or its purchaser was less objectionable. The sixty-plus-acre claim of Clara True, the former Santa Clara Day School teacher and sometimes IRA representative, was once owned by "Spanish" Carlos Abreu, who was described as "one of the most respected and well-meaning citizens in this section of the country." Remarkably, the report equated Abreu with the Pueblo Indians, whose land he had claimed before selling it. In closing, the report stated that Abreu was "entitled to justice" along with "the Indians who never received a cent in the transaction and should not be allowed to remain outside of the pale of justice." Field notes by NMAIA representatives on San Ildefonso Pueblo obfuscated the distinction by identifying the "squatter lawyer" Felipe Tafoya as a "Spaniard or Mexican." What distinguished the "Mexican Usurper" from the "Spanish citizen" remained ill-defined and vague, though financial and political standing was likely part of the distinction.<sup>519</sup>

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<sup>518</sup> Report on Nambé Pueblo, submitted by the General Council of Northern Pueblos to Commissioner of Indian Affairs, etc, March 1922, *ibid.*.

<sup>519</sup> Reports on Nambé Pueblo, San Juan Pueblo, San Ildefonso Pueblo, *ibid.*.

While the NMAIA conducted field surveys, Collier made valuable contacts in Stella Atwood, chair of the Indian Committee of the General Federation of Women's Clubs, and wealthy philanthropist Kate Vosburg. With the former's recommendation, Vosburg agreed to fund Collier as Atwood's field worker in the fight against the ever-more-infamous Bursum Bill. With the help of Taos Pueblo native Antonio Luján and Mabel Dodge Sterne (Luhan), Collier visited nearly every New Mexico Pueblo in September 1922. He received a copy of the Bursum Bill from Northern Pueblo Superintendent C. J. Crandall, who was reinstated following the removal of Superintendent Johnson. With ex-Pueblo attorney Francis Wilson, Collier completed a thorough analysis of the Bursum Bill, which the NMAIA published and the General Federation of Women's Clubs distributed under the provocative title, *Shall the Pueblo Indians of New Mexico Be Destroyed?* Published as a small blue book, the report systematically addressed the many deficiencies of the Bursum Bill, illustrating where it would fail to relieve the dismal situation at numerous New Mexico pueblos. Collier advocated the creation of a presidentially appointed commission to hear claims, and the creation or extension of existing irrigation works to "adjust the controversies between the Indian and the settlers without hardship to either party." He concluded: "The bill is so full of inconsistencies, contradictions . . . to render it impossible of amendment . . . to serve any purpose either for the Indians or for the claimants adverse to the Indians. It should be utterly and wholly defeated." Collier committed himself to that very cause.<sup>520</sup>

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<sup>520</sup> Philp, *John Collier's Crusade for Indian Reform*, 22-33; Kelly *Assault on Assimilation* 218-220; New Mexico Association on Indian Affairs and the Indian Welfare Committee, General Federation of Women's Clubs, *Shall the Pueblo Indians of New Mexico be Destroyed? A Critical Analysis of Senate Bill 3855*, Santa Fe, NM: October 18, 1922.

While Collier and the NMAIA publicized the gross inequities of the proposed Bursum Bill, the senator received ample warning of the controversies that would plague his bill. In July 1922, Commissioner of Indian Affairs Charles H. Burke advised Bursum that his bill should go through the Indian Affairs Committee (IAC), or even the Committee on the Judiciary, rather than the Committee on Public Lands (CPL), which, he pointed out, had no jurisdiction over Pueblo lands.<sup>521</sup> Ignoring Burke's warning, Bursum pushed his bill through the CPL, where Secretary Fall believed he could exercise more influence. On September 11, the Senate approved the Bursum Bill and forwarded it to the House, where it sat as the Congressional session expired. Underestimating opposition to his bill, Bursum sent notice of its Senate passage to newspapers in Albuquerque, Santa Fe, and Las Vegas. He smugly wrote Twitchell, "I think that there will not be much trouble when they give sufficient time to it."<sup>522</sup>

Upon hearing about the bill's passage, Collier and the NMAIA spent the next two months attacking the proposed legislation and anyone associated with it. He and NMAIA leadership, however, began to diverge as he took an increasingly radical position advocating the removal of non-Indians en masse from Pueblo lands. As Collier travelled to native pueblos, he encouraged Pueblo leaders to push for the repatriation of all lands, regardless of circumstance of their loss. Members of the NMAIA became jealous of his growing influence among the Pueblos and feared that his rhetoric was provoking hostility

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<sup>521</sup> Charles H. Burke to Sen. Holm Bursum, July 24, 1922, folder 2, box 12, Holm O. Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>522</sup> See telegrams sent to *Albuquerque Journal*, *Las Vegas Daily Optic*, and *Santa Fe New Mexican*, September 12, 1922, and Bursum to Twitchell, September 19, 1922, folder 1, box 8, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

between advocates, Pueblos, and Hispanos. This rhetoric, he confided to Mabel Dodge, was the “dramatic propaganda we must wage.”<sup>523</sup>

The New Mexico Association’s concerns were not without merit. At the November 5, 1922, Santo Domingo meeting, where Pueblo delegates wrote up and issued their memorial addressed to the American people, Collier’s influence seemed moderated by the will of the Pueblos to defend their claims jointly. The All Indian Pueblo Council (AIPC) itself was an organization whose image Collier manipulated. He stated that Pueblo Indians had joined together to fight the Bursum Bill for the *first time* since the Pueblo Revolt in 1680. His outspoken role in AIPC meetings often cast a shadow over the organization and raised doubt about whether its activities were initiated by natives or created by Collier and rubberstamped by unknowing delegates.<sup>524</sup> But Collier’s dominance of the later AIPC meetings worried New Mexico reformers who believed that through their longer patronage of Pueblo culture, they understood the “Indian psychology” better than their erstwhile radical ally. Collier arguably played the principal role in creating the nationwide public protest that led Senator William Borah to recall the Bursum Bill in November 1922. Through the end of 1922, the NMAIA and Collier remained united and hired Francis C. Wilson, the former Pueblo attorney, as legal counsel to represent both the NMAIA and the General Federation of Women’s Clubs.<sup>525</sup>

From the start, Collier and the NMAIA leadership were skeptical of one another. Members of the Association were reformers, but they were among the political, economic

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<sup>523</sup> Collier quoted in Kelly *Assault on Assimilation*, 219.

<sup>524</sup> For an excellent discussion on the All Indian Pueblo Council, see Robin S. Walden, “The Pueblo Confederation’s Political Wing: The All Indian Pueblo Council, 1920-1975” (master’s thesis; University of New Mexico, 2011).

<sup>525</sup> Lawrence C. Kelly, “John Collier and the Pueblo Lands Board Act,” 9-11.

and cultural elite of Santa Fe and were wedded to its power structures. NMAIA member Edgar Lee Hewett and attorney Ralph E. Twitchell, who proudly claimed authorship of the Bursum Bill, remained close friends and collaborators. Both were active in state politics, and Hewett was able to secure state funding for both the Spanish Colonial Arts Market and the Indian Market, which the NMAIA's successor organization, the Southwest Association on Indian Affairs manages to this day. Hewett expressed his distaste for Collier and cast doubt on his grim portrayal of the socio-economic state of the Pueblos.<sup>526</sup> Their willingness to reform the Office of Indian Affairs from within, through negotiation, distinguished them from uncompromising radicals like Collier, who were willing to sacrifice everything to give Indians a square deal. E. Dana Johnson edited the *Santa Fe New Mexican*, which was owned by progressive Republican Bronson Cutting, a powerful force in local politics long before being elected to the U.S. Senate in 1927. Even photographer Margaret McKittrick, writer Elizabeth Shepley Sergeant, author-poet Alice Corbin Henderson and folklorist Ina Sizer Cassidy, all whom considered themselves reformers at best, were active in local politics, and circulated among the elite in Santa Fe.<sup>527</sup>

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<sup>526</sup> Edgar L. Hewett, *Present Condition of the Pueblo Indians*, Archaeological Institute of America, Papers of the School of American Research No. 10 (Santa Fe: School of American Research, 1925).

<sup>527</sup> Kelly, "John Collier and the Pueblo Lands Board Act," 6-7, 20-24. Alice Corbin Henderson came to New Mexico from Chicago in 1916 after being diagnosed with tuberculosis. She and her husband, painter and architect William Penhallow Henderson, became active in Santa Fe's arts and culture circles, and were ardent defenders of Indian rights. Corbin Henderson authored two influential books: *Red Earth Poems* (1920) and *Brothers of Light: The Penitentes of the Southwest* (1937). Her husband designed the Wheelwright Museum of the American Indian in the form of a Navajo Hogan. Corbin Henderson served as the Museum's first curator. Ina Sizer Cassidy was married to painter Gerald R. Cassidy, who had moved to New Mexico in 1912 to recover from pneumonia. Sizer Cassidy remained active in Santa Fe after Gerald's tragic death in



Members of the NMAIA believed that they had a broader interest in Pueblo affairs than did Collier, his California patrons, and his East Coast associates. Alice Corbin Henderson wrote of the “Death of the Pueblos” in the *New Republic* in 1922. She attacked the inconsistencies of the Bursum Bill, questioning why the federal government would blindly accept the private claims represented in the Joy survey after the government “some four years ago, under an evangelical impulse, started proceedings to oust all settlers from Indian land.” The real intentions of the Republican Harding administration, argued Henderson, were “transferring all the disputed lands to the non-Indians, namely, *the voters*,” while it opened remaining Pueblo lands to a hurried exploitation, another gross example of the “intellectual breakdown” in Indian affairs.<sup>528</sup> Only a reasonable federal plan could solve decades of federal inattention. NMAIA meetings rang with vows to maintain “harmony, before the Indians were committed to any policy.” Their paternalist vision foresaw harmony among “societies, large and small, and the various attorneys” interested in the Indian land issue, not between the advocates and the Indians, or among the Indians themselves.<sup>529</sup> Even further from their minds was the long, deep, and complicated relationship between Pueblo Indians and Hispano settlers.

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1934, and by 1936 was director of the Works Progress Administration’s Federal Writers Project. See *Women’s Tales from the New Mexico WPA: La Diabla a Pie*, ed. by Tey Diana Rebolledo and María Teresa Márquez (Houston: Arte Público Press, 2000), 445. Sizer Cassidy compiled a collection of newspaper clippings, now called the Pueblo Indian Land Matters Collection, Fray Angélico Chávez History Library, Museum of New Mexico, Santa Fe.

<sup>528</sup> Alice Corbin Henderson, “The Death of the Pueblos,” *The New Republic*, November 29, 1922, 11-13.

<sup>529</sup> See Minutes of Meeting of the New Mexico Association on Indian Affairs, August 30, 1923, SWAIA Records, NMSCRA. Santa Fe.

Collier's earliest writings displayed a sensibility for native lifeways different from that of many longtime New Mexico advocates and anthropologists. Many activists were primordialists, who believed in isolating Indian society from modernism and restoring it to a mythic and idyllic native utopia. Collier wanted to preserve Pueblo society to learn valuable human truths from it. He believed Pueblo Indians offered a laboratory to study long-standing productive and harmonious communal societies, something Collier saw collapse in his years working among ethnic Europeans in eastern settlement houses and in the California Bureau of Housing and Immigration. Among New Mexico's Pueblo population, he witnessed truth, virtue, and integrity. In the Pueblos, he found genuine hope for all humankind.<sup>530</sup>

In October 1922, Collier and Stella Atwood wrote articles for *The Survey*, the social-reform magazine founded and edited by Paul and Arthur Kellogg. Though Atwood attempted to build support for the Pueblo's cause in her article, "The Case for the Indian,"<sup>531</sup> Collier described the uniqueness of Pueblo society and the inability of New Mexico's population to appreciate its value. He especially took aim at the Taos art colony, for which Mabel Dodge Sterne was the patroness: "No, the colony is not a utopia, nor does it hint of a cooperative commonwealth. A rather severe individualism prevails . . . Their separateness from each other and from the Indians as human and social beings is distressing . . . The Indian artists are intensely social; they are, indeed, a community itself consciously living in beauty. The white colony fails altogether to learn this Indian

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<sup>530</sup> E. A. Schwartz, "Red Atlantis Revisited: Community and Culture in the Writings of John Collier," *American Indian Quarterly* 18:4 (autumn 1994): 507-531, 508, 513-514. See also Kelly, *Assault on Assimilation*, 237-235; and Philp, *John Collier's Crusade for Indian Reform*, 42-57.

<sup>531</sup> Stella Atwood, "The Case for the Indian," *The Survey*, October 1922, 7-11, 57. Her article features photos of Pueblo peoples by Mabel Sterne (Dodge Luhan).

secret.”<sup>532</sup> To Collier, Pueblo Indians held a sacred knowledge and formed a community that was not dying, as contemporary anthropologists who hurried to study the “vanishing Indians” believed. They were “a giver to the future of gifts without a price, which future white man will know how to use.”<sup>533</sup>

Collier rejected the idea that Pueblos were somehow primordial, a glimpse into the past of several evolutionary stages. He wrote: “The Pueblo is not primitive in the sense of being primordial. Vast spaces of evolution and of the compounding of cultures lie behind it. But it is primitive in that it has conserved the earliest statesmanship, the earliest pedagogy of the human race.” While Collier argued for the complexity and educational potential of Pueblo culture, his own paternalism still led him to describe the Pueblos as “childlike,” a description that he used on *nuevomexicanos* as well.<sup>534</sup>

Collier subtly disparaged the surrounding Hispano population. He marveled at the flawless authenticity of isolated Córdova but exoticized the “eerie chants” of the “half-Pagan” Penitentes, whose “childlikeness intermingled with their masochistic glooms.”<sup>535</sup> He lamented that “even the Mexican past and present” was excluded from the lessons of the Pueblo day school. In his earliest article, Collier stated that the Hispano population was of “secondary interest . . . and there is no space for describing them here.” Collier argued that Hispanos were a lesser concern, a sentiment that endeared him to Pueblos and alienated both Hispanos and other Indian advocates.<sup>536</sup>

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<sup>532</sup> John Collier, “The Red Atlantis,” *The Survey*, October 1922, 15-20, 63, 66.

<sup>533</sup> *Ibid.*, 20.

<sup>534</sup> *Ibid.*, 18.

<sup>535</sup> *Ibid.*, 16.

<sup>536</sup> *Ibid.*, 16. Schwartz, “Red Atlantis Revisited,” 513-514.

By the time Collier published his next national article, “Plundering the Pueblo Indians,” in *Sunset Magazine*, he had received a copy of the Bursum Bill. He painted rather benign relations between the Pueblos and the Spanish sovereign, even crediting the Spanish and Franciscans for enabling Pueblo survival and tempering with Christian morality their ancient wildness, but he excoriated the executive branch of the federal government. He quoted at length from Twitchell’s report and applauded his work on Pueblo lands, but reproached his work with Alois Renehan to construct the Bursum Bill. He attacked the legislation for turning the Joy Survey, created as a weapon to defend against non-Indian claims on Pueblo lands, “into an instrument against the Government and the Indians.”<sup>537</sup>

While Collier and the NMAIA maintained their increasingly strained alliance, Senator Bursum prepared to defend the bill on which he believed his political future relied. Supporters encouraged him to champion the unqualified recognition of settlers’ claims to Pueblo lands. They also exposed the chauvinistic views of New Mexican elites and land speculators. Former congressman Benigno Hernández, who had proposed multiple ill-fated Pueblo land bills in 1920, wrote Bursum that the whole controversy had pitted “the Indians versus *the people*,” revealing his distinction between Indians and claimants. In a prejudiced and willful misreading of history, Hernández also claimed that the Spanish Pueblo grants were not made to the Pueblo Indians specifically but to people living within grants, regardless of color, and that Congress had recognized this point when it mentioned the rights of third parties in the land patents issued to Pueblos. Hernández implored Bursum to appeal to Senator Homer P. Snyder, chairman of the

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<sup>537</sup> John Collier, “Plundering the Pueblo Indians,” *Sunset Magazine*, January 1923, 21-23, 56.

Indian Affairs Committee. According to Hernández, Snyder “knows that there are 8,000 people involved in this matter whose holdings are . . . valuable improvements worth more really than the holdings of the Indians.”<sup>538</sup>

Hernández also encouraged New Mexico representative Nestor Montoya to take up the fight for the Bursum Bill in the House. “The Bursum Bill,” claimed Hernández, “is the product of a good deal of thought given to this matter by the Indian Bureau and also by the *real* friends of the Indians in both committees of the Senate and House on Indian Affairs.” Once again engaging in a charitable reading of Spanish-colonial history, Hernández argued that the Indians *gave* land “to our ancestors” “so that they would come and live as neighbors.” Hernández ended his rambling letter to Montoya by taking a shot at both the pro-Indian reformers for seeking “cheap notoriety through the Indian” and the Pueblo Indian for taking “advantage of all this sympathy in his behalf, and that makes him a bad neighbor.”<sup>539</sup> Amado Chaves, the aged orator of the territorial era, former mayor of Santa Fe, and noted land grant speculator, suggested that the federal government withdraw Pueblo lands to,

place a colony of practical, progressive American farmers on the Pueblo lands . . . and utilize income from the colonization scheme for the purposes of educating and civilizing these filthy people. With all of the land left to them that they could possibly use, the few remaining Indians could live in their Pueblo homes and continue ancient rites and customs but would be transformed into a clean and civilized community. . . . It is a well known fact that by intermarrying for untold

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<sup>538</sup> Hernández to Bursum, November 21, 1922, folder 2, box 12, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque. (emphasis is mine).

<sup>539</sup> Hernández to Montoya, November 22, 1922, folder 2, box 12, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

generations, the Indians have degenerated and unless an infusion of new blood is introduced, they will soon become an extinct race.<sup>540</sup>

That Chaves was arguing for interracial marriage is unlikely given his lineage and social class. His remarks, along with those of Hernández, nonetheless demonstrate the attitudes of Hispano elites, political *patrones* whose defense of Hispano land claims was intertwined with pejorative views of Pueblo Indians, arrogant attitudes of race based on the celebration of Spanish colonialism, and a belief that Pueblos and Hispanos had always lived parallel but separate lives.<sup>541</sup>

Relying on *patrones* such as Hernández, Bursum asked him to aid in procuring photographs demonstrating the extent of improvements on non-Indian claims on Pueblo lands in and around Taos. Bursum explained: “Show up the orchards, the old cultivations . . . and also show the Indian places nearby so as to show that they are all living in the same neighborhood. . . . These Indian rights people are making considerable of a fight on us and we must win out. It is nothing but common justice.”<sup>542</sup> While organizing a defense of his bill, Bursum was flooded with letters from land speculators and claimants

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<sup>540</sup> Chaves to Bursum, December 27, 1922, folder 8, box 8, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>541</sup> For more on Chaves, see Marc Simmons, *The Little Lion of the Southwest: A Life of Manuel Antonio Chaves* (Chicago: Swallow Press, 1973). See also Patricia Trujillo, “Rescuing Amado Chaves from the Footnotes of History,” *newmexicohistory.org*, *website of New Mexico Office of the State Historian*, <http://newmexicohistory.org/people/rescuing-amado-chaves-from-the-footnotes-of-history> (accessed 18 December 2014). On the role of *patrones*, see Maurilio E. Vigil, *Los Patrones: Profiles of Hispanic Political Leaders in New Mexico History* (Washington, D.C.: University Press of America, 1980).

<sup>542</sup> Bursum to Hernández, November 25, 1922, folder 2, box 2, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.; Alois Renehan, who was still counsel to settlers on grants across the Tewa Basin, contacted Frank Bond to do the same in the Española area. See Renehan to Bond, undated letter, Box 9, Renehan-Gilbert Papers, NMSCRA, Santa Fe.

on Pueblo tracts who believed his bills were too kind to Pueblos. Arthur R. Manby, infamous for his speculation in and around Taos Pueblo, reprimanded Bursum for being “too charitable to Indians.” He reminded Bursum that his duty was to protect his New Mexico constituents, not federal wards. Manby also claimed that the Santo Domingo memorial publicizing the Pueblo plight was “no plan of the Pueblos but of some white schemers” and that it threatened to open up Pueblo lands to “unscrupulous white men or women who would marry Pueblo Indians to attain Pueblo land.”<sup>543</sup>

E. D. Newman aimed his criticism of the bill at both Pueblo men and the pro-Indian women reformers. Newman’s fenced claim on Tesuque lands brought publicity to the growing controversy when Tesuque Pueblo Indians cut his fence in protest. He told Bursum that he was “against a commission per the ideas of our long haired men and short haired women.”<sup>544</sup> Finally, Alphonse Dockweiler, who owned claims on Tesuque Pueblo but nonetheless would serve as an appraiser on Pueblo Lands Board cases in 1930 and 1931, criticized the time and money expended educating Pueblo Indians: “The money that is being spent in educating Indians should be spent helping them in their pueblos. You cannot make a professor out of an Indian, he should be brought up to farm life. . . . This would bring money into the pueblos, which in turn would be spent in the counties and thus would help everyone in the state.” Evidently, Dockweiler saw no connection

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<sup>543</sup> Manby to Bursum, October 4, 1922 and November 25, 1922, Folder 2, Box 12, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>544</sup> Newman to Bursum, November 27, 1922, Folder 8, Box 8, Bursum Papers.

between the Pueblo Indians's desperate situation and his own non-Indian claim to Pueblo lands.<sup>545</sup>

As Bursum prepared to defend his bill in 1923, Collier and the NMAIA grew further apart. Collier had already turned to *Sunset Magazine*, famous for its muckraking articles, to exercise his indignation at the federal land and Indian policies. *Sunset* editor Walter Woehlke shared Collier's progressive-reform-minded politics and disdain for politicians. In a 1921 article, "The New Day in New Mexico: Race Prejudice and Boss-Rule Are Yielding to Progress in this Ancient Commonwealth," Woehlke wrote that New Mexico politically "still lives in the age of Billy the Kid." He commented that large cattle rings were represented by Albert B. Fall, a framer of the State Constitution, senator, and secretary of the interior. They received the bulk of the public domain in rentals or sales, but then dodged taxes, "an art that has reached its highest development in this state."<sup>546</sup>

Woehlke disparaged the native population as well, describing New Mexico as a "swarthy island in a star-spangled sea" and admonishing the "so-called 'native' or 'Spanish-American' population" for "clinging to language, customs, and traditions to the despair of the Americanization movement."<sup>547</sup> He compared the condition of irrigation in the upper and lower Río Grande Valley and credited the Elephant Butte Dam with

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<sup>545</sup> Alphonse Dockwiller to Sen. H. Bursum, March 7, 1922, Indian Affairs 1921-1922, folder 39, box 1, Merritt Mechem Collection, NMSCRA, Santa Fe. Through his attorney, Alois B. Renehan, Dockweiler petitioned the northern Pueblo Indian agent to allow his farming of Tesuque Pueblo land, which he had "grown accustomed to using" over the years.

<sup>546</sup> Walter V. Woehlke, "The New Day in New Mexico: Race Prejudice and Boss Rule Are Yielding to Progress in this Ancient Commonwealth," *Sunset Magazine*, June 1921, 21-24, 54-56.

<sup>547</sup> Ibid.



modern thinking and the “infusion of new blood,” which the upper-basin users have resisted. A dozen years later, Woehlke would oversee massive federal projects under Collier, working to improve the lives of the “so-called natives” across the “swarthy island” of northern New Mexico. While Woehlke welcomed Collier’s provocative articles defending Pueblo livelihood, attacking the federal government, and painting New Mexico as backwards, their inflammatory attacks on the political figures angered congressmen whom Collier and Atwood would face at subsequent hearings.<sup>548</sup>

Collier’s defamatory rhetoric wore on the NMAIA leadership too. Collier’s national connections and notoriety on the East Coast and in California may have inspired some jealousy among the NMAIA. The NMAIA, however, was filled with renowned artists, poets, and activists including Gerald and Ina Sizer Cassidy, and Witter Bynner and Margaret McKittrick, the chairs of the Association. Envy, then, was unlikely the prime motivator. Rather, from its leaders to its rank and file, the NMAIA advocated gradualism, diplomatic, and negotiated change. Collier, on the other hand, was considered by most to be a revolutionary extremist, often tactless in his tirades against the local and national political establishment, and was almost dogmatic in his fight to reform the Office of Indian Affairs. Though Richard Hanna continued correspondence with many NMAIA members throughout the hearings of the Pueblo Lands Board, Collier wrote only Witter Bynner in 1927 to castigate him for his defense of former governor Herbert Hagerman.<sup>549</sup> As Collier’s inflammatory and divisive tactics brought only

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<sup>548</sup> Kelly, *Assault on Assimilation*, 242-245.

<sup>549</sup> Witter Bynner to John Collier, November 5, 1927, John Collier Papers, Yale, University, microfilm copy at Center for Southwest Research, University Libraries, UNM, Albuquerque.

retaliation from Congress and the Office of Indian Affairs, the NMAIA became as eager as Collier to end their relationship.

Neither Collier nor the NMAIA planned to cease efforts to organize the Pueblos against the Bursum Bill and, later, to ensure the Pueblo Lands Act was justly administered. Despite their long interest and activity in Pueblo Indian affairs, Collier distrusted the NMAIA's attachment to local politics and power structures, a relationship that he believed clouded its judgment and restrained its advocacy. His assessment of the NMAIA was not totally unfounded. By the 1920s, Edgar L. Hewett, a NMAIA stalwart, had founded the School for American Research and served as the first director of the Museum of New Mexico, first president of the New Mexico Normal School and founded the Anthropology Department at the University of New Mexico, all by maintaining a close relationship with the New Mexico State Legislature. Hewett remained a close colleague of Ralph E. Twitchell, with whom he had worked with on the prize-winning New Mexico exhibit at the 1915 Panama-California Exposition. By 1924, Collier well understood Twitchell's role in composing the first Bursum Bill. He remained cordial with the special attorney for the Pueblo Indians, but distrusted his influence on Pueblo Affairs.<sup>550</sup>

The NMAIA, on the other hand, distrusted Collier's detachment from local affairs. It believed that saving the Pueblos could not happen at the expense of stability throughout northern New Mexico. During a meeting on August 30, 1923, NMAIA members disagreed with the feasibility of Collier's promises and plans for the Pueblos. Indian Rights Association stalwart Roberts Walker, who would later play a central role in

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<sup>550</sup> Kelly, *Assault on Assimilation*, 242-245.

the resolution of the Pueblo Lands question, lambasted Collier's New York-based American Indian Defense Association (AIDA) for failing to consult with the NMAIA properly and encouraged the revision of the Lenroot Substitute as the most sensible course of action. Attorney Francis C. Wilson was much more belligerent, claiming collusion by select Indian leaders and Collier in "strong-arming" the All Indian Pueblo Council into accepting his plan as the only logical and feasible choice. Wilson assured the audience that his disagreements with Collier and Berle were "not a personal thing," but that "their program is not a practical one." He added that AIDA was but one voice of the "friends of the Indians" and its promises "we in our hearts believe to be impractical and not feasible."<sup>551</sup>

Santo Domingo Pueblo native Martin Herrera offered a defense of Collier, assuring the audience that Collier's influence was being tempered by native leadership. He told the NMAIA crowd, "We have to push him," and that the plan presented by Collier was, in fact, an Indian plan. Ina Sizer Cassidy and Witter Bynner, meanwhile, attempted to moderate Wilson's bitterness toward Collier. Bynner still doubted that Collier was presenting all the options to the Pueblos in pursuing a bill that would address their dire situation. He finished, "If I had been an Indian at and had been at that meeting and heard the case presented as it was presented I would have voted unanimously too."<sup>552</sup>

Collier and the NMAIA continued to feud long after a resolution to the Pueblo lands controversy was realized in 1924. In a School of American Research published pamphlet *The Present Condition of the Pueblo Indians*, Hewett expressed his distaste for

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<sup>551</sup> Meeting Minutes of the New Mexico Association on Indian Affairs, August 30, 1923, Santa Fe, New Mexico, SWAIA Collection, NMSRCA.

<sup>552</sup> Ibid.

Collier and cast doubt on the reformer's grim portrayal of the state of the Pueblos. By the 1920s, Hewett had long enjoyed a positive working relationship with BIA officials, who sought his advice and used his own scholarship and that of his mentor, Adolph Bandelier, to train BIA field agents stationed in northern New Mexico. Hewett cautioned that Collier was instilling a victim mentality and venomous hostility toward outsiders in the Pueblo mind: "Nothing is gained and much is lost by arousing in them the feeling of self-pity. No good has come from inspiring in them hatred and distrust of the government or of their white neighbors."<sup>553</sup> One of the principle architects of the "Spanish colonial heritage" of New Mexico, Hewett upheld the notion that Hispanos were Pueblos' "white neighbors." He denied Hispanos mixed blood and their shared history with the Pueblos.

Hewett claimed that Collier and AIDA were "charlatans and shysters" and their work was "misleading" and an "exaggeration."<sup>554</sup> He explained the poverty present in New Mexico Pueblos away as the norm across all villages in northern New Mexico:

The entire native population of New Mexico exists on a scale to us that seems very meager, but it is above the level of actual suffering and illustrates the fact that happiness does not depend entirely upon material affluence. They, like the Pueblos, are normally a happy and contented people. Moreover the Indians and native New Mexicans have usually lived side by side on most friendly terms. This fact is in part accountable for the gradual penetration of the Pueblo grants by their white neighbors. This has led to some antagonism in recent years largely worked up by *agitators from the outside*.<sup>555</sup>

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<sup>553</sup> Edgar L. Hewett, *Present Condition of the Pueblo Indians*. Archaeological Institute of America, Papers of the School of American Research No. 10 (Santa Fe: School of American Research, 1925), 7.

<sup>554</sup> *Ibid.*, 7-8.

<sup>555</sup> *Ibid.*, 6, Emphasis is mine.

Discussing the pending legislative action regarding Pueblo title, Hewett believed the Pueblos had enjoyed the support of the Office of Indian Affairs and that AIDA was profiting from the Pueblo cause. He reasoned: "Scanning the list of lawyers who have held the office of attorney for the Pueblos under the United States government one knows that the Indians have not been without capable and attentive legal service, nor are they now. Appeals for money to bring in more lawyers should be ignored by those who have the interest of the Pueblos at heart."<sup>556</sup> In response, Collier and Elkus criticized Hewett for discouraging Pueblo use of lawyers provided by the GFWC and AIDA. Hewett's advice would leave the Pueblos to trust the federal government to represent their case against the federal government. Hiring their own legal representation with the aid of advocate groups only defended their own interest. Curiously, though Collier criticized Hewett's harmful advice, he had proved just as disingenuous only two years earlier. Amid the battle for compromise bills, he cast doubt in the interests of lawyers like Alois Renehan and urged settlers to enter into the claims process without lawyers for their and the Pueblos's mutual benefit. Now, he decried the same strategy as criminal.<sup>557</sup>

Collier also attacked Francis C. Wilson, the lawyer retained by NMAIA and GFWC to advise their organization on Pueblo issues. To the chagrin of Secretary Fall, Wilson worked with Commissioner Charles Burke to craft a compromise that incorporated parts of the Bursum and Jones-Leatherwood bills. The so-called Lenroot Substitute bore the name of Wisconsin senator Irvine Lenroot, who created a special committee that included New Mexico senators A. A. Jones and Holm Bursum. The bill emerged from

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<sup>556</sup> Ibid., 7.

<sup>557</sup> John Collier and Charles de Y. Elkus, "Dr. Edgar L. Hewett and the Pueblo Indians: Two Communications" (n.p., 1925).

lengthy Senate Committee on Public Lands Hearings on Pueblo lands with Wilson commenting on and revising the final draft. It called for a three-man commission to investigate the validity of non-Indian claims and recommend compensation awards to annulled claims. Claimants were divided into those with “color of title” who possessed their claim for twenty years and claimants who claimed ownership by possession for thirty years without “color of title.”<sup>558</sup>

Collier immediately accused Wilson of caving into the Interior Department. Wilson’s influence on the bill seemed obvious, though the presence of Senators Bursum and Jones in its drafting was what annoyed Collier most. Described by his biographer as a “gifted polemicist,” Collier wrote off all dissenters from his program as misguided and corrupt. Collier’s zealous approach alienated NMAIA leaders, who took an increasingly moderate position in part to distance themselves from Collier. While he professed a moderate position, mindful of non-Indian property and the preservation of Hispano towns, he simultaneously distanced himself from the NMAIA’s moderation. Collier’s attack on Wilson continued through the spring of 1923, eventually firing the attorney from the GWFC payroll after a heated exchange of correspondence in April. The NMAIA sided with Wilson, however, retaining him as an expert in Pueblo legal affairs and rebuking Collier, the “newcomer” to the Pueblo scene.<sup>559</sup>

In the midst of fighting with the NMAIA, and soon after the February House hearings, Collier published an article in the *Taos Valley News* that urged settler support for Jones-Leatherwood legislation. According to Collier, lawyers who sought to

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<sup>558</sup> Donald L. Parman, *Indians and the American West in the Twentieth Century*. Bloomington: Indiana University Press, 1994, 79-80.

<sup>559</sup> Kelly, “Collier and the Pueblo Lands Board,” 24-26.

represent non-Indian claimants were their real enemies. These lawyers were motivated only by greed and would use the Pueblo lands controversy to revive old land grant claims that would call into question *all land claims* in the valley.<sup>560</sup> Collier's contention could easily be substantiated: Alois Renehan was both the leading settler attorney and an infamous land speculator. As an attorney, Renehan represented Española Valley merchant Frank Bond and Tesuque claimant Alphonse Dockweiler; he also had interests in multiple Tewa Basin grants including the Juan José Lobato, Polvadera, Caja del Río, and Las Trampas grants, and, along with attorneys Thomas B. Catron and G. H. Howard, was sued by Lobato heirs for extortion. Renehan himself confided to Senator Bursum that portions of his bill authored by Charles Catron seemed to renew litigation on already adjudicated claims.<sup>561</sup> Collier easily cast doubt on the Renehan's motivations; the same doubt could just as easily have been leveled at his recently fired legal counsel, Francis C. Wilson, who speculated in the lands of Pojoaque and Nambe Pueblos, the Polvadera Grant, and in the estate of land speculator Napoleon B. Laughlin. All of these properties lay in the Tewa Basin. Raising suspicion about the entire legal profession of New Mexico was an easy rhetorical exercise, no challenge to the well-practiced Collier.

Collier assured readers that the AIPC and GFWC plan, embodied in the Jones-Leatherwood Bill, would clear all bona fide titles without expensive litigation and would provide an economic boon for all people of Taos Valley through irrigation works "for many thousands of acres of non-Indian land as well as Indian land." At the same time that he deceptively advised non-Indian settlers to seek a resolution without attorneys, Collier

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<sup>560</sup> John Collier, "White Settlers Would Pay Lawyers \$100,000 under Bursum Bill, Says Collier," *Taos Valley News*, February 24, 1923.

<sup>561</sup> Renehan to Senator Holm Bursum, November 29, 1922, Box 9, Renehan-Gilbert Papers.

worked to include in pro-Pueblo legislation measures that would allow Indians to dispute findings and take non-Indian claimants to court. Under this scenario, Hispano and other settlers would again be in court while facing a phalanx of Pueblo lawyers both appointed by the federal government and provided gratis by advocacy groups like AIDA and NMAIA.<sup>562</sup> Despite Collier's assurances, settlers formed committees, held meetings, and turned to the very land speculators who mere decades earlier had wrangled lands from the possession of their own families and communities.

To replace Wilson, Collier hired wunderkind Harvard Law School-graduate A. A. Berle. During the summer of 1923, he formulated a bold plan that called for the wholesale eviction of non-Indian settlers from Pueblo lands. In late 1923, amid the debate on the substitute bills, Berle and Collier issued an AIDA pamphlet, *In the Matter of the New Mexico Pueblo Lands: White Claims upon Lands Granted to the Pueblos*. The pamphlet attacked the Lenroot Substitute Bill, as a "prejudicial foreclosure" of Pueblo lands, and plotted a course of action that Collier would follow for years during the operations of the Pueblo Lands Board. Berle spent about six weeks the 1923 summer visiting almost every Pueblo and making a broad investigation of claims.<sup>563</sup>

In his pamphlet, Berle broke all claims to Pueblo Indian land into three groups. The first group, whose claims were undeniable and legitimate, would amount to less than ten percent of all claims. The last group, whose claims were recent or blatantly fraudulent, were an estimated fifteen percent. The remainder, some seventy-five percent,

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<sup>562</sup> John Collier, "White Settlers Would Pay Lawyers"; Philp, *John Collier's Crusade for Indian Reform*, 46-53.

<sup>563</sup> Adolf Augustus Berle, *In the Matter of the New Mexico Pueblo Lands: White Claims upon Lands Granted to the Pueblos* (New York: American Indian Defense Association, 1923), 5-7.



would constitute the second group of claimants who, AIDA believed, deserved compensation but whose claims would invariably return to the Pueblos. These wild estimations, based on AIDA theories, only infuriated federal and state officials. In AIDA's interpretation, *US v. Sandoval* had rewritten all tribal law dealing with the Pueblos and rendered all portions of previous legal decisions and policies null and void. Five plus years of Pueblo Lands Board activities, complemented by a district court friendly to non-Indian claims, rejected Berle's simple division and ostensibly worked to achieve *equity* where Collier and Berle sought what, they believed, was *justice* for the Pueblos.<sup>564</sup>

After his break with the NMAIA, Collier founded the American Indian Defense Association (AIDA) in 1923 to fight both the Bursum Bill and the Leavitt Bill, also known as the "dance order," which sought to harshly crack down on ritual native dances that conservative interests in Indian affairs considered savage and indecent.<sup>565</sup> Serving as AIDA's executive secretary, he located its offices in New York. Collier believed the NMAIA was too conservative in its policies and the Indian Rights Association intrinsically too corrupt in its work with the U.S. Indian Affairs Department. Presenting their plan at the August 25, 1923, meeting of the AIPC, Collier and Berle received Pueblo support and aided the Indians in drawing up a resolution, which they quickly publicized. Although the resolution blamed the federal government for the Pueblo land situation and stated that it should pay restitution to all injured parties, the Pueblos nonetheless proposed the eviction of all settlers because all claims, save townsites, churches and

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<sup>564</sup> Ibid, 6.

<sup>565</sup> For the Pueblo Indian dance controversy see, Tisa Wenger, *We Have a Religion: The 1920s Pueblo Indian Dance Controversy and American Religious Freedom* (Chapel Hill: University of North Carolina Press, 2009).

cemeteries, were illegal and lacked legitimate title. This extreme position drew the ire of settlers and their allies.<sup>566</sup>

The NMAIA worked to build support for the Lenroot Substitute. To counteract Collier's and Berle's pamphlet, it issued its own study titled *The Pueblo Land Problem*. Authored by Francis C. Wilson, the pamphlet analyzed the Lenroot Substitute, which Wilson influenced and claimed that he authored. He took a markedly different approach from Berle's attack. Advocating moral responsibility, safeguards for both Pueblos and non-Indian claimants, and the need for a commission, the NMAIA affirmed its desire to preserve Pueblo communities, but sought equity for both claimants and Pueblo Indians.<sup>567</sup> While Collier and the NMAIA battled to exert and maintain their influence over the Pueblos, E. Dana Johnson, the *Santa Fe New Mexican* editor and later NMAIA leader, offered a voice of reason. In a note preceding the *New Mexican's* publication of Collier's attack on the Lenroot Bill, Johnson remarked that he agreed to print Collier's opinions but "refused to vilify" the non-Indian settlers, whose "acting in good faith under previous decisions can hardly be denied." "On the whole we believe that both Collier and his opponents are exaggerating the difference which separates them," Johnson continued.

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<sup>566</sup> "Pueblos take strong stand to Get Lands – Favor Wholesale Eviction and Compensation Plan of Indian Defense Society," *Santa Fe New Mexican*, August 27, 1923; Kelly, "Collier and the Pueblo Lands Board," 26-30. See also A.A. Berle, Howard S. Gans, Herbert K. Stockton, *In the Matter of the New Mexico Public Lands: White Claims Upon Lands Granted to the Pueblos* (New York: American Indian Defense Association, December 10, 1923). The NMAIA's more moderate position regarding Pueblo land tenure reform is perhaps best represented in New Mexico Association on Indian Affairs, *The Pueblo Land Problem* (Santa Fe: New Mexico Association on Indian Affairs, 1923). The piece stands as a defense of the Lenroot Substitution, distinguishing it from the Bursum Bill.

<sup>567</sup> New Mexico Association on Indian Affairs, *The Pueblo Land Problem*, 4.

“The Pueblo Indians form a unique asset of this state and nation. The real danger to their continued existence lies in misguided controversies among their friends.”<sup>568</sup>

Collier’s growing influence with Pueblo leaders troubled and even offended New Mexico Indian advocates. Nina Otero-Warren, who secured employment as a federal Indian inspector, kept a close eye on Collier’s communications with Pueblo leaders. Affronted by her antagonistic manner, many Pueblos confided that they would “never say a word to that greaser!”<sup>569</sup> Tesuque Pueblo leader Martín Vigil, who was of mixed Hispano-Pueblo parentage, distrusted Otero-Warren. He told the NMAIA that she argued that “the Mexicans must be friends with us” and cautioned Pueblo leaders from meeting with Collier.<sup>570</sup> NMAIA leaders had their own doubts about her intentions. The NMAIA seemed of divided mind on the August 30 AIPC resolution that supported the Collier-Berle plan. The association professed a conciliatory stance but criticized Collier for purporting to “speak for the friends of the Indians.” Witter Bynner, an association chair, commented that the August 23 resolution was “presented to the Indians by Mr. Collier and Mr. Berle and not by the Indians to Mr. Berle and Mr. Collier.” Wilson dismantled the resolution, pointing out the “Collieresque” statements. He doubted that the Pueblos would have adopted the resolution’s “all or nothing” approach without the influence of Collier. While the NMAIA leaders fought to maintain the good reputation of their organization in the press and their influence with Pueblo leaders, they ignored the voice

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<sup>568</sup> “Lenroot Bill Sentence of Death for Pueblos,” Editor’s note, *Santa Fe New Mexican*, September 22, 1923.

<sup>569</sup> Fieldnotes, New Mexico Association on Indian Affairs, April 1923, SWAIA Collection, NMSRCA.

<sup>570</sup> Ibid..

of the lone Pueblo Indian attending their meeting. Santo Domingo native Martin Herrera bluntly stated, “John Collier is doing what the Indians want, and he is going to do it.”<sup>571</sup>

NMAIA representatives and their associates attempted to mitigate the impact and influence of John Collier. Father Fridolin Schuster, a Franciscan priest stationed at Laguna, had initially welcomed Collier, calling him a “wonderful man, very clever thorough and a good organizer,” and commended the GFWC for hiring such a “competent man.” A year later, Shuster considered Collier “a nut and a radical man.”<sup>572</sup> Representing the Bureau of Catholic Indian Missions, Shuster discouraged Acoma and Laguna leaders from sending representatives to AIPC meetings called or attended by Collier. He wrote James Miller, governor of Acoma, that “Collier is losing out more and more every day” and that he should caution “your people not to go to the meeting.” Collier had no power to get what he promised, only authority to sign “all kinds of resolutions” in which nothing good is accomplished. “So on one side,” Schuster closed, “are the Government and the real friends of the Indians, strong and powerful friends; on the other side John Collier is alone.”<sup>573</sup> Writing to Laguna governor Paul Johnson, Schuster stated:

I will have nothing to do with John Collier. He is only an agitator and will only hurt the Indian cause. Collier has not played square with the Pueblo Indians. I will have nothing to do with Collier and my advice to the Laguna People is to stay away from Collier as you have in the past. If Laguna would now join in with

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<sup>571</sup> See Minutes of Meeting of the New Mexico Association on Indian Affairs, August 30, 1923, SWAIA Records, NMSCRA. Santa Fe.

<sup>572</sup> Shuster is quoted in Harvey Markowitz, “The Reformer, the Monsignor, and the Pueblos of New Mexico: Catholic Missionary Responses to New Directions in Early-Twentieth-Century Indian Policy,” *New Mexico Historical Review* 88:4 (fall 2013): 413-436, 420-422.

<sup>573</sup> Rev. Fridolin Schuster to James H. Miller, Governor of Acoma, July 11, 1924, Bergere Family Papers, NMSRCA.

Collier and attend his meetings, it would be the greatest victory for Collier and he would gain absolute and full control of all the Pueblos. After that he might agitate and stir more and get the poor Pueblos into even more trouble.<sup>574</sup>

Schuster was temporarily successful: Laguna sent representatives to AIPC meetings that Collier called, but they acted as observers and refused to vote.<sup>575</sup>

Collier's influence nonetheless eclipsed the NMAIA. He offered something past Pueblo advocates had not: an unrelenting and uncompromising policy toward non-Indian claims on Pueblo lands. Like other Indian advocates, Collier saw in Indian Pueblo culture something irreplaceable and inherently threatened by outside influence. He departed from much of the paternalism that had framed federal Indian administration in the late nineteenth and early twentieth centuries, one informed by Christian morality and emphasizing assimilation. However, political maneuvering in the 1920s and administration of Indian affairs in the 1930s still expressed the paternalism characteristic of the Progressive Era reform.<sup>576</sup>

At the same time that Collier and other Pueblo advocates skirmished over their defense of Pueblo lands, a discourse as clumsy as it was fascinating took place in public speeches, private correspondence, newspapers and magazines. In testimony before the Senate Committee on Public Lands, Twitchell, who had authored significant portions of the original Bursum Bill and an influential report on non-Indian claims on Pueblo Lands,

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<sup>574</sup> Rev. Fridolin Schuster to Paul Johnson, Governor of Laguna, July 12, 1924, *ibid.*.

<sup>575</sup> See Minutes of Meeting of the New Mexico Association on Indian Affairs, August 30, 1923, SWAIA Records, NMSCRA, Santa Fe.

<sup>576</sup> Kelly, *Assault on Assimilation*, 210-212; Philp, *John Collier's Crusade*, 36-40. For more on the Progressive Era, see Michael McGerr, *A Fierce Discontent: The Rise and Fall of the Progressive Era, 1870-1920* (New York: Oxford University Press, 2005), and Jackson Lears, *Rebirth of a Nation: The Making of Modern America, 1877-1920* (New York: Harper, 2010). Classic works on the Progressive Era remain, Robert H. Wiebe, *The Search for Order: 1877-1920* (New York: Hill and Wang, 1966), and Richard Hofstadter, *The Age of Reform* (New York: Vintage, 1960).

portrayed Hispano villages and Indian Pueblos as historically mutually dependent. In the process, he contrasted their civilization with the “indios barbaros.” “Had it not been for the cooperation on the part of these two races of people,” stated Twitichell, “in all probability we would not be here today bothered with this question at all. They [the Pueblos] would have disappeared.”<sup>577</sup>

Renehan, the outspoken attorney for the settlers, tried to counteract Collier’s national publicity campaign. In a confusing, hour-long rant at the annual meeting of the League of the Southwest, Renehan recounted centuries of Indian land policies applied by Spain, Mexico and the United States. Renehan believed that contrary to Pueblo advocates’ claims, sovereigns had sufficiently protected Pueblo land tenure. He drew largely from past Congressional testimony and statements he made in the *Sandoval* case. Renehan claimed that Pueblo-Hispano relations were peaceful but the two groups were distinct and their bloodlines did not mix. Renehan claimed he represented “twelve thousand people . . . in whose veins flows the blood of every *important* European race.” He denounced “the spirit and methods of those [Pueblo Indians and their advocates] who would arouse the *ward* against the *guardian*[,] inculcating into their *primitive minds* the idea that the guardian is faithless to the trust and instilling the poisonous brew that the United States is a felonious fiduciary.” Once again championing his clients’ Spanish-colonial past, Renehan declared, “Our people are not ‘squatters,’ but ancient pioneers,

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<sup>577</sup> Testimony of Colonel R. E. Twitchell, U.S. Congress, Senate, *Hearings on S. 3865 and S. 4223*, 67<sup>th</sup> Cong., 4<sup>th</sup> Sess., January 15-18, 1924, 22, 23, 25.

who have made the desert to blossom as the rose, who bared their breasts to the *savage foe* with courage and determination.”<sup>578</sup>

Renehan was a confident orator. He “dazzled” his Santa Barbara, California, audience with legal deeds, some as old as 1725, proof that Indians willingly sold land to their Spanish neighbors. “At the risk of being tedious,” Renehan translated deeds recorded in 1837, wherein Bartolo and Dolores Martín of San Ildefonso Pueblo sold their land to Manuel Roybal in front of *alcalde* Victor García; another recorded in 1713, in which don Julian Quintana wrote of Felix Ruibal of Zia who sold his land to Gaspar Martin for two-hundred and five *reales*; finally a third, from 1788, in which *alcalde mayor* Manuel García de la Mora reported that Juan José Castellano, governor of San Juan Pueblo, traded land to Antonio Beita, an Indian of the town of San Rafael.<sup>579</sup>

Renehan showed plats of the Town of Jacona Grant and the Town of Bernalillo Grant, intruding on the lands of Tesuque Pueblo and Sandia Pueblo, respectively. The issues of the Jacona Grant, argued Renehan, should have been cleared up by Court of Private Land Claims, which restricted the size of the grant and confirmed its boundaries outside conflicts with surrounding Pueblos. Bernalillo stood on the site sold by Sandia Pueblo to twenty-three families in 1769, “evidence that the Indians possessed the power

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<sup>578</sup> Alois B. Renehan, *The Pueblo Indians and Their Land Grants: The Pioneers and Their Families, Their Descendants and Grantees Occupying Parts of the Pueblo Indian Land Grants, in New Mexico* (Albuquerque: T. Hughes, 1923), 7-16. The cover of the publication of Renehan’s speech also included the following subtitles: “Speech of A. B. Renehan, Esq, of Santa Fe, New Mexico, at the Conference of the League of the Southwest at Santa Barbara, California, June 9, 1923, with related documents showing antagonisms between Indian friends”; “Reviewing the Facts and Ancient Spanish Laws affecting Pueblo Indian Lands and their Neighbors of other Races, Many of these Laws being Presented in Full, as Never Before Completely Translated”; and “A Plea for Patient and Humanitarian Consideration as Opposed to Excited and Uninformed Abuse and Contumely.”

<sup>579</sup> *Ibid.*, 17-19.

of alienation.”<sup>580</sup> Renehan took parting shots at the U.S. Supreme Court’s decision in *U.S. v. Sandoval* and the reformers it roused and inspired. He declared, “And because we have had confidence in the Supreme Court of the United States and attributed an irresistible (sic) force to its opinions, our people are now trumpeted as robbers, land-looters, and marauders . . . by men and women . . . seeking to constitute themselves a super-government, without possession of the instructed intelligence necessary to deal effectively, justly, honorably and equitably with a problem so diversified and complicated”<sup>581</sup>

If Renehan’s goal was portraying the Pueblo land situation as “diverse and complicated,” he was likely successful. In his own complicated, even convoluted speech, he cited colonial texts *ad nauseum*, littering his speech with two-thousand, even three-thousand word quotations. He randomly strolled through Spanish medieval and colonial law, and then sampled territorial statutes and correspondence by Mexican diplomats. By the time Renehan delivered “The Pueblo Indians and their Land Grants,” he had a small but stable political machine behind him. Led by Frank R. Frankenger and W. D. Chiles, the Española Chamber of Commerce endorsed Renehan’s legal analysis in a resolution that exhorted all other municipal chambers of commerce to do the same. “We condemn,” stated the resolution, “the abuse and attempted degradation of our people living upon Pueblo Indian grants as trespassers, illegal intruders, and wrongdoers, as resulting from a spirit of fight and contention for the sake of fight and contention.”<sup>582</sup>

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<sup>580</sup> Ibid., 19-21.

<sup>581</sup> Ibid., 22-23.

<sup>582</sup> Resolution by the Espanola Chamber of Commerce in the Midst of the Northern Pueblos Setting Forth Briefly the Rights, Contentions and Equities of the So-Called



The Española Chamber formed the so-called “Settler’s Committee,” a self-appointed group of defenders of the good name of *nuevomexicanos*. The Committee funded the publication of Renehan’s speech and attempted to distribute it widely to counteract Collier’s successful publicity against the Bursum and Lenroot bills. To the eighty-page pamphlet, the committee attached a statement by the NMAIA as evidence that it had accepted the Lenroot Substitute and acknowledged its interest in “protecting the rights and equities of Indians and non-Indians alike.” Renehan’s paper also included a statement by Francis C. Wilson defending the Lenroot Bill and explaining the defeat of the Collier-endorsed Jones-Leatherwood Bill. The pamphlet’s final piece was a September 1923 letter from Collier to the AIPC in which he accused the NMAIA and Francis C. Wilson of abandoning the defense of Pueblo property rights, signaling a schism between “super-radicals” and “intelligent and equitable conservatives” among Pueblo Indian advocates.<sup>583</sup>

By 1923, Wilson had spent over a dozen years in New Mexico, speculating in land grants and serving as special attorney for the Pueblo Indians. Described by a biographer as a “vibrant and rather imperious man,” Wilson struggled to keep up with his comparably extravagant tastes in a Santa Fe isolated from luxury goods he had grown accustomed to in his native Boston.<sup>584</sup> Wilson’s testimony in the Lenroot Bill hearings demonstrated an interpretation of Pueblo and Hispano people remarkably similar to that of Indian advocates, both those in the NMAIA and in the Collier-controlled AIDA.

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Settlers,” undated, published as a forward to Renehan, *The Pueblo Indians and Their Land Grants*, 5.

<sup>583</sup> Ibid., 57-75.

<sup>584</sup> B. Alan Dickson, “The Professional Life of Francis C. Wilson of Santa Fe: A Preliminary Sketch,” *New Mexico Historical Review* 51:1 (January 1976): 35-36.

Describing the expropriation of Sandia Pueblo lands by Hispanos, Wilson characterized them as “encroachers” and referred to Hispanos as “Mr. Mexican.” Yet when Senator Bursum asserted that Hispanos were committing fraud in claiming lands under the Joy survey, Wilson defended them: “It is human nature. I am not saying it is going to be peculiar to the native people, the Spanish-Americans. I guess some of the Americans have been just as bad and worse. This Hobert (sic) Case is the worst case I know of, and that was American. The difference between the Anglo-Saxon and the Spanish-American is that when the Anglo-Saxon goes in he grabs the whole business, while the Spanish-American just takes a little bite here and there.”<sup>585</sup>

Pueblo advocates undoubtedly disagreed with Renehan’s interpretation and rhetoric, but they thought in similar ways about race and ethnicity in New Mexico. Collier was no primordialist who placed Pueblo peoples on a continuum ranging between the sacred and the profane, but he still created and defended neat, simple divisions between peoples, the “red” and the “brown,” the “pure” and the “mixed,” to sell his story of Pueblo lands and Pueblos rights to advance his and their agendas. His spats with Pueblo leaders reluctant to follow him in the fight against the Bursum Bill revealed how

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<sup>585</sup> Testimony of Francis C. Wilson, U.S. Congress, Senate. *Hearings on S. 3865 and S. 4223*, 67<sup>th</sup> Cong., 4<sup>th</sup> Sess., January 15-18, 22, 23, 25, 1923, 152-153. Historian Charles H. Montgomery argues that upholding land rights to Pueblo lands, which emanated from territorial and state law, was then an essential part of Anglo political patronage, and served both the political interests of Anglo politicians in their relationship with lowly Hispanos and their economic interests in privatizing communal lands for the benefit of wealthier investors, largely Anglos with a modicum of rich Hispanos. Montgomery argues that by 1920, *Mexican* became an exclusively derisive term and Spanish American and Hispano-Americano were in vogue. Documents produced in the Pueblo lands debate generally demonstrate that the term *Mexican* still held sway among Hispano land owners themselves while their lawyers and local Pueblo advocates were careful to call non-Indian claimants “Spanish Americans,” displaying a sensitivity to the whitened Hispano identity. See Charles Montgomery, *The Spanish Redemption: Heritage, Power, and Loss on New Mexico’s Upper Río Grande* (Berkeley: University of California Press, 2002), 56.

easily and willingly he would define “true” all things Pueblo, its peoples, culture and leaders.

Historian Margaret Jacobs points out that the essentialist views of racial difference held by Mabel Dodge Luhan and Mary Austin relied on blood quantum to identify those who were “truly Indian.” “Luhan believed,” writes Jacobs, “that Indian culture would evaporate if Indians intermarried with other races.” Writing to Collier in 1933, Luhan admitted that “although I married an Indian . . . I do not believe in it for others. I cannot bring myself to change from my previous hope that the Indian culture may be saved as it cannot be if he becomes absorbed into the Mexican or the white races.” In Luhan’s thinking, blood, not culture and history, made the Indian an Indian. According to Jacobs, Luhan believed that, “Indians could lose their essential primitiveness through racial intermarriage.” Thus, Mexican Americans, a “racial mixture” of Spanish and Indian, seemed to antimodern feminists less primitive (and less interesting) than Pueblo Indians.”<sup>586</sup>

Confronting racial mixing, the reality among many New Mexico Pueblos, would have complicated the activism of white advocates on behalf of Indians; so reformers embraced the Hispano-Pueblo or brown-red dichotomy. If Pueblo society was sacred, then the Mexican society surrounding Pueblos was profane. Since Governor Calhoun and the territorial era, Pueblo advocates played up Pueblo civilization to justify their protection. In doing so, they also emphasized “Mexican” barbarity, almost as a corollary,

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<sup>586</sup> Margaret D. Jacobs *Engendered Encounters: Feminism and Pueblo Cultures, 1879-1934* (Lincoln: University of Nebraska Press, 1999), 18, 98-99.

as though in the great play of the American West, someone *always* had to play the savage. This dichotomy simplified their politics and their mission.<sup>587</sup>

Luhan was arguably a primordialist. In her mind, her relationship with a Pueblo man, Tony Luján, was improper and inadvisable for other Americans seeking to preserve the Pueblo peoples. Her self-evaluation was arguably a superficial, conceited inner monologue that assuaged herself of the guilt of soiling this perfect culture with her own imperfections, but Luhan nonetheless reflected on her own impact on the Pueblo world, something that Collier rarely did.<sup>588</sup>

Elsie Clews Parsons, the prolific sociologist who studied Pueblo society in Laguna, Zuni and Isleta, was less reserved than Luhan or Austin in her defense of the Pueblos. In January of 1923, Parsons chastised Senator Bursum for preying on Indian land:

You treat the Indians as the equal of aggressive Americans or Mexicans in protecting their rights under the law. Those who have studied and lived with the Indians know that such is not the case. The old Indians do not speak our language, they do not know our customs, a gulf separates them from the white man, they are poor, they cannot spend money to hire the best lawyers and aggressively assert their rights, they dislike intrusion and they are[,] therefore,

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<sup>587</sup> Ibid.

<sup>588</sup> Mabel Dodge Luhan, *Edge of Taos Desert: An Escape to Reality* (1937; reprint, with an introduction by Lois Palken Rudnick and a foreword by John Collier, Jr., Albuquerque: University of New Mexico Press, 1987), 78-87. Her assessment of the Hispano population, which she superficially differentiates as either “Spanish” or “Mexican,” includes their contemporary resentment of Anglos for their preference for Pueblo peoples, whom, she believe, they deceived into leading the Taos Rebellion against Governor Bent decades earlier.

comparatively easy subjects for aggression. This bill legitimizes the aggression.<sup>589</sup>

Parsons's primordialist idea of Indians's passive nature surely underestimated their ability to defend their own claims, a power best demonstrated by the activities of the AIPC. Her indignation at "aggressive Mexicans" invading the Pueblo league did not stop her from violating Pueblo lands herself. She, along with Santa Clara Day School teacher Clara True, was a co-claimant to lands within the Santa Clara and San Ildefonso Pueblo leagues. Perhaps her land claim was a testament to the ubiquity of private claims on Pueblo lands.<sup>590</sup> It could also be reasoned that the mixed-race parentage common among Santa Clara and San Ildefonso Indians and most of the six Tewa Pueblos omitted them from the "pure Pueblos" that Parsons devoted much of her life studying.<sup>591</sup>

Parsons's antipodal reading of New Mexico's social landscape was far from uncommon. University of Pennsylvania anthropologist Frank Speck disdained the "thoroughly deculturated Indians who lose their pride enough to mingle and marry with their social inferiors" and "lowered themselves socially to the status of our heterogenous dark skinned masses."<sup>592</sup> Whether espoused by advocates, bureaucrats, or academics, the racial politics of this era highlighted and amplified difference, seeking to illustrate the

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<sup>589</sup> Elsie Clews Parsons to Holm O. Bursum, January 22, 1923, folder 15, box 13, Bursum Papers; See also Jacobs, *Engendered Encounters*, chap. 3, 56-80, for a detailed discussion of Parsons. Kelly, *Assault on Assimilation*, 226-227, discussed Luhans recruiting Parsons to the Pueblo cause.

<sup>590</sup> For more on Clews Parsons, see Desley Deacon, *Elsie Clews Parsons: Inventing Modern Life* (Chicago: University of Chicago Press, 1997).

<sup>591</sup> Clews Parsons claimed about seventeen acres of land on San Ildefonso Pueblo. See "Report of land Claims, in re US as guardian of Indians of *San Ildefonso Pueblo v. Filemon Apodaca, et. al.* Claims 137-141, box 9, Renahan-Gilbert Papers.

<sup>592</sup> Tisa Wenger, *We have a Religion*, 186.

distinctions between the “naturally passive” Pueblos and their inherently aggressive Mexican counterparts, once again, between sacred peoples and profane peoples.

Parsons’s onetime friend and co-claimant Clara True professed her impartiality in the Pueblo lands issue, though she remained close friends with Renehan and welcomed the rift between Collier and the NMAIA. True compared the poverty of “settlers” with that of “poorest peasants of the old world.” She claimed that she no longer had “any property interest inside any Indian grant,” but professed that she had not “lost my human interest in the subject.” Although an ideological gulf separated advocates for settlers and Pueblo Indians, their portrayals and analysis of Pueblo Indians and *nuevomexicanos* was startlingly similar. True warned Senator Bursum that “someday a rabid Penitente outfit will wipe a few Indian villages off the map of New Mexico unless something is done.”<sup>593</sup> GWFC Indian Committee chair Stella Atwood shared True’s suspicion of New Mexico’s native populations. In September 1921, Atwood had confided to Indian Commissioner Charles Burke that “Indians are a primitive people. If you work with them and go over the wrongs with them (and they have plenty of them) their passions are aroused, and like all primitive men they get violent and unruly, they brood over their troubles and get morose until they are ready for almost any deed of violence.”<sup>594</sup>

As Commissioner of Indian affairs, Charles Burke endured a barrage of criticism in congressional hearings and in the popular press. His antedated policies, including a crackdown on Indian religious practices, drew the ire of liberal and moderate advocacy groups. Burke issued a statement defending the Indian Bureau’s work among Pueblo Indians and admonishing the Pueblos for playing to the public and claiming the federal

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<sup>593</sup> True to Bursum, Fall 1922, Folder 2, Box 12, Bursum Collection.

<sup>594</sup> Kelly, *Assault on Assimilation*, 128-129.

government offered no support. When comparing expenditures on Pueblos to national averages for other Indian Affairs reservations, Burke felt vindicated by what he viewed as the government's protection of Pueblos. However, his statements demonstrated a feeble response to the impoverished state of Indian Country across the United States.<sup>595</sup>

Although the NMAIA appeared moderate on Pueblo land reform policy, especially in comparison to Collier and AIDA, it nonetheless presented the Pueblo land situation in typical Indiophilic fashion, celebrating the pure Indian and denigrating the mixed-blood Mexican. A particularly antagonistic article in *World Work* magazine published in Garden City, New York, featured this portrayal of contentious Pueblos and Hispanos. Photographs of Taos Pueblo and age-worn adobe houses compared the dwellings of Pueblo Indians and *nuevomexicanos* as proof of Pueblo Indians's advanced civilization. The piece labelled the unassuming adobe homes of the non-Indians the "Mexican Huts in New Mexico," and implored readers to "compare these hovels with the pretentious dwelling of the Pueblo Indian." Under the photograph of Taos Pueblo read "the Pueblo Indians represent a high grade of Indian civilization and culture – how much higher than Mexicans is evident by the picture of the huts in which the Mexicans live."<sup>596</sup>

In defending Pueblo rights, advocates once again drew a solid line, an unbreachable divide, between Pueblo and Mexican culture, history, and society, idealizing the beauty and purity of the archetypal Taos Pueblo to denigrate the mixed-blood Mexican. They also provided welcome fodder that Renehan widely distribute to bring non-Indian Pueblo property owners into the Bursum debate.

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<sup>595</sup> Charles H. Burke to Mr. Santiago Archuleta, and others, February 26, 1923, RG 75, Entry 86, Northern Pueblos.

<sup>596</sup> Scrapbook, Pueblo Indian Land Matters Collection, Fray Angélico Chávez History Library, Museum of New Mexico, Santa Fe. Compiled by Ina Sizer Cassidy.

While settlers and Indian advocates fought to capture the passions and sympathies of the public, the debate over the Bursum Bill was coming to an end. Neither the moderate and NMAIA supported Lenroot Substitution Bill nor the Collier/AIDA crafted Jones-Leatherwood Bill emerged from committee. Angered by Collier's disruptive, muckraking and mudslinging ways, Congress offered what was perhaps a painful rebuke of Collier: it allowed Senator Bursum to sponsor the compromise bill, Senate Bill 2932, which would ultimately decide the fate of Pueblo lands. An illness kept Collier from playing a large role in crafting a bill that would meet the demands of all interested advocates. AIDA counsel Berle made certain that the application of territorial statutes of limitation, requested by NMAIA attorney Wilson, were tempered with sections that required settlers to demonstrate continuous payment of taxes since January 6, 1902, or ten years before statehood, if their claim was based on adverse possession with valid title. Claims supported only by adverse possession without color of title were given the date of March 16, 1889, the first day the phrase "color of title" was mentioned in the territorial legislature.<sup>597</sup>

Berle and Collier were confident that few claimants could prove such tax payment and that Pueblos would get lands back. To be sure, Berle also added clauses that allowed the Pueblos to file so-called independent suits where they disagreed with the commission's findings, ensuring that the bulk of territorial statutes of limitation benefitting non-Indians were invalidated. Content that it had defended Pueblo lands,

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<sup>597</sup> Hall, *Four Leagues*, 242-244. Act of June 7, 1924, c. 331, 43 Stat. 636. (1924).



AIDA ceased its objections and the Pueblo Lands Act was unceremoniously signed into law on June 6, 1924.<sup>598</sup>

The Pueblo Lands Act of 1924 almost immediately proved controversial. Despite years of contentious public and political debate, the Act's deficiencies immediately hobbled its effectiveness. Chapter 8 discusses the actions of the Pueblo Lands Board, a quasi-judicial, three-man commission that would ultimately decide the fate of thousands of private claims to Pueblo lands. Both John Collier and Alois B. Renehan would continue to play significant roles in the proceedings of the Board. Renehan represented dozens of claimants in the Tewa Basin, especially at San Ildefonso, Nambé, and Tesuque Pueblos. Collier, meanwhile, would strengthen his American Indian Defense Association, and would take the Pueblo plight even further onto the national stage, where he would advocate for the national reform of Indian affairs.

Both Collier and Renehan fought to shape how the Board interpreted the act. Board members, meanwhile, worked to understand how Indian pueblos lost their land to surrounding villages. Land losses continued in the first decades of the twentieth century. When they spoke with Pueblo and Hispano villagers, and examined tax records and archives, a story dissimilar to the sensational depiction of Pueblo affairs that dominated the five year fight for legislation emerged. Observers recognized that Hispanos, too, had suffered great injustice when they lost their lands in the late nineteenth and early twentieth centuries. A more complicated narrative, depicting the traditional, social, and economic relationship between Pueblos and Hispanos became coherent. Chapter 7 discusses this complicated story, concealed during the Pueblo lands controversy, but

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<sup>598</sup> Kelly, "Collier and the Pueblo Lands Act," 28-30; Hall, *Four Leagues*, 242-244.

nonetheless informed by the decisions of lawmakers and jurists who upheld the legality of  
Hispano land tenure on Pueblo lands.

## Chapter 7: The Analogous Careers of Pueblo and Hispano Land Tenure in the Late Territorial and Early Statehood Era, 1900-1920

For all the passion that the Pueblo lands controversy provoked, the year 1924 ended uneventfully. An illness stopped John Collier from participating in the final debates over the compromise bill known as the Pueblo Lands Act. Its passage remained one of the top stories locally, but barely touched the national headlines. How the act would be implemented was uncertain, to everyone including the members of the Pueblo Lands Boards, which would hold hearings on claims and recommend titles and awards to the federal district court. For five years, a dark cloud hung over the title of hundreds of claimants to Pueblo lands, regardless of the nature of their claim.

When Special Pueblo Attorney Richard Hanna filed ejectment suits in 1919, the federal government cast a pall over the entire small-tract land market of northern New Mexico. But attorneys and politicians from Albert B. Fall to Holm Bursum, and from Frank Clancy to Alois B. Renehan, assured their constituents and clients that their claims would be protected. Title records and abstracts show that only a year later in 1920, Indian Pueblos and Hispano villages across the Tewa Basin continued to engage in their commercial affairs, exchanging, selling, and stealing land on a market apparently untouched by the controversies over Bursum Bill.

At the time, the land market in northern New Mexico was experiencing a significant downturn. Land barons like Frank Bond and his brother George were marketing numerous tracts of land to which they were unable to attract investment or develop with their own assets. Charles C. Catron was left with the land-rich estate of his father, Thomas B. Catron, who died in 1921, unwilling to relinquish an empire that was too large for even New Mexico's greatest land speculator to manage. Lawyers,

merchants, and entrepreneurs were saddled with the products of their unbridled greed. Many of their properties sat on an unresponsive market for five, sometimes even ten years, before they sold for a minimal profit, or even at a loss.

The small-tract land market of northern New Mexico was equally fragile, and competing interests were remarkably speculative. Seemingly gone were the exciting days of land grant adjudication, when tens of thousands of acres were wildly exchanged on a tumultuous market. Instead, speculation became more targeted, focusing on tracts of land typically smaller than twenty acres that sold to a buyer who was conscious of the tract's possibilities and limitations and who often wanted only a place for recreation, not investment. Pueblo lands and *suertes*, the small privately-owned tracts of community land grants, drew the interests of an onslaught of newcomers, emigrants from Europe and Anglos from the East, artists and entrepreneurs, seeking a piece of New Mexico's mystique. As the Pueblo population spiraled downward, the still surging Hispano population turned to Pueblo lands or the migratory wage trail for economic relief.

Just as the Pueblo lands controversy was reaching its apparent resolution in 1924, Hispano land grants entered a new phase of speculation. Confirmed community grants, such as the Las Trampas Grant, were partitioned. Private grants recommended for confirmation by the Surveyor General's Office, such as the Juan de Gabaldón Grant, fell to speculators while awaiting congressional action. Quasi-community grants, which over the centuries had transformed from private grants awarded to well-connected individuals, to community-used and managed grants, often with *ejido* lands, were reduced to small-holding claims and sold to timber speculators seeking to get rich quickly by providing ties to the booming railroads. Still, the heady days of market manipulation by land

speculators like Thomas B. Catron, Edward L. Bartlett, Eugene A. Fiske, and Alois B. Renehan seemed numbered as investors and profits failed to materialize. Hispanos often maintained their traditional use of these lands, disregarding the title of absentee owners who had no connection to their communities and their needs.

This chapter explores this new era of speculation in both Hispano and Pueblo land grant lands from 1900 to 1920. As I argue throughout this dissertation, the land tenure experiences of Pueblos and Hispanos were remarkably similar when examined over the centuries. Hispanos had largely lost their lands decades before the Pueblo lands controversy and turned to the native Pueblos ill-prepared to defend themselves from the booming Hispano population in search of relief from land displacement. By the 1920s, the market for Pueblo lands was so normalized that federal officials expressed frustration with Pueblo and Hispano practices that made Pueblo lands vulnerable to trespass, squatting, and alienation. These practices, including the lease, purchase and seizure of Pueblo lands, had begun centuries before American sovereignty, and the reeducation of Pueblos and Hispanos to the nature of Pueblo land tenure was a slow and frustrating process.

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The improvement of Indian Pueblos had been a well-documented subject in the wake of the U.S. Supreme Court's 1876 *U.S. v. Joseph* decision. Congress created contingencies, including special acts funding Indian agents, farmers, and boarding and day schools to deal with the Pueblo's situation, but the condition only worsened. The Pueblo population declined and encroachment in their vacant lands proceeded. Reports from the Board of Indian Commissioners and the Indian Rights Association,

discussed in chapter 4, described the frustrations of Indian agents, who could do little to slow the movement of squatters, whose actions were protected by territorial courts controlled by their land-speculating peers.

Many Pueblos chose to lease land to non-Indians. Though these informal agreements brought income to desperately cash-poor Pueblos, they also increased interest and speculation in Pueblo lands and leases, which were often subleased to other grazers who had no agreement with the Pueblos.<sup>599</sup> Despite the *U.S. v. Sandoval* decision in 1913 and the Hanna ejectment suits in 1919, the 1920s seemed a time when the deplorable conditions might cause the extinction of more than one native Pueblo.

The 1920s were also a somber and sobering time for land grants across the Tewa Basin. Grants that were confirmed by the Office of the Surveyor General and the Court of Private Land Claims largely received their patents from the federal government between 1899 and 1909.<sup>600</sup> Through 1904, speculators like Thomas B. Catron, his son Charles Catron, George Hill Howard, Amado Chávez, Alois Renahan, Napoleon B. Laughlin, and Edward L. Bartlett redoubled their efforts, both submitting claims to the Court of Private Land Claims and pursuing confirmed claims (patented land grants and those approved by Congress and awaiting federal patent), assuming a controlling interest in numerous grants and predictably partitioning these grants once they had control.

The rapid pace of speculation slowed in the decade after statehood in 1912. The market for former land grant lands stiffened when speculators such as the Catrons,

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<sup>599</sup> Vlasich, *Pueblo Indian Agriculture*, 108-111. See also correspondence between Clinton J. Crandall and various Pueblos, 1900-1912, 1923-1927, Record Group 75, Entry 86, Records of the Northern Pueblo Agency, National Archives - Rocky Mountain Region, Denver, CO. (hereinafter RG 75, Entry 86, NA-RMR, Denver).

<sup>600</sup> Bowden, "Private Land Claims in the Southwest," accessed at [www.newmexicohistory.org](http://www.newmexicohistory.org), October, 2011.

Renehan and Bartlett, and merchants such as Frank Bond met the consequences of overextending their often meager liquid assets to build paper empires. Across the Tewa Basin, Hispanos and Pueblos transitioned from a subsistence to a cash economy dominated by merchants like the Scottish emigrant Frank Bond and Prussian emigrant Samuel Eldodt, whose Chamita mercantile sat squarely in the middle of the San Juan Pueblo's Grant. *Partido* contracts and land leases ensured that merchants and lawyers held everyone, including one another, in debt. The only relieve from the transitional debt economy for Hispanos was the migratory labor trail that at least allowed them to remain in their home villages for part of the year. They planted small gardens and grazed few animals on reduced and overused parcels. Poverty was rampant and prosperity was rare among both Pueblos and Hispanos in the late nineteenth and early twentieth centuries.<sup>601</sup>

Combined with tax delinquencies, the creation and expansion of U.S. National Forests in the first two decades of the twentieth century exacerbated the dismal situation in land grant communities. Already dependent on migratory labor to bring money into their cash-poor economies, Hispano and Indian Pueblo villagers increasingly lost access to the land they traditionally used to maintain their meager but stable livelihoods.<sup>602</sup> The expansion of the railroad, mining and agricultural industries from the 1880s to the 1920s brought badly needed cash into local economies and drew people from overpopulated villages already overusing dwindling resources.

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<sup>601</sup> The most comprehensive discussion of this phenomenon is Deutsch, *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880-1940*. See especially, chap. 5, 107-126. See also U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Village Dependence on Migratory Labor in the Upper Río Grande Area*. By Hugh G. Calkins, Regional Bulletin No. 47, Conservation Economics Series No. 20 (Albuquerque, New Mexico, 1937), 37-41.

<sup>602</sup> USDA, SCS, Region 8, *Village Dependence on Migratory Labor in the Upper Río Grande Area*, 37-41.

Droughts in the late 1920s and the stock market crash in 1929, however, destroyed agribusiness throughout the Rocky Mountain West, closing the migratory labor trail that extended from northern New Mexico to the Pacific Northwest. Even the outwardly wealthy landowners left their flocks and orchards under the care or leased them to their *vecinos* or extended family so they could earn the cash necessary to pay taxes and buy dry goods that replaced their own yields. Pueblos, who faced harsh wage and employment discrimination in the Intermountain West's agricultural industry, were less likely to venture north to the beet, onion and potato fields of Colorado, Utah and Idaho. Many found work in the mines and railroads of western New Mexico. Some Pueblo villages, like Laguna, found innovative ways of keeping tribal members far from their Pueblo homes engaged in tribal matters. A few natives found success in the growing regional art markets in Taos and Santa Fe, where their Hispano neighbors also enjoyed a revival in the traditional crafts market, albeit one controlled by Anglo cultural elites.<sup>603</sup>

For the communities of the Tewa Basin, the last twenty years of the territorial era weighed heavily on what seemed to be a new and dark future. The increased

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<sup>603</sup> Hal K. Rothman, *Devil's Bargains: Tourism in the Twentieth-Century American West* (Lawrence, KS: University Press of Kansas, 1998) provides a powerful discussion of the impact of cultural tourism and the allure of Santa Fe on New Mexico's native populations. See especially chap. 4; See also Montgomery, *The Spanish Redemption*, chaps. 4 and 5. For a pointed discussion of the Spanish Colonial Arts Society, see also Dennis Peter Trujillo, "The Commodification of Hispano Culture in New Mexico: Tourism, Mary Austin, and the Spanish Colonial Arts Society" (Ph.D. diss., University of New Mexico, 2003). Margaret Jacobs's work on white feminists and Pueblo women provides crisp discussion of white advocates' impact on Pueblo arts. See, Jacobs, *Engendered Encounters*, chap. 6. For another analysis see, Matthew J. Martinez, "Double Take: Tourism and Photography Endeavors among the Northern Pueblos of the Rio Grande" (Ph.D. diss., University of Minnesota, 2008), and, Kimberly M. Suina, "Journeys to Other Places: Pueblo Tourism in New Mexico, 1880s-1920s" (M.A. thesis, University of New Mexico, 2005).



expropriation of Pueblo lands fed into the changing economy that was centered in Española, which had grown substantially since the railroad reached the area in 1880. Though the privatization of land seemingly worked in the young state's favor, New Mexico in statehood faced the same dismal revenue flows that had impeded government and development in the territorial era. The new state pursued delinquent taxes more vigorously than before to maintain state budgets.<sup>604</sup>

In 1899, the territory had attempted to tax Pueblo lands, interpreting them as private property, before Congress struck down its bid in 1905.<sup>605</sup> Likewise, in statehood, New Mexico prosecuted all tax-delinquent lands, including Hispano land grants, whose vast communally-owned acreages accumulated large tax debts, often forcing the sale of *ejido* lands.<sup>606</sup> In 1914, the state approved the bonding of the Santa Cruz Conservancy District. The project touted economic progress, and advantaged commercially minded Anglo landholders in the lower valley but excluded *parciantes* (water rights holders) in Chimayó and along other tributaries. When it defaulted on its bonds in 1919, the debt-ridden district pressed hard to collect fees, but many landowners lost their property for failure to pay.<sup>607</sup> Already reeling from the 1897 *Sandoval* decision, which had denied Santa Cruz Land Grant heirs *ejido* lands, Santa Cruzeños exhausted the resources of their

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<sup>604</sup> Forrest, *The Preservation of the Village*, 84-85, 100.

<sup>605</sup> Hall, *Four Leagues*, 200-201.

<sup>606</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Notes on Community-Owned Land Grants in New Mexico*. By George C. Taylor, Regional Bulletin No. 48, Conservation Economics Series No. 22. (Albuquerque, New Mexico, 1937). See also, letter from Frank Bond to Alois B. Renehan, September 15, 1923, Box 16, Renehan-Gilbert Papers, NMSCRA, Santa Fe, regarding Rio Arriba County's seizure of the Piedra Lumbre grant for tax delinquency.

<sup>607</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *The Santa Cruz Irrigation District*. By Hugh G. Calkins, Regional Bulletin No. 45, Conservation Economics Series No. 18 (Albuquerque, New Mexico, 1937); Forrest, *Preservation of the Village*, 84-85.

private parcels, eventually turning to migratory wage labor to bring cash into the changing valley economy.<sup>608</sup>

Scarcity was still common in the pueblos and villages of the northern and central New Mexico in the quarter-century after statehood, despite the peoples' earnest fight to adapt their way of life to a cash economy. And that scarcity was no more apparent than in the natural resources stretched to their limits. Land grants typically lost critical grazing land through partition suits that recognized and confirmed the *sitios* or *suertes* (privately held home tracts) but pursued the *ejido* lands to which heirs held collective title. The 1897 Supreme Court decision in *U.S. v. Sandoval* (not to be confused with the 1913 *U.S. v. Sandoval* case regarding Pueblo Indians federal status) held that the United States had inherited title to common lands that U.S. Attorney Matthew G. Reynolds argued, remained under the disposition of first the Spanish crown, then the Mexican Republic, and finally the United States. After the 1897 *Sandoval* decision, the Court of Private Land Claims enforced a more-conservative legal interpretation of land claims, greatly reducing the acreage even of approved grants by detaching their common lands and turning them into public domain. This stance by the CPLC, the 1897 *Sandoval* decision, and ongoing partition suits, drove many Hispanos to maintain their livestock herds by spilling onto Pueblo Indian and federal lands, and by overgrazing their herds on smaller tracts. Eastern demand for New Mexico's wool and beef and unsound grazing of

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<sup>608</sup> USDA, SCS, Region 8, *Village Dependence on Migratory Labor in the Upper Río Grande Area*, 37-41. Deutsch, *No Separate Refuge*, 107-126.

massive herds of sheep and cattle reshaped the landscape and ecology of northern New Mexico.<sup>609</sup>

Water scarcity continued to impact both Pueblo and Hispano users as well. From the 1890s, new *acequias* brought new lands under cultivation. These ditches impacted senior water rights, weakened watersheds and recreated conflicts that frequently colored relations between tribes and villages. Ditch disputes pitted Nambé and Pojoaque against their Hispano neighbors, many of them interlopers who took advantage of the declining Pueblo populations to expand their acreages. By 1900, intermarriage was so common on both Pueblos that their native populations were largely *coyotes* (mixed-bloods).<sup>610</sup>

Between 1900 and 1906 San Juan, Santa Clara and San Ildefonso all reported acequia disputes to the Pueblo superintendent. Frequently, these conflicts were inter-Pueblo contests that were erroneously portrayed as inter-cultural or inter-racial conflicts with clear dividing lines separating the combatants, who were assumed to be neat

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<sup>609</sup> See deBuys, *Enchantment and Exploitation*, 247-249. Decades later, the U.S. Forest Service evidenced the ecological destruction by cattle barons as a rationale to decrease grazing permits in the Carson and Santa Fe National Forests from the 1940s, severely affecting *herederos* living adjacent to forest lands, using traditional pastures and dependent on access to Forest Service lands. See also Fred M. Phillips, G. Emlen Hall and Mary E. Black, *Reining in the Rio Grande: People, Land and Water* (Albuquerque: University of New Mexico Press, 2011), 55-56. Hall, et al, calls the rapid increase in cattle and sheep grazing a “plague of cattle.” Lands that in 1870 supported 30,000 cattle and 350,000 sheep and goats were suffocated by 150,000 cattle and 1.6 million sheep and goats by 1900. These rapid increases were largely due to the expediency of railroads and greed of cattle barons and “gentlemen sheepherders” like Frank Bond, whose excessive livestock transformed the “ponderosa savannah to dense stands of piñon-juniper.”

<sup>610</sup> In the *acequia* dispute Nambé Pueblo claimed to hold onto the superior water rights of lands alienated through sale, essentially claiming that the acequia of the pueblo is a private ditch and irrigation along this acequia was subject to the regulation of the governor, not of the “Mexican *mayordomo*.” See *Jose A. Rivera, et. al. v. The Pueblo of Nambé et. al.* Case no. 4088, and *Acequia del Llano, et. al. v. Acequia de las Joyas, et. al.*, 1901, folder 11-12, box 1, Indian Affairs Collection, MSS 16, Center for Southwest Research, University Libraries, UNM, Albuquerque.

divisions of Pueblos and Hispanos. San Ildefonso Pueblo sided with Hispanos in 1925, renewing a 1919 dispute with Santa Clara Pueblo over its right to maintain headwaters of ditches that irrigated their adjacent fields.<sup>611</sup> San Ildefonso also fought Tesuque, Nambé and Pojoaque's upstream prior claim to irrigation waters of Tesuque-Nambé-Pojoaque watershed. The resulting lawsuit sought the adjudication of water rights and led to by the Office of Indian Affairs failed effort to drill wells in the silted waterbed and recover water absorbed by the sponge-like channel that consumed all water before it reached San Ildefonso's ditches and fields.<sup>612</sup>

Hispano villages across northern New Mexico too faced the realities of the land's ecological limits. By 1903, a partition suit had broken up the Town of Las Trampas Grant. Twenty-five years earlier, the Santa Barbara Grant, created from the eastern portion of the Trampas Grant, was lost to speculators and timber interests. Land grant historians Malcolm Ebright and William deBuys have provided convincing accounts of Trampas heirs' loss of their *ejido* at the hands of land speculators Alonzo B. McMillen, Charles C. Catron, Alois B. Renahan, and Frank Bond. McMillen pursued David Martínez Jr., a disaffected heir of Las Trampas living in Velarde, whose chronic debt mounted to an unpayable one-thousand dollars, and who since 1892 had expressed his desire to liquidate his interest in the Las Trampas Grant through a partition suit.<sup>613</sup>

When the special master assigned to figure out the fractional interests of the heirs of the 150 year-old community grant, he reported to Judges Daniel H. McMillan and John R. McFie that a physical partition was virtually impossible. Judge McFie called for the

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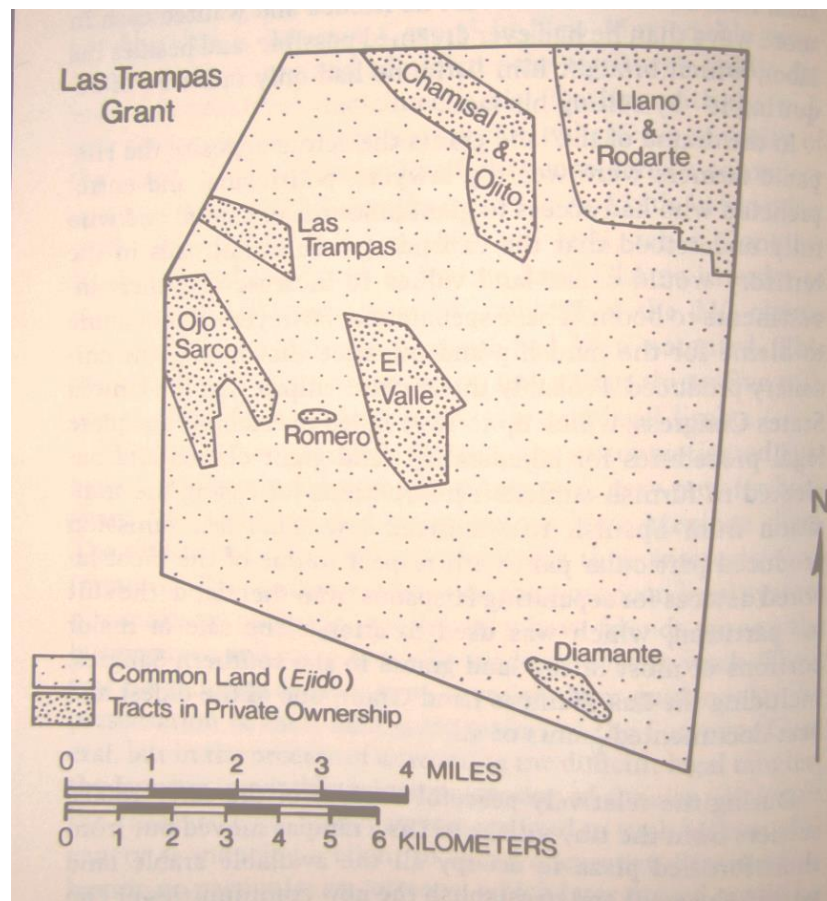
<sup>611</sup> Vlasich, *Pueblo Indian Agriculture*, 155.

<sup>612</sup> Kelly, "History of the Pueblo Lands Board," 44-48.

<sup>613</sup> Ebright, *Land Grants and Lawsuits*, 149-153; deBuys "Fractions of Justice," 71-97, 78-82.

sale of the grant and partition of proceeds according to heirs' fractional interest.

Martínez held 18.3 percent interest in the grant, followed by Alonzo B. McMillen's 10.6 percent. Frank Bond bought the timber-rich *ejido* for \$17,000 and Martínez "netted only about \$200.00 after his debt to First National Bank in Santa Fe was paid."<sup>614</sup> McMillen, who failed to engineer a sale to his business partners when Renehan objected, received \$4,200 for his work "on behalf of the grant."<sup>615</sup>



**Figure 22: Las Trampas Grant, 1986.** After the 1903 partition, forest lands essential to Las Trampas and other grant communities became the property of timber interests before the federal government purchased the lands and incorporated them into the Carson National Forest. From William deBuys, *Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range* (Albuquerque: University of New Mexico Press, 1985), 176.

<sup>614</sup> Ebright, *Land Grants and Lawsuits*, 155.

<sup>615</sup> deBuys, "Fractions of Justice," 83.

A 1915 photograph by Jesse L. Nusbaum evidenced the overgrazed and deforested hills adjacent to Las Trampas, lands overtaxed when villagers were could no longer graze their small herds or cut fuel wood farther from their plaza.<sup>616</sup> Residents of towns like Llano de San Juan Nepomuceno, Rodarte and Placitas slowly began to encroach on the Picuris Pueblo Grant, overstaying leases and even seizing Pueblo lands. But they also traded and bought land from their Pueblo Indian *compadres* (godparents), *suegros* (in-laws), *cuñados* (sons- and daughters-in-law), and *vecinos* (neighbors). From the 1850s, Peñasco, lying on the Río Santa Barbara, gradually grew and displaced older villages as the economic center of the Jicarita Valley. Vadito sat on the eastern edge of the Picuris Grant and severely impacted water resources of the Río Pueblo in dry years. And Chamisal, which Picuris would be most successful in contesting, was soon the site of a Presbyterian Mission School that attracted a new population of squatters seeking a place to build their homes.<sup>617</sup>

Hispanos in the Tewa Basin did not exclusively or inertly turn to Pueblo lands for resources when they were in need. Many continued or revived customary-use of land grants, even community grants and private quasi-community grants, long lost through adjudication or partition. The enormous Sebastian Martín Grant served as a safety valve for Embudo, Velarde, and Alcalde and even Peñasco, Trampas and Truchas, allowing villagers to graze their cattle unconstrained. Martín, a resident of Santa Cruz, had been a captain in the New Mexico militia, fought in the Second Pueblo Revolt, and was rewarded with the enormous 54,387 acre grant in 1703. In 1751, Sebastian Martín

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<sup>616</sup> deBuys, *Enchantment and Exploitation*, 181.

<sup>617</sup> Mark T. Banker, *Presbyterians Missions and Cultural Interaction in the Far Southwest, 1850-1950* (Urbana: University of Illinois Press, 1993), 84.

granted the settlers of Las Trampas a strip of land to aid the success of the settlement. By 1859, Mariano Sánchez, the sole heir of Sebastian Martín, petitioned Surveyor General William Pelham for congressional confirmation by 1860.<sup>618</sup>

Through the years, villagers of Las Trampas still retained a tenuous connection to the Martín Grant, using it for grazing when times were lean. Villagers of Truchas relied on the nearby Francisco Montes Vigil Grant to graze their cattle. A colonial grazing grant, it was treated over time as a community grant. By 1904, the C. L. Pollard Company, an Española Valley business that often partnered with Frank Bond, had gained title to the Montes Vigil Grant from Salvador Romero and other claimants who had received a patent only five years earlier.

Pollard sought quickly to turn the land into profit and advertised the grant to timber and lumber interests, even footnoting the Vigil Grant in Bond's bills advertising the sale of the Trampas Grant. Bond's and Pollard's investments eventually paid off. By 1906, the Montes Vigil Grant was owned by the Las Truchas Timber Company, a competitor to the Las Trampas Lumber Company, which had bought the Las Trampas Grant from Frank Bond three years earlier.<sup>619</sup> In total, by the 1920s lumber interests controlled nearly all the land along the Truchas and Trampas Rivers, including their own *ejido*, and villagers would drive cattle a day's journey to find adequate, free or cheap forage.

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<sup>618</sup> Bowden, "Sebastian Martin Grant."

<sup>619</sup> Bill advertising sale of the Las Trampas Grant, folder 29, box 3, Eugene A. Fiske Papers, NMSRCA, Santa Fe. Bowden, "Francisco Montes Vigil Grant." Benavides and Golten, *Response to the 2004 GAO Report*, appendices, 51-52. See also, Malcolm Ebright, "Francisco Montes Vigil Grant," *Land Grant / Pueblo Histories* Vo. 5 (Guadalupita, N.M.: Center for Land Grant Studies, 2005).

The Sebastian Martín Grant remained relevant to the larger regional population. Used by the local elites, it was also utilized by the surrounding Hispanos who treated its lands like the *ejido* of a quasi-community grant. The Ramón Vigil Grant, another large private grazing grant that encompassing much of the land below the Pajarito Plateau was used in a similar manner, though its owners guarded more jealously what they considered to be superior land. Ramón Vigil was perhaps one of the richest men in the Tewa Basin, and in 1856, represented by Territorial Supreme Court justice John S. Watts, submitted his petition for confirmation of his grant, which was approved by Congress on June 21, 1860, the same day Congress confirmed the Sebastian Martín Grant.<sup>620</sup>

The Vigil Grant was eventually sold to Jesuit priest Father Thomas Aquinas Hayes in 1879 and sold again in 1884 to midwestern investors before Texas cattle interests and H. S. Buckman attempted to cut timber for the Denver and Río Grande Railroad's Chili Line around 1900. Still hoping to profit from the northern extension of the D&RG, land speculator Napoleon B. Laughlin financed the Ramon Land and Lumber Company, but eventually sold out to Ashley Pond in a transaction that netted Francis C. Wilson eight thousand dollars for serving as the company's lawyer. Historian Hal Rothman writes that former Rough Rider Fredric "Fritz" Mueller nearly swindled the grant from Pond, who held onto the grant and later sold it Frank Bond. Bond purchased the grant from Pond and the Pajarito Land Company when Pond abandoned his idea of providing a recreation club for his wealthy Detroit financiers. Pond would later build his

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<sup>620</sup> Malcolm Ebright, *Land Grants and Lawsuits*, 231, 238-240. See also, Ebright and Hendricks, "The Pueblo League and Pueblo Land in New Mexico, 1692-1846," 102-104.



ranch school on a purchased homestead atop the Pajarito Plateau. Bond, meanwhile, used the Ramón Vigil Grant to cement his control of resources around the Española Valley.<sup>621</sup>

By 1922, the enormous Juan José Lobato Grant had long since passed from George Hill Howard, the former special attorney for the Pueblo Indians, who took half of the grant as his attorney's fee. Howard worked with Thomas B. Catron and Alois B. Renehan to partition the grant soon after gaining interest in the tract in September 1901. José Rafael Lobato, a direct heir of Juan José Lobato, hired Francis C. Wilson and led heirs in a 1908 lawsuit, asking the court to order Catron and Renehan to pay restitution for "cheating and defrauding them, falsely and fraudulently representing the amounts due to them under the terms of the mortgage decree in partition and sale." While Catron's profit for his labors remains unclear, Renehan received \$17,664.25 from Howard, who claimed to be ignorant of Catron and Renehan's speculative actions in the grant. The lawsuit was evidently dismissed and heirs divided their interest in the southern portion of the Lobato Grant, which eventually was bought by the federal government in the 1930s.<sup>622</sup>

After receiving the patent for the Juan José Lobato grant in 1902, Howard attempted selling it but decided to develop the grant to inflate its value. In 1905, he created the New Mexico Irrigated Lands Investment Company and began construction of a dam and irrigation canals on the El Rito River. He sold the grant in 1908 to Charles L. Tutt and Edward B. Skinner of Colorado. Colorado Supreme Court justice William B.

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<sup>621</sup> Ebright, *Land Grants and Lawsuits*, 241-246. See also, Rothman, *On Rims and Ridges*, 116-117, 125-135.

<sup>622</sup> "Catron and Renehan Sued by Lobato Heirs," *Santa Fe New Mexican*, "Catron and Renehan sued by Lobato Heirs," *Santa Fe New Mexican* (undated clipping, likely 1908) Elisha V. and Boaz W. Long Papers, NMSRCA, Santa Fe.

Jackson bought the grant in 1915 and held it until 1942, when he perfected his title to the northern portion of the Juan José Lobato Grant and sold it to the federal government in 1941 for seventy-three thousand dollars. The Lobato Grant, surveyed in 1895 at 205,615 acres, minus 33,000 acres of the Abiquiú, Plaza Colorada, and Plaza Blanca Grants, garnered huge profits for Howard and Jackson, leaving the heirs of the quasi-community grant without their patronage or adequate compensation.<sup>623</sup>

The nearby Juan Bautista Valdez Grant was long since rejected and residents of the Cañon de Pedernales and Las Encinias Tracts continued to depopulate their villages.<sup>624</sup> North of the Española Valley, along the Río Grande, heirs of the Ojo Caliente and Embudo Grants still farmed reduced tracts and grazed their animals on the almost-bare surrounding hillsides. The Ojo Caliente Grant was still in possession of the many heirs of Antonio Joseph, the land speculator who tore the grant from original and legitimate heirs' possession decades earlier and claimed to have consolidated or bought out all opposing claims.<sup>625</sup> Jesús María Olguín, an heir of original grantee Antonio Olguín, filed a claim for the Ojo Caliente Grant, leading Antonio Joseph to file for an inflated version of the Ojo Caliente Grant under the name "Antonio Joseph Grant." Through his lawyer, Napoleon Laughlin, Joseph submitted convoluted charts that he considered abstracts of title. The Court of Private Land Claims combined the two claims but rejected the 92,160 acres claimed in a plat and the 38,490.2 acres from a 1877 survey. An 1894 decision confirmed the Ojo Caliente Grant as a tenancy in common but noted

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<sup>623</sup> Ibid; Ebright, "Juan José Lobato Grant," 7-9.

<sup>624</sup> Malcolm Ebright, "Juan Bautista Valdez Grant," *Land Grant / Pueblo Histories Vol. 7* (Guadalupita, N.M.: Center for Land Grant Studies, 2005).

<sup>625</sup> Malcolm Ebright, "Ojo Caliente Grant."

that the eastern and western boundaries confined the grant within the cañon of the Ojo Caliente River, reducing the grant to 2,244.98 acres.<sup>626</sup>

Embudo, represented by speculating lawyers Napopeon B. Laughlin and Eugene A. Fiske, was ultimately rejected by the Court of Private Land Claims, outside the small private tracts, on implausible technicalities fashioned by U.S. Attorney Matthew J. Reynolds.<sup>627</sup> In 1786, grantee Francisco Martín had approached a local official, José Campo Redondo, the *alcalde* of Santa Cruz de la Cañada, to request a certified copy of the granting papers, which had worn with time. Malcolm Ebright points out that *alcaldes* would serve as *escribanos* (notaries) on the edges of the Spanish Empire.<sup>628</sup> Two justices of the Court of Private Land Claims, Chief Justice Joseph R. Reed and Wilbur F. Stone, argued that a great injustice would be done if the Court allow such strict interpretation to disrupt its enforcement of the nation's treaty obligations. Justices Thomas C. Fuller, Henry C. Sluss, and William W. Murray disagreed and supported Pope's argument. The Embudo Grant was summarily rejected, excluding tracts owned by individual heirs, on a technicality that ignored other supporting documentary evidence and nearly 150 years of residence.<sup>629</sup>

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<sup>626</sup> Ibid; Benavides and Golten, *Response to the 2004 GAO Report*, appendices 60. See also Ebright, "Ojo Caliente Grant" in *Río Arriba: A New Mexico County*, 265-288.

<sup>627</sup> Ebright, *Land Grants and Lawsuits*, 127-143.

<sup>628</sup> Ibid, 132.

<sup>629</sup> Ebright, *Land Grants and Lawsuits*, 127-143; See also Benavides and Golten, *Response to the 2004 GAO Report*, appendices 24. Stone was elsewhere critical of the Court's action. In a 1903 Denver Post article, Stone commented that, "For years a common impression had prevailed that many of the Mexican land grants were wholly illegal, forged, and fraudulent, and that the court, upon investigation, would so find. On the contrary, it was found that such cases were rare." He also opined that the court had to guard against speculation by Anglo lawyers rather than the grant's original Mexican owners. "A number of grants have had their boundaries stretched and areas marvelously expanded. But it has been done mostly by Yankee and English purchasers and not by the

The Abiquiú Grant, Jacona Grant and Santo Domingo de Cundiyó Grant offer a few success stories. Abiquiú was lost in the 1910s when Río Arriba County pursued the grant for back taxes, an action typical for cash-starved counties whose large expanses of federal lands left a small taxable land base. The Pueblo de Abiquiú Grant was repurchased by a group of heirs who borrowed money from the federal government and operated the grant as a grazing association. Located in northern Santa Fe County, the Jacona Grant had been granted to Ignacio Roybal in 1702 and had survived ongoing disputes with nearby San Ildefonso Pueblo, gradually transforming into a quasi-community grant by common use. When it was surveyed in 1878, only seven thousand acres remained after deducting overlaps with Tesuque, San Ildefonso and Pojoaque Pueblos. Napoeon B. Laughlin, the former Territorial Supreme Court justice, was hired by the Jacona heirs as their lawyer for the typical fee demanded by land speculators: *una tercera parte* (one-third of the grant).<sup>630</sup> Laughlin was less successful in identifying all heirs who might counter his claim when the case entered court. When Judge John McFie ordered the grant sold in 1909, Cosme Herrera organized 110 heirs to contribute to purchase the Jacona Grant. After Herrera's purchase, he created a contract, identifying

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original Mexican owners.” Quoted in Mike Scarborough, *Trespassers on Our Own Land: Structured as an Oral History of the Juan P. Valdez Family and of the Land Grants of Northern New Mexico* (Indianapolis: Dog Ear Publishing, 2011), 252-253.

<sup>630</sup> David Correia discusses how land speculating lawyers undertook often extensive fieldwork to understand situations in land grant communities and gain contracts with as many heirs as possible. See Correia, “Land Grant Speculation in New Mexico During the Territorial Period,” 95-97. See also, Correia, *Properties of Violence*, 47-55. After gaining trust and interest in the grant, lawyers like George Hill Howard, Thomas B. Catron, and Napoleon B. Laughlin would file for partition with a judge likely friendly to developing investment and interest in New Mexico lands. Laughlin and Amado Chávez used these tactics to gain partial title to the Petaca and Piedra Lumbre Grants, as Laughlin had further north in the Santa Barbara Grant. Howard even exceeded the customary and drastic fee in the Juan José Lobato Grant, where he received *one half* of the grant as his fee.

the obligations of all heirs and deeded the 110 interests to grant heirs, who would continue to operate their lands like common lands but be responsible for taxes on their 60 ½-acre lots. In 1919, among the Hanna suits, Jacona was again threatened by tax foreclosure, with heirs pressured to pay their delinquents taxes. In 1928, heirs who did not pay taxes on their individual tracts lost their lands to the remaining heirs. Transforming the grant from a community grant into a private one, and partitioning the grant yet retaining control from Laughlin, saved their community land grant from speculation and total loss through tax delinquency.<sup>631</sup>

At the turn of the century, the Santo Domingo de Cundiyó Grant was represented by Ralph E. Twitchell, who lodged no protest when the grant was confirmed as a tenancy in common rather than a community grant and its acreage reduced from over 20,000 acres to a paltry 2,137 acres.<sup>632</sup> In 1926, when an adverse and flawed tax assessment threatened the Cundiyó Grant with delinquency and dispossession, heirs united to fight Río Arriba County and negotiated a lower tax bill.<sup>633</sup> While keeping deeds and wills remained inconsistent at best and efforts were made to exclude heirs from communal rights, Cundiyó has to this day retained over two thousand acres of community lands, without partitioning or dividing their lands into shares as the Atrisco Grant did between 1967 and 1970,<sup>634</sup> increasing the grant's vulnerability to speculative markets. In 1924, heirs of land grants in the Taos region fought the extension of Carson National Forest

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<sup>631</sup> Ebright, *Land Grants and Lawsuits*, 252-257.

<sup>632</sup> Benavides and Golten, *Response to the 2004 GAO Report*, 56, appendices 18-19.

<sup>633</sup> Ebright, *Land Grants and Lawsuits*, 258. For more on the Santo Domingo de Cundiyó Grant, see "Land Title Problems in the Santo Domingo de land Cundiyo Grant."

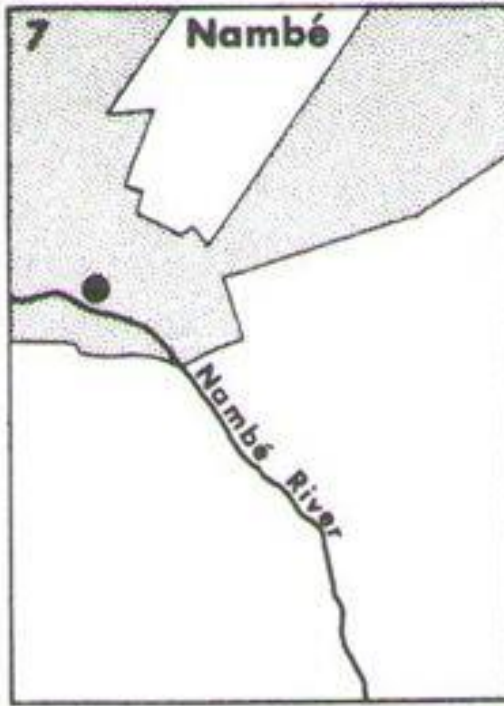
<sup>634</sup> Phillip B. Gonzales, "Struggle for Survival: The Hispanic Land Grants of New Mexico, 1848-2001," *Agricultural History* 77:2 (spring 2003): 293-324, 313-314.

Reserves, pleading with Governor James F. Hinkle to intervene for their sake and in the interest of the state.<sup>635</sup>

By the 1920s and the time of the Pueblo lands controversy, land grants had been reduced from vast expanses of mixed private and communal lands to communities of private owners who shared a past but, only through water, a present, and potentially a future. A strong market for these privately owned small tracts, especially those that retained water rights, still thrived in northern New Mexico for a growing Hispano population which sought even meager parcels to scratch out a living from. The practice of treating Pueblo lands as private property had continued since the turn of the century and animosities between Indian pueblos and Hispano villages, both anxiously fighting for resources, churned on in the valleys and on the plateaus. The 1899 acequia case which enjoined the Nambé Indians from impairing the rights of their Hispano neighbors, would fail to resolve issues regarding Pueblo-Hispano shared use of the Nambé River.

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<sup>635</sup> See correspondence between J. V. Quintana and Governor James F. Hinkle, January 30, January 31, February 8, February 13, February 19, 1924, folder 49 box 2, Governor James F. Hinkle Papers, Coll. 1959-099, NMSCRA, Santa Fe.



**Figure 23: Nambé Pueblo, showing non-Indian claims (shaded).** From Alvar Carlson, *The Spanish American Homeland: Four Centuries in New Mexico's Río Arriba* (Baltimore: Johns Hopkins University Press, 1990), 48.

On the eve of Hanna's ejectment suits, acequia commissioners representing thirteen acequias that derived from the Nambé River wrote Northern Pueblo superintendent P.T. Lonegran to protest the enlargement of irrigation ditches belonging to or used by Nambé Pueblo.<sup>636</sup> Their February 1916 protest was led by none other than José Ines Roybal, who had received his lands from Nambé Pueblo in exchange for fixing the collapsed walls of the pueblo's church, and Cosme Herrera, the Jacona heir who in 1909 organized heirs against Napoleon Laughlin's partition suit.

Pueblo superintendents and agents, frustrated with the unending sales, leases and rentals of native lands, attempted to mitigate practices, even discouraging any relationship, commercial or personal, between Pueblos and their Hispano neighbors.

<sup>636</sup> Commissioners Cosme Herrera, J. I. Roybal and E. Salazar to P. T. Lonergan, February 21, 1916, folder 16, box 2, 1974-013, Pueblo Lands Board Records, NMSRCA, Santa Fe.

While the Indian agents, lawyers, politicians and board members pondered the Act, the Pueblos were changing tactics. Pueblo agent and Santa Fe Indian School Superintendent Clinton J. Crandall, who had dealt with Pueblo controversies at the turn of the century, returned to New Mexico in 1923 to a wholly different landscape. In the past, Pueblo leaders lodged protests against encroachments by neighboring Hispanos, Anglos and their stock; now, they took direct action to abate such threats to their lands. Brazen actions by Pueblo leaders led to the dismissal of Horace J. Johnson, Crandall's predecessor. Government officials felt Johnson did too little to quell the upsurge of Pueblo radicalism. The actions of a group of Tesuque men in the spring of 1922, more than any other act of resistance on the part of the Pueblos, represented how the Pueblo lands controversy reshaped how Pueblos would fight to defend their patrimony.<sup>637</sup>

On February 8 and 9, 1922, Martín Vigil, the young lieutenant governor of Tesuque Pueblo, led a group of Tesuque Pueblo men to the newly erected fence of E. D. Newman and E. B. Healy, who, along with Alphonse Dockweiler, had gradually expanded their land holdings in and around Tesuque Pueblo. This newest claim by Newman was over three-thousand acres of land, a portion of which infringed on lands that the Tesuque considered theirs. Tesuque Governor Elias Suazo, through Vigil, had approached Newman as he began to clear the lands of piñon and juniper trees in late January 1922. Protesting his actions, he informed Newman that he was enclosing lands never before fenced or claimed by non-Indians.<sup>638</sup> Vigil tried to be conciliatory, telling

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<sup>637</sup> Kelly, *Assault on Assimilation*, 195-198. See also, Crane, *Desert Drums: The Pueblo Indians of New Mexico, 1540-1928*, 257-274.

<sup>638</sup> Report by Indian Inspector L.A. Dorrington on the Tesuque Fence Trouble, Spring 1922, folder 50, box 2, Governor Merritt C. Mechem Papers, 1959-098, NMSCRA, Santa Fe.



Newman, "I'm just giving you orders by the governor, remove your fence and that's the end of it, we will have no trouble."<sup>639</sup>

Newman and Healy, emboldened by the ease with which they had previously expanded their lands, ignored Tesuque's request. Without the notice to or sanction from superintendent Johnson or their government farmer, R. L. Hubbard, Vigil and a dozen or so men tore down three and a half miles of fence on Newman's and Healy's ranches. Newman was absent during the removal, but Healy famously threatened the group with a shotgun. If the Indians did not stop, they were "going to stop a bullet," he declared.<sup>640</sup> The *Santa Fe New Mexican* publicized the confrontation, heightening fears of violence over an event that was almost routine among controversies across the Tewa Basin during the previous thirty years.<sup>641</sup>

For the next few months, the Tesuque fence controversy drew in everyone from the governor to U.S. senators, from the secretary of the interior to the commissioner of indian affairs. An outraged Newman warned Governor Merritt Mechem, Senator Holm Bursum, Judge Reed Holloman, and attorneys Alois Renehan and Francis C. Wilson that

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<sup>639</sup> Martin Vigil, interview by Dennis Stanford, 14 July 1970, p. 9 (side 1, tape 646), transcript, American Indian Oral History Collection, MSS 314 BC, Center for Southwest Research, University Libraries, UNM, Albuquerque. Reports of the General Council of the Northern Pueblos, Tesuque, signed by Tesuque Governor Elías Suazo, Lt. Governor, Martín Vigil, March 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe. Pueblo historian Joe Sando (Jemez) also provides a brief description of this event in, Joe Sando, *The Pueblo Indians* (San Francisco: Indian Historian Press, 1982) 165.

<sup>640</sup> "Indian Agent Has Refused Amends, Say Two Ranchers," *Santa Fe New Mexican*, 10 February 1922, 6.

<sup>641</sup> "Tesuque Braves Make Fence of Ranchman into Kindling," *Santa Fe New Mexican*, 8 February 1922, 11; and "Indian Agent Has Refused Amends, Say Two Ranchers," *Santa Fe New Mexican*, 10 February 1922, 6.

without favorable intervention, he would resort to his “only recourse – a Winchester.”<sup>642</sup>

To the *Santa Fe New Mexican*, Newman alleged that Pueblo superintendent Horace J. Johnson had urged the Tesuque Indians to take down the fences after he became frustrated with inaction by courts on Pueblo land matters. Johnson vehemently denied his own involvement, called the articles “sensational reading for a day or two” that “sold a few copies,” and assured Newman that he had intervened to stop the Indians from destroying more fences and now contemplated an injunction against Tesuque Indians.<sup>643</sup> Newman, meanwhile, placed blame on Healy for intensifying the situation but wrote that anyone, “an American citizen, a Mexican or any one else, with the exception of the Indians . . . would have been met by armed resistance.”<sup>644</sup>

Tesuque became a rallying cry for the Tewa Basin Pueblos. San Juan (Ohkay Owingeh) governor José Ramos Archuleta offered his pueblo’s support. Over the next few years, the San Juan governor and Tribal Council worked to reverse decades of unravelling Pueblo authority. In January of 1924, Governor Archuleta and the San Juan (Ohkay Owingeh) Tribal Council informed Pueblo superintendent Clinton J. Crandall that they had elected to terminate the privileges of Isidro Archuleta, a San Juan Pueblo native known to sell lands to non-Indians. “If the pueblo knows that he is selling his land and offering to sell it to the non-Indian,” Governor Archuleta warned, “then the Pueblo will seize the land...do not pay attention to him when he may come to you to

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<sup>642</sup> E. D. Newman to H. H. Johnson, Northern Pueblo Agent, et. al., February 9, 1922, “Indian Affairs, Pueblo of Tesuque, Controversy Over Fences,” folder 50, box 2, Mechem Collection, NMSRCA, Santa Fe.

<sup>643</sup> H. H. Johnson to E. D. Newman, et. al., March 1, 1922, folder 50, box 2, Mechem Collection, NMSRCA, Santa Fe.

<sup>644</sup> E. D. Newman to Editors of *Sunset Magazine*, January 20, 1923, folder 8, box 8, Bursum Collection.

complain.”<sup>645</sup> By May 1924, San Juan took legal action to terminate leases originally given to Hispano residents Luciano de Herrera and Enrique Córdova of El Yunque in 1876, ending a nearly half –century lease.<sup>646</sup> Ironically, the Tesuque fence controversy, the very act that impelled native pueblos across the Tewa Basin to unite and take action against encroachment, also inspired New Mexico’s new senator Holm Bursum to pursue legislation that would clear non-Indian title with an inequitable solution to the Pueblo land problem.

At the height of the Pueblo lands debate in the spring of 1923, Alphonse Dockweiler asked his lawyer, Alois B. Renehan, to request a survey of his lands by the Indian Bureau before any legislation was secured. That Dockweiler feared his large land claim on the edges of Tesuque Pueblo, which dwarfed the claims of Newman and Healy, would be targeted seems doubtful. Renehan also asked Pueblo superintendent Clinton J. Crandall whether his client could cultivate a twenty-five-acre tract of Tesuque Pueblo land that he had been “accustomed to cultivate.” Crandall responded that Dockweiler should vacate Tesuque’s lands and any leases at Tesuque would be in the hands of the Pueblo governor, and would therefore unlikely be renewed.<sup>647</sup>

When Crandall served as superintendent of the Santa Fe Indian School from 1900 to 1912, he fought for political influence and yearned for a voice in Indian Affairs. In 1923, Adelina Otero-Warren, the niece of territorial governor Miguel Otero, was

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<sup>645</sup> José Ramos Archuleta to Clinton J. Crandall, January 9, 1924, folder 113, RG 75, Entry 86, NA-RMR, Denver.

<sup>646</sup> U.S. v. Cruz Olguin, Crestino Trujillo, et. al., Case No. 981, May 27, 1924, folder 113, RG 75, Entry 86, NA-RMR, Denver.

<sup>647</sup> A.B. Renehan to C. J. Crandall, April 5, 1923, folder 120, RG 75, Entry 86, NA-RMR, Denver. C. J. Crandall to A.B. Renehan, April 1923, box 16, Renehan-Gilbert Papers, NMSCRA.

appointed Indian inspector, months after losing her congressional bid to Democrat John Morrow.<sup>648</sup> Instead of offering the Northern Pueblo Agency a voice through her political connections, Otero-Warren often went above Crandall's head, corresponding freely with Commissioner of Indian Affairs Charles Burke. Otero-Warren proved an enthusiastic student of Pueblo affairs, traveling widely across Indian Country, requesting Pueblo health and agricultural statistics and keeping abreast of Pueblo support for John Collier and the NMAIA. She predictably sided with the NMAIA when Collier and the New Mexico group split, and worked to limit his influence by encouraging the Pueblos to trust the government to protect their best interest. Her meddling in Pueblo affairs met antagonism from Pueblo leaders, who distrusted her intentions and felt she was on the "Mexican side."<sup>649</sup>

Otero-Warren quickly interceded on behalf of "progressive" Pueblo Indians, "enlightened" natives who rejected traditional native religious practices and embraced Western Christianity. Progressive Indians, who were a significant faction in many Indian villages, were typically at odds with traditional leaders and reticent to perform obligatory communal work and rituals. Otero-Warren wrote Crandall about Joseph Melchor at Cochiti Pueblo, Desiderio Naranjo at Santa Clara Pueblo and José Romero at Taos

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<sup>648</sup> For more on Adelina Otero-Warren, see Charlotte Whaley, *Nina Otero-Warren of Santa Fe* (Santa Fe: Sunstone Press, 2008); Ann M. Massman, Adelina 'Nina' Otero-Warren: A Spanish-American Cultural Broker," *Journal of the Southwest* 42:4 (winter 2000), 877-896; and, Elizabeth Salas, "Ethnicity, Gender and Divorce: Issues of the 1922 Campaign by Adelina Otero-Warren for the U.S. House of Representatives" *New Mexico Historical Review* 70:4 (October 1995), 367-382.

<sup>649</sup> Fieldnotes, New Mexico Association on Indian Affairs, April 1923, SWAIA Collection, NMSRCA.

Pueblo, each of whom complained to her of persecution at the hands of the Pueblo governor or cacique.<sup>650</sup>

The progressive-traditionalist rift at Santa Clara Pueblo widened in the 1920s. The factionalism had gripped Santa Clara since the Spanish colonial era was rekindled with the influence of the U.S. Indian schools. Divisions between the Winter and Summer moieties transformed into schisms between progressive and traditional leaders. By the spring of 1924, as a Pueblo lands bill neared passage, Superintendent Crandall was flooded with letters from Santa Clara progressives who complained of the despotic rule of longtime Governor Santiago Naranjo. Bridal Gutiérrez wrote Crandall in March, remarking that he, as a landless Indian, should not have to participate in a community ditch cleaning from which he garnered no benefit.<sup>651</sup> Unwilling to undermine the authority of the Naranjo, Crandall replied that Pueblo governors were in charge of internal affairs. The superintendent also reasoned that the Indian Service had recently invested more than seventeen thousand dollars in the ditch in question and would like to see it maintained.<sup>652</sup> Finally, he assured the governor that he supported his decision to disallow the use of land and water for those not performing “Pueblo work.” He also

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<sup>650</sup> Adelina Otero Warren to C.J. Crandall, March 31, 1924 and C. J. Crandall to Adelina Otero Warren, April 2, 1924, folder 163, RG 75, Entry 86, NA-RMR, Denver. Nina Otero-Warren lost her post as an Indian inspector in December 1924 for her controversial interrogation of Pueblo leaders regarding John Collier’s activities and her involvement in progressive and Christian Indian causes. Otero-Warren served as a translator for the Pueblo Lands Board at its earliest hearings. See Elmer Rusco, *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act* (Reno: University of Nevada Press, 2000), 24-25; and Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 5, Parcel 2, José A. Ribera, December 3, 1925, Pueblo Lands Board Records, Coll. 1974-013. NMSRCA. Santa Fe.

<sup>651</sup> Bridal Gutiérrez to C.J. Crandall, March 28, 1924, folder 426, RG 75, Entry 86, NA-RMR, Denver.

<sup>652</sup> C.J. Crandall to Bribal Gutiérrez, March 28, 1924, folder 426, RG 75, Entry 86, NA-RMR, Denver.

informed Naranjo that the commissioner on Indian affairs was clarifying this and similar situations with a decision regarding a case in Cochiti.<sup>653</sup>

Santa Clara native Vidal Gutiérrez wrote Crandall about the increasingly discordant relationship between progressives and conservatives. Gutiérrez was a Winter moiety progressive who had witnessed the Summer moiety dictate Pueblo governance. The Summer people broke Tewa Pueblo tradition in 1894 when they appointed the Governor for the second consecutive year and refused to rotate the appointment with the Winter people. The conflict even led to the building of a second kiva on the Santa Clara Pueblo plaza, where Winter people worshipped separately from Summer people. By 1924, their thirty-year rule had worn out the Winter people, and a progressive splinter group within the moiety would no longer tolerate it. Gutiérrez complained to Crandall that Naranjo would not recognize Pueblo progressives and refused the idea of a joint council comprised of members of both moieties. Gutiérrez wrote, “As the Governor will not call us to his Councils. We want to make this request. From this date on we want to be informed by you by letter the same as you inform the Governor on all matters relating to Pueblo matters. Very Respectfully yours, Vidal Gutierrez *and Councilmen*.”<sup>654</sup>

Gutiérrez’s complaint marked another important event in the decades long split at Santa Clara. For the next five years, from 1924-1929, Santa Clara elected two governors, the

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<sup>653</sup> C.J. Crandall to Santiago Naranjo, March 25, 1924, folder 426, RG 75, Entry 86, NA-RMR, Denver. Crandall wrote, “In my judgement, the pueblo officials are justified and right in confiscating the Indian’s land.”

<sup>654</sup> Vidal Gutiérrez to C.J. Crandall, April 4, 1924, folder 426, RG 75, Entry 86, NA-RMR, Denver. Emphasis is mine.

Progressive Vidal Gutiérrez of the Winter moiety and conservative Santiago Naranjo of the Summer moiety.<sup>655</sup>

A situation outside the Tewa Basin at Cochiti Pueblo illustrates how widespread the progressive movement was among Pueblos and how the volatile the situation had become. Beginning in September of 1923, Joseph Melchor wrote Pueblo Superintendent Crandall on behalf of himself and his father Juan Pablo Melchor, complaining of their poor treatment by Cochiti governors Marcial Quintana (1922), Alcario Montoya (1923) and Louie Ortiz (1924). Both Melchors were progressives. Quintana punished the elder Melchor the previous year for practicing the age-old tradition of *derrota de los mieses*, or grazing the stubblefields. Dating back the Spanish-colonial era, grazing animals were turned loose on agricultural fields after the harvest to remove the remaining plants and enrich the depleted soil with manure. By using agricultural fields that were typically closer to home for grazing, it also gave the opportunity for owners to bring animals closer to their home in preparation for winter. Quintana corralled Melchor's cattle and charged a fee for their return. Joseph Melchor complained: "We are trying to progress, trying to carry out what we learned at the schools. For this reason the governor and his men do not like us very well."<sup>656</sup>

When Governors Montoya and Ortiz attempted to force Melchor to participate in ditch cleanings at the pueblo, he refused. He explained that he lived in "Sile, a little Mexican town" and that his water rights did not derive from Cochiti Pueblo ditches.

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<sup>655</sup> See Marilyn Norcini, "The Political Process of Factionalism and Self-Governance at Santa Clara Pueblo, New Mexico," *Proceedings of the American Philosophical Society* 149:4 (December 2005): 544 -590, 550, 557.

<sup>656</sup> Joseph Melchor to C. J. Crandall, September 1923, folder 254, RG 75, Entry 86, NA-RMR, Denver.

When Melchor stood his ground, Governor Montoya confiscated his and his father's lands. Melchor wrote Crandall: "I have done away with custom Mr. Crandall. I am going to *be a man with the rest of my fellow men.*"<sup>657</sup> Educated in government schools, inculcated with so-called progressive ideas, Melchor felt that disavowing his native traditions was an act of maturity, transforming him from a child to manhood, and from an Indian conceivably to a white man.

During his previous term at the northern Pueblos (1900-1912), Crandall had usually sided with progressive Indians and clashed with traditional Pueblo leaders. Two decades later, he seemed to sense the impetus for Pueblo self-rule and the need for traditional leaders to retain their authority. Despite Melchor's complaint, Crandall reminded him that he must conform to Pueblo regulations as determined by the governor if he wanted to remain associated with Cochiti Pueblo.<sup>658</sup> Crandall wrote Melchor: "So long as you must live in the Pueblo and get your land from the Pueblo, it is necessary that you conform to all regulations of that pueblo. The U.S. Government has formally recognized the Pueblo government."<sup>659</sup>

Factionalism between progressive and traditional leaders persisted, as did disputes with neighboring Hispanos. At Nambé, Crandall faced a Hispano population that for decades had been expanding while the Pueblo, which housed many Pojoaque Pueblo exiles, declined. Controversies over the use of a road to access firewood motivated Crandall to secure a court injunction against Hispanos at Lower Nambé. Crandall forwarded copies of the injunction to Governor Vigil and tribal council members J. D.

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<sup>657</sup> Ibid. Emphasis is mine.

<sup>658</sup> Ibid.

<sup>659</sup> C. J. Crandall to Joseph Melchor, September 24, 1923, folder 254, RG 75, Entry 86, NA-RMR, Denver.



Porter and Marcos Tapia. Crandall reminded them that it “prohibits FOREVER the Mexicans from using the road or molesting your fence.”<sup>660</sup> Hispanos ignored the injunction and continued opening and closing Pueblo fences to access the road. José Inez Roybal, who had received Nambé Pueblo lands in exchange for fixing the collapsed walls of the church, yet later fought with the Pueblo over water rights, was particularly aggressive in securing access to Pueblo resources. In the fall of 1923, Assistant Commissioner of Indian Affairs E. B. Meritt wrote him, stating that the OIA would advise Nambé Pueblo to not reopen an old wood road since an alternative passage was found. Roybal, nonetheless, pursued local authorities and state representatives to pressure Nambé Pueblo officials to re-open the road. Meritt advised Roybal to “accept conditions as they are, and to discontinue your efforts to have the old road reopened.”<sup>661</sup>

Crandall’s fight against Hispanos invading Nambé Pueblo lands seemed more critical in the context of the Pueblo lands battle of the 1920s. By the time Crandall resisted non-Indian incursions, Pueblo agents had been struggling to protect pueblo lands for nearly seventy-five years, and complaints by Pueblo leaders had routinely been reported to their superiors in the Office of Indian Affairs. In May of 1924, on the eve of the Bursum Bill’s passage, Crandall wrote J. D. Porter regarding Nambé Indian Petacio Peña’s lease of land to Epifanio Valdez. A local Hispano, Valdez had opted to lease a field from Peña rather than work the land as Peña’s employee. Crandall reminded Porter

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<sup>660</sup> C. J. Crandall to J. D. Porter, April 20, 1923, folder 97, RG 75, Entry 86, NA-RMR, Denver.

<sup>661</sup> E. B. Meritt to J. I. Roybal, September 19, 1923, folder 99, RG 75, Entry 86, NA-RMR, Denver.

that the Council had rejected the lease. It troubled Crandall particularly because Valdez refused to work the land for Peña.<sup>662</sup>

A letter from Crandall to Ramón García in August of 1923 offers evidence of how complex the job of the Pueblo agent had become. García was a Hispano from Santa Fe who had married Barbarita Mirabal, a Nambé Indian woman, and had taken up residence with her and her family on Nambé lands, either the grant or reservation. García made a habit of ignoring both Nambé Pueblo governor Juan Vigil and Pueblo agents, of drinking liquor, and of quarreling with Nambé natives in a drunken state.<sup>663</sup> Crandall informed García that Nambé's lands were Indian Country, where he was required to obey Governor Vigil and was subject to his and Crandall's authority. Crandall wrote: "I shall require you to conduct yourself properly, to remain sober, and to cease introducing any liquor. You shall cease to bring *citizens or Spanish Americans* into the Pueblo, especially granting them rights of the pueblo private roads." He later reiterated that he should not "allow your *Mexican friends* to trespass upon the private roads and property of the Pueblo." If García failed to comply, Crandall would dispossess his family of all property and have them ejected from the pueblo.<sup>664</sup>

Crandall's interchangeable use of *Spanish-American* and *Mexican* suggests he did not share the sensibility of many of his contemporaries, who differentiated between the "Spanish American" gentry and the "Mexican" horde. His vast correspondence during both of his tenures in New Mexico expresses his perpetual frustration with the Hispano

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<sup>662</sup> C. J. Crandall to J. D. Porter, May 23, 1924, folder 97, RG 75, Entry 86, NA-RMR, Denver.

<sup>663</sup> C. J. Crandall to Ramón García, August 30, 1923, folder 101, RG 75, Entry 86, NA-RMR, Denver.

<sup>664</sup> Ibid. Emphasis is mine.

population. Absent, however, are invectives explicitly expressing racial contempt. As a federal bureaucrat, Crandall apparently sought only to do his job, protecting government and Pueblo interests, and, for the moment, displayed considerable parity in doing so. This changed with time.

More importantly, the case of Ramón García reveals that Pueblo-Hispano intermarriage in the Tewa Basin was perhaps less rare than many believed. García's life in Nambé Pueblo complicated the job of government officials who, though not responsible for the well-being of non-Indians, had to police their actions on the Pueblo. García's consumption of liquor on the Pueblo reservation also demonstrates that even a decade after the *Sandoval* decision, Hispanos continued to introduce alcohol onto Pueblo lands, ignoring U. S. prohibition as was much of the rest of the country. Finally, García's entertaining family and guests drew outsiders onto Pueblo lands, making them susceptible to further outside interests.<sup>665</sup>

Nambé's seemingly desperate condition was eclipsed by that of Pojoaque, a pueblo that was essentially extinct by the 1920s. After José Antonio Tapia's failed sale of the grant in 1914, the pueblo remained abandoned, save for infrequent trips by Indians who visited old family houses. The actions of Martín Vigil and the Tesuque Indians compelled Pojoaque expatriates residing at Nambé to protect their lands and the Nambé Pueblo council to treat Pojoaque's lands as their own. This did not come without complications. In June 1923, Superintendent Crandall cited Nambé Council members J. D. Porter and Marcus Tapia for seizing and impounding cattle on the Pojoaque Grant. He

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<sup>665</sup> Ibid.

informed them that they had no right to police the Pojoaque Pueblo Grant, despite the fact that both claimed Pojoaque ancestry.<sup>666</sup>

Hispano cattlegrowers were apparently not the only ones taking advantage of the absence of Pueblo officials on the Pojoaque grant. In July 1923, Crandall cited the Mountain States Telephone and Telegraph Company for executing their right-of-way on the Pojoaque Grant without explicit notice to or consent from Pojoaque Pueblo officials or his federal office.<sup>667</sup> When activities at Pojoaque compelled Crandall to visit the grant, he found its lands nearly overrun by cattle. He realized that he could not police its lands from his office in Santa Fe and, in a reversal of his previous orders, enlisted Porter and Tapia to help oversee the grant. Crandall authorized Porter and Tapia to issue grazing permits and report those who failed to secure a permit to his office. In September 1923, while citing Genaro Quintana for his cattle trespassing on Pojoaque lands, Crandall reminded him that “Indian lands . . . are not public lands.”<sup>668</sup>

By 1900, Picuris Pueblo’s population had fallen to ninety-seven people, and it cultivated a mere one-hundred acres.<sup>669</sup> Nestled in the Sangre de Cristos at 7,500 feet in elevation, among 11,000 foot peaks, Picuris was always beset by late-spring frosts and mid-fall snows that shortened the growing season. The introduction of cold-climate-

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<sup>666</sup> C. J. Crandall to J. D. Porter and Marcus Tapia, June 18, 1923, folder 97, RG 75, Entry 86, NA-RMR, Denver.

<sup>667</sup> C. J. Crandall to the Mountain States Telephone and Telegraph Company, July 13, 1923, folder 139, RG 75, Entry 86, NA-RMR, Denver.

<sup>668</sup> C. J. Crandall to Genaro Quintana, September 13, 1923, folder 179, RG 75, Entry 86, NA-RMR, Denver.

<sup>669</sup> Vlasich, *Pueblo Indian Agriculture*, 184. Reports by F.W. Hodge estimated the population at 125 in 1900, but seem to be inaccurate considering that official reports from 1900 estimated the population at 96. See Donald N. Brown, “Picuris Pueblo,” in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 268-277.

resistant winter wheat by the Spanish in the colonial era brought a reliable crop that the Picuris came to depend on. But a population steadily declining since 1860 had left Picuris unsuited to defend its lands against the surrounding Hispano population, which simultaneously grew as it was displaced from its own land grants. Despite enmity growing from trespass, Picuris Pueblo and the Hispano villages of Peñasco, Rodarte, Río Lucío, Vadito, Placita, Tres Ritos, Chamisal, Ojito, Ojo Sarco, Las Trampas, Llano de San Juan Nepomuceno, Llano Largo and Llano de la Llegua maintained remarkably friendly relations. Hispanos and Pueblos baptized each other's children, christened one another's marriages, and sometimes even married each other. Picuris men were even members of Los Hermanos de la Fraternidad Piadosa de Nuestro Padre Jesús Nazareno, more popularly called the *penitentes*, in Vadito and Chamisal, two of the Hispano villages that encroached on Pueblo lands more than others.<sup>670</sup> The two peoples cooperatively maintained acequias, divided the waters and shared the shortages in dry years. Hispanos apparently respected Picuris' priority water rights.<sup>671</sup>

Trade relations also united Picuris and neighboring Hispano villages, but complicated the work of Indian agents to regulate all economic and external relations of the Pueblos. In 1920, Peñasco resident Porfirio Abreu purchased a wagon from Santiago Povijua, a San Juan native who had married a Picuris woman. When Superintendent Crandall notified Abreu in 1924 that Povijua owed \$13.60 to the government on the wagon and that he had no right to purchase the wagon, Abreu protested that he could not afford to pay the difference at a moment's notice and begged Crandall to relent in light of

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<sup>670</sup> Brown, "Picuris Pueblo," 269.

<sup>671</sup> Frances Leon Quintana, "Land, Water, and Pueblo-Hispanic relations in Northern New Mexico," *Journal of the Southwest* 32:3 (autumn 1990): 288-299, 292-293.

Abreu's responsibility for his large family. Crandall remained firm and warned Abreu that failure to pay the remainder Povijua owed would lead to a fine for purchasing United States property and unlawfully trading with Indians.<sup>672</sup>

In 1923, Crandall also dealt firmly with Bernardo Martínez of Chamisal, who claimed to have the permission of Picurís governor Manuel Durán to cut cedar posts on Indian land. Crandall doubted that Martínez did have permission, especially to cut one hundred to two hundred posts, and told Martínez that any permission was null and void because Pueblo land was government land. Crandall assessed a fine of twenty-five dollars and threatened prosecution in U.S. court.<sup>673</sup> More alarming to Crandall than resource extraction was the reported introduction of alcohol to Picurís by Hispanos. R. W. Hodson was transferred from Acomita to Picuris as a government teacher at the day school in early 1924, amid the Pueblo lands bill debates. He immediately reported the consumption of liquor by Picurís Indians and the failure of his temperance meetings, despite federal prohibition laws that forbade even Hispano citizens from making, trading and consuming alcohol. With little evidence, Hodson suspected the "local Mexicans about the villa" for importing liquor to the detriment of his "poor little Indians."<sup>674</sup>

Hodson immediately attempted to enlist the aid of Father Peter Küppers, the German immigrant priest famous for staffing local schools with German Dominican nuns, but Crandall reprimanded him. Crandall complained to Küppers of liquor

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<sup>672</sup> C. J. Crandall to Porfirio Abreu, January 15, 1924; Porfirio Abreu to C. J. Crandall, January 22, 1924; C. J. Crandall to Porfirio Abreu, January 24, 1924, folder 368, RG 75, Entry 86, NA-RMR, Denver.

<sup>673</sup> C. J. Crandall to Bernardo Martínez, October 24, 1923, folder 366, RG 75, Entry 86, NA-RMR, Denver.

<sup>674</sup> R. W. Hodson to C. J. Crandall, March 13, 1924 and R. W. Hodson to C. J. Crandall, March 15, 1924, folder 381, RG 75, Entry 86, NA-RMR, Denver.

consumption at Picuris and among the “Mexicans of Peñasco.” Crandall believed the Mexicans provided Picuris Indians with, *la mula blanca* or “white mule,” a concentrated moonshine that became more popular with Prohibition. Küppers retorted that “it is simply useless to work for the Indians unless they are educated morally” and reminded Crandall that alcohol would be “the ruin of my Indians *and Spanish Americans*.”<sup>675</sup>

Hodson continued to pester Crandall for school provisions and clothing for the children. His incessant letters evidenced his meddling in Pueblo affairs. Hodson reported that two young Picuris men, Rolando Durán and Mardolino Vialpando, travelled to Denver seeking work. In response, Crandall reprimanded Hodson for granting them travel rights without consulting his office first. Hodson routinely complained about liquor consumption: “Mex’s who came over Sun. to (Easter) Prog. brot (sic) 2 gal. of white mule and drunk all night. Some fighting some cut with knives and early this morn. Other Mex. brot (sic) another gal. over. I do wish these *dirty Mexicans* could be jailed. . . . it was no time to be drinking on Good Friday and Easter.”<sup>676</sup> A week later, Hodson reported hosting a conference of Indians discussing the Bursum Bill at the order of the governor Manuel Durán.<sup>677</sup> Crandall replied: “I was under the impression that I advised you not to meddle in these land matters.” Crandall instructed that government employees were forbidden from discussing politics and even legislation and that as a government employee he was not subject to orders from the pueblo governor to do otherwise.<sup>678</sup>

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<sup>675</sup> C. J. Crandall to Rev. Peter Küppers, March 15, 1924; Rev. Peter Küppers to C. J. Crandall, March 18, 1924, in *ibid.*. Emphasis is mine. Note that Küppers does not distinguish between Pueblos and Hispanos.

<sup>676</sup> R. W. Hodson to C. J. Crandall, April 20, 1924, *ibid.*.

<sup>677</sup> R. W. Hodson to C. J. Crandall, April 27, 1924, *ibid.*.

<sup>678</sup> C. J. Crandall to R. W. Hodson, April 30, 1924, *ibid.*.

Over Picuris Peak in the Taos Valley, Crandall was troubled by reports of the routine leasing of Taos Pueblo lands to Hispanos. Taos war captain José de la Cruz Concha and *teniente* (lieutenant) Juan de Jesus Archuleta continued leasing land to Hispanos, this time to Malaquias Martínez, a former Republican candidate for state Lieutenant governor who had served at the 1910 Constitutional Convention. Crandall held that he had to sanction all land leases, even those issued by Pueblo officials, that all contracts not approved by his office were null and void and that it was up to Martínez to recover monies paid to Concha and Archuleta.<sup>679</sup> Perhaps more disconcerting were the actions of Arthur Rochford Manby, the land-speculating English transplant who supported the paternalist management and acculturation of Pueblo peoples by Anglos, and who claimed lands against Pueblo title. Manby sheltered a Taos Indian fleeing the persecution of the elderly cacique, Antonio Concha, who sought to punish the young man for acting out of turn. The young man was either José Romero or Antonio Mirabal, the latter a somewhat progressive-minded Indian who served as Elsie Clews Parsons informant on sacred Pueblo rites and who often worked for the government in various capacities. Professing good intentions, Manby stated he only sought the “peace and happiness and safety of this Pueblo as it existed before ill advised meddlers put them divided and hostile to one another.” His intervention in pueblo affairs, nonetheless, undermined the will of the pueblo’s traditional leader.<sup>680</sup>

Crandall had to maintain a delicate balance between the independence of individual Indians and the authority of traditional leaders. While he supported with

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<sup>679</sup> C. J. Crandall to Malaquias Martínez, January 17, 1924, folder 307, RG 75, Entry 86, NA-RMR, Denver.

<sup>680</sup> A. R. Manby to C. J. Crandall, October 30, 1923 and January 14, 1924, folder 313, RG 75, Entry 86, NA-RMR, Denver.



progressive and entrepreneurial values adopted by Pueblos who attended his government school, he was charged with defending the sovereignty of the governor, a man appointed by the cacique and typically bound by conservative Pueblo values. In April 1924, San Ildefonso native Julian Martínez, the husband of famous potter María Martínez, wrote Crandall about his desire to build a house at the Otowi crossing to sell his and his wife's pottery. Martínez complained that the governor and tribal council were unfairly interfering when they forbade him from hiring a local Hispano from constructing the house. Crandall applauded Martínez's commercial efforts but upheld the governor's right to regulate who was allowed to work on the Pueblo.<sup>681</sup>

Perhaps mindful of controversies created by Clara True at Santa Clara twenty years earlier, Crandall worked to reduce the influence of day-school teachers on the Pueblos. He reprimanded Miss Marie Loudon for taking up residence on the San Ildefonso Pueblo, eventually replacing her with Alice R. James.<sup>682</sup> Within a month of her appointment, James wrote Crandall about the dissolution of the San Ildefonso Pueblo day school and blamed the undesirable mix of "Mexicans" with the pueblo children. "The children say they do not want to go to school with Mexicans," claimed James. Crandall agreed with her assessment and referred to the Hispano population as "hoodlums and drunken citizens" who cast a pall over the progress of San Ildefonso Indians.<sup>683</sup>

The intermingling of Pueblo and Hispano children troubled Crandall, but seemed trivial compared to other more-pressing matters. In 1924, a Santa Fe Conservancy

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<sup>681</sup> Julian Martínez to C. J. Crandall, April 28, 1924, folder 342, RG 75, Entry 86, NA-RMR, Denver.

<sup>682</sup> C. J. Crandall to Miss Loudon, January 24, 1924, folder 356, RG 75, Entry 86, NA-RMR, Denver.

<sup>683</sup> Alice R. James to C. J. Crandall, April 1924, and C. J. Crandall to Alice R. James, April 8, 1924, folder 288, RG 75, Entry 86, NA-RMR, Denver.

District was proposed concurrently with the Middle Rio Grande Conservancy District that stretched from Cochiti Pueblo in the north to Socorro County to the south. More than one hundred land owners organized under the 1923 Conservancy Act of New Mexico and pursued Judge Reed Holloman to approve the security on a bond to fund early stages of the Santa Fe District's planning and construction. The proposed district sought to organize six-hundred-square miles and over 150,000 acres of land under one entity. All streams from Picuris in the north and Santa Fe in the south would be incorporated, including the Rio Pueblo de Picuris, Santa Cruz River, Nambé River, Tesuque River, Arroyo Hondo, Galisteo River, Río Embudo, Río Chama and the Río Grande.<sup>684</sup>

For Crandall, the proposed district threatened to impair the water rights of Tewa Basin Pueblos in favor of commercial growers and development. The district promised to store flood water and thereby protect property, regulating flow and saving the lower valley from inundation. Its promoters stated it would control the flow of channels and divert "in whole or in part, eliminate water resources" that were unused or misused. They claimed that the program would not "not interfere with or impair vested rights," but that "lands sought to be improved and preserved, by irrigation and reclamation thereof, now unproductive, or not fully productive" would be reawakened and northern New Mexico would reach its economic and agricultural potential.<sup>685</sup>

Crandall wrote Judge Holloman in April 1924 to protest water disposition on any river that serves Pueblo interests. "Continued strife and contention on a number of

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<sup>684</sup> Memorandum to Federal District Court Judge Reed Holloman, in re Santa Fe Conservancy District, April 1, 1924, folder 428, RG 75, Entry 86, NA-RMR, Denver.

<sup>685</sup> C. J. Crandall to Reed Holloman, April 1, 1924, folder 428, RG 75, Entry 86, NA-RMR, Denver.

streams between the settlers and Indians” would only worsen, claimed Crandall. He warned Holloman that “any attempt to impound these waters and transmit the same to any other villages or districts would be a menace that would arise public indignation throughout the nation, owing to the notoriety that has already been given over the Pueblo situation.” Crandall questioned the legality of state courts to interfere with Pueblo water rights and remarked that many streams “will have to build dams and reservoirs for the benefit of the Indian and citizen population.” He closed, “I pray that any motion to impound or divert water from these streams will be denied.”<sup>686</sup>

As Crandall attempted to reserve Pueblo water rights, stop Hispano encroachment on Pueblo lands, and to police morality and education on northern Pueblos, the Pueblo Lands Board began its proceedings. If the Board abided by the statutes creating it, encroaching communities would be pushed from Pueblo lands. Uprooted villages would no longer sit near Pueblo villages. Hispanos would no longer send their children to Pueblo day schools for lack of alternatives. And displaced Hispanos, described as “hoodlums,” “drunken citizens,” and “dirty Mexicans,” would face difficulties in maintaining their relations, commercial and personal, with Pueblos, whose lands would be treated as “Indian Country.” If enacted to its fullest extent, the Pueblo Lands Act would be a boon to Pueblo communities and the demise of many Hispano villages. But just as the relationship between Hispanos and Pueblos in the Tewa Basin complicated Superintendent Crandall’s work in the early twentieth century, it forced the Pueblo Lands Board to rethink what many held to be a straight forward proposition.

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<sup>686</sup> Ibid.

Through that correspondence, and through Board proceedings, members of the Pueblo Lands Board recognized the complicated relationship and shared history between Pueblos and Hispanos. They commented on similar land use, which they characterized as inefficient, or the role that religious rites played in the maintenance of community influence, and ultimately how enforcing the strictures of the *U.S. v. Sandoval* decision was an untenable solution. Their reticence to bend to the will of Indian advocates and reformers who killed the Bursum Bill reflected their own stubborn and paternalistic belief that they, through their own experiences, knew what was best for both Pueblos and Hispano villages. But it also demonstrated that they knew the histories of dispossession and desperation that Pueblos and Hispanos shared and did not ignore them, even when the Bursum Bill controversy shaped perceptions of justice in the Tewa Basin.

## Chapter 8: “A Noble Case of Buck Passing”: The Pueblo Lands Board and the Southern Tewa Basin, 1924-1925

This chapter begins by discussing the early activity of the Pueblo Lands Board, now reframed within the context of northern New Mexico’s unceasing land market rather than the activism of the 1920s. The Board debated the requirements of the act, determined its own duties and established legal procedures, all actions that give insight to the disposition and philosophy of the entity charged with sorting out the Pueblo lands problem. The Pueblo Lands Act, passed in June of 1924, was a deeply flawed piece of legislation, which all sides feared would be overturned if its constitutionality were tested. This chapter begins by discussing the early operation of the Board, when it sluggishly attempted to understand the immensity of its task among desperately poor communities walled in by federal and private properties built from the lands of their ancestors. New Mexico’s officials, the local interpreters of the law, clung to territorial antecedents and obsolete state laws when challenged with transforming federal statutes. The Board was forced to break from these conventional interpretations of the Pueblo Lands Act.

This chapter ends with the Board’s first hearings, those regarding private land claims on the Tesuque Pueblo Grant, the southern most of the six Tewa Basin Pueblo grants. Tesuque was the site of important events closely linked with the Pueblo lands fight. The House Committee on Indian Affairs held hearings regarding non-Indian claims in May 1920, and Alois Renehan created a skeleton proposal for a commission that influenced the Bursum Bill. Less than two years later, in February of 1922, Martín Vigil lead a group of Tesuque Pueblo men to the newly erected fence of E. D. Newman, which infringed on Pueblo lands, and tore it down, bringing the Pueblo lands controversy further into the public eye. By 1925, the Pueblo Lands Board believed Tesuque, a pueblo

long considered among the most pure and most conservative, would be the ideal place to begin its hearings. Unlike nearly every other Tewa pueblo, intermarriage with Hispanos or Anglos was exceptionally rare at Tesuque. Private claims against Pueblo ownership were also comparatively recent. Most were a byproduct of the growing artist colony and regional art market and production in Santa Fe. With under twenty-five claims totaling less than five hundred acres at Tesuque, members of the Board wanted to use it as a case to test how the Board would function under its interpretation of the Act. Instead, the Board set a dangerous precedent by compensating Tesuque Pueblo for lost water rights and recommending elaborate water schemes that it had neither the means nor authority to implement. The Tesuque hearings would haunt the Board, particularly former governor Herbert J. Hagerman, for the rest of its existence.

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Tewa Basin Pueblos entered an era of marked change in the early 1920s. While Pueblo Agent Clinton J. Crandall was beset by controversies and challenges in 1924, the political storms surrounding the Pueblo lands bills were calming. In fact, the first year following the passage of the Pueblo Lands Act was unexpectedly peaceful. The Act was immediately claimed as a victory by Senator Bursum and Republicans and by John Collier and his New Mexico counterparts. The death of Thomas Catron in 1921, Albert Fall's indictment in the Teapot Dome scandal in 1923 and the ascendancy of Progressive Republican Bronson Cutting marked a new era for the Republican Party and the opportunity for the reinvention of the party. Delivering on the protection of land tenure would be a significant step in remaining relevant to Hispano constituents and could

potentially hold off challenges by Democrats like A. A. Jones and his onetime secretary, Los Chávez native Dennis Chávez.

John Collier and Pueblo advocates in New Mexico and across the United States believed that they were also entering a new era, one that would protect Pueblo patrimony and governance, and that would shame the federal government into the reform of Indian affairs. As passed, the Pueblo Lands Act of 1924 held many of the provisions that Collier and AIDA counsel A. A. Berle had fought for. These included payments to Pueblos for lands lost based on fair and current appraisals; tax provisions that demanded proof of payment of taxes throughout the possession of their claim, or lands would revert to Pueblo ownership if *any* taxes for any year were unpaid; and the right of Pueblos to file independent suits in decisions on claims found against them. Collier and Berle believed that appraisals would include the value of water rights to Pueblo lands lost, that few claimants would be able to demonstrate continuous tax payments and that the independent suits would allow Pueblos to contest the Board's decisions and retry claims in courts whose decisions were bound by the *Sandoval* decision.

The bill that became law in the Pueblo Lands Act, nonetheless, closely resembled the Francis C. Wilson-authored Lenroot Substitute. Statutes of limitations remained a part of the bill, but as a part of Section 4, which demanded that claims based on possession with color of title needed to predate January 6, 1902, ten years before statehood (see Appendix A). Those without color of title needed to predate March 16, 1889, when the term "color of title" first appeared in territorial statutes. AIDA attorney Berle, who firmly believed that most adverse claims derived from the previous twenty years, felt few could pass this test. Berle also ensured that Pueblos retained the right to

reject the Board's decisions and initiate ejectment suits against some or all non-Indian claimants any time before patents were issued to non-Indian claimants after district court decisions. Along with tax provisions that required claimants to prove continuous payment of taxes on lands claimed, Berle envisioned multiple avenues whereby Pueblos would regain their former lands.<sup>687</sup>

As passed, the Pueblo Lands Act of 1924 charged a three-member semi-judicial commission with a series of complex tasks: examine non-Indian land claims to Pueblo lands; evaluate evidence, such as deeds, titles, and tax documents, presented by claimants defending these claims; assess the fair market value of the claim, including the value of water rights and improvements made on the land; hold hearings to allow both non-Indians and their Pueblo counterparts to press their case; and ultimately make a recommendation to federal district court, which would enter a decree and final judgment, likely affirming the Board's recommendation, but with the option to enter its own decision. Indian title to Pueblo lands would either be extinguished, in which case Hispanos would receive title and affected native pueblos would be compensated for the lost properties. If Pueblo title remained unextinguished, meaning the Board rejected the claims, and if no bad faith was evident in filing or sustaining a claim, the non-Indian claimants were awarded compensation for their rejected claims and Pueblo title was formally recognized by the federal government. More recent or more heinous claims would be rejected outright, the lands in question returned to Pueblo patrimony, and the claimants would receive no award, even for improvements they made on the land.<sup>688</sup>

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<sup>687</sup> Kelly, "History of the Pueblo Lands Board," 27-35.

<sup>688</sup> Ibid.. Act of June 7, 1924, c. 331, 43 Stat. 636. (1924).



The Pueblo Lands Act was constructed under the theory established in *US v. Sandoval*, which stated that Pueblo land tenure had always been federally protected despite of the apparent lapse between the *U.S. v. Joseph* (1876) and *U.S. v. Sandoval* (1913) decisions. By extending federal protection backward, the Court negated all claims to Pueblo lands that had originated since 1848, when American federal jurisdiction began. All non-Indians land claims would then fall under three categories: those claims that would be approved, with compensation paid to Pueblos for lands lost; those claims that would be rejected, but who claimants would receive compensation for the value of the land in question and any improvements made upon the land; and those claims that would be wholly rejected and whose claimants would receive no compensation.<sup>689</sup>

The act called for a three-man commission composed of representatives of the president, the secretary of the interior, and the U.S. attorney general. John Collier felt confident that, with the momentum on its side, AIDA would be able to influence the selection of board members. Instead, Collier was shut out of all discussions on the composition of the Board. Both the Department of the Interior and Congress wanted to curb the growing influence and power of Collier and other Indian rights groups. Indian Rights Association member and Wall Street attorney Roberts Walker, who owned land in northern New Mexico and frequently summered in the Southwest, won the presidential appointment. Walker had emerged during the debate over the competing Pueblo land bills and urged interior Secretary Fall to compromise, but he was rebuffed. While Collier initially celebrated Walker's appointment, Walker considered Collier a "sensationalist,

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<sup>689</sup> Ibid.. Act of June 7, 1924, c. 331, 43 Stat. 636. (1924).

who has no apparent interest in the non-Indian settlers” and, during the Pueblo lands bill debate, suggested that his IRA colleagues distance themselves from his radicalism.<sup>690</sup>

Herbert J. Hagerman, the popular yet controversial territorial governor of New Mexico, was appointed to represent the secretary of the interior. President Theodore Roosevelt had appointed Hagerman to clean up “Old Guard” Republican politics in New Mexico in 1906. After removing Bursum as the head of the New Mexico penitentiary under allegations of fraud and embezzlement, Hagerman feuded with Thomas B. Catron and Albert B. Fall and became a liability to Roosevelt’s plans for the west, including the expansion of federal lands. Roosevelt removed him as governor after only one year. Hagerman’s appointment to the Board was considered by many as punishment to the indicted former secretary Albert Fall, who resigned his post in March 1923 in light of the Teapot Dome and Bursum Bill controversies.<sup>691</sup>

Lastly, Charles H. Jennings, a Department of Justice attorney appointed by the U.S. attorney general, had the weakest connection to New Mexico, but proved the most diligent in understanding the convoluted history of land claims in each pueblo. Where Hagerman was ever the politician, seeking notoriety in his new appointment, and Walker was largely absent in Europe during his early months on the Board, Jennings resided in New Mexico and became a student of the laws, practices and problems of property in New Mexico. Although Hagerman and Walker spent most of their time outside hearings on other personal projects, Walker remained active in the IRA and Hagerman, as Special Commissioner to the Navajos. Jennings was known to devote his additional time to

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<sup>690</sup> Lawrence C. Kelly, “History of the Pueblo Lands Board, 1922-1933, with Special Emphasis on Water Rights in the Northern Pueblos” Special Report to the New Mexico Office of the State Engineer, in the case *New Mexico v. Aamodt* (Santa Fe: 1984) 13.

<sup>691</sup> Kelly, *Assault on Assimilation*, 198-200; Forrest, *Preservation of the Village*, 56-58.

augment Board processes. He would often visit court houses in search of additional information on land titles or to assess the area's record-keeping practices before a hearing was to take place. Meticulous and studious, Jennings quietly pushed the Pueblo Lands Board to scrutinize claims to an extent demanded neither by his fellow board members not required by the Pueblo Lands Act.<sup>692</sup>

Despite the negation of state control over Pueblo lands established by the 1910 Enabling Act, affirmed by the 1913 *US v. Sandoval* decision, and reaffirmed in the prolonged congressional debates of the spring of 1923, the Lands Board and its legal counsel were still hesitant to abandon completely the application of territorial statutes to Pueblo lands. The commissioners debated whether Pueblo lands constituted "vested property," as indicated by their possession of federally issued land patents, and even debated the very constitutionality of the act, which proposed to destroy the vested estates of non-Indian claimants. They came to the conclusion that Pueblo Indians were wards of the government, and their lands were considered vested property, but the title remained with the federal government as guardian of Indian estates. And because Pueblo lands were considered "Indian country" under the *Sandoval* decision, non-Indians' private claims were consequently not vested property.<sup>693</sup>

The early work of the board was almost purely jurisdictional, deciding the bounds of its power and obligations to uphold Pueblo land rights. Confused over whether the act

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<sup>692</sup> Hall, *Four Leagues*, 252-259. Jennings's reputation for exactness and research earned him the name, "the mole" Hagerman was the "statesman" and later Pueblo Lands Board Chair Louis Warner, who replaced Roberts Walker upon his resignation and Lucius Embree upon his removal, was labeled "the historian," publishing several articles in the *New Mexico Historical Review*.

<sup>693</sup> See correspondence between Charles Jennings and Roberts Walker, folder 1, box 1, Pueblo Lands Board Records, NMSCRA.

gave it authority to examine potential claims on Executive Order Reservation lands, some of which dated back to 1877, the board was initially inclined to undertake claims made on Pueblo grants only. Surprisingly, this choice meant the board would examine only non-Indian claims to lands deeded to Pueblo Indians by previous sovereigns and explicitly avoid Pueblo title to lands that the United States itself granted to various Pueblos, including both Nambé Pueblo and Santa Clara Pueblo in the Tewa Basin.<sup>694</sup>

As the work of the Pueblo Lands Board ran into its third and fourth year, the Board more narrowly defined its jurisdiction. Perhaps mindful of the successes and failures of the Office of the Surveyor General and Court of Private Land Claims, the Board was apparently determined not to engage itself in solving the injustices of past sovereigns and limited its decisions to incursions that had taken place in the American period. The effect was the immediate recognition of the validity of non-Indian lands claims that stretched beyond the American territorial era, regardless of the means by which this land was obtained. This, the Board reasoned, represented a very small portion of total land claims, as most claims derived from the period twenty years prior to statehood.

Even though the Pueblo Lands Act resembled more the moderate Lenroot Substitute Bill than the Jone-Leatherwood Bill, which Collier and Berle preferred, it still had the potential to dispossess hundreds of claimants and displace thousands of people from their claimed lands. Requirements for evidence of tax payments and the Pueblos's independent suits alone could dismantle the patchwork quilt of land ownership on Pueblo

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<sup>694</sup> Roberts Walker to Commissioner of Indian Affairs Charles Burke, May 27, 1925, folder 1, box 1, Pueblo Lands Board Records, NMSRCA. Santa Clara Pueblo received 32,000 acres by the Executive Order of July 29, 1905 and Nambé Pueblo 7,680 acres by the Executive Order of September 4, 1902.

lands. If the Board enforced a strict interpretation of the Act and abided closely by the *Sandoval* decision, then Hispano adverse claimants could face a disastrous outcome. Unlike land grants that lost had their communal lands either through Court of Private Land Claims decisions or partition suits, the Pueblo Lands Act took aim at the small claims on which many lived and raised their families. Living in the ecological limits of northern New Mexico meant that these small tracts were often the only stabilizing factor that allowed poorer Hispanos to remain in New Mexico. Without these lands, outmigration to an uncertain future was their only relief.

In the early months after the Pueblo Lands Act's passage, there was surprisingly little activity by the board. Upon appointment, Board members postponed actual meetings, preferring private correspondence to in-person conferences. Uncertainty over the financing of the board was quickly cleared up, but gave board members yet another excuse to delay actual hearings. Board member Roberts Walker corresponded regularly with the Board's counsel, George A. H. Fraser, who replaced Special Attorney to the Pueblos Ralph E. Twitchell as the Board's legal advisor upon Twitchell's death in August of 1925.<sup>695</sup> Twitchell had been assigned as counsel to both the Board and the Pueblo Indians, meaning he represented both the plaintiffs and the quasi-tribunal in many cases, but Fraser advised only the Board, and Walter Cochrane was hired to take the late Twitchell's place as the special attorney for the Pueblos.

The Ontario-born Fraser had earned his law degree in Denver in 1900, but spent much of his time as a Latin professor at the University of Colorado in Boulder. As

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<sup>695</sup> George A. H. Fraser to Roberts Walker, November 21, 1925, and George A. H. Fraser to Roberts Walker, December 17, 1925, folder 6, box 1, Pueblo Lands Board Records, NMSRCA.

special assistant to the U. S. attorney general, he was assigned to the Board and initially proved both pedantic and conservative in his interpretation of the law. At the outset he disagreed wildly with Board members. Jennings, who lacked a grounding in western, tribal and resource law, heeded Fraser's advice. Hagerman, who served as special commissioner to the Navajos, considered himself an expert in both western tribal and resource law and argued with or ignored Fraser. He would later stand accused of squandering the Navajos's limited resources. Hagerman's disagreements with Fraser and Walker originated largely from his knowledge of New Mexico and state case law, which gradually would be disregarded as it opposed federal tribal law.<sup>696</sup>

Roberts Walker proved the most able interpreter of law and through close readings of Fraser's own legal briefs, often changed the special counsel's mind. Fraser initially rarely strayed from the letter of the law, but Walker convinced him that the Pueblo Lands Act was passed to ameliorate the problems caused by such strict readings of the law and to offer equity where the courts could not. For example, Fraser did not initially believe that territorial statutes of limitation could run in favor of settlers and against Indians. He concurred with AIDA counsel A. A. Berle's citation of the 1921 *Patterson v. Carter* case from Oklahoma, which stated that "as a dependent people these Indians are still wards of the Federal Government, against which Statues of Limitation do not run."<sup>697</sup> Gradually, though, Roberts Walker challenged Fraser's contention by reminding him that although his conclusions were constructed by the letter of the law, Congress' intentions were not. With Francis C. Wilson, he persuaded Fraser that

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<sup>696</sup> Herbert J. Hagerman to George A. H. Fraser, January 22, 1926, folder 6, box 1, Pueblo Lands Board Records, NMSRCA.

<sup>697</sup> Berle, *In the Matter of the New Mexico Pueblo Lands*, 14.

congressional committees that debated and passed the act believed the territorial statutes of limitation ran at least until statehood and that they should be invoked to achieve equity and otherwise ignored.<sup>698</sup>

After years of debate, the tenuousness of the Pueblo Lands Act was still glaringly apparent. A. A. Berle and John Collier, who worked in absentia while recovering from surgery in San Francisco, had nearly killed the compromise bill, Senate Bill 2932, which resurrected significant portions of the Lenroot Substitute. Berle and Collier wanted the Board to retain the power to award compensation, something Congress prohibited legislatively created bodies from doing. Rather, the Board would make recommendations to federal district court, which would render final decisions. Congress ultimately compensated both Indian Pueblos and non-Indian claimants whose title was extinguished.<sup>699</sup>

Arable Pueblo lands in the possession of non-Indians sat at the heart of the Pueblo lands controversy, which had climaxed with the Hanna eviction suits of 1919 and the Bursum Bill of 1922. Most native pueblos had limited fertile and irrigable land. Many had struggled with neighboring Hispano communities for control over sparse water resources since the Spanish colonial era. But as Pueblo populations dropped and Hispano populations increased, Pueblos were ill-equipped to defend themselves against a politically active population that influenced territorial and state legislation and even court decisions. Historian James Vlasich writes: “As the non-Indian population gained in numbers, its influence dominated daily activities in the area. Amidst the turmoil wrought

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<sup>698</sup> Kelly, “History of the Pueblo Lands Board,” 34-35.

<sup>699</sup> Ibid, 23-25.

by disease, alcohol, relocation, and outright encroachment, American Indian socioeconomic status reached a nadir.”<sup>700</sup>

Still, the Pueblo Lands Act only discussed water in sections 6, 7, and 19, which deal with compensation for losses and the use of monies awarded to purchase lands with water rights to replace those lost (see Appendix A). Perhaps more importantly, Francis C. Wilson wrote into the bill provisions for the federal expansion of irrigation to aid both Pueblos and non-Indians. No explicit statement was made as to the connection between land title and water rights, or whether losing a land claim meant the loss of appurtenant water. And the question over the applicability of the Winters Doctrine loomed over the bill. Alois B. Renehan warned that the federal government would need “to settle part of the army on each grant” to allocate water or effectuate evictions allowed in the act.<sup>701</sup>

Despite Berle and Collier’s objection, Section 4 of the Lenroot Substitute, which contained the provision allowing for the application of territorial and state statutes of limitation, remained. Against the protest of Attorneys Hanna and Cochrane, the Board had adopted a “limited construction” of provisions in Section 4 that would neither offer a strict nor lenient application of territorial statutes of limitation. Secretary of the Interior Hubert Work and Commissioner of Indian Affairs Charles Burke, along with representatives of the Justice Department, disagreed with the Board’s intended course of action, believing that it would unnecessarily deprive Indians of their lands. Walker wrote Hagerman that to the contrary he feared the entire act might be overturned on an exclusive or strict application of the Section 4, which would destroy vested property rights gained prior to the *Sandoval* decision. “To decide every last point in the Indians’

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<sup>700</sup> Vlasich, *Pueblo Indian Agriculture*, 125.

<sup>701</sup> Kelly, “History of the Pueblo Lands Board,” 34-35.



favor,” Walker wrote, would only incite “AR and Charlie [Alois Renehan and Charles Catron] to see if they can roar loud enough to get the law repealed. This would be . . . a noble case of buck passing.”<sup>702</sup>

This and many other deficiencies of the Pueblo Lands Act became more apparent as the Board began its operations. For instance, portions of the Pueblo Lands Act could easily lock up the Board in a stalemate. The Act called for concurrence by the total board on all decisions, on each and every claim to each and every parcel. The role of federal district courts in approving or rejecting Board recommendation remained unclear. Was it merely a rubberstamp to the Board’s actions, or could it hear evidence and hold its own proceedings? These uncertainties slowed Board action and prolonged the controversy.

Other concerns loomed over the early years of the Board. While the Bursum Bill and its successors had absorbed public attention since 1922, the ejectment suits filed in 1919 by Richard Hanna still sat unanswered on the docket of the First U.S. District Court for New Mexico. For years, so-called settler attorneys like Alois B. Renehan filed demurrers on behalf of settlers, attempting to delay legal action while they awaited congressional action that would undermine the ejectment suits. The Pueblo Lands Board, nevertheless, needed the suits to be dismissed to continue their work without the possibility that it could be undone by independent judicial action. The Board approached all settler attorneys to request that they agree to dismissal the suit without prejudice and

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<sup>702</sup> Walker quoted in *Ibid.*, 32-33.

then forwarded their consent to federal judges in New Mexico. The Hanna suits were finally dismissed by the June of 1925, allowing the Board to begin its work.<sup>703</sup>

The Pueblo Lands Board began executive session meetings in May of 1925 to set forth procedures and confirm duties under the Pueblo Lands Act. Roberts Walker was vacationing in Europe during these early sessions and submitted memoranda before departing from New York. Herbert J. Hagerman and Charles Jennings worked in his absence to establish general procedures but did so with special reference to adverse claims in the Pueblo of Tesuque, which they had already planned to review first. For the next year, Board members altered the purpose, duties, and procedures of the Board. Hagerman and Jennings reviewed recommendations from Walker and Francis C. Wilson. Wilson's memos, written less than three weeks after the Act's passage in June of 1924, outlined the Board's duties, which included determining the exact lands granted or confirmed to Pueblo Indians by the United States or previous sovereigns or acquired by community purchase. The Board, according to Wilson, was to examine all title papers of non-Indian claimants and determine whether continuous adverse possession since January 6, 1902 had been achieved in claims supported by deeds and uninterrupted tax payments. In these cases, Wilson suggested the Board demand affidavits by three disinterested persons supporting the claim where Pueblo Indians lodged exceptions to it. In cases based fully on continuous adverse possession since March 16, 1889, supported

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<sup>703</sup> George A.H. Fraser to A.B. Renehan, in re: *U.S. ex. rel. Pueblo of San Ildefonso v. Ruperto Archuleta and 155 others*, May 29, 1925, box 9, Renehan Gilbert Papers, NMSRCA.

by no deeds, Wilson suggested that claimants be required to furnish six disinterested people to attest to their claim.<sup>704</sup>

Wilson suggested the when determining compensation, the Board should examine ancient deeds, dating before American occupation and determine whether claims deriving from these deeds could have been settled within ten years of the signing of the Treaty of Guadalupe Hidalgo on February 2, 1848. If so, the owners could be removed. Others claims antedating 1889 would determine the right of compensation to either Indians or non-Indians, depending on the strength of the claim. Wilson also suggested that the Board appoint three appraisers familiar with local land values and ancient recording practices. Armed with this information, the Board could consider the benefit to Indians of removing non-Indian settlers from Pueblo villages; the ethnological, physiological, cultural and health questions; cost of removal given that lands would have to be purchased from settlers; and benefits and justification of the cost or removal.<sup>705</sup>

Wilson suggested Board procedures as well. These included the use of the Joy survey to identify claimants, contacting claimants by form letter and subpoena when no response is received and requiring a petition and three affidavits of disinterested persons sworn to support it. Three to four representatives chosen by a pueblo's council would then examine the documents and could file an exception with three affidavits disputing the claim. In cases where Indians filed an exception, hearings would take place, with no more than six witnesses for each side. The Board could then decide to approve or

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<sup>704</sup> Francis C. Wilson, Memoranda regarding Duties of the Board, June 25, 1924, folder 7, box 1, Pueblo Lands Board Records, NMSCRA.

<sup>705</sup> Ibid.

disallow the claim, though Wilson believed that many claims would be uncontested and would be easily approved and confirmed.<sup>706</sup>

Roberts Walker's memoranda touched little on the duties or procedures of the Board, but addressed the Board's purpose, an issue that seemed to have been resolved in the legislative battles of 1923 and 1924. Walker stated: "These Indians, for three centuries, have bought and sold lands. Their condition, if it existed, of wardship under the United States as guardian, was obscure."<sup>707</sup> The Board awaited the U.S. Supreme Court decision in the case of *U.S. v. Candelaria*, which would determine when Pueblo Indians's state of wardship began, either at American sovereignty in the Southwest or at the *U.S. v. Sandoval* decision in 1913. Hagerman and Jennings, meanwhile, suggested an exhaustive process, including the examination of wills, deeds, trusts, probate papers and parish records by translators, paleographers and handwriting experts for accurateness. Hearings would be arranged by the Board's clerk, who would subpoena witnesses and documents, arrange for interpreters and stenographers and serve as the Board's fiscal officer. In December 1925, amid their work in Tesuque and Nambé, Hagerman asked the Board's clerk, James J. Goutchey, whether it was necessary for the Board to determine the governing authorities, both governors and officers, of each Pueblo at the time a specific deed was issued.<sup>708</sup>

The Board also established limits on its transparency during the Tesuque hearings. Copies of deeds used to substantiate or dispute claims would be provided at cost, but no

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<sup>706</sup> Ibid.

<sup>707</sup> Roberts Walker, Memoranda on Purpose of the Pueblo Lands Board, March 30, 1925, folder 7, box 1, Pueblo Lands Board Records, NMSCRA.

<sup>708</sup> Herbert J. Hagerman to James J. Goutchey, December 20, 1925, folder 3, box 1, Pueblo Lands Board Records, NMSCRA.

copies of appraisers' reports would be made available. The legal principles the Board used to make its decisions would not be shared. The commissioners argued that their decisions had no standing as precedents for legal cases and the Board functioned as merely a fact finding body. Testimony was available for use at the Board's Santa Fe office, but translations of deeds were not available because not all were translated.<sup>709</sup>

According to Hagerman and Jennings, the Board should operate as a "poor man's court, and every method should be chosen with a view to saving claimants the expense of counsel and giving them a informal friendly hearing."<sup>710</sup>

The Board's issuance of reports on each pueblo seemed engineered to obscure its work, a problem that would invite scrutiny throughout its proceedings. These reports would be limited to the decision itself and would not reveal or discuss the rationale behind the decision. They obscured the Board's process and hardly gave Pueblos or Hispanos due process. Initial reports, issued for each grant to the First District Court for the purpose of bringing a suit to quiet title, could group together claims and need not define each claimant's parcel. Subsequent and final reports would determine the property limits and water rights, including the "area, extent and character of lands and appurtenant water rights not claimed for Indians by the Board." Reports called the "U.S. dereliction reports," were particularly interesting but rarely written. The dereliction report documented whether Pueblo rights to land or water mentioned in other reports could have been recovered for Indians by seasonal prosecution. The value and award report, which brought equal scrutiny to the Board's actions, would tabulate real values of both Indian

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<sup>709</sup> Kelly, "History of the Pueblo Lands Board," 38.

<sup>710</sup> Minutes of the Executive Session of the Pueblo Lands Board, Santa Fe, New Mexico, May 15, 1925, folder 3, box 1, Pueblo Lands Board Records, NMSCRA.

and non-Indian losses. The final report, a so-called “banishment reports,” would offer the Board’s recommendations as to deporting non-Indians whose claims were valid, an action the Board briefly considered but ultimately rejected as too controversial.<sup>711</sup>

Just as the Board set about determining its practices, AIDA worked to define which groups of settlers it would pursue claims against and which ones it would ignore. Although Hanna’s 1919 lawsuits sought the wholesale eviction of all entities, corporations and individuals violating Pueblo land rights, Collier and Berle realized that they had to focus on claimants who that were less likely to arouse broad public interest. Thus, AIDA targeted the poorest, weakest and most vulnerable Hispano claimants. Churches, under the property of the Archdiocese of Santa Fe, were excluded, but properties with Penitente moradas, such as one San Juan, were included and targeted. Railroad and utility companies, whose controversial methods in obtaining rights-of-way were well known throughout the West, also posed a vexing question. Pressing railroads would be difficult for many companies, such as the Atchison Topeka and Santa Fe Railroad, could produce proof of payment for rights of way to Santo Domingo and Cochiti, and these pueblos could not document proof of ever having received these payments.<sup>712</sup>

Though Collier privately complained of Hanna’s actions as AIDA’s lawyer representing the Pueblos, he publically lauded Hanna’s experience and integrity. Still, Collier harbored same concerns for Hanna that he had for Francis C. Wilson, namely his Hanna’s other clients whose interests ran against Pueblo rights. Collier had fired Wilson

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<sup>711</sup> Ibid.

<sup>712</sup> Kelly, “History of the Pueblo Lands Board,” 79; Berle, *In the Matter of the New Mexico Pueblo Lands*, 19.

in 1923 when they clashed over Collier's uncompromising approach to repatriating Pueblo lands regardless of the nature of non-Indian title. Renehan wrote Collier in 1921, ridiculing him for hiring Wilson, the lawyer who had nearly sold the Pojoaque Grant to investors while he asserted a sanctimonious public persona. Collier retained an able lawyer in Hanna, whose experience in land and water litigation in New Mexico eclipsed A. A. Berle's. But Hanna also represented the Santa Fe Northwestern Railroad Company, whose lines ran through Jemez, Zia, Santa Ana, Santo Domingo and Cochiti Pueblos, and whose controversial methods at retaining rights of way led to questions of AIDA's mission in battling for Pueblo rights.<sup>713</sup>

In a letter to Roberts Walker soliciting his legal advice, NMAIA Chairwoman Margaret McKittrick wrote that Board actions might threaten bond companies backing railroad companies if their lines lay on Pueblo lands. Section 17 of the Pueblo Lands Act permitted pueblos to deed lands to companies with the approval of the secretary of the interior (see Appendix A). Pueblo attorney Walter Cochrane, Board attorney George A. H. Fraser and Hanna's law partner, Fred E. Wilson, wrote Commissioner of Indian Affairs Charles Burke to recommend that Congress pass a special act making New Mexico statutes regarding rights of eminent domain applicable to Pueblo lands. McKittrick wrote Walker, "I might say that Hanna is the lawyer for the railroad, and it is rather amusing to find Collier's lawyer representing a railroad which is endeavoring to secure a right of way which the Indians do not want to have come across their land."<sup>714</sup>

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<sup>713</sup> Margaret McKittrick, Chairwoman, NMAIA, to Roberts Walker, April 23, 1926, folder 3, box 1, Pueblo Lands Board Records, NMSCRA.

<sup>714</sup> Ibid.

Despite their controversial methods in obtaining rights of way, railroad and utility companies were avoided because of their money, political influence and skilled and powerful attorneys. AIDA also overlooked other forms of public right of way, such as public highways, to avoid inciting further public opposition to Pueblo rights. As a concession to settlers, and a way of avoiding controversies over churches and other mutual buildings, AIDA and Collier advised native Pueblos to concede townsites and omit them from Pueblo Lands Board proceedings. Beyond creating the appearance that the Pueblos were willing to negotiate, this strategy ensured that merchants, bankers, municipalities, city councils and the larger public were not galvanized to support the settler cause. Collier, nonetheless, considered upholding or recognizing these rights as merely a moral act, but by no means an imperative or obligation. Rather, conceding church sites, public and private utilities and townsites would serve as public proof that Pueblos were the good conscientious neighbors who exploitative Hispanos and Anglos were not.

As the Board pondered its obligations under the Pueblo Lands Act, both Pueblo and Hispano advocates and lawyers confronted the complexity of its many provisions. The tax provision, constructed by A. A. Berle to repatriate the many lands on which taxes were unpaid, was particularly vexing. While the federal government had expanded its public lands through the Office of the Surveyor General, the Court of Private Land Claims and the Forest Reserve Act, so that New Mexico territorial leaders worried that when statehood came, New Mexico would have few lands worthy of taxation. Territorial taxation statutes desperately attempted to levy taxes on all lands. When statehood arrived, private claims on Indian lands, though theoretically nullified by the *Sandoval*



case, were some of the richest non-corporate lands taxed by poor state and county governments desperately in search of revenue wherever they could find it. Attacks on the flawed Pueblo Lands Act came from all sides.

Addressing the New Mexico Bar Association, Alois Renehan attacked the Pueblo Lands Act as “a hodge-podge and potpourri.” Since 1922, he had reminded Bursum, Fall and anyone involved in Pueblo lands legislation that a semi-judicial commission was his idea, which he had pronounced first in the 1920 Congressional Sub-Committee hearings in Tesuque. Renehan also reiterated that he was the primary author of the Bursum Bill before it was manipulated by Charles Catron and Ralph E. Twitchell, men who publicly claimed authorship but were acting principally with their own legal practice and political career in mind.<sup>715</sup> In his construction of the Bursum Bill, Renehan had worked to retain as much power in the state as possible and wanted to subject Indian Pueblos to state laws in battles for water rights just like any other water user.

Renehan was likely jealous that his old nemesis, Francis C. Wilson, had been retained by the NMAIA, and that Wilson, not Renehan, would be ultimately involved in the final composition of the compromise bill. Renehan impugned the Act for creating a bureaucracy ill-equipped for solving the Pueblo lands controversy. He pointed out that the Act required concurrence of the full Board in every decision, something not required even in decisions of the U. S. Supreme Court. If Pueblo lands had indeed been under federal protection since the beginning of American sovereignty and their title unbroken, could taxes be lawfully assessed and levied? If so, tax payments, as stipulated by the act,

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<sup>715</sup> Renehan’s address was partially reprinted as “Renehan Takes Shot at Pueblo Lands Board,” *Santa Fe New Mexican*, August 10, 1927, box 9, Renehan Gilbert Papers, NMSRCA. The full speech ran twenty-two type written pages.

were not only evidence and acts of good ownership, but were a requirement that claimants might have ignored because levies by territorial and state government on federal trust lands, perhaps even former trust lands, were arguably illegal.<sup>716</sup>

As Pueblo Lands Board members debated the parameters of the act among themselves and with legal counsel George A.H. Frasier, Board hearings began to take shape. Pueblo Lands Board staff, led by Clerk James J. Goutchey, set up an office in downtown Santa Fe and asked claimants to bring all property records, land conveyances, sales, deeds, titles, receipts and evidence of tax payments. A steady stream of documents flowed into their office, and deeds were copied, translated, abstracted and typically returned to their owners as the Board built up its own archive in a manner similar to the Office of the Surveyor General. Board members, meanwhile, maintained correspondence while on vacation, writing one another and the Commissioner of Indian Affairs Charles Burke on their plans while postponing any and all action.<sup>717</sup>

Before the Board had held even a single hearing, Roberts Walker and Herbert Hagerman schemed on how they could manipulate hearings and how to deal with both Collier and Renehan largely keeping Charles Jennings in the dark. The Board started its hearings with Tesuque and Jemez, whose combine adverse claims numbered twenty-two and totaled under five-hundred acres. Pueblo of Tesuque was the site of archetypal events that, for many, represented the Pueblo lands fight. Congressmen, ignorant of and reluctant to ascertain the gravity of the Pueblo lands situation, admonished Pueblos for

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<sup>716</sup> Ibid. See also, Alois B. Renehan to Senator Holm Bursum, November 29, 1922, folder 2, box 12, Holm Bursum Collection.

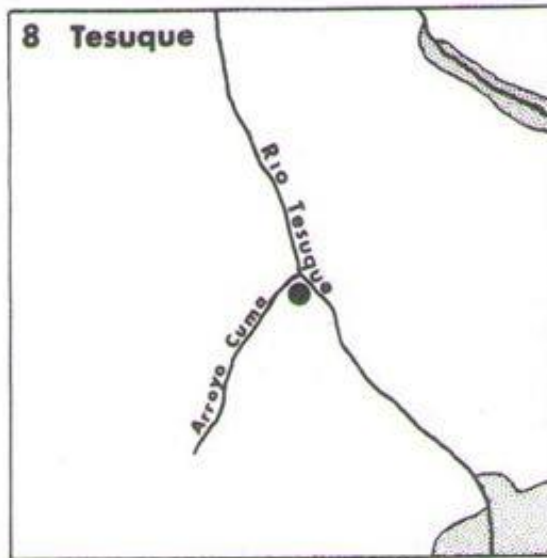
<sup>717</sup> Charles H. Burke to Roberts Walker, May 23, 1925, RG 75, Entry 86, NA-RMR, Denver. Burke assured Walker little interference from his office, stating that “procedure should be left largely to the Pueblo Lands Board.”

allowing the expropriation of their lands and pondered the licentiousness of the surrounding Hispano and Anglo populations, whom they suspected of mixing sexually with their Pueblo neighbors. The House Committee on Indian Affairs held hearings regarding non-Indian claims in May 1920, where Alois Renehan introduced the idea of a commission that would evaluate all non-Indian claims to Pueblo lands, and clear title to hundreds of acres of Pueblo lands.

Tesuque was also the site of the infamous fence controversy, which had publicized the desperation that compelled Pueblos to destroy the property of encroachers. The 1922 controversy indirectly led to the Bursum Bill and the Pueblo lands fight that culminated in the Pueblo Lands Act. By 1925, the Pueblo Lands Board believed Tesuque, a pueblo long considered among the most pure and most conservative, would be the ideal place to begin its hearings.<sup>718</sup> Unlike nearly every other Tewa Pueblo, intermarriage with Hispanos or Anglos was exceptionally rare at Tesuque. Private claims against Pueblo ownership were also comparatively recent. E. B. Healy's, E. D. Newman's, and Alphonse Dockweiler's large ranches proximity to Santa Fe markets incited the avaricious extension of their lands and intrusion on Pueblo patrimony. With few claims to a comparably small acreage, the Board wished to use Tesuque as a case to test how the Board would function under its interpretation of the Act.

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<sup>718</sup> Sandra A. Edelman and Alfonso Ortiz, "Tesuque Pueblo," in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 330-335.



**Figure 24: Tesuque Pueblo, showing non-Indian claims (shaded)** from Carlson, *Spanish American Homeland*, 48.

Tesuque's case provided an ominous sense of urgency in addressing non-Indian claims to the pueblo's lands. The Joy Survey and a subsequent study by Pueblo irrigation engineer H. F. Robinson showed its non-Indian claims were larger than those typical of other Pueblos. Claims averaged more than twenty-five acres and ranged from Spanish American War veteran and Rough Rider Fredric "Fritz" Mueller's claim of less than a quarter acre to Santa Fe automotive dealer Paul Doran's ninety-four-acre estate. Unlike other Pueblos, there were also only a few Hispano claimants at Tesuque. Lucas Chávez, Vicente Jiménez, Martín Domínguez, José P. Gonzales, Manuel A. Vigil and Joaquín Jiménez claimed a combined eighty-seven acres, and their tracts averaged twelve and a half acres, half the size of the average claim at Tesuque.<sup>719</sup>

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<sup>719</sup> Claims at Tesuque Pueblo averaged 25.075 acres. See Summary of Reports of the Pueblo Lands Board, U.S. Congress, House. *Hearings on H.R. 9071*, 72<sup>nd</sup> Cong., 1<sup>st</sup> Sess., February 17, 1932, 36-37. See also, notes on Tesuque hearings, folder 3, box 2 Pueblo Lands Board Records, NMSRCA; and "Private Land Claims in Tesuque Pueblo

The Board held its first hearing on August 17, 1925, at the Bouquet Ranch in Nambé. Roberts Walker was absent, recovering from illness and travel. Hagerman wrote Walker and reported to him that John Collier, Tesuque Lieutenant Governor Martín Vigil, AIDA attorney Richard Hanna and his law partner Fred T. Wilson, and new Special Attorney for Pueblo Indians Walter C. Cochrane attended, but were not very active in examining witnesses. Hagerman naively felt that all attorneys would comply with Board directives and procedures, but remained suspicious of settler attorney Charles Catron who, he believed, was “always inclined to make trouble.” Despite Hagerman’s confidence, even Tesuque’s earliest hearings brought forth problems, including the disputed interpretation of Section 4 of the act regarding statutes of limitation and how water rights would be handled by the Board. He admitted to Walker, “While it is a fact that we selected Tesuque because of its apparent simplicity, it is in some respects more complicated than some of the other Pueblos.”<sup>720</sup>

Non-Indian claims on Tesuque Pueblo amounted to a seemingly insignificant 457 acres of a nearly 17,500 acre grant. But as historian Willard H. Rollings observed, the 457 acres were all irrigable acres and were a considerable portion (18.2 percent) of 2,500 acres of arable land.<sup>721</sup> The government attempted to increase the arable acres at Tesuque by constructing a dam in 1922 and 1923. Designed by Pueblo irrigation engineer H. F. Robinson, who conducted intensive surveys of Tesuque lands, the dam was hoped to subsume the silt laden riverbed when the sheer amount of water would saturate the

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Grant, Townships 18 and 19 N. Range 9 East,” box 9, Renehan-Gilbert Papers, NMSRCA.

<sup>720</sup> Herbert J. Hagerman to Roberts Walker, August 22, 1925, folder 3, box 2, Pueblo Lands Board Records. NMSRCA.

<sup>721</sup> Willard H. Rollings, “Indian Land and Water: The Pueblos of New Mexico (1848-1924)” *American Indian Culture and Research Journal* 6:4 (1982), 1-21, 9.

ground and raise the water level.<sup>722</sup> While it was somewhat successful, water problems remained.

In 1924, toward the end of the battle over competing Pueblo lands bills, Special Attorney for the Pueblos Ralph E. Twitchell filed a lawsuit to establish priority waters in the Tesuque-Nambe-Pojoaque watershed. After the first Board hearings, it became clear that the case, *United States ex rel., Pueblo of Tesuque v. Guy S. Exon*, intruded on the Board's deliberations as water became central to the discussion of nearly any land claim. Roberts Walker wrote from Europe that water issues should be left to state jurisdiction. Hagerman, meanwhile, quickly began to realize that even the repatriation of all Tesuque lands claimed by settlers would not solve the pueblo's water problem. He began to formulate an approach in which the *Exon* suit could recover water where the board was unable to. Hagerman initially wished to pursue the *Exon* case and recover as much land and water before any Board deliberations began, easing the pressure on its Tesuque decision. In the spring of 1925, George A. H. Fraser joined Hagerman in a plea to the Indian Service to appoint a water master that would supervise allocation on the Tesuque, Nambé and Pojoaque watersheds.<sup>723</sup> When the *Exon* case was delayed to await hydrological reports, the Board was forced to act on its own and made decisions on the belief that the *Exon* case would not recover waters for Tesuque Pueblo.<sup>724</sup>

While Hagerman believed in a multilayered approach to recover Tesuque water rights, Walker doubted whether Congress or the federal courts could do anything about

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<sup>722</sup> See Commissioner of Indian Affairs Charles H. Burke to E. D. Newman, May 19, 1924, RG 75, Entry 86, NA-RMR, Denver. See also Edelman and Ortiz, "Tesuque Pueblo," 332.

<sup>723</sup> Kelly, "History of the Pueblo Lands Board," 34-35.

<sup>724</sup> Herbert Hagerman to Roberts Walker, July 25, 1925, folder 323, RG 75, Entry 86, NA-RMR, Denver.

water. More than his fellow Board members, Walker was conscious of the opinion of local officials. Walker understood that the very existence of the Pueblo Lands Board was considered an unjust imposition by many state lawmakers, who felt that after New Mexico's long territorial fight, further federal interference was an insult. Getting in the business of forced adjudication or determination of water rights and their priority would only pit the locals (including officials) against the board, and could even cause locals to ask for the repeal of the act, albeit for reasons different than Collier's. Fearful of the act's vulnerability, Walker was again seeking an equitable solution rather than righteous justice for the Pueblos.

The Indian service had yet to respond to Fraser and Hagerman's request to supply a ditch rider and the data needed to adjudicate the *Exon* case. Plans for a larger dam on the Tesuque River were criticized by Pueblo attorney Walter C. Cochrane, who argued that stopping upstream use would do little since any "saved water" would likely "sink into the river," or be absorbed by the sponge-like streambed.<sup>725</sup> Cognizant of the 1897 and 1909 lawsuits against Nambé, Cochrane argued that the Indian Service would better serve Indians by protecting them from local intimidation and lawsuits in local courts brought by Hispano and Anglo neighbors. As special commissioner to the Navajos, Hagerman witnessed the utility of drilling wells and constructing pumping plants to add ground water to Indian streams. Cochrane agreed with Hagerman's recommendation for wells and pumping plants as an alternative to lengthy court cases, albeit an economically unfeasible one.<sup>726</sup>

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<sup>725</sup> Kelly, "History of the Pueblo Lands Board," 47

<sup>726</sup> Ibid, 48.

Commissioner of Indian Affairs Charles Burke hoped that the Board could settle water disputes outside and upstream from Pueblo lands. He obviously misunderstood the Board's jurisdiction, which was limited to adjusting claims inside the Pueblo lands and was even further limited to original grant lands by the Board. Ignoring Burke's appeal, Fraser and Hagerman both pushed for the dismissal of the *Exon* suit. Fraser argued that the lack of evidence based on adverse possession or use of water rights before 1902 meant that all that could be accomplished was a survey of present claims and not the definition and confirmation of actual rights. Hagerman, on the other hand, argued simply for practicality. In his opinion, stating the *Exon* case was "one of those impossible water cases which seems to have no end."<sup>727</sup>

Believing that Nambé and Pojoaque had no water shortage and that pumping plants and wells at Nambé and San Ildefonso would do what adjudication could not ("create more water"), Hagerman pressed even harder the dismissal of the *Exon* suit. Fraser applied for and was granted the dismissal, without prejudice, by Judge Colin Neblett in May 1926. With water rights moved aside, the Board focused on the land claims of non-Indians at Tesuque. Many claimants, including heirs of the Cyrus McCormick fortune, simply abandoned their claim and accepted an undisputed award. These wealthy, largely eastern families had purchased lands as investment opportunities or to build summer houses. They bought the land, but not out of desperation, and willingly parted with their claim. But in the world of the Board, even this seemingly uncomplicated action brought about controversy.<sup>728</sup>

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<sup>727</sup> Hagerman quoted in *ibid.*.

<sup>728</sup> *Ibid.*, 58-62.



Alois Renehan and his legal partner, Carl Gilbert, represented Tesuque claimants and advised their clients not to waver in pursuing their claims. Charles Catron was retained by many of the wealthier families who wanted to avoid controversy that might damage their family's reputation and quietly went along with the Board's recommendations. When the Board disputed the claims of Renehan clients Sidney Well and Alphonse Dockweiler but agreed to settle the claim of Catron client T. S. Mitchell, Renehan cried foul. He later published in the *New Mexico State Tribune* an editorial accusing Board attorney Fraser of interfering with his clients, undermining his cases and giving them bad advice. Infuriated, Renehan criticized the Board and even tore at his own clients: "The weakness, timidity and disloyalty of some clients are marked in contrast with the loyalty, firmness and strength of the clients of Mr. Charles C. Catron within the Tesuque Grant. His clients stayed with him and accepted his judgment. Under these circumstances, the board came tumbling over itself to make a donation to Mr. Catron's clients, far beyond their deserving and their expectations."<sup>729</sup>

Fraser refuted Renehan's claim that he had interfered with his clients and criticized Renehan for keeping his clients in the dark.<sup>730</sup> Renehan ranted more, accusing the government of manipulating the public through publicity, or "playing Collier's game." Renehan's clients, however, proved more than willing to press their cases and were even competent in defending their Tesuque claims. Alphonse Dockweiler abstracted his own title on many of the tracts he pieced together to assemble his over one-hundred-acre claim. He traced his deeds back to the purchases by him and his father

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<sup>729</sup> "Renehan on the Pueblo Lands Board," *New Mexico State Tribune*, August 13, 1927.

<sup>730</sup> George A. H. Fraser to Carl H. Gilbert and Alois B. Renehan, October 18, 1926, box 9 Renehan-Gilbert Papers, NMSCRA.

from Mariano, Roco and Francisco Roybal in 1886 and 1887, and from William Ute in 1889. All were documented in Santa Fe records as deriving from the 1840s and 1850s. Dockweiler stressed the amount of labor he put into lands “overgrazed by Mexicans for burros” and the thousands of dollars he invested to improve the land. Referring to the interference of John Collier, Dockweiler wrote that the “Tesuque Indians claimed only the lands of Newman’s Ranch up until that man in Española aroused the Indians.”<sup>731</sup>

Dockweiler’s letters and abstracts suggested that he had purchased lands from people well-known in Santa Fe circles including Cyrus McCormick III and Carlos Vierra, the famous painter and founder of the Santa Fe art colony.<sup>732</sup> Anticipating the dispute of his claim, Dockweiler attended NMAIA meetings to declare that his claims were protected by 125-year-old deeds. He intriguingly doubted the almost-undisputed-suggestion that Tesuque Indians did not intermarry with Hispanos: “The people come up from Old Mexico and get married with [an] Indian squaw and settled down. There was not room in the pueblo so they settled outside of the Pueblo, which today you will find the place which the ranchers call Coyotes, where the Indians of the Tesuque Pueblo mixed. The place today is called Rancho de los Coyotes.”<sup>733</sup> While taking Dockweiler’s statement with a grain of salt, he was clearly cognizant of the proper terms for progeny of Pueblo-Hispano unions (“coyotes”) and inferred that land loss by the Pueblo of Tesuque had, in fact, occurred mostly through intermarriage with surrounding Hispanos.

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<sup>731</sup> Alphonse Dockweiler to law offices of Gilbert and Renahan, July 20, 1925, box 9, Renahan-Gilbert Papers, NMSCRA.

<sup>732</sup> Vierra sold his lands in Tesuque to Dockweiler and used the funds to purchase land on Pecos Trail, where he would construct his influential Spanish-Pueblo revival residence. See “The Carlos Vierra House: 1002 Old Pecos Trail,” *Bulletin*, (Historic Santa Fe Foundation), January 1979.

<sup>733</sup> Statement of Alphonse Dockweiler, Minutes of Meeting of the New Mexico Association on Indian Affairs, August 20, 1923, SWAIA Collection, NMSRCA.

Dockweiler's extensive knowledge failed to defend his claim, but it did secure him employment as a Pueblo Lands Board appraiser for claims in San Juan and Santa Clara.

The Board completed its Tesuque hearings by late September and early October and filed its report to federal district court on November 24, 1925. For 179.02 acres lost, it recommended that Tesuque Pueblo be compensated \$18,301.20, plus an additional \$11,000.00 for 110 irrigable acres lost, an award that exceeded the appraised value of the lands (See Appendix C). It also recommended wells and pumping plants to offset the loss of water rights. Controversies immediately ensued as Tesuque wanted the return of its land, not compensation for its loss. Tesuque attorneys were advised to accept the decision and not delay process for other Pueblos thorough appeals, which would jeopardize later awards.<sup>734</sup> John Collier was initially angry at the size of the award, believing the Board intentionally set it high to draw suspicion and create the likelihood that Congress would reject the award. AIDA attorney Richard Hanna filed a protest demanding that he be fully informed on how the Board reached its conclusions and about the legal principles on which its decision was based. He demanded deeds and appraiser's reports on land and water values in addition to transcripts he was furnished, in order "to discharge his responsibilities to his Pueblo clients."<sup>735</sup>

The Board dismissed Hanna's protest, believing that appeals should come from Cochrane, the government-appointed Pueblo attorney, and not from AIDA. Fraser also urged Collier to approach planned independent suits without testing constitutionality of the Pueblo Lands Act, which would force the U.S. Supreme Court to consider whether a settler's claim to property based on territorial statutes of limitation would take precedence

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<sup>734</sup> Kelly, "History of the Pueblo Lands Board," 32, 49.

<sup>735</sup> Ibid, 37.

over the federal government's responsibility to protect Pueblo lands under the guardianship concept. He urged independent test suits, nonetheless, thinking that Judge Neblett favored the Act and the Indians had nothing to lose. Roberts Walker, on the other hand, was opposed to independent suits, believing they only unraveled the Board's work. To nearly everyone's surprise, Congress approved the full amount of \$29,301.20. Hanna dropped the independent suits, which were only filed as a preemptive protest against a reduced award, which never materialized.<sup>736</sup>

The Tesuque hearings exposed how difficult the process would be for the Board, which privately confided that hearings might take two or three years for all pueblo claims. The water rights and water woes of Tesuque, Nambé, Pojoaque and San Ildefonso Pueblos complicated the process. The dismissal of the *Exon* case eased the Board's charge in Tesuque, but it left the adjudication of the entire watershed unaddressed. Hagerman reasoned that because waters claimed by non-Indians at Tesuque were now truly unrecoverable, Tesuque deserved a higher award that paid for not only their extinguished Indian title to their lands, but also their water rights. His rationale broke under the doctrine of prior appropriation, the Winters doctrine (which reserved native water rights and was gaining headway in federal courts), and even did not stand up under traditional Pueblo usufruct rights. When questioned, Hagerman stated that Tesuque had not actually lost its water rights. He still offered no rationale for compensating Tesuque for water rights the pueblo never lost. His convoluted explanations would haunt him, especially in 1928 and 1931, when Congress scrutinized

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<sup>736</sup> Ibid, 38-44.

the work of the Board and Hagerman, more than any other government figure, came under fire.

By 1931, both Hagerman and Fraser reneged on their advice for the dismissal of the *Exon* suit and recommended action be taken to adjudicate its waters.<sup>737</sup> Hagerman held that the Tesuque award allowed for the further development of waterworks. He continually dodged the question of whether Tesuque had, in fact, surrendered water rights in accepting the award. But the Indian Service later rejected Hagerman's pumping plan and attempted only artisanal wells. Hagerman lamented that the government would have to adjudicate the Tesuque-Nambe-Pojoaque watershed and quickly passed the buck and moved onto Nambé Pueblo, where centuries of disputed claims would bend the Board and nearly break its members under the pressure.<sup>738</sup>

Nambé differed greatly from Tesuque, a Pueblo that for so many, symbolized both Pueblo conservatism and self-determination. Where most considered Tesuque's bloodlines pristine, observers had long noted that Nambé had intermarried heavily with their Hispano neighbors. Some believed the Pueblo population was obscured by their Hispano brethren. Others felt it was already extinct, gone the way of Pecos and Pojoaque before it. How precisely Nambé blended with its Hispano neighbors became apparent in the Board's hearings, which told a story different from the customary one of Hispanos overrunning a Pueblo grant.

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<sup>737</sup> Richard Ellis, "Tesuque Pueblo," unpublished manuscript, folder 61, box 1, Myra Ellen Jenkins Papers, Center for Southwest Studies, Fort Lewis College, Durango, CO.

<sup>738</sup> Kelly, "History of the Pueblo Lands Board," 51, 87; Hall, *Four Leagues*, 260.

## Chapter 9: “Indians on One Hand, Mexicans on the Other”: Debating Ethnicity at Nambé Pueblo, 1925-1926

In December of 1925, José A. Ribera sat in front of the Pueblo Lands Board to defend his claim to lands lying within the exterior boundaries of Nambé Pueblo. At seventy, he was a man of considerable wealth by New Mexico’s standards, owning tracts of land and dozens of head of cattle in both the Río Arriba and the Río Abajo. At the time that he defended his claim to Nambé Pueblo lands, Ribera was familiar with disputes over land and water, especially land and water claimed by Indian pueblos. Two years earlier, in the summer of 1923, amid the debate over the infamous Bursum Bill, Ribera was cited for allowing his cattle to trespass on Santo Domingo Pueblo and Cochiti Pueblo lands. Northern Pueblo Indian superintendent Clinton J. Crandall reminded Ribera that it was only fifteen years earlier that he had demanded the removal of a fence Ribera had built to corral cattle and horses on Cochiti lands.<sup>739</sup>

More than two decades earlier, in 1899, Ribera led a suit against the Pueblo of Nambé over the disputed water rights to the Río Nambé’s depleted waters. The Nambé claimed that the three ditches in question were private because Indian users retained rights among Hispano users. Hispanos argued that the ditches were public and communal and merely flowed through Indian lands. The local court found in favor of Ribera and the Hispano users, granting an injunction against Nambé Indians’s use and control of acequias built by Hispanos decades earlier. Further, the court held that the Nambé governor Francisco Tafolla had no authority over the ditch and could not impede the actions of the “Mexican mayordomo.” Complications like these arose from mixed Indian

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<sup>739</sup> Memorandum from C.J. Crandall, to Jose A. Ribera, et.al., July 26, 1923, and C.J. Crandall to Jose Rivera [sic], September 6, 1923, folder 98, RG 75, Entry 86, NA-RMR, Denver.

and non-Indian land tenure that was common in Nambé Pueblo and across the pueblos of the Tewa Basin. This intra-Pueblo land grant checkerboard of ownership grew at the end of the territorial era, exacerbated by a growing Hispano population displaced from its own former land grants and a shrinking Pueblo population ill-equipped to face the Hispano pressure.<sup>740</sup> Finally, Ribera's victory in the *acequia* battle was not surprising in an era where local courts' rulings were founded on decades of territorial jurisprudence favoring private over communal ownership and frequently marginalized traditional practices and offices whether they were *acequia* mayordomos or Pueblo caciques.

By 1925, these resource contests had become almost routine. Ribera was calm when pressed by Pueblo Lands Board members Charles H. Jennings and Herbert Hagerman, and Pueblo attorney Walter C. Cochrane. All questioned the validity of Ribera's thirty-five-year-old purchase of a fourteen-acre tract from two Nambé Indians: Francisco Tafolla, the former Pueblo governor, whom he had faced in court in the *acequia* dispute; and a native named *Antonio* Tapia, whom he believed was a lieutenant, or a *principal* of the pueblo. Ribera claimed that all his transactions were validated in deeds, which lay before the Lands Board. Dating back to 1892, these documents were signed by the Nambé Pueblo governor and his two *principales* (lieutenants). Ribera believed that these deeds were legal recognition of a valid sale of Indian land. While the Board generally rejected Ribera's claim, his case brought up difficult questions it would face for the next four years, namely whether deeds issued by individual Indians, even

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<sup>740</sup> *Jose A. Rivera, et. al. v. The Pueblo of Nambé et. al.* 1899, Case no. 4088, and *Acequia del Llano, et. at. v. Acequia de las Joyas, et. al.*, 1901, folder 1, box 1, Indian Affairs Collection. MSS 16. Center for Southwest Research, University Libraries, UNM, Albuquerque.

governors and *principales*, constituted color of title.<sup>741</sup> They nonetheless recognized his rights to compensation by the federal government based on adverse possession. The Board came to acknowledge that the sale of Pueblo land by a Pueblo official complicated their decision and would draw the attention of the First District Court, which certified the work of the Board. This complication led the Board to reconsider Ribera's claim, validate it, and recommend compensation to Nambé Pueblo, extinguishing the pueblo's title to land within its own exterior boundaries.

Beyond the procedural practices of the Board, Ribera's testimony revealed the convolution of Pueblo and Hispano land and water rights in the Tewa Basin. His claim, supported by deeds signed by Pueblo officials, demonstrated the willing sale of land by Pueblo natives, a far cry from the violent Hispano seizure of lands portrayed by John Collier, the NMAIA, and AIDA during the battle against the Bursum Bill. Even more revealing and perplexing for the Board were Ribera's answers to questions suggesting that Pueblo and Hispano relations were more than merely economic. Cognizant of past water rights battles in the Nambé area, Board member and self-styled water czar Herbert Hagerman asked Ribera whether Indians and non-Indians presently had sufficient water to irrigate their respective lands. Ribera responded, "I don't know, but if the gentlemen will excuse me, what do you call an Indian? They are more Mexicans than Indians." Implying that Nambé Indians were of a mixed Pueblo and Hispano racial heritage apparently annoyed Hagerman. Interrupting Ribera, he declared, "I am talking about *Indians on one hand and Mexicans, such as you, on the other.*" Ribera seemingly poked fun at the former governor's question: "That's one thing I don't know; the Indian women

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<sup>741</sup> Hearings before the Pueblo Lands Board, Nambé Pueblo, Private Claim 5, Parcel 2, José A. Ribera, December 3, 1925, box 1, Pueblo Lands Board Records, NMSCRA.



are married to Mexican men and the Mexican women are married to Indian men.”

Hagerman then asked, “Are you an Indian?” Ribera responded, “I don’t claim to be, but I might be.”<sup>742</sup>

Ribera’s testimony disrupted the Board’s understanding of race and ethnicity. Years of contentious debate were predicated on an understanding that Pueblo Indians and Hispanos were distinct and disparate groups, who shared little beyond their time in court rooms challenging each other’s claims to precious and scant resources. Between 1913 and 1933, a period which I term the Pueblo Lands Board era, Pueblos’s and Hispanos’s historic relationship was debated and recast by advocates, attorneys, and bureaucrats and by Pueblos and Hispanos themselves. Both Pueblo Indians and their Hispano neighbors were racialized into essentialized versions of themselves, into naturally discrete cultures and opposing lineages. With so much at stake in this untangling of the knot of mixed Pueblo and Hispano land tenure, many participants in this struggle simply accepted and reaffirmed the separation of Pueblos and Hispanos into distinct racial categories. While the political and legal struggle over the Bursum Bill cast them as natural adversaries, the actual work of the Pueblo Lands Board from 1925 to 1931 provided plenty of evidence of political, economic, cultural and even familial ties that both drew Pueblos and Hispanos closer together, and simultaneously drove Pueblos, like Pojoaque, to near extinction.

This chapter continues to examine how land tenure and the politics of ethnicity were expressed in the Pueblo Lands Board era.<sup>743</sup> The importance of this era to the

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<sup>742</sup> Ibid.

<sup>743</sup> In this dissertation, I take the “politics of ethnicity” to mean events, processes and actions wherein ethnicity is debated in either political arenas or on political terms. See David G. Gutiérrez, *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity* (Berkeley: University of California Press, 1995). Gutiérrez’s

development of New Mexico as a state has long been understated. The Pueblo Lands Board era linked the early statehood period to the New Deal. An era defined politically by Republican Thomas B. Catron gave way to one defined by Democrat Dennis Chávez. This transition began with the young State of New Mexico fighting the exercise of the federal authority in state affairs and ended with an economically depressed New Mexico welcoming, even begging, for federal intervention. Chapter 9 focuses on the continued activities of the Pueblo Lands Board in the Tewa Basin, where Pueblo-Hispano mixing had occurred for over three centuries and was thus more common than elsewhere in New Mexico. The example of the Tewa Basin challenged simplistic divisions between Pueblo and Hispano communities. Examining how the Board understood Pueblo and Hispano land tenure produces insight into how bureaucrats, lawyers, advocates, and even these native populations subject to the Board's decisions understood and articulated Pueblo and Hispano race and ethnicity.

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In the Tesuque case, the Pueblo Lands Board set troubling precedents in both its hearings and in its final reports and recommendations to the First District Court. The sheer size of the recommended Congressional award and the actual payment to Tesuque for lost water rights were both unforeseen. But the Board's ability to influence ongoing state and federal cases, particularly attaining the dismissal of the *Exon* case, was downright astounding. In subsequent hearings, the Board was challenged by advocates,

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work discusses changing Mexican American identity, which was shaped by larger national policies regarding immigration and by the political environment of the twentieth century. These ranged from xenophobic and explicitly anti-Mexican to grudging acceptance of Mexican labor. Many white Americans remained leery of Mexicans's ability to adapt to life in the United States and of their impact on society.

attorneys, and even Pueblo Indians and Hispano claimants for its interpretation of their land tenure rights and for its recommendations to District Court. The Board was left to examine closely the peculiarities of each native pueblo's situation.

Although Collier and Indian advocates could generalize the plight of the Pueblos in propaganda that sometimes only nodded at the facts, the Pueblo Lands Board was forced to reckon with the problems unique to each Pueblo village. Even so, a few generalizations still stand. On each Tewa Basin pueblo, Indian leaders had either lost control over their land and individual Indians sold it at their own profit, or, governors and council members used their authority to sell or trade, or otherwise to alienate land from their pueblo, sometimes purposefully and sometimes unintentionally.

Work patterns developed early in board proceedings. Roberts Walker was either too ill or too busy vacationing in Europe to have a direct impact on early hearings. With Walker absent, his duties as Board chair fell to Hagerman, who gladly embraced the role. Hagerman corresponded extensively with Walker, keeping him abreast of hearings and the actions of Hanna and Collier in early meetings. The controversial yet popular ex-governor earned the sobriquet, "the statesman," for his inclination to represent the Board's opinions, however inaccurately, at the drop of a hat. Hagerman had grown up the ranch that his railroad-mogul father built in Roswell, and largely remained in New Mexico after serving as territorial governor in 1906.<sup>744</sup> In 1907, he authorized the territorial water code which created a centralized water authority in territorial government under the territorial engineer. The easterner Walker had always been fascinated with the

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<sup>744</sup> A rather detailed biography of Hagerman, written by a genealogist and amateur historian, can be found at 'Find a Grave' website, <http://www.findagrave.com/cgi-bin/fg.cgi?page=gr&GRid=85452105>.

Southwest and, as a graduation present from his parents, travelled Hopi country on horseback in 1897. He travelled frequently to the Southwest and was fairly well known in Santa Fe and for his work in the Indian Rights Association.<sup>745</sup>

The Tennessee-born Jennings had almost no connection to or knowledge of the Southwest. But he proved the most diligent in assessing records, both those remitted in cases and others he would research himself to supplement his knowledge of particular land claims. His deep research in land cases brought before the Board earned him the epithet, “the mole”: he relentlessly dug in public records for more information when his fellow Board members felt above such tasks.<sup>746</sup> In November 1925, Walker wrote Hagerman and Jennings that he was “dissatisfied at the rate of progress” made by the board and suggested “radical changes in the conduct of the operation.”<sup>747</sup> He also wrote Secretary of the Interior Hubert Work that speed was highly important and that “since the board does not render final decisions, it is more important to have matters decided than to have them decided right” and claims should be “pushed rapidly” to be “actually adjudicated in court.”<sup>748</sup> Hagerman complained to Walker of Jennings’s slow methods: “The whole trend of Mr. Jennings[’s] thought as to the operations of the Pueblo Lands Board, as opposed to my own, is towards thoroughness as opposed to expedition. Talk of expedition antagonizes him . . . . The scaling of two peaks [referencing the Nambé and Tesuque hearings] would have been indefinitely delayed if not for you . . . . If there were

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<sup>745</sup> See Roberts Walker’s journal, “A Summer Trip in Arizona,” 1897, Northern Arizona University, Cline Library - Special Collections and Archives, Flagstaff, AZ, at <http://archive.library.nau.edu/cdm/compoundobject/collection/cpa/id/73500/rec/1>, accessed 1 July 2014

<sup>746</sup> Hall, *Four leagues of Pecos*, 252-259.

<sup>747</sup> Roberts Walker to Charles H. Jennings and Herbert J. Hagerman, November 10, 1925, PLB Records, NMSCRA.

<sup>748</sup> Roberts Walker to Hubert Work, November 10, 1925, *ibid.*.

two syncline followers on the Board [Hagerman and Walker] and one inexpert peak climber [Jennings], it would be had.”<sup>749</sup>

Resenting Jennings’ diligence, Walker and Hagerman remained in contact and worked behind the scenes, leaving Jennings out of their conversations. Beyond communicating and scheming on how they could manipulate hearings or how they should deal with both Collier and Renehan, the Walker-Hagerman letters provide insight into how their ideas of race were well formed before they entered the hearings. Bureaucrats’ notions of race hinged on their ideas of progress, and neither Pueblo Indians nor their Hispano counterparts met these standards. In January 1925 Hagerman complained to Walker that both Indians and Mexicans suffered from their lack of progressive use of land and from their imprudent use of water resources.

Certainly if, with the water they have here, it were in the hands of progressive and active people, several times as much the value in crops could be raised off the land as is now the case of with either the Indians or the natives . . . . This whole area could . . . be a veritable garden spot if it were in the hands of progressive, energetic, peppy people, but it is not and it is not likely that it will ever be. I do not think that the Mexicans are any more thorough in their agriculture than the Indians.<sup>750</sup>

Lands Board members saw similarities between Pueblo and Hispano peoples, something they used both to downplay conflicts between the two groups as well as to cast doubt on the racial integrity of many Pueblo Indians. After visiting San Juan Pueblo in December 1924 and January 1925, Hagerman wrote his fellow Board member of his observations of Hispanos:

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<sup>749</sup> Herbert J. Hagerman to Roberts Walker, December 16, 1925, *ibid.*.

<sup>750</sup> Herbert J. Hagerman to Roberts Walker, January 5, 1926, *ibid.*.

As for the natives in and adjacent to this Pueblo, it does not seem to me that they are very much more ambitious or progressive than the Indians, perhaps less so. They are mostly all strong Penitentes, who spend three or four months of every year in doing nothing but attend to their Penitente performances, - religious, social, and otherwise. That is apparently their life, just as the ceremonials of the San Juan Indians constitute their life. I do not think that there is any particular bitterness or animosity between these Indians and these Mexican Penitentes; on the whole, *they are very much the same human beings.*<sup>751</sup>

Walker echoed Hagerman, stating the Indian population of Nambé was “minute and dilute.” He closed, “It has been a Mexican settlement for decades.”<sup>752</sup> Walker also wrote Secretary of the Interior Work, caustically writing of Nambé “pueblo” and referring to the tribe as “Indians of highly dilute stock.”<sup>753</sup>

For all the paternalism embedded in these statements, Hagerman and Walker recognized significant aspects of Pueblo and Hispano relations. The similarity of Pueblo and Hispano land-use practices, dual and often conflicting acequia systems, and the need for and tradition of shared watershed management were discussed by Walker and Hagerman. Walker’s statement about Nambé revealed that he understood the reality of Pueblo-Hispano intermarriage and that these relationships may have had a bearing on the expropriation of Pueblo lands.

At Tesuque, the Board was fortunate to contend with many out-of-state claimants who had purchased lands to enrich lavish lifestyles when compared to that of the typical

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<sup>751</sup> Herbert J. Hagerman to Roberts Walker, January 5, 1925 and April 10, 1925, folder 1, box 1, *ibid.*. Emphasis is mine.

<sup>752</sup> Roberts Walker, Memorandum on Nambé Pueblo Claims, December 19, 1925, folder 9, box 1, *ibid.*.

<sup>753</sup> Roberts Walker to Secretary of the Interior Hubert Work, November 10, 1925, Box 1, Folder 9, PLB Records, NMSRCA.

claimant, who was dependent on their lands for their very livelihood. Tesuque and Nambé were exceptional in that the Board worked with extreme license and spent time and money immoderately. It closely examined titles, consulted records in Santa Fe, and employed translators and transcribers to examine hundreds of deeds, wills, and bills of sale. The massive archive of testimony that the board members created and furnished to both Hispano and Pueblo attorneys was never reproduced in subsequent cases. The Tesuque and Nambé Pueblo hearings are the only ones that we can truly examine through extensive primary resources.

At the time of the Board's hearings at Nambé, the pueblo's population was estimated at 119. Hispanos claimed large portions of the northern half of the grant. Their 242 claims totaled 3,841.37 acres, which left Nambé Indians upstream of Hispano claimants with only 225 cultivated acres. Since 1897, Nambé and its Hispano neighbors had become embroiled in lawsuits over the control of the waters of the Río Nambé. After Simón Romero led a successful attempt to enjoin the pueblo from a large disputed tract within the grant in 1897,<sup>754</sup> José A. Ribera filed a suit in 1899 to terminate the Nambé governor's authority over acequias running through the grant and led the charge in another case in 1901 to further adjudicate priority rights to the acequia.<sup>755</sup> The pueblo

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<sup>754</sup> *Simón Romero, et. al. v. Pueblo of Nambé, et. al.*, Case no. 3952, 1898, recounted in George M. Post, superintendent of Construction, to H. F. Robinson, superintendent of Irrigation, July 28, 1919, Pueblo Lands Board Records, NMSRCA.

<sup>755</sup> *Jose A. Rivera, et. al. v. The Pueblo of Nambé et. al.* 1899, Case no. 4088, and *Acequia del Llano, et. at. v. Acequia de las Joyas, et. al.*, 1901, folder 1, box 1, Indian Affairs Collection. MSS 16. Center for Southwest Research, University Libraries, UNM, Albuquerque.

filed a countersuit to affirm its superior water rights, but the partition of water rights was rejected by Judge John McFie, who cited his own decision in the 1899 *Ribera* case.<sup>756</sup>

Nambé had long dealt with the outright encroachment of non-Indians and their use or acquisition of its lands through leases and sales. In 1916, Nambé sought federal assistance to construct a new ditch on its 1902 reservation lands, an action Hispanos immediately protested.<sup>757</sup> Pueblo irrigation engineer H. F. Robinson undertook an investigation that revealed numerous court cases, lawsuits, injunctions, and agreements among acequia *parciantes* and Pueblo Indians. Even more complicated was that the combatants did not fall neatly along racial lines. After the Mcfie decision in 1900, *parciantes* on the Acequia Nueva entered into an agreement on May 31, 1901 for shared use of the waters of the ditch, circumventing the decision and proving continued Pueblo-Hispano collaboration in light of other disputes.<sup>758</sup> Robinson found that digging a ditch would impair the waters of as many as thirty-one acequias dependent on the Río Nambé. He also investigated the possibility of building a dam at the site of the Nambé River falls. A 1909 report by his predecessor suggested the dam would need to be eighty feet high and would only impound two thousand acre feet of water.<sup>759</sup>

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<sup>756</sup> *Pueblo of Nambé v. Romero*, 10 NM 55, 1904; see also Ellis, “Nambé Pueblo,” unpublished manuscript, folder 7, box 59, Myra Ellen Jenkins Papers, Center for Southwest Studies, Fort Lewis College, Durango, CO, 1970, 2-4, and Jenkins and Baxter, “Pueblo of Nambé, 1598-1900,” unpublished manuscript, folder 6, box 59, *ibid*, 16.

<sup>757</sup> Nambé acequia commissioners Cosme Herrera, J. I. Roybal and E. Salazar to Superintendent P. T. Lonergan, February 21, 1916, folder 16, box 2, Pueblo Lands Board Records, NMSCRA.

<sup>758</sup> E. R. Wright to H. F. Robinson, March 11, 1916, Pueblo Lands Board Records, NMSCRA.

<sup>759</sup> H. F. Robinson to Commissioner of Indian Affairs, July 16, 1925, Pueblo Lands Board Records, NMSRCA.



When Hispanos resurrected the dam proposal in 1918, Nambé Pueblo wrote Assistant Commissioner of Indian Affairs E. B. Meritt to protest the construction of a water reservoir “proposed by the Mexican people.” Later that year, Nambé *parciantes*, with the weight of court decisions behind them, asked the State Engineer James A. French to assign a water master to the Río Nambé.<sup>760</sup> French complied, but he gave the water master the authority only to observe water use and withheld authority to actually distribute waters. Another attempt by the Indian Service for a new ditch to serve the Indian population at Nambé was made in 1919 but rejected as impractical and likely to provoke more litigation.<sup>761</sup> Pueblo leaders requested another ditch, but shared the Indian Service’s fear that it would immediately be litigated in unfriendly courts. By 1925 Robinson, who tired of writing endless memos regarding the Nambé water situation, informed yet another commissioner of Indian affairs of water problems at Nambé. He presented a plan to remove ten thousand yards of bedrock, creating a reservoir to hold only 1440 acre feet. At a total project cost of \$600,000 to construct, the reservoir would amount to an unjustifiable \$450.00 per acre foot.<sup>762</sup>

The Board began the Nambé hearings in November 1925 at the Catron Building in downtown Santa Fe and considered 242 adverse claims through March 1926. It also conducted hearings at the Bouquet Ranch in Pojoaque. Many experts acknowledged that Nambé contained some of the oldest non-Indian claims against Indian title in the Tewa

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<sup>760</sup> Ellis, “Nambé Pueblo,” 9.

<sup>761</sup> George M. Post, superintendent of Construction, to H. F. Robinson, superintendent of Irrigation, July 28, 1919, Pueblo Lands Board Records, NMSRCA.

<sup>762</sup> H. F. Robinson to Commissioner of Indian Affairs, July 16, 1925, Pueblo Lands Board Records, NMSRCA. This was eerily similar to the dam funded as part of the San Juan Chama diversion project constructed in 1976, built to hold 2,023 acre feet.

Basin, with several supposedly dating back to the 1740s.<sup>763</sup> Two claims in particular accounted for a considerable portion of Nambé's lost lands. The first arose from the 1854 sale of pueblo lands to Manuel Romero and Vicente López, both lawyers hired to defend Pueblo leaders accused of witchcraft.<sup>764</sup> The nearly twenty-four-hundred acre tract was worth about \$5,900, or \$2.50 per acre. Nearly the whole parcel was composed of the pueblo's uplands cut by the arroyos and lying above the *acequias* and, therefore, not irrigable. For decades, the Pueblo Indians and Hispano villagers shared the tract as a commons on which they grazed their livestock. Anxieties in the 1900s led to lawsuits and growing animosity between Hispanos and Pueblos, and Manuel Romero's heirs, led by Simón Romero, successfully barred Nambé Pueblo and Hispanos from using the tract.<sup>765</sup> By the twentieth century, the tract was old enough and so well known that people referred to it as the "Romero Grant in Nambé Indian Pueblo."<sup>766</sup>

The age of the Romero-López claim was old enough that it did not need the support of or proof by written deeds, and it was assumed the Board would confirm the claim. The difficulty lay in discerning tax payments on the property, which had been claimed and divided. Romolo Luján, Simón Romero, José R. Valdez, Atocha Romero,

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<sup>763</sup> Roberts Walker, Memorandum on Nambé Pueblo Claims, December 19, 1925, folder 9, box 1, Pueblo Lands Board Records, NMSRCA.

<sup>764</sup> For more on witchcraft in New Mexico, see Ebright and Hendricks, *The Witches of Abiquiú*, 39. Ebright and Hendricks only give passing mention of the Nambé case.

<sup>765</sup> Nambé Pueblo, report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, November 20, 1930, box 1, Records Concerning Claims Before the Pueblos Land Board, 1924 – 1941, Entry NM 13, Records of the Bureau of Land Management, 1685 – 2006, Record Group 49, National Archives - Rocky Mountain Region, Denver, CO. hereafter RG 49, Entry NM 13, NA-RMR, Denver.

<sup>766</sup> Melaquidez Valdez to Guy P. Harrington, Chief U.S. Cadastral Engineer and member of Pueblo Lands Board, March 28, 1934, box 456, RG 49, Entry NM 13, NA-RMR, Denver.

José Ines Roybal, Pedro Romero, José A. Rivera (Ribera), Pablo Valdez and Julian Ortiz were among the largest claimants of López's and Romero's former lands. With no evidence of legitimate deeds or tax payments, the mass of users of the vast tract had no defensible claim to the land, leaving only the heirs of Manuel Romero and Vicente López with a genuine claim, albeit a divided one that the Board would have to discern.

The Board also scrutinized a 1908 claim by four Hispano men who said the pueblo paid them in land for repairing the collapsed walls of the Catholic Church. Nambé had lacked artisans capable of fixing the church and the Archdiocese of Santa Fe had threatened to withdraw Catholic services until the church was repaired. One of the four men was José Ines Roybal, a recognized leader in the Hispano community, who led the 1916 protest against the pueblo's expansion of its ditches, and who was approached by attorney Alois B. Renehan to raise money to defray his expenses in 1922.<sup>767</sup> Nambé Pueblo leaders either disputed the four claims or maintained that they had been enlarged beyond their original allotted size. Roybal was reportedly paid one hundred acres in exchange for his labors, but by the Joy Survey of 1916, his claim had been enlarged to 231.47 acres. The exchange of land to repair the church had been a controversial decision and had divided the pueblo, as many believed a minority faction of practicing Catholics had given away the land for its exclusive benefit.<sup>768</sup>

The López-Romero and Roybal claims, however, were far from typical at Nambé. Secundino Roybal's two-and-a-half acre claim was far more illustrative of the

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<sup>767</sup> Amado Chaves to Holm Bursum, January 25, 1923, folder 5, box 13, Bursum Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>768</sup> Reports of the General Council of the Northern Pueblos, Nambé, signed by Nambé Governor Juan Vigil and Lieutenant Governor Eufasio Trujillo, March 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe.

expropriation of pueblo lands at Nambé. Roybal had married a Nambé Pueblo woman, began paying taxes on their joint lands, and declared them as their own. Likewise, Fermín Luján claimed lands by right of inheritance, which the NMAIA and General Council of the Northern Pueblos doubted in a 1922 report, despite the fact that his mother was a Nambé Indian. That report, casting doubt on all claims in Nambé, stated, “The *Mexican Usurper* has made great inroads on the Nambé Pueblo Grant.”<sup>769</sup> Its author erected the wall of race between Pueblos and Mexicans.

Cases in Nambé seemed particularly frustrating to the Board. In a December 1925 hearing regarding a tract claimed by Ignacio García, the Board faced the difficulty of finding witnesses knowledgeable of the land-title history of specific tracts like García’s. In this case, the twenty-seven-year-old García was absent to work in mines in southern Colorado, leaving his eighteen-year-old wife, Juanita, to defend his claim. Juanita confused dates, first stating that their tract was covered by a deed dated 1902. When challenged by Charles Jennings, she vacillated. She argued that a 1904 deed covered the claim before asserting that an office in Santa Fe had lost a 1902 deed. Jennings then pressed Juanita García, who produced a receipt showing that the 1902 deed was filed with the Santa Fe office of the Pueblo Lands Board, which had apparently misplaced the document.<sup>770</sup>

The Board established through Juanita García’s testimony that Ignacio’s tract had been deeded to him by his father, Luciano, and that both father and son had paid taxes since their purchase from Valentín Valdez in 1902. A witness named José de Jesús Ortiz

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<sup>769</sup> Ibid.

<sup>770</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 16, Parcels 1 and 2, Ignacio García, December 3, 1925, box 1, Pueblo Lands Board Records, NMSRCA.

stated that Váldez was “a Mexican” who got the land from his grandfather Juan Lorenzo Valdez. But Eufracio Trujillo, the standing governor of Nambé Pueblo, testified that the elder Valdez was a native of Nambé Pueblo. Further, Trujillo stated that the governor had no authority to deed away the lands of the pueblo through sales or land exchanges, or to relieve Pueblo debt, even if deeds had the signature of his two *principales*. The entire Pueblo Council, Trujillo claimed, would need to approve such sales and even the council would have to confer with the entire pueblo.<sup>771</sup>

This statement complicated nearly all transactions involving Pueblo leadership. In grazing leases, sales of goods or services, or permits to remain on Pueblo lands as a farmer, a doctor, or an artist, a Pueblo governor commonly entered into an agreement witnessed by his two *principales*. All three men signed the document, affirming their leadership of the pueblo and their representation of the its members’ consent. Eufrasio Trujillo’s claim that only the Council and with the consent of the entire Pueblo could enter into an agreement would have negated all non-Indian title over Pueblo lands. Yet as powerful a statement of Pueblo sovereignty as his was, the remainder of Trujillo’s testimony revealed that neither he nor his predecessors had even a modest knowledge of the extent of non-Indian ownership of Nambé lands.

Board member Herbert Hagerman questioned Trujillo about whether the Council discussed past land conveyances. Trujillo answered that it did. Current Council members Juan Antonio Mirabal and Gabriel Trujillo had served on the Nambé Council when Augustín Vigil, another member, sold the tract of land in question. When Hagerman asked whether the Council had discussed the sale, Trujillo stated it had, “after

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<sup>771</sup> Ibid.

1915, after the Joy Survey.” The Council’s realization that the tract had been lost to García’s ownership came only when a government survey informed the body. Trujillo also testified that the Council members “protested amongst themselves” when they learned of the loss of this parcel. His admission suggested that the Nambé Pueblo Council had little account or record of land transactions on the Pueblo league, and may have also been unaware that Nambé’s own Council members had sold land out from under Nambé Pueblo.<sup>772</sup>

Outside concerns over Pueblo governance, the case of Ignacio and Juanita García’s claim also reveals how claimants’ mixed heritage complicated the racial dialogue that had been established and renegotiated throughout the Pueblo lands controversy during the past decade. If Juan Lorenzo Valdez was a Nambé Indian, his act of passing a land parcel to his grandson Valentín was considerably less heinous than the squatting and outright seizure of land that Pueblo advocates had alleged in the acrimony of the Bursum Bill debate. Valentín’s sale to Luciano García in 1902 had marked the proper date for the loss of land by the Pueblo of Nambé. Pueblo land sales in light of the Vigil and Valdez instances were seemingly ubiquitous in the late nineteenth and early twentieth centuries in Nambé.<sup>773</sup>

The hearing for the private claim of Florentino Ortiz repeated the patterns seen in the García and Ribera claims. Ortiz was represented by J. H. Crist, the former Pueblo attorney who had preceded Richard Hanna in the post and served during the 1916 Nambé ditch controversy. His wife, Celestina Romero Ortiz, arranged for Crist to serve as counsel and for witnesses to offer testimony in her husband’s absence. Miguel Herrera,

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<sup>772</sup> Ibid.

<sup>773</sup> Ibid.

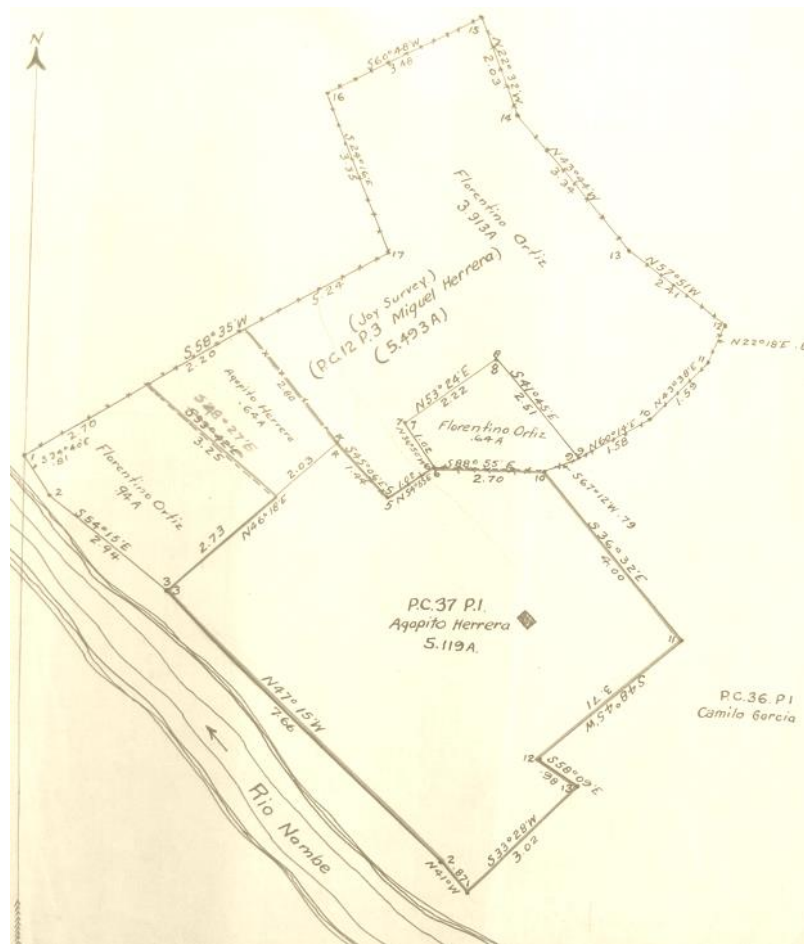
who had sold the land to Ortiz after he purchased it from Nambé governor Francisco Tafoya (also spelled Tafolla), testified on behalf of Ortiz, who, like Ignacio García, was absent to work in the mines of Telluride, Colorado. Herrera claimed that he had purchased the lands in about 1896, which matched Francisco Tafoya's tenure as governor of Nambé Pueblo. As postmaster for the area, Herrera had frequently travelled the area's roads for twenty-five years and had observed the changes in land tenure at Nambé. Herrera later subdivided the land, selling Ortiz a piece. According to the postmaster, Ortiz consistently grew corn, wheat, and alfalfa on the small tract which was bordered on the north and east by an acequia.<sup>774</sup>

The Ortiz claim was confusing and conflicted. Augustín Vigil, the former Nambé Pueblo Council member who had sold tracts to Ignacio García, then testified that the parcel sold by Francisco Tafoya to Miguel Herrera was one that he himself planted. Both Herrera and Celestina Romero, the wife of Florentino Ortiz, testified that their deed to this land had been signed by Tafoya and one of his *principales*, Antonio Tapia. Although acknowledging that Tafolla was governor in 1896 at the time of the purchase, Vigil denied that there was ever a Council member named "Antonio" Tapia. The person in question, he suggested, "ought to be *Antonia* Tapia . . . the wife of Francisco Tafolla." The deed for the land sold to Miguel Herrera and resold to Florentino Ortiz and Celestina Romero was signed not by the governor of Nambé and one of his *principales*, but by the governor and his wife. The couple seemed to have executed the sale as its sole owners.

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<sup>774</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 12, Parcel 12, Florentino Ortiz, February 15, 1926, box 9, Renahan-Gilbert Papers, NMSRCA.

The buyers, Herrera and Ortiz, had misinterpreted the transaction as a purchase of communal property from the legal representatives of the tribe.<sup>775</sup>



**Figure 25: Private land claim of Agapito Herrera**, also displaying neighboring claims of Camilo García (E), Florentino Ortiz (NW and N). folder, 123, box 13, Folder 123, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), New Mexico State Records Center and Archives, Santa Fe, New Mexico.

Absentee claimants, such as García and Ortiz, were common in Nambé. Emiliano López was working in Greeley, Colorado, was represented at the hearings by attorney Manuel Sánchez, the former U. S. surveyor general for New Mexico. López had inherited his claim from his father, Nestor. Witnesses for López testified that the claim had been non-Indian land for as long as they could remember, or since they had “reached

<sup>775</sup> Ibid.



the age of reason.” Another portion of López’s claim was inherited by his wife, Eloya Romero López, from her father, Atocha Romero, whose father was Vicente Romero, the son of Manuel Romero, the attorney representing Nambé leaders in the 1854 witchcraft trial.<sup>776</sup> Camilo García, who was away herding sheep in Navajo Country, was represented by his father-in-law, Agapito Herrera. According to Herrera, García purchased his land directly from the governor of Nambé. Although Herrera did not recall the governor’s name, he dated the purchase at 1899, precisely when Francisco Tafoya was governor. Tafoya had, again, demonstrated a propensity for selling Nambé Pueblo land.

Another portion of Camilo García’s claimed lands came from sales by other Nambé Indians. Clara Trujillo de Rivera sold land in 1903 and José de la Ascension Peña in 1908 that García later purchased from non-Indians. These sales by one governor and a handful of Indians troubled the Board. Hagerman, Jennings, and Walker worked to cast doubt on the validity of these transactions. The testimony of former governor Augustín Vigil (1911-1913) complicated matters even further. Pueblo attorney Walter C. Cochrane called Vigil to testify, believing that he would dispute sales by Indians to non-Indians. Instead, Vigil defended the pueblo’s process for alienating land: if the Council felt the need was great enough, it approved a sale. He claimed, however, a deed signed by the Council alone was not recognition of a valid or legal sale of land. Vigil did not elaborate on how to distinguish a legitimate from an illegitimate sale based on papers, many of which were signed by the governor and two *principales*. Vigil claimed that in

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<sup>776</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 23, Parcel 1, Emiliano López, February 15, 1926, *ibid.*.

these instances, the governor was merely selling his own land within the exterior boundaries of the pueblo without the approval of the Council.<sup>777</sup>

Vigil's contradictions frustrated the Board, which pressed for clarification. Vigil's statements suggested that Nambé lands were the property of the Pueblo and the Council had the sole authority to allow or disallow sales. He reiterated his stance on Pueblo rights when he testified in hearings on the claim of Canuto Ortiz. Ortiz pieced together his land claim over nearly thirty years. The sixty-two-year-old Ortiz's claim originated from José de Jesús Ortiz's 1892 purchase from Nambé Indian Antonio José Vigil. In 1896, Ortiz purchased lands directly from the Pueblo of Nambé, and produced a deed signed by Governor Francisco Tafoya and *principales* Antonio J. Vigil and Joaquín Tafoya. Yet another portion was added from an 1899 purchase of adjacent lands from Lorenzo Mirabal and María Eufemia Vigil de Mirabal, both Nambé Pueblo natives. The sale was again approved by Governor Tafoya and *principales* Vigil and Tafoya. Aware of impending controversy, Ortiz had his land re-deeded on April 20, 1920, by Governor Francisco Tafoya and *principales* Marcos Tapia and Antonio Trujillo. Ortiz could also demonstrate tax payments for most years from 1896 to 1924.<sup>778</sup>

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<sup>777</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 36, Parcel 1, Florentino Ortiz, December 4, 1925, *ibid.*.

<sup>778</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 50, Parcel 1, Canuto Ortiz, May 5, 1926, *ibid.*.



**Figure 26: Private land claim of Canuto Ortiz, 1926.** folder 3, box 8 Nambe Pueblo, Renahan-Gilbert Papers, NMSRCA, Santa Fe.

The legitimacy of Ortiz’s claim, supported by nearly complete a series evidence save a few tax receipts, was indisputable. Again, former Nambé governor Augustín Vigil testified about the identities of the Nambé officials, confirming that they were, in fact, Indians and members of the Nambé Pueblo tribe. Pueblo attorney Cochrane asked Vigil, “Do you know anything about the supposed sale by these three parties or any land now claimed by Canuto Ortiz?” Vigil responded, “I believe that these tracts were sold by these Indians because this *land was divided at that time* among the Indians *for the purpose of making sales.*” Vigil’s statement now suggested that these sales were not random acts by Pueblo officials or individual members of the tribe, but that Pueblo officials purposefully subdivided Nambé Pueblo lands for the explicit purposes of selling tracts to the local Hispano population.<sup>779</sup>

<sup>779</sup> Testimony of Augustín Vigil, Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 50, Parcel 1, Canuto Ortiz, May 5, 1926, *ibid.*.

Canuto Ortiz's attorney, H. B. Hamilton of the Renahan-Gilbert Law Firm, then pressed Vigil. He asked Vigil whether the pueblo exercised the "habit of letting a settler come in there and take up a piece of land and start cultivating it without any title or right to it of any kind" or whether "it is pretty well understood that whenever there is a non-Indian cultivating, that the Indians feel he is in there under right?" The Board grew incensed at the questioning, well knowing that Hamilton was attempting to get a Pueblo official to state on record that all non-Indians on Nambé lands were there with the permission of the pueblo and were thus not squatters. But the damage of Vigil's testimony had already been done. The Board was now forced to consider carefully every claim of a settler who purchased his lands in the 1890s, during the term of Nambé Pueblo governor Francisco Tafoya, whose name was attached to nearly every legitimate claim of Nambé Pueblo lands.<sup>780</sup>

Revisiting José A. Ribera's claim, which introduced this chapter, demonstrates the impact of testimony such as Vigil's. The Board was initially inclined to reject Ribera's claim, but offered no substantiation or cause. Just as the Board refused to reveal the legal principles of its decisions to Indian advocates and lawyers, it equally left Hispano claimants uninformed and unable to defend their cases. Ribera's claim does not deviate wildly from others. His claim was supported by an 1892 deed acknowledged by the realtor-like Nambé governor Tafoya and his *principales*. That document was not presented in the hearings but had been recorded in Santa Fe County records. The Board questioned whether a deed issued from an individual Indian, whether or not he was an

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<sup>780</sup> Ibid..

official, constituted color of title.<sup>781</sup> The *Sandoval* decision suggested that it did not, but still offered no explicit legal remedy.

Pigeonholed as a “liquor case” in state courts, *Sandoval* cast doubt on even the *possession* of Pueblo lands by non-Indians. It assumed that all non-Indian claims to Pueblo lands were based purely on adverse possession, treated those claims as so-called squatter’s rights, and allowed no possibility of or consideration to Indian sales. *Sandoval* only reaffirmed the fiduciary duty of U.S. Congress to Pueblo Indians and held that Congress had the authority to regulate the commerce of all tribes, including land sales, but the decision did not pursue federal guardianship of Pueblo lands retroactively, leaving a gap in federal protection from the *U.S. v. Joseph* decision of 1876. It was not until Richard H. Hanna filed the ejectment suits in 1919 that the statutory authority of the federal government under *Sandoval* was enacted.<sup>782</sup>

Again, it was Ribera who disputed the Board’s neat division of the local population. He labelled the Nambé Indians “more Mexican than Indian,” and even entertained the possibility that he too was part Indian. Ribera’s quick tongue and petulant responses angered the Board. He interrupted the questioning of witnesses and posed his own questions to defend his claim. This included Nambé Indian Loreto Vigil, who supported his testimony. Despite testimony by Ribera and other witnesses, solid evidence in deeds and above-average tax payments, the Board considered rejecting his claim. (Suggesting that the Board was retaliating for Ribera’s dismissive attitude may be

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<sup>781</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, May 1926, Pueblo Lands Board Records and Renahan-Gilbert Papers, NMSRCA. The PLB records also contain hand written notations, on and attached to hearing transcripts, which demonstrate the Board’s changing attitude toward non-Indian claims at Nambé.

<sup>782</sup> *United States v. Sandoval*, 231 U.S. 28, 1913.

pure conjecture.) The Board's absolute reversal implies that the convincing evidence of Nambé Pueblo's sales of land softened its stance toward Ribera's claim.<sup>783</sup>

While the Board debated whether color of title was achieved by Indian sale, another case in the U.S. Supreme Court offered the possibility of clarifying Pueblo Indians's status. In 1922, the United States had brought a suit in the Federal District Court for New Mexico against José Candelaria and others to quiet title in the Indian pueblo of Laguna. The suit was brought on the theory that Laguna Indians were wards of the United States, and that the federal government "therefore has authority and is under a duty to protect them in the ownership and enjoyment of their lands." The case was decided and then appealed to federal appellate court, which forwarded the case to the U. S. Supreme Court for a decision under the case *United States v. Candelaria*. Rumors of the pending *Candelaria* decision swirled throughout the winter and spring of 1926, and the Board postponed issuing its final report to District Court until it could align its recommendations with the decision.<sup>784</sup>

The *Candelaria* decision had the potential to not only unravel not only all sales of Pueblo land by Indians, but to cast a pall over all sales of any land by Pueblos inside or outside their Pueblo. It would impact the legal foundation of Pueblo ownership and their right to sell land as an individuals outside their status as a protected tribe to which they belonged. It might also confirm that Pueblo grants were *perfected community grants*, which no individual member owned. The U. S. Supreme Court finally issued its ruling

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<sup>783</sup> Hearings Before the Pueblo Lands Board, Nambé Pueblo, Private Claim 5, Parcel 2, José A. Ribera, December 3, 1925, box 1, Pueblo Lands Board Records, NMSRCA. Santa Fe.

<sup>784</sup> *United States v. Candelaria*, 271 U.S. 432, 1926; Kelly, "History of the Pueblo Lands Board, 1924-1933," 58.

on June 1, 1926: the United States possessed the authority and obligation to intervene in land claims on behalf of Pueblo Indians. The court stated, “The Indians of the pueblo are wards of the United States and hold their lands subject to the restriction that the same cannot be alienated in any wise without its consent.” The decision ignored actual Pueblo land sales and cast doubt on land tenure in New Mexico, embracing orthodox legal principles and ignoring legal realism. The ruling also established that the federal protection of Pueblos began in 1850 with New Mexico territorial status, not in 1913 with the *U.S. v. Sandoval* decision. The thirty-seven-year lapse of guardianship between the *Joseph* and *Sandoval* decisions was thus either bridged or eliminated.<sup>785</sup>

The *Candelaria* decision also constrained the Board’s liberal interpretation of territorial statutes of limitation. Applying them would save countless Hispano claims. In Board hearings, Hispano claimants routinely asserted possession of their Pueblo land claims for more than forty years, establishing the minimum standard needed to prove adverse possession. Allowing the application of statutes of limitation would restrict United States prosecution on behalf of the Pueblos. At face value, Hispano claimants were seemingly coached by their attorneys to introduce a claim of appropriate length. In reality, the 1880s and 1890s had been decades of relentless speculation, a period when numerous Hispano land grants lost lands in anticipation of the Court of Private Land Claims and through its decisions.

The jurisdictional dispute between territorial statutes of limitation and federal guardianship pitted the federal government’s and state government’s sovereignty claims against one another. Indian advocates and even many government officials, including

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<sup>785</sup> Kelly, “History of the Pueblo Lands Board, 1924-1933,” 58.

Pueblo attorneys Walter Cochrane and Ralph Twitchell, claimed that no statute of limitation could be imposed on federal guardianship. For the federal government's fiduciary duty to Pueblo Indians was perpetual: it was unconstrained by the policies of a lesser sovereign. The slew of officials who had attempted to limit federal power over all resource decisions in the drafting of the Pueblo Lands Act now scrambled to diminish the impact of the Board's decisions and threw themselves headlong into the confused deliberations. All of this was moot, however, as the *Candelaria* decision, unlike *Sandoval*, was explicit on federal guardianship.<sup>786</sup>

*Candelaria* ended squatter's rights on Pueblo land, emphatically questioning claims based solely on adverse possession. The Supreme Court's decision prompted the Board to reject all land claims not supported by title, regardless of their age. Guided by *Candelaria*, the Board threw out the massive 1854 Romero-López tract and recommended payment to the many heirs of Manuel Romero and Vicente López, despite the fact that the claim the Pueblo Lands Act standards for claims based on adverse possession by thirty-five years. John Collier believed that *Candelaria* would also end the Board's interpretation of the controversial Section 4 of the Act, which held that territorial and state statutes of limitation ran against the Pueblos (see Appendix A). While the decision made itself a party to all lawsuits regarding Pueblo lands, it did preserve one legal vulnerability regarding Pueblo lands. The Court cited and concurred with the New Mexico court's *Lane v. Pueblo of Santa Rosa* decision, which declared a native pueblo and its people were juristic persons capable of suing or being sued. This ambiguity

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<sup>786</sup> Ibid, 34-36.



created another question: were Pueblo Indians individually capable of executing deeds on their own behalf or on behalf of their Pueblo?<sup>787</sup>

While the Board considered *Candelaria*'s impact on its hearings at Nambé, it fended off controversies surrounding its proceedings. By December 1925, AIDA attorney Hanna had filed protests with the secretary of the interior and commissioner of Indian affairs. He demanded that the Board issue a definition of the legal principles applied in its hearings and decisions and provide copies of all claims appraisals. Beyond these reasonable requests, he insisted full transcripts of all hearings, all Spanish deeds and their translations, and blueprint maps showing all claim improvements, materials that the Board produced only when needed for its own uses. Jennings assured Hanna that all the information was available for his use or reference in the Board's offices in the Catron Building in downtown Santa Fe. Hanna nonetheless complained that Indian advocates were "in the dark unless you make the following available to us."<sup>788</sup>

The work of the board was also constrained by the so-called "Coolidge economy." The policies of Republican president Calvin Coolidge rolled back the obligations and spending of the federal government even further than his Republican predecessor Warren G. Harding. Secretary of the Treasury Andrew W. Mellon pressured Congress to reduce government oversight, regulation and costs. Mellon believed that fiscal responsibility and economy in government would spur economic growth and prosperity. The Board's first hearings at Tesuque and Nambé were costly. The Board produced full transcripts of proceedings and provided copies to both the plaintiffs and

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<sup>787</sup> Ibid. See also Hall, "The Pueblo Land Grant Labyrinth," 77.

<sup>788</sup> See Richard H. Hanna to Charles H. Jennings, 11 December 1925, Pueblo Lands Board Records, NMSRCA, Santa Fe; Kelly, "History of the Pueblo Lands Board," 38.

defendants often at nominal costs. AIDA lawyers Richard Hanna and Fred Wilson and the young, new Pueblo attorney, Walter C. Cochrane, complained bitterly that the Board was denying them information to which they were entitled when it refused to furnish copies of deeds and abstracted titles at no cost. Alois Renehan, who played a surprisingly meek role in the hearings themselves, also petitioned the Board for an agreement to share documents more freely and without high costs.<sup>789</sup>

If Hanna believed that the Board was intentionally withholding information, he was right. Early in debates on procedure, Walker told Hagerman that his intention was “to consider the territorial statutes if that seems to be the only way by which we can do *equity*, but not announcing our rules of law unless and *until we find it unavoidable*.”<sup>790</sup> Again, Walker aimed at achieving equity rather than justice and was willing to embrace secrecy to do so. Walker warned Jennings that Hanna and Collier were also pondering the request of an amendment to the Pueblo Lands Act that would forbid the Board to consider territorial statutes of limitation in its decisions.<sup>791</sup>

While awaiting the *Candelaria* decision, Walker issued a memorandum regarding what he called “certain circumstances particular to Nambé.” He explained that the “Pueblo has been occupied by non-Indians (almost wholly Mexicans or the descendants of Mexicans married to Indians) since the early part of the eighteenth century. . . . The Indians themselves have for decades occupied only a few acres in the extreme southeast corner of the Pueblo grant.” He continued, “The Indians seem to have been almost entirely cooperative in the granting of deeds.” In light of the *Candelaria* decision,

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<sup>789</sup> Kelly, “History of the Pueblo Lands Board,” 16.

<sup>790</sup> Ibid, 43. Emphasis is mine.

<sup>791</sup> Roberts Walker to Charles H. Jennings, January 2, 1926, PLO Records, NMSRCA, Santa Fe.

however, the Board still rejected titles derived from Indian officials if a shadow of a doubt remained on their origin.<sup>792</sup>

The Board was thoroughly exhausted after the Nambé hearings, even as Walker considered the Board's decisions not as final but only a "coarse screen," with title determinations left for the courts. In his opinion, the whole board need not attend all hearings, and even the clerk could conduct hearings in the Board's absence. Indeed, in February 1926, Walker had a heart attack and continued his prolonged absences from Board hearings. Still, he refused to vacate his position until President Coolidge demanded it. Walker resigned on May 24, 1926, less than a week before the Supreme Court issued its *Candelaria* decision.<sup>793</sup>

Collier was disappointed that the Board seemed reluctant, even unwilling, to dislodge settlers. The "Board is disposed to leave the white settlers and claimants largely undisturbed and to award compensation to the Indians," wrote Collier.<sup>794</sup> Collier and Hanna believed that they were bringing Jennings to their side and hoped that George A. H. Fraser, the pragmatic attorney assigned to the Pueblo Lands Board by the U. S. attorney general, would be appointed to Walker's seat. Instead, Lucius Embree, a career political appointee from Missouri, was named.<sup>795</sup>

When the Board finally issued its report and recommendations for Nambé in August 1926, controversies multiplied. Nambé Pueblo received a larger land share by acreage, but the commissioners awarded most of the irrigated land in dispute to non-

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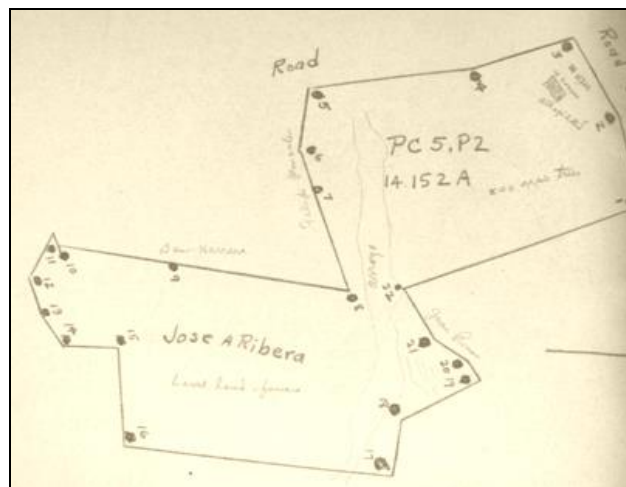
<sup>792</sup> Board statement on Nambé by Roberts Walker, May 14, 1926, Pueblo Lands Board Records, NMSRCA, Santa Fe.

<sup>793</sup> Kelly, "History of the Pueblo Lands Board," 55-56.

<sup>794</sup> Ibid, 57.

<sup>795</sup> Hall, *Four leagues of Pecos*, 247.

Indians. For the 654.36 acres lost, the Board awarded Nambé only \$19,630.80, less than the amount awarded to Tesuque for three times the land. Extinguished claims, those on which the Board ruled that Indian title remained and which adverse claimants had to vacate, were awarded a total of \$18,881.43 (See Appendix C). The Board recommended a small award to losing claimants and greatly deviated from an appraised market value of \$65,674.77, rewarding *less than a third* of the appraised value. The low award was valued at \$5.00 per acre, plus an additional \$25.00 for water rights lost per acre. The pueblo lost very few acres of arable land, the Board argued; therefore, the water rights of the pueblo were not eroded or lost. In fact, the Board stated, Nambé Indians were entitled to priority rights over non-Indians for Nambé River waters. The report virtually ignored the Pueblo Lands Act's tax provisions when it recognized that "not 2% of claimants could meet such a requirement." Pueblo attorney Cochrane, who had participated heavily at the Nambé hearings, agreed with Hagerman and Walker's construal of tax provisions and pursuit of equity.<sup>796</sup>



**Figure 27: Private land claim of José A. Ribera, 1926.** folder 10, box 1, Pueblo of Nambé Affairs, June 30, 1925-May 18, 1926, PLB Records, NMSCRA, Santa Fe.

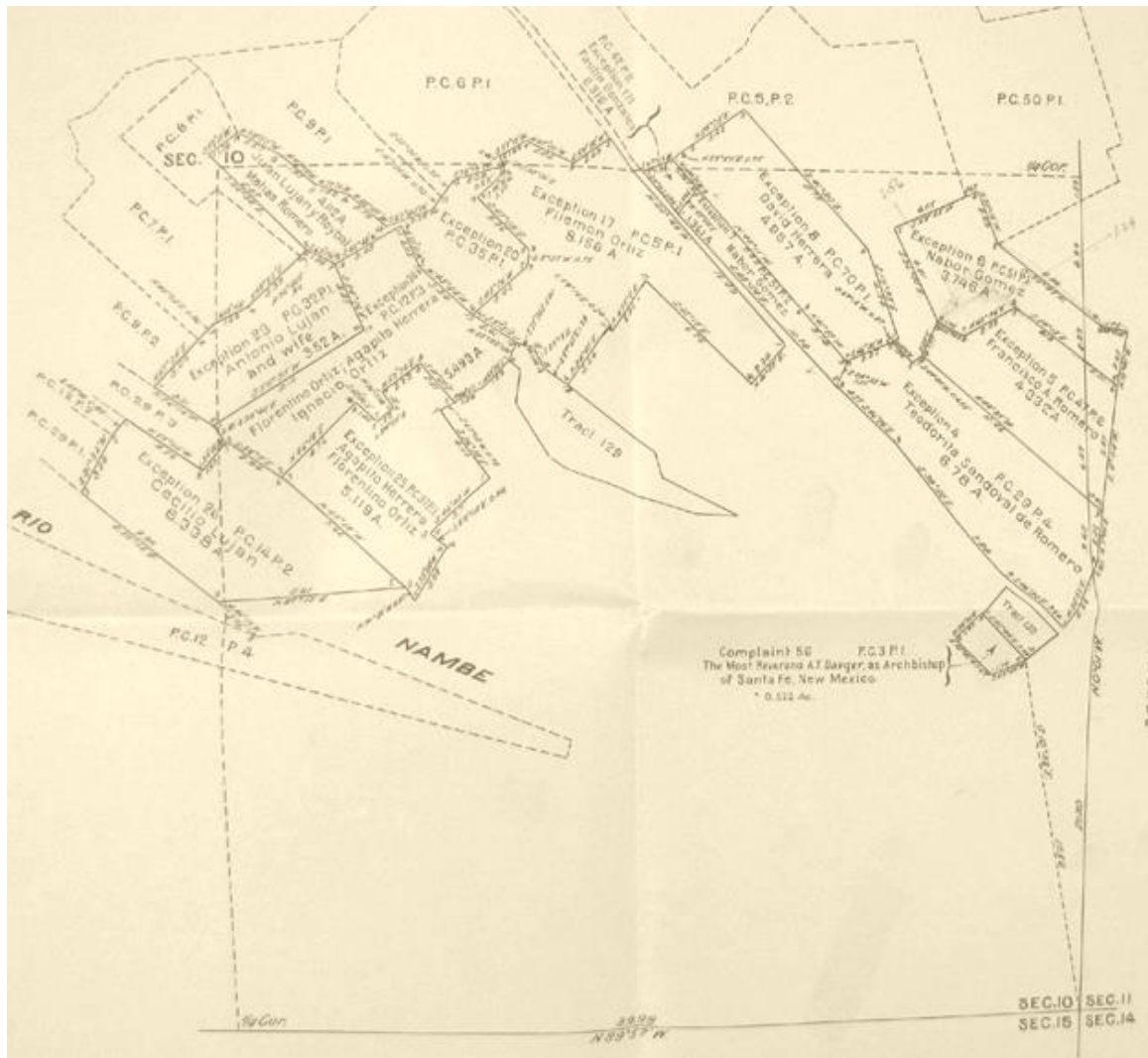
<sup>796</sup> Kelly, "History of the Pueblo Lands Board," 58-59.

Though the Board recommended an exceptionally low award, it did reject the larger adverse claims at Nambé. While approved claims constituted 73 percent of all claims, the 177 approved claims totaled only 654.36 acres, meaning they averaged 3.69 acres. The claims of Canuto Ortiz, Emiliano López, Florentino Ortiz, and Ignacio García, each less than six acres, were all approved. The Board, on the other hand, rejected 65 larger claims that constituted 3,187.61 acres, averaging 49.04 acres per claim. This included the massive 2,340-acre Romero – López tract, which the Board rejected despite the age of the claim, its detailed documentation and the apparent willing sale to Hispanos by Pueblo officials. Perhaps the Board anticipated that allowing such a large claim would have caused an uproar among Pueblo advocates. It may have also understood that the heirs of Romero sought to profit off lands that they once shared with the Nambé Indians, and that many dispossessed heirs would prefer a financial award to recognition of title to lands they could no longer access. José A. Ribera's thirteen-acre claim was also among those rejected by the Board, as well as Camilo García's small, two-acre but well irrigated claim.<sup>797</sup>

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<sup>797</sup> Nambé Pueblo, report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, November 20, 1930, box 1, Records Concerning Claims Before the Pueblos Land Board, 1924 – 1941, Entry NM 13, Records of the Bureau of Land Management, 1685 – 2006, Record Group 49, National Archives - Rocky Mountain Region, Denver, CO.





**Figure 29: Private Land Claims at Nambé Pueblo, 1929, detail.** Non-Indian claims at Nambé amounted to the majority of its irrigated lands. Tracts depicted in the northeast corner of the grant were part of the Romero-López tract and were ultimately rejected. folder 1, box 26, Pueblo Indians, Nambé Pueblo, 1933-1935, Manuel A Sánchez Papers, NMSCRA, Santa Fe, New Mexico.

Hagerman defended both the low Nambé award and high Tesuque award. He reasoned that in Tesuque, where water was a serious issue, the Pueblo needed funds to develop ground-water resources. So Tesuque was granted a sizable award with the advice that pumping plants be installed to supplement the Río Tesuque's fragile waters. This distinction was especially important in light of the dropping of the *Exon* suit, which would have established priority but could have pitted the Pueblos against one and other.

At Nambé, Indians lived upstream of Hispanos and had first access to water and priority to surplus waters. So their awards were lowered to \$30.00 per acre, more than a third less than Tesuque's \$105.00-an-acre award. The Nambé award was still far below the assessed fair-market value of the land, which ranged from \$74.00 to \$125.00 per acre. The \$30.00 award was only defensible on the theory that it was value of land without water rights, which the Pueblo theoretically retained.<sup>798</sup> Hagerman claimed to Secretary Work that he had applied the Winters Doctrine to Pueblo lands, reserving their water rights. It begged the question of whether Hispanos won confirmation of their claims without water rights. The Winters Doctrine maintained that Indians held a priority right of water use and that all other adjudications were inapplicable. The First District Court rejected this theory as running contrary to beneficial use, which guided equitable water distribution. Hagerman's bizarre logic was kept secret, and Hanna and Collier could not object. Thus, the Nambé decision initially went uncontested.<sup>799</sup>

The Nambé hearings shattered any ideas that the Pueblo lands question was easily solvable. Tesuque's claims were so few that the Board could afford to compensate the pueblo generously for lands that it lost and water rights that were impacted by non-Indian claims. Nambé had more than ten times as many claims for more than eight times as much land. The Tesuque and Nambé Pueblo populations were also very different. If Tesuque was widely considered conservative and intermarriage with Hispanos was rare, then Nambé seemed to dissolve into the Hispano population that surrounded the pueblo and had gradually taken over its lands. The hearings revealed a complexity that was not

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<sup>798</sup> Hall, "The Pueblo Land Grant Labyrinth," 121.

<sup>799</sup> Kelly, "History of the Pueblo Lands Board," 69; *Winters v. United States*, 207 U.S. 564, 1908.



seen at Tesuque, a convolution that the Board ignored. It dealt instead with the impact of the *Candelaria* decision on the hearings, financial restraint demanded by the Coolidge administration, and recommending distressingly low awards that troubled the Board for the next three years.

Over the next year, the Board moved in new directions, attempting to hasten their hearings across the state while scrutinizing claims and fumbling over water rights. In the Tewa Basin, hearings in Picurís, San Juan and San Ildefonso presented new challenges. Picurís's and San Ildefonso's population continued to plummet and their arable lands were largely in possession of Hispanos. San Juan, on the other hand, had a large and comparably stable population, and although Picurís and San Ildefonso lost their lands a few acres at a time, San Juan had a whole Spanish colonial grant on its lands.

## Chapter 10: Ethnicity and Equity, I: Picurís, San Juan and San Ildefonso, 1927-1929

By 1927, the Pueblo Lands Board was nearly half a decade removed from the controversies over the Bursum Bill. Lawyers and advocates had fought to shape the bill that created the Board, a commission that supporters hoped would forestall judicial action by rendering parity. Although the courts were bound by the *Sandoval* and *Candelaria* decisions, the Board could, through its hearings, evaluate each claim on every native pueblo and seek an equitable outcome. In action, at Tesuque and Nambé, the Board had found difficulty creating a replicable process, a way of conducting hearings and assessing claims that both pueblo advocates and the claimants and their lawyers could accept.

If Tesuque and Nambé forced the Board to reconsider the Pueblo lands problem, then hearings at Picurís, San Juan and San Ildefonso proved how unpredictable the Board was. Picurís was one of the smallest Indian Pueblos in New Mexico. Its high elevation limited agriculture, making it vulnerable even in good years. By the 1820s, the Pueblo was nearly fully encircled by Hispano grants and Hispano communities had grown to wholly encroach on Pueblo lands a century later. San Ildefonso was arguably in a more desperate state. Sitting at the bottom of the Pojoaque-Tesuque River, the Pueblo intermittently faced water shortages for more than a century. Its population plunged in the late nineteenth century and decades-old divisions within the pueblo continued, with artists and potters influencing one faction. While San Juan had lost more net acres to non-Indian claims, it also had the better access to water than Picurís and San Ildefonso and the greatest potential to develop adjacent lands.

San Juan, Picurís, and San Ildefonso presented unique challenges to the Board. The inconsistency of the Board's recommendations led to the implementation of

contingencies designed by A. A. Berle and John Collier to subvert decisions only in worst-case scenarios. After years on newspaper headlines, the Pueblo lands controversy and the Board faded from public interest. The ebb and flow of Board hearings confused attorneys, enraged Pueblo advocates and bored a weary public. By 1929, the Great Depression diverted public attention from the Pueblo lands controversy, just as Congress began to investigate the Board's dysfunction. This chapter discusses this period, when the Board faltered between the the seeming ease of Tesuque and the complications of Pojoaque.

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Despite the Board's attempts to mitigate controversy through secrecy, its actions drew wide public attention. In September 1926, Alois Renehan filed a lawsuit that questioned the constitutionality of the Pueblo Lands Act, arguing that his clients at Tesuque and Nambé had been denied an actual trial in court. Confiscating their lands without trial, complained Renehan, was unconstitutional. He further alleged that the Board members advised his clients to forego hearings and accept their recommended awards yet awarded Charles Catron's clients their full claim with little or no contestation.<sup>800</sup> Board counsel George A. H. Fraser fervently denied allegations that he had tampered with Renehan's clients, and admonished Renehan and his law partner, Carl Gilbert, for withholding information from their own clients for their own personal gain.<sup>801</sup> The Board met Renehan's offensive with pleas for cooperation from the public and

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<sup>800</sup> A. B. Renehan, "Public Forum: Renehan on Land Boards," *New Mexico State Tribune*, August 13, 1927, A17.; see also, Kelly, "History of the Pueblo Lands Board," 63.

<sup>801</sup> George A. H. Fraser to Carl H. Gilbert, October 18, 1926, Renehan Gilbert Papers, NMSRCA.

promising to pursue “*equity* . . . for the best interest of settlers, Indians and the public generally.” It called the Pueblo Lands Act imperfect but “salutary and workable,” and implored claimants to consider the larger community interest rather than their own self-interest when they questioned the efficacy of the Board and its processes.<sup>802</sup>

While the Board attempted to control public protest, Commissioner of Indian Affairs Charles Burke actively worked to undermine John Collier and AIDA. Worried about their influence over the Pueblos, Burke attempted to supplant the traditionalist-led All Indian Pueblo Council, which worked actively with AIDA, with government-friendly progressives in the “U.S. Pueblo Council.” Hagerman, who had led a similar scheme in Navajo Country in 1923, would convene the Progressive Council’s meetings, typically held at the Santa Fe Indian School, as its ex-officio chairman. The U.S. Pueblo Council brought the fledgling Progressive Pueblo Indian Council, formed in 1924, under its wing. Hagerman’s activities with the Council earned the undying hatred of Collier, who already disliked him because of his connection with Navajo oil leases.<sup>803</sup>

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<sup>802</sup> Herbert J. Hagerman, Lucius C. Embree, Charles H. Jennings, “Pueblo Lands Board Makes Appeal to Public Aid Settling Up Title Mess,” *Santa Fe New Mexican*, November 22, 1926, A7.

<sup>803</sup> The U.S. Pueblo Council even initially mimicked the name of the AIPC, calling itself the “All Pueblo Council.” Documents announcing the formation also explicitly recognized factionalism at Pueblos as the need to elect representatives in place of those appointed by Pueblo leadership. See, informational flyer, “All Pueblo Council, November 15, 16 and 17, 1926, Santa Fe Indian School,” SWAIA Collection, NMSRCA. See also, Kelly, “History of the Pueblo Lands Board,” 64. Historian Elmer Rusco claims that the U.S. Pueblo Council was initiated by Commissioner Burke on a suggestions by NMAIA leader Margaret McKittrick. McKittrick, whose passion was enforcing law and order on New Mexico’s Indian reservations, believed a government controlled council modelled after Hagerman’s Navajo council could undermine Collier and give moderate, pro-government leaders access to pueblo leaders. See Elmer Rusco, *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act* (Reno: University of Nevada Press, 2000), 24-25.

When the Board committed itself to seeking equity in its recommendations, it undermined A. A. Berle's provisions in the act that AIDA confidently assumed would oblige the commissioners to follow strictly the act, guide its work, and limit, even inhibit, legal interpretation. Independent suits provided for in the act nonetheless allowed Native pueblos to pursue lands in claims where they disagreed with the Board's findings and gave them a day in court, which their Hispano counterparts were denied. Collier was frustrated with Richard H. Hanna's restraint in pursuing independent suits, especially for lack of tax payments. Collier promised Charles Y. de Elkus that if Hanna failed to act aggressively, he would challenge the constitutionality of Board or, if nothing else, fight it politically and attack its funding in Congress.<sup>804</sup> If Collier decided to move against or without Hanna, Collier would offer Santa Fe attorney Charles Fahy the job. Unbeknownst to Collier, Fahy confessed to Hanna a conflict of interest because he represented settlers in Taos and Picurís.<sup>805</sup>

Board members were surprised during their Taos Pueblo hearings when the pueblo, ignoring the advice of Collier and Hanna, agreed to exempt the Town of Taos from consideration. That decision reduced claims from 500 to 300. The Pueblos hoped that the concession would aid consideration of its claim to sacred Blue Lake, which was lost to the creation of federal forest reserves in 1906.<sup>806</sup> Hanna thought that the Board's pursuit of equity admirable and politically advisable, and he eventually agreed with Taos Pueblo's concession of claims comprising the Town of Taos. Collier, nonetheless,

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<sup>804</sup> Kelly, "History of the Pueblo Lands Board," 67.

<sup>805</sup> Ibid.

<sup>806</sup> See, R.C. Gordon-McCutchan, *The Taos Indians and the Battle for Blue Lake* (Santa Fe: Red Crane Books, 1995), and Andrew Graybill, "Strong on the Merits and Powerfully Symbolic': The Return of Blue Lake to Taos Pueblo" *New Mexico Historical Review* 76:2 (April 2001) 125-160.

considered the recognizing of Hispano land rights as merely a *moral act*, but by no means an imperative or obligation. To Collier, Taos Pueblo's decision was proof that the natives were the good conscientious neighbors that Mexicans could never be. What he believed to be moral concessions and generous negotiations, George A.H. Frasier believed to be necessary to sustain the constitutionality of the Pueblo Lands Act.

Although faced with the dilemma of a Board soft on settlers, Collier remained aggressive and uncompromising. Hanna, on the other hand, criticized by San Francisco attorney and AIDA legal counsel Charles Y. de Elkus for being too passive toward and supportive of the Board's professed search for equitability. He felt the Pueblo cause held the high ground on all points, legal and moral. During the Board hearings and when Board decisions were certified by the District Court from 1929-1931, Collier grew annoyed by Hanna's caution. Was Hanna too closely tied to New Mexico's political elites to execute an aggressive legal strategy that would ultimately repatriate as much land to the Pueblos as possible? Collier began corresponding heavily with Dudley Cornell, a counselor in Hanna's office, whom he trusted to report on the Board's activities. In Collier's mind, Hanna, the former State Supreme Court justice and Democratic gubernatorial candidate seemed fearful of alienating his would-be constituents.<sup>807</sup>

Despite his reluctance, Collier had no choice but to put his faith in Hanna and his judgment. As Pueblo attorney in 1918, Hanna had filed the ejectment suits that his predecessors were hesitant to execute. Compared to his predecessors, Hanna was a man

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<sup>807</sup> Dudley Cornell to John Collier and John Collier to Dudley Cornell, March 1929-April 1930, John Collier Papers, Yale, University, microfilm copy at UNM-CSWR, Albuquerque.

of impeccable moral standards. George Hill Howard had speculated in Hispano community grants while serving as U.S. Indian inspector in the early 1880s and continued to do so as the first attorney for the Pueblos a decade later. Howard learned that speculating in small-parcel claims on Pueblo land was risky, and though he aggressively pursued land claims in the vicinity of San Juan Pueblo, he was cautious to avoid the lands with a cloud over their title. William H. Pope notably ruled against Pueblo wardship in the *U.S. v. Sandoval* case, but was overturned by the U. S. Supreme Court.<sup>808</sup> His successor, A. J. Abbott represented adverse claimants to Pueblo lands, including the swindler of nearly half of Santa Clara Pueblo's lands.<sup>809</sup> Francis C. Wilson infamously served as Pueblo attorney while assisting in the sale of the Pojoaque Grant to California investors and was a prime mover in selling the lands of Pecos Pueblo. Despite his duplicity, he was still employed by the New Mexico Association on Indian Affairs, which embraced him as much for his opposition to Collier as for his competence in serving the Pueblo cause. The only other attorneys who equaled Wilson's and Howard's experience in Pueblo litigation and knowledge of their contentious history with their Hispano neighbors were Ralph E. Twitchell, who died in 1925, and Alois Renehan, who represented Hispanos and opposed the Pueblo cause.

While Hanna and Collier diverged on their approach to independent suits, the First Judicial District Court took action on the Tesuque and Nambé claims. When the

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<sup>808</sup>Mark B. Thompson, "William H. Pope," *newmexicohistory.org*, website of New Mexico Office of the State Historian, <http://www.newmexicohistory.org/filedetails.php?fileID=23332> (accessed 11 July 2013).

<sup>809</sup>"Pueblo Attorney – A Purely Political Appointment," Twelfth Annual Report of the Executive Committee of the Indian Rights Association (Philadelphia: Office of the Indian Rights Association, 1894), 51-53; see also, "Biographical Sketch of A. J. Abbott," author unknown, accessed online at <http://users.ipfw.edu/abbott/family/AJAbbottBio3.htm>

suit to quiet titles at Nambé began in July 1927, two questions regarding the controversial Section 4 of the Pueblo Lands Act immediately arose. First, despite the *Candelaria* decision, federal judge Orie Phillips considered whether non-Indians could invoke statutes of limitation to protect their claims. Phillips also considered what period of time adverse claimants had in order to produce evidence of tax payments. During the case, filed as *Pueblo of Nambé v. David Herrera*, Hanna argued that awards at Nambé were too low. Board attorney George A. H. Fraser agreed but defended the Board's broad interpretation on how to compensate claimants for improvements. Phillips largely agreed with the Board's recommendations but increased the award from \$30.00 to \$65.00 on 489 of the 654 acres of extinguished Pueblo lands, increasing the total award by \$7,038.93. But the court also revived thirty-two rejected claims, shifting the percentage of approved claims from 73 percent to 86 percent (See Appendices C and D).<sup>810</sup>

In July 1928, Federal Judges Orie Phillips and Colin Neblett issued a joint ruling on *Pueblo of Nambé v. David Herrera*. Collier and Hanna were pleased that the justices rejected the use of statutes of limitation by adverse claimants, firmly adhering to the *Candelaria* decision. They further held that claims could only stand if they were in compliance with Sections 4a and 4b of the Pueblo Lands Act, which made proof of paid taxes necessary to confirm all claims. An important caveat in their ruling stated that tax payments were necessary but only in the years in which they were lawfully assessed.

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<sup>810</sup> Kelly, "History of the Pueblo Lands Board," 68; Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup> Session, on H. R. 9071, February 17, 1932, 1932, Washington, D.C., Government Printing Office, 1932; See also, "Summary of Reports," Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.



Further, Phillips ruled that tax payments would be recognized if paid within four years of their assessed due date.<sup>811</sup>

Amid the Nambé decision, Judge Phillips was elevated to a Circuit Court judgeship, leaving Colin Neblett to write the final opinion for the Nambé case and to hear all remaining cases. When Neblett elaborated in the full written decision, he extended the window for claimants to pay taxes, allowing delinquent tax payments or good-faith efforts to execute payments until the suit to quiet title was filed in District Court. He also overturned thirty-two of the sixty-five claims rejected by the Board. Among natives and Pueblo advocates, Neblett demonstrated a disquieting bias for Hispano claims and against Pueblo Indians.<sup>812</sup> Fraser exposed his own prejudices as well, stating that the results of the Nambé case could be blamed on the “good testimony of the settlers chief spokesman” (perhaps referring to José A. Ribera or José Inez Roybal) and the “corresponding imprecision” of the “dull and ignorant Indians” upon whom he was forced to rely.<sup>813</sup>

The mixed results of the Nambé case left many participants and observers pondering the role and authority of the Board. Although it sought equity in its recommendations, it was powerless when its parity was dismantled by the First District Court. After the Tesuque and Nambé hearings, the Board took a few months to hear claims in the Río Abajo, including Sandia, San Felipe, Santo Domingo and Isleta lands.

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<sup>811</sup> Kelly, “History of the Pueblo Lands Board,” 85; Hall, *Four leagues of Pecos*, 254-255.

<sup>812</sup> Neblett’s seeming bias for non-Indian claimants was startling, especially considering his reputation for defending Pueblos against state machinations. Pueblo Agent Leo Crane called him a “force of intelligence” and partly credited him for providing Pueblo Indians with “a dozen seasons of protection, and guidance, and progress.” See, Leo Crane, *Desert Drums: The Pueblo Indians of New Mexico, 1540-1928* (Boston: Little, Brown and Company, 1928), 82-83.

<sup>813</sup> Kelly, “History of the Pueblo Lands Board,” 93, 95; Hall, *Four leagues of Pecos*, 252-253.

The Board took up hearings at Picurís in the late summer of 1927. By the time of the Picurís hearings, the Board had filed reports for Taos Pueblo, and the case *Pueblo of Taos v. Gerson Gusdorf* was lodged in District Court. The Taos case bore directly on Picurís, as Picurís attempted to emulate Taos Pueblo's strategy by recognizing select claims in exchange for the consideration of others.<sup>814</sup>

When the Board held its hearings for Taos in 1926, the pueblo agreed to recognize 224 of 503 claims, including the entire Town of Taos. This plan reduced the number of claims that had to be tried before and heard by the Board from approximately 500 to 300. The Pueblo anticipated that these concessions would gain the Board's and Indian Bureau's support for the return of the sacred Blue Lake, which was lost when President Theodore Roosevelt created the Taos Forest Reserve in 1906. In practice, foresters had initially reserved the use of lands surrounding Blue Lake for the Pueblo. The Pueblo nonetheless tried securing an executive order reservation to protect Blue Lake in 1914 and again in 1916. Taos Pueblo's efforts accelerated in 1918, when forester Elliott Barker issued grazing permits and promoted tourism near the lake with improved trails. The Board agreed with the strategy, and Taos forwent \$300,000 in compensation, but was betrayed when the Board failed to appeal for the return of Blue Lake.<sup>815</sup>

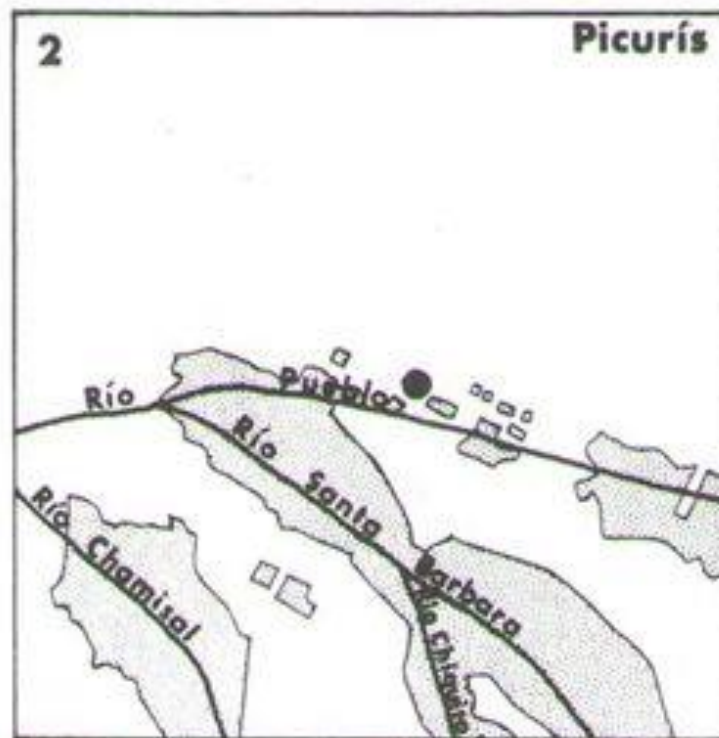
Always wishing to hasten the Board's work, Hagerman held that Taos Pueblo's recognition of claims meant that the Board was not compelled to examine the claims, but Embree and Jennings argued that the proof of possession, which claimants had to

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<sup>814</sup> For more information about southern Pueblos, including the impact of the Pueblo Lands Board, see Herbert O. Brayer, *Pueblo Indian Land Grants of the "Rio Abajo," New Mexico* (Albuquerque, University of New Mexico Press, 1939).

<sup>815</sup> Graybill, "Strong on the Merits and Powerfully Symbolic": The Return of Blue Lake to Taos Pueblo," 128; Gordon-McCutchan, *The Taos Indians and the Battle for Blue Lake*, 15.

establish, came only from formal hearings.<sup>816</sup> Picurís attempted a similar compromise, offering to accept the oldest claims, including many in Vadito and Peñasco, in exchange for some of the more-recent ones, but the arrangement fell apart when settlers at Chamisal refused to budge. Secondly, AIDA attorneys Hanna and Fred T. Wilson, along with Dudley Cornell, filed independent suits at Taos and Picurís when they became dissatisfied with the federal District Court’s affirmation and extension of Board rulings already generous to non-Indians’s adverse claims.



**Figure 30: Picurís Pueblo, showing non-Indian claims (shaded).** The shaded area shows the extent of Hispano claims on the Picurís Grant, which continued to grow throughout the territorial period and accelerated when area Hispano grants, including the Santa Barbara Grant (not shown) to the south of the Picurís league was partitioned, lost to tax delinquency and bought by timber companies. Carlson, *The Spanish American Homeland*, 48.

<sup>816</sup> Kelly, “History of the Pueblo Lands Board,” 64; Hall, *Four leagues of Pecos*, 248.

With a population estimated at 125 in 1900 and 97 in 1939, the shrinking Picurís Pueblo had contended with large-scale Hispano invasions since the late 1800s (see chapter 3).<sup>817</sup> By 1927, the result was 677 claims for 2,691.09 acres. Claims averaged less than four acres. Intermarriage was rare at Picurís, though some claims may have derived from Hispanos bequeathing Pueblo lands to their mixed-race heirs. More common at Picurís was the sale of Pueblo lands by Picurís officials or individuals. At Tesuque and Nambé, the Board recommended the rejection of adverse claims that demonstrated insufficient payment of taxes, but at Picurís, it reacted to Neblett's tax ruling by recommending claims for approval despite tax delinquency.<sup>818</sup>

The Board approved Picurís claims at a rate similar to Nambé. Of the 677 adverse claims, the Board rejected 128 for 622.84 acres, and approved 549, or 81 percent of all claims, for 2,068.25 acres (See Appendix C). Although Nambé and Tesuque contained a mix of claims, those at Picuris were remarkably uniform. Rejected claims averaged 4.86 acres, only a little over one acre larger than approved claims, 3.76 acres on average. Even rejected claims were only 12 to 15 acres large at best. The land had not a high, inherent value: most of the properties' appraised value came from improvements like houses, corrals, ditches and orchards. For instance, claimants Timoteo Martínez, Demecio Gurulé, Diego Chacón and Teófilo Medina were all well-compensated for their

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<sup>817</sup> Donald N. Brown, "Picuris Pueblo" in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 271.

<sup>818</sup> Picurís Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, November 20, 1930, NARG 49 NM 13.

rejected claims. Each property had numerous improvements and each was more than forty years old by the time of the Picurís hearings.<sup>819</sup>

Though the Board kept Judge Neblett's tax ruling in mind when assessing claims, the District Court nonetheless reversed 102 of the rejected 128 claims for 503.6 acres. The combined actions of the Board and the District Court repatriated a mere 119.24 acres to Picurís Pueblo, or 4.4 percent of lands claimed by non-Indians (See Appendices C and D). The Board recommended that Picurís be compensated \$47,132.90 for 2,571.85 acres lost to non-Indian title, and that Hispanos who lost their lands be compensated \$11,474.73 for 119.24 acres. The difference in real compensation was more than five-to-one, with Picurís receiving about \$18.32 per acre for extinguished lands while their Hispano counterparts received \$96.23 per acre lost. The Board seemingly tossed aside attempts for equity in Picurís, something they touted at Nambé.<sup>820</sup>

The extraordinary gap between the Board's recommendations and the District Court's decisions and awards at Picurís made it a prime candidate for a legal test, which Collier urged Hanna to undertake. After long correspondence and consultation with AIDA counsel Herbert L. Stockton, Howard S. Gans, and Charles Y. de Elkus, Hanna and his junior legal partner, Dudley Cornell, prepared independent suits and delivered them to George A. H. Fraser to contest Board and District Court findings at Picurís and Taos. The Taos case, *Pueblo of Taos v. Wooten*, met quick and hot opposition, and the

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<sup>819</sup> Ibid.

<sup>820</sup> Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup> Session, on H. R. 9071, February 17, 1932 (Washington, D.C., Government Printing Office, 1932) 36-37; Picurís Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, November 20, 1930, NARG 49 NM 13.

appeal was dropped when the United States solicitor general and Department of Justice instructed Fraser to abandon it. One of the central contentions in the appeals was that tax provisions ignored by Judge Neblett destroyed an important proviso of the Pueblo Lands Act, undermined the Pueblos's rights to land, and neglected congressional intent.

The solicitor general and the Justice Department nonetheless acknowledged that tax delinquency was not uncommon in New Mexico and that testing a claim's legitimacy by this measure was erroneous and prejudicial. Further, both feared that a successful appeal could undermine the work of the Board and Congress. The latter explicitly created the Board to avoid legal battles. Hanna then attempted to file the appeal without Fraser, only to be rejected by the Tenth Circuit Federal Appellate Court, which refused to accept the case from any authority but the U.S. attorney general.<sup>821</sup>

Left with few acres but considerable funds, Picurís tested the feasibility of purchasing land from adverse claimants whose title was confirmed by the Board or District Court. The Office of Indian Affairs created elaborate repurchase plans with Pueblo superintendents and agents, and with Pueblo leaders.<sup>822</sup> They identified desirable land and sought individuals who might be willing to sell their land back to the Pueblos. A few claimants did so. Pablo Mascareñas sold over ten acres to Picurís Pueblo in 1934 and a relative, Juan D. Mascareñas, even had the value of his tracts reassessed by the

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<sup>821</sup> Kelly, "History of the Pueblo Lands Board," 73; Hall, *Four Leagues of Pecos*, 265; Ebright, Hendricks and Hughes, *Four Square Leagues*, 120.

<sup>822</sup> Pueblo Land Acquisition Program, Summary, Richard H. Hanna Collection, Box 8, Folder 7, UNM-CSWR.

Taos County Treasurer to reach a lower price that the Pueblo would be willing to pay.<sup>823</sup>  
The Mascareñas proved to be the exception.

Much to the frustration of Pueblo attorneys and agents, Hispanos generally refused to sell their land. Those interested in selling lands back to the Pueblo demanded sums beyond the actual market value of the land. The contentious climate of the past decade undoubtedly informed their unwillingness to sell in part. But the overzealous planning of the Office of Indian Affairs ignored the likelihood that Hispanos refused to depart with the land for the same reason they seized it in the first place; they desperately needed the land. With the general failure of the Picurís land repurchase program, Commissioner of Indian Affairs Charles Rhoads even suggested a drastic solution: that Picurís be abandoned and moved to land near or on San Juan Pueblo, with whom it had longstanding social and marital relations.<sup>824</sup>

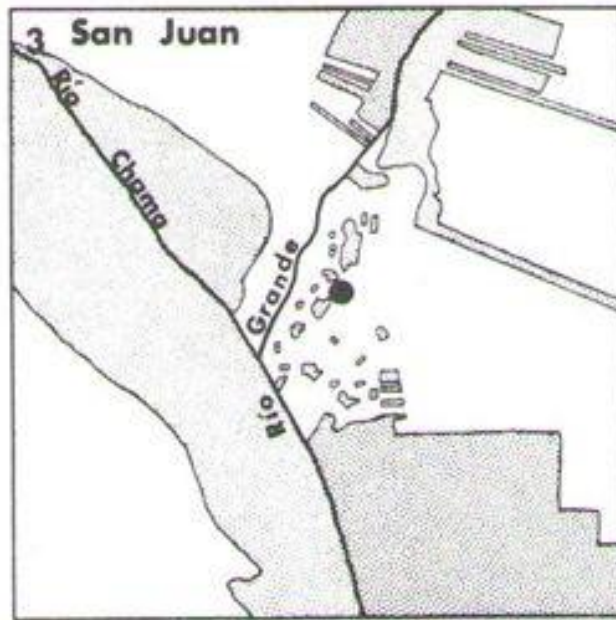
Rhoads's plan was predicated on the idea that water resources could be developed in San Juan to create a surplus beyond the needs of San Juan Pueblo Indians. The OIA drew up plans for Picurís to develop 160 acres above the confluence of the Río Pueblo de Picurís and the Río Santa Barbara by digging ditches and bringing new lands under irrigation. But short growing seasons in tight and narrow 8,000 foot valleys limited the efficacy of these plans, as did the impact on two-hundred-year-old non-Indian water rights and likelihood of litigation if new ditches were attempted. Unlike Picurís, San Juan Pueblo had the advantage of sitting right on the confluence of the Río Grande and the Río Chama, the two largest rivers in north central New Mexico. It also had one of the

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<sup>823</sup> Deeds from Pablo Mascareñas, conveying land to Pueblo of Picurís, various acreages and sums, August 3, 1934, Manuel A. Sánchez Papers, Coll. 1971-013, NMSRCA.

<sup>824</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 120.

largest Pueblo populations, which was estimated at 500 in 1928.<sup>825</sup> Hagerman and Walker both believed that San Juan had “as much land and water as they need, irrespective of the conflicting claim of settlers.”<sup>826</sup> The two commissioners also agreed that developing water resources at San Juan would not severely or immediately impact other water rights, Indian or non-Indian, and San Juan possessed lands that boasted a comparatively long growing season.<sup>827</sup>



**Figure 31: San Juan Pueblo, showing non-Indian claims.** Carlson, *The Spanish American Homeland*, 48.

The seemingly constant Río Grande water supply feeding San Juan, however, faced a significant threat, this time from downstream users north and south of Albuquerque. A Middle Río Grande Conservancy District bill was submitted to U. S.

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<sup>825</sup> Alfonso Ortiz, “San Juan Pueblo” in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 293.

<sup>826</sup> Herbert J. Hagerman to Roberts Walker, January 25, 1925, PLB Records, NMSCRA.

<sup>827</sup> See. “Proposed Irrigation Construction – New Mexico Pueblos,” Bureau of Indian Affairs, c. 1933, Richard H. Hanna Collection, Box 7, Folder 29, UNM-CSWR.



Congress in 1928. Its architects envisioned massive irrigation and reclamation works to control and stabilize the water supply of the Río Abajo (Río Grande valley south of Santa Fe), from Cochiti Pueblo in the north to Elephant Butte Reservoir below Socorro in the south. The project purported to limit flooding that hindered the economic vitality of commercial agriculture in the valley and impaired residents as well. The costly project was debated from the mid-1920s through the 1940s. John Collier and AIDA initially opposed the project when he believed it would cause the allotment of Indian lands, and limit the land and water rights he was fighting for in the Pueblo Lands Board. Collier at first argued for the rights of Pueblos *and* *Hispanos*, linking their priority rights and encouraging the joint activism of the AIPC and the Liga Obrera, which represented many Hispano farmers. Collier ultimately supported the MRGCD bill when Pueblo priority rights were assured and discouraged Pueblos from engaging in activism jointly with *Hispanos*. His about-face earned him the undying hatred of Representative Dennis Chávez and many Hispano farmers across the middle Río Grande Valley.<sup>828</sup>

The Pueblo Lands Board also underwent personnel changes. Louis Embree was pressured to resign after both Hagerman and Jennings complained incessantly of his advanced age and inability to maintain the workload required of Board members. Louis H. Warner, a well-connected Washington, D.C., attorney, was appointed by President

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<sup>828</sup> Kelly, “History of the Pueblo Lands Board,” 74. For more on the Middle Rio Grande Conservancy District, see Fred M. Phillips, G. Emlen Hall, and Mary E. Black, *Reining in the Rio Grande: People, Land and Water* (Albuquerque: University of New Mexico Press, 2011), especially Chapter 7; and, Kenneth M. Orona, “River of Culture, River of Power: Identity, Modernism, and Contest in the Middle Rio Grande Valley, 1848-1947” (Ph.D. diss., Yale University, 1998); and Samuel Markwell, “Unsettling Accounts: Life, Debt, and Development in the Middle Rio Grande” (master’s thesis, University of New Mexico, 2014).

Coolidge to replace Embree and was immediately made chairman of the Board.<sup>829</sup>

Hagerman, who was relieved of his contentious roles as Special Navajo Commissioner and head of the U.S. Pueblo Council in 1928, continued to maintain that no provision in the Pueblo Lands Act required the Board to demand tax receipts as evidence of payment, nor were they obliged to look through county records to ascertain the veracity of claimants' declared payments. The Board would rely on the testimony, and in Hagerman's mind, this liberal reading of the tax provisions would level the field for Hispanos, most of whom had no legal representation, unlike the Pueblos, who had both government and private attorneys to represent their cases.<sup>830</sup>

By the time of the Board hearings in the winter of 1929, San Juan Pueblo's population was approximately 500 people, making it one of the most populous Pueblos.<sup>831</sup> The Pueblo faced 740 claims totaling 5,697.14 acres and averaging 7.69 acres per claim. San Juan had survived decades of Spanish-colonial oppression. Adjacent to Juan de Oñate's settlement San Gabriel del Yunque in 1599, San Juan was also the home pueblo of Popé and played a significant part in the Pueblo Revolt of 1680. Since the Spanish *reconquista* in 1692, its relationship with Spanish settlements had improved. The massive Sebastián Martín Grant to the east of the San Juan Pueblo league provided pastures for both San Juan Indians and their Spanish colonist counterparts. San Juan natives even claimed that Martín granted a piece of land in the valley in exchange for

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<sup>829</sup> Kelly, "History of the Pueblo Lands Board," 79.

<sup>830</sup> Kelly, "History of the Pueblo Lands Board," 80-82.

<sup>831</sup> Ortiz, "San Juan Pueblo," 293. See also, Shirley Hill Witt, "Migration into San Juan Pueblo, 1726-1968." Ph.D. diss., University of New Mexico, 1969.

digging the first large irrigation ditch east of the Río Grande.<sup>832</sup> Over time, however, the close proximity of Spanish settlements to San Juan encouraged relationships, some consensual but most coercive, that impacted the Pueblo's control over its lands. The net result was nearly 750 adverse claims for more than 5,000 acres of land within the exterior boundaries of San Juan Pueblo.<sup>833</sup>

After the Tesuque fence controversy, San Juan Pueblo acted to reverse decades of unravelling Pueblo authority. In 1924, San Juan governor José Ramos Archuleta, who had been embarrassed at the Tesuque Congressional hearings in 1920, led the tribal council to terminate the privileges of Isidro Archuleta, a San Juan Pueblo native with a history of selling lands to non-Indians. The Pueblo also took legal action to terminate leases contracted to Luciano de Herrera and Enrique Córdova, ending a nearly half-century lease.<sup>834</sup> On the eve of Board actions, then, San Juan took action to reclaim its lands and defend Pueblo patrimony.

At San Juan, the Board was confronted *century* rather than *decades* old claims, including the Chamita Grant and the Juan Chinaguan claim (see Chapter 2). The Chamita grant was rooted in a controversy that began in 1713, when Antonio Trujillo was granted a piece of land by Spanish governor Juan Flores Magollón (1712-1715) and put in possession by Sebastian Martín, the Santa Cruz *alcalde* who owned the vast nearby grant. Nearly a decade later, Trujillo petitioned Governor Juan Domingo de Bustamante

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<sup>832</sup> Ralph E. Twitchell, *The Spanish Archives of New Mexico* (Cedar Rapids, IA: Torch Press, 1914) Vol. 1, 190.

<sup>833</sup> Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup> Session, on H. R. 9071, February 17, 1932 (Washington, D.C., Government Printing Office, 1932) 36-37.

<sup>834</sup> U.S. v. Cruz Olguin, Crestino Trujillo, et. al., Case No. 981, May 27, 1924, NARG 75:86 Denver.

(1723-1731) to revalidate his grant, and Bustamante complied. In 1740, a Spanish court heard the protest of San Juan Pueblo against the Chamita Grant, but no administrative action was taken against it. Over the next century, Chamita served as a trading center and, by the 1850s, had grown into a town of thirteen hundred inhabitants.<sup>835</sup>

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<sup>835</sup> J. J. Bowden, "Town of Chamita Grant" in "Private Land Claims in the Southwest," accessed at [www.newmexicohistory.org](http://www.newmexicohistory.org), September 17, 2013.



and recognized the towns as having legitimate title. He investigated the claim and quickly forwarded his recommendation for confirmation to U. S. Congress. Less than a year later, Congress approved the Chamita Grant. An 1877 survey estimated the grant at 1,636.29 acres and reported that it sat wholly in the San Juan Pueblo Grant, which was confirmed two years before the Town of Chamita and thus senior to the Town of Chamita in every respect. For this reason, the Chamita Grant went unpatented for decades.<sup>836</sup>

In 1920, in light of the 1919 Hanna ejectment suits, Antonio Trujillo's heirs renewed their campaign to patent their grant. Federal Land Commissioner Clay Tallman noted the approval of the grant in 1860 and believed that Congress intended to issue a patent that acknowledged the conflict with the San Juan Pueblo Grant. This would leave the task of settling the claims to the courts. But in 1923, Federal Land Commissioner William Spry revoked Tallman's decision, ruling that the federal land office lacked legal jurisdiction and would only add confusion to the standoff between San Juan and Chamita. All court action was suspended, pending action by the Pueblo Lands Board, which finally heard the case in the fall of 1928.<sup>837</sup>

Just how the Board would treat the large Town of Chamita claim, surveyed in 1877 at over sixteen-hundred acres, was unclear. At Nambé, the Board had rejected the large López-Romero tract, and residents at Chamita feared the Board would invoke a similar recommendation on such a large tract. The late Samuel Eldodt had founded a mercantile in Chamita in 1863, and used his small store to become a political anchor in

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<sup>836</sup> Ibid. See also David Benavides and Ryan Golten, *Response to the 2004 GAO Report* (Santa Fe: New Mexico Attorney General's Office, Gary King, Attorney General, Treaty of Guadalupe Hidalgo Division, 2008) appendices, 9-11.

<sup>837</sup> Ibid. See also Reports of the General Council of the Northern Pueblos, San Juan, signed by San Juan Governor Venturo Montoya, Lt. Governor Santano Archuleta, March 24, 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe.

Rio Arriba Democratic Party for six decades, ultimately serving as a delegate to the New Mexico Constitutional Convention of 1910. Understanding the importance of fighting the Hanna ejectments suits and the Bursum Bill, Eldodt partially funded Alois Renehan's lobbying efforts in Washington, D.C.. Eldodt died in 1925. Without his influence, many residents feared the Board would reject the Chamita Grant.<sup>838</sup>

To the surprise of many, the Board approved the Chamita claim in principle but reduced its size. It seemed to attempt to achieve the equity it had abandoned at Picurís. The Board found that Antonio Trujillo's heirs had held continuous, exclusive and adverse possession of fifty-two tracts covering 838.814 acres within the Pueblo of San Juan Grant since March 16, 1889. This greatly reduced the original surveyed area of 1,636.29 acres and returned nearly 800 to San Juan Pueblo. But Chamita was far from the only large, ancient claim at San Juan.<sup>839</sup>

The 1744 Chiniagua claim had also survived the Spanish, Mexican and American periods. It originated from the land claim of Juan Chiniagua, a San Juan Pueblo Indian who had petitioned for a parcel of land in order to leave the Pueblo and live as a *vecino*, a Spanish-colonial citizen. Seeking to limit Spanish influence in the Pueblo, San Juan leaders reportedly granted his request. Chiniagua's three-hundred-yard-wide tract allowed him to live apart from the Pueblo and again live as a practicing *hermano*, or Penitente brother. Upon Chiniagua's death, however, his three children, all full-blooded

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<sup>838</sup> Stephen C. Lent, et. al., "Survey, Test Excavation Results and Data Recovery Plan for Cultural Resources near San Juan Pueblo, Rio Arriba County, New Mexico" Archeology Notes 17 (Santa Fe: Museum of New Mexico, Office of Archaeological Studies, 1991) 10, 78.

<sup>839</sup> Reports of the General Council of the Northern Pueblos, San Juan, signed by San Juan Governor Ventura Montoya, Lt. Governor Santano Archuleta, March 24, 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe.

San Juan Pueblo Indians, divided the tract and sold it to the surrounding Hispano population. Their progeny allegedly expanded this claim to 1,600 acres of the best irrigable lands at San Juan Pueblo.<sup>840</sup>

Another large tract of 1,680 acres dated from 1802, when a camp used by Spanish soldiers fighting Ute incursions drew permanent settlers. The area, then called San José, had grown to include the community of El Duende. Settlers on the tract claimed rights through the nearby Bartolomé Sánchez Grant, which did not cover or conflict with this western edge of the San Juan Pueblo Grant. On the eastern portion of the grant sat Alcalde, a 10-acre tract with twenty-seven claims, as well as the claim of Julian Sánchez, a 134-acre tract that he had purchased from San Juan Pueblo Indian José D. García. Reports from the General Council of Northern Pueblos, a precursor to the Eight Northern Indian Pueblos Council, stated that lands at San Juan were gained by Mexicans through “deliberate fraud and theft” and that they often used whiskey to induce Indians to part with their pueblo’s land. Pueblo historian Joe Sando (Jemez) agreed, and characterized Hispano methods for obtaining land as “insidious ways” and “habitual trickery,” a “litany of incorrigible corruption practiced upon Pueblo people.”<sup>841</sup>

The diversity of claimants at San Juan was startling. The *Hermanos de la Fraternidad Piadosa de Nuestro Padre Jesús Nazareno*, or Penitentes, held on to a small tract of less than one-third acre under *hermano* Juan C. Valencia. But Valencia and the *hermanos* abandoned their claim before the hearings when their *morada* burnt down. The Archdiocese of Santa Fe was again a claimant, this time holding title to two half-acre

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<sup>840</sup> Ibid.

<sup>841</sup> Ibid. See also Joe S. Sando, *Pueblo Nations: Eight Centuries of Pueblo Indian History* (Santa Fe, N.M.: Clear Light Publishers, 1992), 113.



tracts on the edge of the central plaza, where St. John the Baptist Church stood. Even Charles C. Catron, the wily son of the late Thomas B. Catron, held tracts he had inherited from his deceased father. The eight tracts ranged from a quarter acre to seven acres in size. The younger Catron, who authored the most controversial parts of the 1922 Bursum Bill, clearly understood the implications of holding Pueblo lands. He neither filed his claim nor submitted any evidence to hold onto his land. Instead, he readily accepted payment for lands that would be repatriated to San Juan Pueblo.<sup>842</sup>

Also among claimants at San Juan were San Juan Pueblo Indians themselves, many of whom had paid local taxes and who claimed individual title above that of their own pueblo. As a rule, all Indian claims were rejected. Approving Indian title to a private claim against the ownership of his or her own pueblo would cast doubt on tribal ownership and smack of severalty. Not only were Indian claims rejected but Pueblo Indians who privately held pueblo lands were not compensated either for their tracts or their improvements when title returned to their Pueblo.<sup>843</sup>

Some Indian claimants were products of mixed unions. Pueblo-Hispano inter-marriage gradually alienated lands when their progeny claimed their parents' tracts for themselves, as Indians had done at Nambé. The heirs of José and Avelina Talache were such a case. In 1892, José Talache, a San Juan Pueblo Indian, and his Hispano wife, Avelina, purchased two tracts of land from Avelina's father, Antonio María Valencia. According to San Juan Pueblo governor José Ramos Archuleta, Valencia had owned the properties for at least fifty years. Upon José Talache's death in the early 1920s, the

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<sup>842</sup> San Juan Pueblo, report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, October 28 and December 4, 1930, Washington, DC, National Archives, NARG 49 NM 13.

<sup>843</sup> Ibid.

combined fifteen acres, which included the Talache's modest two-bedroom home as well as two other houses, were handed down to his children. The Talache's son and daughter, half-San Juan Pueblo and half-Hispano, were recognized members of the tribe, so the Board rejected their claim and declared Pueblo title unextinguished. However, since the title derived from Valencia, a Hispano, and they were "half-Mexican," the Board and District Court reconsidered and awarded the Talache family the full appraised value of their land, plus improvements.<sup>844</sup>

Indian claims at San Juan were common. Juan José Chávez, Maximiano Cruz, Eulogio Cata, Fabian Cata and Juan Bautista Agueno all held claims that were rejected by the court without compensation. But no Indian claims were quite as surprising as those of Sotero Ortiz. Born in 1877, Ortiz was the son of José Dolores Ortiz, a Hispano, and María Reyes Atencio, a member of the San Juan Summer moiety, and was raised at San Juan Pueblo and steeped in its traditions. At a young age, Ortiz met Thomas B. Catron and worked for him intermittently, staying at the Catron residence in Santa Fe and reading profusely in Catron's extensive library. Already fluent in Spanish and Tewa, he improved his English and became a translator, later securing a job in the Indian Service as a policeman. When he began to represent San Juan at the All Indian Pueblo Council meetings, Ortiz's influence began to flow from San Juan to other Pueblos.<sup>845</sup>

The fight against the Bursum Bill introduced Sotero Ortiz to John Collier, who took with him to Washington, D.C. and New York to publicize the plight of the Pueblos and the injustice of the legislation. Ignoring his own parentage, he characterized the Hispano population as "descendants of the soldiers of Spain who fought against our

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<sup>844</sup> Ibid, 103-103½.

<sup>845</sup> Sando, *Pueblo Nations*, 194-195.

people, and Mexicans from Old Mexico who *drifted* into our country.”<sup>846</sup> By 1923, Ortiz had been elected chair of the All Indian Pueblo Council, and travelled to Indian Pueblos in his Cadillac, spreading the word against the Bursum Bill. Through the 1920s, Ortiz remained in close correspondence with Collier, keeping him informed of actions by the Indian Service and the NMAIA. Collier, in turn, fed Ortiz information, which he spread among the other Tewa Pueblos. Ortiz became one of the most well-known Pueblo leaders in the battle against the Bursum Bill. Yet in half a decade of correspondence with Collier, he never discussed his own land claims against his own Pueblo.<sup>847</sup>

Sotero Ortiz acquired four tracts of land totaling ten plus acres from 1910 to 1920. Every tract was acquired after the *Sandoval* case (1913) and most after the Joy survey of 1915. Ortiz even acquired tracts after the 1919 Hanna ejectment suits, when a cloud cast over upon all title claims to Pueblo land. Most of Ortiz’s lands were acquired through exchanges with Juan B. Sánchez, a man who traded heavily in San Juan Pueblo land. How Ortiz acquired other claims remains unclear. While purely speculative, a few scenarios at San Juan and other Pueblos offer the potential for understanding how Ortiz could make a property claim against of his own native community. The simplest one is that Ortiz claimed lands allotted him by his tribe (by the San Juan governor, his *principales*, the *cacique* and the Council) and considered these lands his own private property. This scenario took place on nearly all other Tewa Pueblo, save perhaps Tesuque. Another possibility is that Ortiz gained a portion of his lands from a claim he inherited from his Hispano father. Though of mixed parentage, Ortiz grew up at San

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<sup>846</sup> Ibid, 196. Emphasis is mine.

<sup>847</sup> See correspondence between John Collier and Sotero Ortiz, 1925 to 1933, John Collier Papers, Yale, University, microfilm copy at UNM, CSWR, Albuquerque.

Juan, steeped in their traditions, beliefs and rituals. His father, a Hispano, however, could have claimed his lands as his own and bequeathed them to his son. A third possibility is that his relationship with the Catron, who owned multiple tracts at San Juan, might have brought lands into Ortiz's possession.

Regardless of how Sotero Ortiz came into possession of San Juan Pueblo lands, the fact remained that one of the Indian stalwarts in the battle to save Pueblo lands was a claimant against his own pueblo's title. In a ruling typical of Board actions regarding individual Pueblo Indian claims, the Board rejected Ortiz's claims and recommended no compensation. Its justification was that Ortiz was "a member of the tribe," and he was, "entitled to share equally with other Indians claiming lands in the Indian Grant."<sup>848</sup>

Whether they accounted for or ignored his mixed-race heritage is unknown. There is little evidence that the Board attempted to determine the nature of Ortiz's ownership, from where it derived, and whether San Juan Pueblo objected to his land claim.

Of the 740 adverse claims at San Juan, the Board approved some 525, or 70 percent in whole or in part. At San Juan, Hagerman caved to pressure from Jennings and Embree to reject a number of claims for insufficient evidence of payment of taxes. Again, the Board rejected larger claims, those averaging approximately ten plus acres, and approved smaller claims averaging less than six acres. In total, 3,499.72 acres in claims were approved and 2,197.42 acres were rejected and, thus, recovered for San Juan Pueblo (See Appendix C).<sup>849</sup>

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<sup>848</sup> San Juan Pueblo, report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, October 28 and December 4, 1930, Washington, DC, National Archives, NARG 49 NM 13, 140.

<sup>849</sup> Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup>

The Board, once again, departed wildly from the assessed land values in recommending awards for San Juan. The value of lands lost to claimants was assessed at \$60,758.94, but the Board recommended an award of only \$29,090.53. The District Court's decision rendered October 28, 1930, only inflicted more damage to San Juan Pueblo's land tenure, resurrecting 47 of the 215 rejected claims without increasing the Board's recommended award (See Appendices C and D). The Board argued that San Juan, like Nambé and Picurís, was not compensated for irrigable lands because it still retained priority right to waters associated with lands lost to sustained non-Indian claims.<sup>850</sup>

Under Hagerman's water theory, San Juan Pueblo, which lost much of its arable lands to non-Indian claims, could develop its significant water resources to open new lands to irrigation. To Hagerman, San Juan represented the "maximum of prosperity to which other pueblos might attain." The confluence of the Río Chama and Río Grande was at the center of the Pueblo, and these two combined rivers were among the strongest water resources in northern New Mexico and their intersection was a site long considered the center of a potential conservancy district. Because of this capacity, including a Board scheme to develop hundreds of acres west of the Río Grande, Hagerman reasoned that San Juan did not *need* full compensation, whether or not it was *entitled* to full compensation.<sup>851</sup>

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Session, on H. R. 9071, February 17, 1932 (Washington, D.C., Government Printing Office, 1932) 36-37; See also, "Summary of Reports," Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.

<sup>850</sup> Kelly, "History of the Pueblo Lands Board," 97.

<sup>851</sup> Ibid. Emphasis is mine.

The only consistency in Hagerman's treatment of water issues is that he typically sided with non-Indians, despite claiming otherwise. Though he would not compensate San Juan for the real value of its lands and lost water rights, he fought to retain for the pueblo waters that were in danger of being appropriated by the Middle Rio Grande Conservancy District. For Hagerman, however, San Juan needs were hardly fully at heart. He endorsed a so-called "San Juan Project," which proposed to open fifteen hundred acres of land east of the Río Grande and south of the pueblo league through massive irrigation works for the benefit of San Juan natives and others lacking resources. While simultaneously fixing San Juan's award at only a portion of its appraised value, Hagerman worked to ensure that water for the project was requested before all water appropriations were complete.<sup>852</sup>

The Board consistently maneuvered to undermine the legal strictures imposed by the Pueblo Lands Act. John Collier and Richard Hanna felt they had no other recourse but to file independent suits that offered to circumvent both the Board's and the District Court's actions. In 1927, in conjunction with the First District Court's Nambé decision, Judge Orie Phillips ruled that only the federal government, as guardian of the Pueblos, could appeal Board and Court decisions and file independent suits on behalf of the Pueblos. Phillip's decision proscribed private attorneys like AIDA's Richard H. Hanna and the NMAIA's Francis C. Wilson from representing the Pueblos outside Board hearings. Phillips's ruling contradicted the 1926 *Candelaria* decision, which considered

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<sup>852</sup> Ibid., 83-84.

Pueblos to be a “juristic person” capable of being sued but also of filing suits on their own behalf. It also inflamed Collier, who widely attacked the decision.<sup>853</sup>

While Collier and Hanna both contested and evaded Phillips’s 1928 decision, the Board began hearings for San Ildefonso. This pueblo provided significant counterpoint to San Juan and shattered Hagerman’s illogical rationale regarding assessed valued, water rights and recommended awards. The Board immediately saw the desperate situation at San Ildefonso, and initially had planned to hear its case first to provide quick relief. In a April 1925 letter to Roberts Walker, Hagerman wrote: “Altogether, it is the most sad and pitiful situation imaginable. It seems very apparent that unless something is done and done promptly that the Pueblo will be exterminated in a short time.”<sup>854</sup> Hagerman described the San Ildefonso Pueblo natives as “very decent, very intelligent, and very patient people,” an important counterpoint to the opinion of Assistant Commissioner of Indian Affairs E. B. Meritt, who believed that funds expended at San Ildefonso would be wasted on “unindustrious people.”<sup>855</sup>

San Ildefonso represented perhaps the most pressing case for the Board, save the arguably extinct Pojoaque Pueblo. For years the San Ildefonso consistently verged on starvation and collapse. Trapped between encroaching Hispano grants since the early 1700s, San Ildefonso had suffered the appropriation and expropriation of its natural resources. Though it sat at the confluence of the Río Grande and Río Pojoaque, its waters were severely depleted by upstream users, both Hispanos surrounding the pueblo and those settled within its boundaries, and by Tesuque, Nambé and Pojoaque Pueblos.

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<sup>853</sup> Ibid, 74.

<sup>854</sup> Herbert J. Hagerman to Roberts Walker, April 10, 1925, PLB Records, NMSCRA

<sup>855</sup> Vlasich, *Pueblo Indian Agriculture*, 174.

Attempts to move water down the Río Nambé-Río Pojoaque watershed to San Ildefonso were impractical for the streambed had become inundated with silt, which absorbed nearly all waters before they reached San Ildefonso's acequias. Efforts to pump the streambed for "captured waters" were equally unsuccessful. Anthropologist William Whitman, who did fieldwork at San Ildefonso in the mid-1930s, described the grant as "a wilderness of arroyos, dry washes and mesas dotted with cedar and piñon."<sup>856</sup>

A dire state of agriculture had existed at San Ildefonso since the 1880s, and left the population ill-equipped to fight foreign disease, something that decimated their colonial-era population in the form of smallpox epidemics in the 1780s. Their water rights had been lost through court decisions that favored of their Hispano neighbors. In 1901, the Pueblo attempted to file an ejectment suit against Edward F. Hobart, the former New Mexico surveyor general and Santa Fe Indian School superintendent, who speculated in both Santa Clara and San Ildefonso Pueblo lands. The case was thrown out because of a "want of prosecution," in other words, by imposing the statute of limitations on San Ildefonso's complaint.<sup>857</sup> In June 1918, Hispano settlers badgered the pueblo to accede to the authority of a ditch rider appointed by the state engineer and help pay a portion of his salary to oversee public and pueblo ditches. The government farmer at San Ildefonso, J. A. Chaves, advised the pueblo not to sign any agreement.<sup>858</sup> In that same year, the 1918 Spanish flu epidemic killed perhaps a third of San Ildefonso's population, devastating the Winter People moiety and leaving only two families, who could no longer

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<sup>856</sup> William Whitman, "The San Ildefonso of New Mexico," in *Acculturation in Seven American Indian Tribes*, ed. Ralph Linton (New York: D. Appleton Century, 1940), 390-462, 398.

<sup>857</sup> Pueblo of San Ildefonso v. Edward F. Hobart, Case 4318, 1901.

<sup>858</sup> Jose Ignacio Aguilar, Gov. of San Ildefonso to H. F. Robinson and New Mexico State engineer James A. French, June 19, 1918, PLB Records, NMSCRA.



carry out the group's ritual duties and who were eventually absorbed by the Summer People.<sup>859</sup>



**Figure 33: San Ildefonso, showing non-Indian claims (shaded).** Carlson, *The Spanish American Homeland*, 48.

By 1922, at the time of the Bursum Bill controversy, San Ildefonso's population had dropped to a nadir of ninety-one. Roughly two-thirds of the population lived in the northern village of the grant and a third in the southern village, the result of a split between 1910 and 1920. Sometime around 1923, the cacique, Ignacio Aguilar, and the presiding governor, Juan Gonzales, led a movement of people to the south village, the traditional and ancient heart of the Pueblo, but the great majority of San Ildefonso Indians, swayed by the increasingly influential pottery group, opted to stay in the North village. A separate kiva was constructed. Even the plaza was divided and a row of houses was constructed to delineate the boundary between the North People and South People. This kind of factionalism came to replace and disturb, the moiety dualism that is

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<sup>859</sup> Sandra A. Edelman, "San Ildefonso Pueblo" in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 309-310.

the centerpiece of Tewa religious and social organization. The North People, the larger group, retained control of the civil organization of the Pueblo, appointing governors whom the South People routinely ignored.<sup>860</sup>

Factionalism had plagued San Ildefonso for decades. The original move from the traditional southern village to the northern village took place sometime in the mid-nineteenth century, supposedly when a faction that had come under the influence of witches or sorcerers forced the move. Factionalism was likely at work when, in the 1830s, a rash of sales by San Ildefonso natives, their governors and their principales to surrounding Hispanos.<sup>861</sup>

When the Board began to examine land claims at San Ildefonso, it found that considerable lands had been alienated from San Ildefonso almost a century earlier. Unlike A. A. Berle's 1923 assessment for AIDA, which estimated that more than 85% of all Pueblo claims were less than ten years old, the non-Indian appropriation of Pueblo lands appeared much older. Many questionable claims derived from the controversial 1763 land claim made by the heirs of Juana Luján, whose land infringed on both San Ildefonso and Santa Clara Pueblos. The presence of cattle close to Pueblo lands broke protocols in the *Laws of the Indies*, which demanded adequate space to separate Hispano and Pueblo land and to ensure that Hispano cattle would not trample and feed on Pueblo fields. Non-Indian claimants at San Ildefonso also consistently traced their title to the 1830s, when a core of Pueblo natives apparently sold their land en masse to surrounding Hispanos, most of whom had already had claims on Pueblo lands. This process seemed

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<sup>860</sup> Whitman, "The San Ildefonso of New Mexico," 432-439; Edelman, "San Ildefonso Pueblo," 309-310.

<sup>861</sup> Ibid.

less an assault on Pueblo land than the exploitation of an open market that boomed in the 1830s and intermittently bubbled during the nineteenth century.<sup>862</sup>

By the time of the Board hearings, San Ildefonso enumerated 455 claims for 1,616.63 acres, each claim averaging 3.55 acres. A startling number had roots much deeper than the 1890s, when non-Indian claims boomed across the Tewa Basin. Historians Myra Ellen Jenkins and John Baxter opined that only three legitimate pre-American era sales were executed at San Ildefonso. Abstracts complete for Pueblo Lands Board hearings, however, show a spate of sales from 1832 to 1837. They doubted the legitimacy of an 1820 sale of 1,416 *varas* of land by Governor Juan José and his principales to don Francisco Ortiz, who owned an estancia at Caja del Río, or White Rock Canyon.<sup>863</sup>

In New Mexico, Pueblos from Santo Domingo and San Felipe in the south to Nambé, Picurís and San Juan in the north faced an assault on their lands by neighboring Hispanos. Aware of the changed status of Pueblo Indians, Hispanos petitioned for the alienation of so-called surplus Pueblo lands. Pueblo Indians also altered their petitions for protection to demand their rights as Mexican citizens rather than a special class of Spanish subjects. San Ildefonso lacks any documented cases of petitions by Hispanos for its lands during the Mexican period. They were likely aware of the claims at Nambé, San Juan and Picurís and perhaps sold their lands rather than see them claimed with no

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<sup>862</sup> Title Abstracts for claimants, San Ildefonso Pueblo, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA. See also, List of Private Claims in San Ildefonso Pueblo Grant, Renehan Gilbert Papers, NMSRCA.

<sup>863</sup> Myra Ellen Jenkins and John Baxter, "The Pueblo of San Ildefonso and Its Land, 1598-1900," unpublished manuscript, Myra Ellen Jenkins Papers, Coll. M. 127, Box 52, Folder 14, Center for Southwest Studies, Fort Lewis College, Durango, CO, undated, 51-54.

compensation. Though conjecture, changed status could have obliged San Ildefonso's natives to participate actively in a land market and sell their pueblo's patrimony.

As at San Juan Pueblo, claimants at San Ildefonso were diverse. The Catholic Church retained tracts "given" by the pueblo in the colonial era, when San Ildefonso was a mission church of Franciscans and natives were coerced to provide land and labor for the resident priest. Cosme Herrera, the Jacona land-grant activist who fought Nambé claims to water rights, purchased tracts from San Ildefonso natives Natividad Peña and Encarnacion Vigil de Peña in 1901, adding to San Ildefonso tracts he purchased six years earlier from Ralph E. Twitchell and his first wife, Margaret, who bought the lands from San Ildefonso governor Domingo Peña.<sup>864</sup> Herrera later sold this land to Clara True and anthropologist Matilda Coxe Stevenson, a onetime friend.<sup>865</sup> Together they invested in a large tract with anthropologist Elsie Clews Parsons, who later criticized the exploitative practices of non-Indians during the Bursum Bill debate, either ignorant of her own claim

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<sup>864</sup> See deed abstracts for San Ildefonso Pueblo, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA, Santa Fe; Sale by San Ildefonso Pueblo Governor Domingo Pena to Margaret Olivia Twitchell, June 1895; sale by Margaret Olivia Twitchell to Cosme Herrera, July 5, 1895, see Folder 3, Box 2, Indian Affairs Collection, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>865</sup> Matilda Coxe Stevenson was an early anthropologist in the Tewa Basin, preceding Elsie Clews Parsons and, with Parsons, conducted early fieldwork among Tewa Basin tribes. Stevenson, Parsons, and True all had non-traditional relationships and separated from their husbands to pursue academic or missionary careers, and are considered among the earliest white feminists in the area. For more, see Margaret D. Jacobs *Engendered Encounters: Feminism and Pueblo Cultures, 1879-1934* (Lincoln: University of Nebraska Press, 1999), Chapters 3 and 4. See also, Darlis A. Miller, *Matilda Coxe Stevenson: Pioneering Anthropologist* (Norman: University of Oklahoma Press, 2007); and Cheryl J. Foote, *Women of the New Mexico Frontier, 1846-1912* (Albuquerque: University of New Mexico Press, 2005), Chapter 6 "Every Moment is Golden for the Ethnologist: Matilda Coxe Stevenson in New Mexico," 117-146. Malcolm Ebright writes that Stevenson was also known among the Zuni for as "intrusive and formibable," stealing prayer sticks, other religious objects and sending them to the Smithsonian Institution in Washington, D.C.. Malcolm Ebright, *Advocates for the Oppressed: Hispanos, Indians Genizaros, and their Land in New Mexico* (Albuquerque: University of New Mexico Press, 2014), 258.

or concealing it from her Pueblo-advocate allies.<sup>866</sup> Clara True, who came to New Mexico as a day school teacher at Santa Clara Pueblo, often served as a representative to the Indian Rights Association and aided Santa Clara in defending against non-Indian claims, even while she was a claimant at San Ildefonso. Attorney Alois Renehan received power of attorney from Stevenson and, after her death, sued True to consolidate her estate, bought the tract from True and sold it to Carlos Abreu for nearly six thousand dollars.<sup>867</sup> Advocates immediately cast Abreu as a “Spaniard” as opposed to a *Mexican*, and an unknowing victim of the machinations of the Mexican’s lawyer, Alois Renehan.<sup>868</sup>

Again, like at San Juan, a number of Pueblo claimants also held claims against the title of their own tribe. While he served as the governor of San Ildefonso, Atilano Montoya acquired land from Teresita Martínez, another San Ildefonso native. Montoya became well known throughout the valley as the companion of Edith Warner, who owned a house at the Otowi bridge river crossing on San Ildefonso Pueblo land. Warner and her beloved “Tiano” operated their house as a salon where they later entertain the culturally isolated Los Alamos scientists working on the secretive Manhattan project during World War II. Like Taos Pueblo native Tony Lujan, who was the companion of the wealthy Madel Dodge (Luhan), “Tiano” came to typify the Pueblo Indian for the friends and

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<sup>866</sup> Reports of the General Council of the Northern Pueblos, San Ildefonso, signed by San Ildefonso Governor Juan B. Gonzales and Lt. Governor Julian Martínez, March 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe.

<sup>867</sup> Deed abstracts for San Ildefonso Pueblo, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA, Santa Fe; see also, Lists of Claimants, *US v. Ruperto Archuleta, et al*, March 1921, San Ildefonso Pueblo, Renehan-Gilbert Papers, NMSRCA.

<sup>868</sup> Reports of the General Council of the Northern Pueblos, San Ildefonso, 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe.

associates of Warner, while maintaining a relationship with an adverse claimant to his tribe's lands.<sup>869</sup>

Adam Martínez, the son of famed Pueblo potters Maria Martínez and Julian Martínez, brother of potter Popovi Da, was also a claimant of lands he purchased from Andrés Martínez, a fellow San Ildefonso native.<sup>870</sup> Pueblo Indians like Adam Martínez saw their land claims unconditionally rejected by the Board, which reasoned that as “a member of the tribe,” they were “entitled to share equally with other Indians claiming lands in the Indian Grant.” Regardless of the veracity of their claim and the purity of their title, Pueblo Indians were categorically denied compensation for their claims, while their Hispano co-claimants were at least eligible. The work of the Board subordinated Pueblos' individual rights to communal rights of the tribes of which they were members.

Given the Board's previous actions at Nambé, Picurís, and San Juan, both natives and their attorneys worried that the Board would recover little land or water for San Ildefonso Pueblo. The board had approved, at least in part, 70 percent of adverse claims at San Juan, 73 percent at Nambé, and 81 percent at Picurís. Notwithstanding his apparent bias for non-Indian claims, Hagerman acknowledged the grim situation at San Ildefonso and the need for relief. He acquiesced to Jennings's and Warner's pressure to apply tax measures stringently at San Ildefonso in an effort to repatriate lands to the pueblo and to achieve equity in their recommendations. The Board initially

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<sup>869</sup> Ibid. For more on Edith Warner, see Peggy Pond Church, *The House at Otowi Bridge: The Story of Edith Warner and Los Alamos* (Albuquerque: University of New Mexico Press, 1960), and, Frank Waters, *The Woman at Otowi Crossing: A Novel* (Denver: Alan Swallow, 1966).

<sup>870</sup> San Ildefonso Pueblo, report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, February 31, 1931, Washington, DC, National Archives, NARG 49 NM 13, 99.

recommended that San Ildefonso Indians move west of the Río Grande, adjacent to a 1929 Congressional reservation of 4,430.72 acres.<sup>871</sup> Tracts on the west side of the Río Grande were more isolated from speculation, and buffered by a reservation. Claims by Hispanos could be rejected and lands recovered for the Pueblo. Otherwise, Hagerman believed there might be a need to resurrect the *Exon* suit and adjudicate waters to guarantee a sustained flow for San Ildefonso.<sup>872</sup>

When the Board issued its reports and recommendations for San Ildefonso, many were astounded. The Board rejected 162 of the 455 adverse claims, roughly thirty six percent, a number well above their previous decisions (See Appendix C). At San Ildefonso, the Board largely took a hardline on water rights, finding creative ways to reject seemingly legitimate claims at San Ildefonso, where the pueblo need was great and the conditions most dire.<sup>873</sup> Some credited the influence of Louis H. Warner, an amateur historian who later published work based on his experience with the Board.<sup>874</sup> Others believed the growing influence of Collier in Congress and their fear of his reprisals convinced the Board to reject such a large number of claims.<sup>875</sup>

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<sup>871</sup> See, Pueblo of San Ildefonso Land Status Report, prepared by the Land Division of the United Pueblo Agency, April 1, 1940, Box 9, Folders 10 and 11, Ward Alan Minge Papers, UNM-CSWR.

<sup>872</sup> Kelly, "History of the Pueblo Lands Board," 90-92.

<sup>873</sup> The claim of José E. Roybal illustrates this point. Despite nearly fifty years of possession, the board found unpaid taxes in 1914 and 1916 and ruled against Roybal, an action unlikely at Picurís, San Juan or Nambé. See San Ildefonso Pueblo, report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, February 31, 1931, Washington, DC, National Archives, NARG 49 NM 13, 109.

<sup>874</sup> Louis H. Warner, "Conveyance of Property, the Spanish and Mexican Way" *New Mexico Historical Review* 6:4 (October 1931), 334-359; and, Louis H. Warner, "Wills and Hijuelas," *New Mexico Historical Review* 7:1 (January 1932), 75-89.

<sup>875</sup> Kelly, "History of the Pueblo Lands Board," 90-92.

Again, the work of the Board was dismantled by the First District Court, which reversed forty-one rejected claims, shifting the percentage approved from 64 percent to 73 percent. Reversed claims were generally uplands, unirrigable tracts with a strong claim and valuable to their claimant. Judge Colin Neblett had made a habit of undoing the work of the Board, reviving rejected claims at San Juan (47) and Picurís (102), increasing the percentage of claims approved from 70 to 77 percent at San Juan and from 81 to 96 percent at Picurís. The compensation award to San Ildefonso was slashed in half from the appraised value of \$52,128 to \$24,441.05, an action that drew the attention of the U.S. Senate, which was investigating the actions of the Board by 1929 (See Appendices C and D).<sup>876</sup>

The wild variation in the Board's decisions gave many pause. Inconsistency in how it treated claims to Pueblo lands was disquieting even among politicians who were unattached to the situation on the ground across the Tewa Basin and at Picurís. At Pojoaque, the Board resurrected a collapsing and expiring community, arguably saving it from the fate of Pecos. But Santa Clara, where more than half of the pueblo's lands lay in non-Indian hands, where Española, the largest Tewa Basin town, continued to grow, tested the Board in ways that no other pueblo did. The economy of the Tewa Basin centered in the Española Valley and the Board could quite easily upset the commercial center of north central New Mexico.

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<sup>876</sup> Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup> Session, on H. R. 9071, February 17, 1932 (Washington, D.C., Government Printing Office, 1932) 36-37; See also, "Summary of Reports," Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.



As the Board entered its last phase of action, controversies over discrepancies between appraised values and its recommended awards eventually led to what was popularly called the second Pueblo Lands Act in 1933. As it tackled Santa Clara and Pojoaque, Hagerman's intangible water theory unraveled. But where compensation could easily be adjusted and increased, irrigation works and water resources were much harder to develop. The massive investment in infrastructure needed to save the pueblos of the Tewa Basin was considered during the New Deal, but the numerous small holdings made the project unmanageable when compared to the middle Río Grande Valley. Instead, the Board continued its hearings, adhering to Herbert Hagerman's bizarre theories, even when faced with Santa Clara, which lost nearly half of its land to former government officials, and Pojoaque, which almost vanished as its population joined Hispanos in a regional diaspora.

## Chapter 11: Ethnicity and Equity, II: Santa Clara, Pojoaque and the End of the Pueblo Lands Board Era, 1929-1933

The Pueblo Lands Board faced a new set of problems in its hearings in the Tewa Basin. Santa Clara and Pojoaque tested the board's willingness to recognize the enormity and diversity of Pueblo land loss. Although Picuris, San Juan and San Ildefonso each had unique sets of problems, similarities linked them. Picuris and San Ildefonso faced plummeting populations and mass encroachment by surrounding Hispanos; both Picurís and San Juan accommodated whole grants within their external boundaries; and San Juan and San Ildefonso sat north and south, respectively, of Española, which had become the economic heart of the Tewa Basin and whose growing economy guaranteed continued interest in Pueblo lands.

Santa Clara and Pojoaque, however, present divergent stories of dispossession and posed a whole new set of challenges for the Board. Santa Clara had lost nearly half its lands to Santa Fe attorney Derwent Smith and former surveyor general Edward Hobart. Together they enlarged a thirty-acre claim to more than seven thousand acres and then sold off the majority to the surrounding non-Indian population. At Pojoaque, the Board saw a pueblo that was seemingly extinct. Years of invasion by and intermarriage with the surrounding Hispano population "diluted Pojoaque's stock." As the pueblo declined, the gradual and often willful expropriation of Pojoaque's land culminated in the near sale of the entire pueblo grant to California investors in 1913, at precisely the same time that the *U.S. v. Sandoval* case committed the federal government to protect Pueblo lands.

Controversies over the Board's conduct and decisions plagued the whole process of examining and adjudicating Pueblo land claims. Public scrutiny also eventually exposed Herbert Hagerman's deceptive chairmanship. John Collier perhaps rightly saw

Hagerman as a vestige of Republican machine politics and the corrupt administration of Indian affairs. Their feud was symbolic of larger divisions between the old regime of Indian affairs and reformers who felt that America owed a debt to native tribes. This chapter ends with Collier's aggressive dismantling of Hagerman's reputation, a fitting transition to the New Deal and Collier's rise to commissioner of Indian affairs.

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Of all Tewa Basin Pueblos, Santa Clara suffered the most adverse claimants and the largest acreage claimed, and was second only to San Juan in Indian population. Santa Clara also had the largest non-Indian town, Española, within its exterior boundaries. As the burgeoning railroad center of north-central New Mexico, Española brought diverse interests to the Tewa Basin, drawing capital, investors, merchants and speculators. It was the home of the Settlers Committee, chaired by Española's first mayor, Frank E. Frankenberger, and funded in part by Frank Bond, the man who by 1929 had built an economic empire anchored in the Tewa Basin.<sup>877</sup>

Non-Indians claimed 7,757.75 acres of the 16,899-acre Pueblo grant. Santa Clara had long contended with incursions by surrounding Hispano settlers. Bordered by the Pojoaque Pueblo, Nambé Pueblo and Jacona Grants to the south, the Santa Cruz de la Cañada Grant to the east, and the Bartolome Sánchez Grant to the north, Santa Clara undertook litigation during the Spanish and Mexican periods to protect its lands from the clutches of surrounding settlers. When the heirs of Juan and Antonio Tafoya began to plant crops illegally on their Cañada de Santa Clara Grant in the mid-1700s, Santa Clara

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<sup>877</sup> Santa Clara's estimated population in 1930 was 400. See Arnon and Hill, "Santa Clara Pueblo," 298; and Pueblo Land Acquisition Program, folder 7, box 8, Santa Clara Pueblo, Richard H. Hanna Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

Pueblo successfully fought to keep it designated a grazing grant, meaning that the Tafoyas could not take waters from the Santa Clara Creek and impact Pueblo irrigation. In 1763, Governor Tomás Velez de Cachupín voided the Tafoya grant and transferred Cañada de Santa Clara lands to the Pueblo (see chapter 1). Surveyor General George Julian confirmed the grant in 1885, but confined it to the area immediately adjacent to Santa Clara Creek. He removed hundreds of acres used by Santa Clara Pueblo for pasturage under the impression that the small Pueblo, whose population was an estimated two hundred persons, did not need the land.<sup>878</sup>

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<sup>878</sup> Malcolm Ebright, “Cañada de Santa Clara Grant,” *Land Grant / Pueblo Histories* vol. 3, 10-12; see also, Ebright, Hendricks and Hughes, *Four Square Leagues*, chap. 5, 149-168; For the Santa Clara population, Arnon and Hill, “Santa Clara Pueblo,” 298.



**Figure 34: Santa Clara Map, c. 1930.** All lands east of the Río Grande, pictured at the center of the map, were taken by attorneys Derwent Smith and Edward Hobart in the late 19<sup>th</sup> century and sold in parcels. The arrival of the railroad hastened the growth of Española, formerly called *la vega de los Vigiles* (Vigils' meadow) largely on the eastern portion of the Santa Clara Grant, folder 112, box 7, Santa Clara Pueblo, Jennie M. Avery Papers, New Mexico State Records Center and Archives, Santa Fe, New Mexico.

Former Surveyor General Edward F. Hobart's absurd 1909 claim to the eastern half of the Santa Clara Grant had withstood legal challenges by the pueblo. Santa Clara grew over the next two decades and by the time the Pueblo Lands Board began its hearings in 1929, its population was an estimated four hundred souls. Santa Clara possessed a potential bargaining chip in the vast number of claims to its former lands,

including the entire town of Española. At Taos, Pueblo leaders had used this same situation to bring Town of Taos leaders to the table, where they hammered out an agreement in which the Pueblo would recognize the land rights of land owners in the village of Taos in turn for non-Indian support for the Taos Pueblo Blue Lake claim and the Tenorio Tract. Picurís had unsuccessfully attempted to take the same action. And unlike Taos, where artists and advocates helped negotiate their deal, settlers and business leaders in Española would prove an insurmountable obstacle. Española was the home of the so-called “Settler Committee,” instigated by Clara True and Alois Renehan, supported by the Española Chamber of Commerce and backed by Frank Bond and future mayor Frank Frankenberger, two businessmen with reputations for intransigence and bullying.

Of course, there was potential for fractures in the settler’s cause. Lawyers such as Renehan feared that those claimants with stronger title might abandon settlers with weaker claims. He spent time calming Bond, who felt he was bankrolling Renehan’s expensive defense and was funding the defense of land claims inferior (smaller in size, shorter in tenure, with more dubious purchase or settlement history, with weaker records of tax payments) to his own. Settlers’ advocates recognized that fissures in their cause might lead the Indian Service and Pueblo Indian lawyers to pursue settlements with the few who had both a clear chain of title and proof of tax payments since 1889 or 1902: the majority of non-Indian claimants, they knew, had neither.

The Pueblos faced the possibility of divisions as well. Santa Clara had historically dealt with threats to the unity of their community and threats to the authority of its religious and political leaders. Dissident Santa Clara native Roque Conjuebes and

his heirs nearly won hundreds of acres of Santa Clara land in the Spanish and early Mexican eras by arguing their wish to “progress” into Spanish civilization.<sup>879</sup> By 1879, well into the American territorial era, the Winter moiety ended the cyclical, shared rule with the Summer and Winter moieties when it appointed the governor in successive years. The Winter People held power over the next fifteen years, until 1894, when U.S. Indian Agent Thomas M. Jones confiscated the ceremonial Pueblo canes and awarded them to the Summer moiety, which held on to the canes and all political power for almost forty years.<sup>880</sup>

Summer governors attempted to coerce members of the Winter moiety into participating in ceremonies and public works, and Winter members, like their counterparts in San Ildefonso, habitually disregarded calls to perform religious rites and maintain irrigation ditches. The influence of industrial boarding schools at Santa Fe and Albuquerque only exacerbated the schism between the Summer and Winter moieties when a progressive faction within the Winter moiety led by Francisco Naranjo began a protest of Summer moiety authority. During the four-decade-long schism, ceremonies ceased to be performed and large segments of the Pueblo population refused to accede to the authority of the pueblo, often leaving Santa Clara governors incapable of protecting Pueblo lands.<sup>881</sup>

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<sup>879</sup> Hall, “Land Litigation and the Idea of New Mexico Progress,” 48-58.

<sup>880</sup> Norcini, “The Political Process of Factionalism and Self-Governance at Santa Clara Pueblo, New Mexico,” 550, 557; Arnon and Hill, “Santa Clara Pueblo,” 296-298; and Hall, “Land Litigation and the Idea of New Mexico Progress,” 54. See also, Chapters 2 and 5 in this work for a discussion of Santa Clara Pueblo factionalism.

<sup>881</sup> Norcini, “The Political Process of Factionalism and Self-Governance at Santa Clara Pueblo, New Mexico,” 550, 557; Arnon and Hill, “Santa Clara Pueblo,” 296-298.

While progressives were typically a small minority of Indians on Pueblo reservations, their relationships with BIA officials, superintendents, agents school teachers and other federal representatives gave them a distinct advantage over traditionalists. For example, when Santa Clara progressives (Winter moiety) felt persecuted by traditionalists (Summer moiety), they turned to Santa Clara Day School teacher Clara True, who forwarded their complaints to Clinton J. Crandall, the Northern Pueblo superintendent. True, who held private claims to lands on San Ildefonso Pueblo, also employed the aid of BIA inspector Nina Otero Warren and Attorney Alois B. Renahan to interfere in Pueblo governance.<sup>882</sup>

Remarkably, despite the large number of discordant outside interests, and amid concurrent Pueblo factionalism, very few Santa Clara Pueblo natives held land claims against their pueblo. In fact, of the 902 adverse claims at Santa Clara, only two were held by Indians. Juan Naranjo claimed a two-and-a-half acre tract he purchased in 1918, and Nestor Naranjo claimed a four-bedroom home he purchased from María Francisca Luján sometime in the 1910s, when Luján, a Hispana, left the valley to live in Antonito, Colorado. This tiny number of Indian claims set Santa Clara apart from all other Tewa Basin Pueblos and was particularly surprising, given the vast number of adverse claims against it.<sup>883</sup>

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<sup>882</sup> Margaret D. Jacobs, “Clara True and Female Moral Authority” in *The Human Tradition in the American West* ed. Benson Tong and Regan A. Lutz (Wilmington, Del.: SR Books, 2002): 99-116, 100.

<sup>883</sup> The lack of land claims by Santa Clara natives should not suggest that some Santa Clara natives were not compelled, coerced, or did not willingly sell their lands to non-Indians. For example Narciso and Carmelita Martínez’s four-acre claim derived from a 1911 sale by Epimenio Sisneros and his wife to Benigno Roybal, who sold the 4.25 acre tract to Martínez in 1913, immediately after the *US v. Sandoval* decision. See Santa Clara Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary



In contrast, non-Indian claimants at Santa Clara proved to be plentiful and diverse. They ranged from Father Salvador Gené, the Spanish-born pastor at Santa Cruz de la Cañada church, to Dr. Tobías Espinosa, the brother of historian and genealogist Gilberto Espinosa and of Ymelda Espinosa Chávez, wife of Congressman Dennis Chávez. Glen McCracken, the energetic pastor of the United Brethren Church north of Santa Cruz, was also a claimant, as were the Hermanos de la Fraternidad Piadosa de Nuestro Padre Jesús Nazareno (penitents) and Sociedad de la Santísima Trinidad, or *trinitarios*, a lay religious confraternity, or *cofradia*, unique to the Española Valley. Alejandrino Naranjo, father of future Río Arriba political *patrón* Emilio Naranjo and uncle to eminent Pueblo sociologist Alfonso Ortiz, also claimed a small tract at Guachupangue. Though his ancestry included significant Santa Clara Indian blood and he was perhaps even a descendent of the colonial-era Pueblo military hero José López Naranjo, Alejandrino was neither listed as nor considered an “Indian” by the Board, although he had been assigned tracts by the Pueblo.<sup>884</sup>

Merchant Frank Bond and his brother, George, were claimants, as were entrepreneurs and speculators Orville Cook, John Block, and Frank Becker, among the men who controlled the development of the Tewa Basin. Fletcher Catron, son of Thomas B. Catron and brother of Charles C. Catron, retained lands claimed by his father’s estate. The Denver and Rio Grande Railroad, represented by none other than the Renehan-

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of the Interior for the Compensation to Non-Indian Claimants, p. 48, June 22, 1931, RG 49, Entry NM 13, NA-RMR, Denver.

<sup>884</sup> Ellis, “Santa Clara Pueblo,” 23.

Gilbert law firm, claimed a right of way, purchased chiefly from Hispano land holders, through the grant.<sup>885</sup>

One of the Hispanos who sold a right-of-way to the Denver Rio Grande was my great great grandfather, Juan Luis García. A survivor of Navajo captivity as a boy,<sup>886</sup> Juan Luis was the first successful Pajarito Plateau homesteader and raised his family both at the foot of the Jemez Mountains and in the Española Valley. With his sons, Adolfo (my great grandfather), Ezequiel and José Luís, García claimed well over one hundred acres in Guachupangue, a largely Hispano village within the Santa Clara Pueblo Grant, and held additional lands in San Pedro, east of the Rio Grande.<sup>887</sup>

Adolfo García's Guachupangue lands differed from most non-Indian land claims in that they were west rather than east of the river. A portion of my great grandfather's claim dated to a 1772 sale made by Santa Clara Pueblo governor Diego Casidi to Cristobal Maese. The transaction was witnessed by Esteban García de Noriega, brother of Santa Cruz *alcalde* Salvador García de Noriega and the heir of Captain Juan Estevan

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<sup>885</sup> See List of Claimants, including plat numbers and acreages, folder 112b, box 8, Jennie Avery Collection, Coll. 1959-013, NMSRCA; and Santa Clara Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, June 22, 1931, RG 49, Entry NM 13, NA-RMR, Denver.

<sup>886</sup> Orlando Naranjo, "Juan Luís García and the Navajos," *Herencia: The Quarterly Journal of the Hispanic Genealogical Research Center of New Mexico* 16:1 (January 2008).

<sup>887</sup> Machen, McGehee and Hoard, *Homesteading on the Pajarito Plateau*, 51-54. See also Malcolm Ebright and Richard Salazar, *Hispanic Homesteaders on the Pajarito Plateau: An Unconstitutional Taking of Property at Los Alamos, 1942-1945*, August 10, 2007, 21-22, 32 accessed online at <http://lanl-the-rest-of-the-story.blogspot.com/2007/08/hispanic-homesteaders-on-pajarito.html>, July 2010; and Chris Chávez, "A Brief History of Homesteading in the Santa Fe National Forest," *La Herencia* 58 (summer 2008): 17-19.

García de Noriega, all of whom are also my ancestors.<sup>888</sup> Adolfo García purchased the lands in 1892, five years after his father, Juan Luís, applied for a homestead on the Pajarito Plateau. When Adolfo applied for his own homestead in 1910, the nearby location of his home at Guachupangue allowed the Garcías to remain close to their García Canyon homesteads.<sup>889</sup> His weaker claims to range lands east of the Río Grande were, however, ultimately rejected by the Board for unpaid taxes from 1908-1911 and because their title “was not sufficient to warrant extinguishment” of Indian title.<sup>890</sup>

The Board’s actions on García’s and other Santa Clara claims once again demonstrated the blatant inconsistencies of their “custom” approach. Ever since the Bursum Bill controversy, which led to creation of the Pueblo Lands Board, its members had adjusted its decisions to changing political climate and judicial decisions. The action of Herbert J. Hagerman, the self-appointed spokesman for the Board, invited public scrutiny. At Santa Clara, Hagerman took a sudden interest in dissecting land claims. Board chair Louis Warner wanted to expedite the process and extinguish all Indian title east of the Río Grande. Jennings surprised no one when he wanted to pour over deeds and tax receipts for each and every Santa Clara claim. He opposed the wanton expropriation of Pueblo lands without due process. But that Hagerman joined Jennings was unexpected by everyone. Aware of increasing political pressure and the growing

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<sup>888</sup> Despite research into family history and genealogy, it remains unclear whether the García de Noriega clan of the colonial period were the ancestors of Juan Luis García. See Fray Angelico Chávez, *Origins of New Mexico Families: A Genealogy of the Spanish Colonial Period* (Santa Fe: Museum of New Mexico Press, 1992).

<sup>889</sup> Machen, McGehee and Hoard, *Homesteading on the Pajarito Plateau*, 62-67.

<sup>890</sup> Santa Clara Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, June 22, 1931, RG 49, Entry NM 13, NA-RMR, Denver., 82, 85-86, Private Claim 53, Parcel 1 and 2, Adolfo Garcia, and wife, Maria E..

power of John Collier, Hagerman wanted to *appear* to be exercising due diligence in the examination of Santa Clara claims. The results and recommendations for Santa Clara Pueblo were, nonetheless, typical of the Board.<sup>891</sup>

Of the 902 claims at Santa Clara, 656 or 72% were approved (See Appendix C). Again, the Board targeted larger claims, rejecting those averaging 17.64 acres or more and approving those averaging 8.6 acres. Similar to its Tesuque and Nambé decisions, the Board returned more land (4,341.39 acres) to the Pueblo than it approved to non-Indian claimants (3,416.46 acres). But again, like at Nambé, these were largely uplands and not the richer, more fertile bottom lands that the Pueblo needed to subsist. The towns of Santa Cruz and Santo Niño, both with dozens of claims, some even hundreds of years old, were excluded from the Pueblo grant. Despite land appraisals that estimated Santa Clara's extinguished claims at \$226,366, the Board recommended an award of \$86,821, about 38 percent of their actual value (See Appendices C and D).<sup>892</sup>

Pueblo attorney Richard H. Hanna suffered health problems in the summer of 1930. With Board member Charles H. Jennings's encouragement, Dudley Cornell took up the Santa Clara case and filed an appeal.<sup>893</sup> When Cornell won appointment as United States attorney, he still attempted to file the San Juan appeal, but Judge Neblett nearly threw out the case on a technicality: Cornell could not simultaneously serve as attorney for a plaintiff in a case against the government that he represented. Santa Fe attorney Charles Fahy took up both the San Juan appeal and the Taos case, *U.S. v. Gusdorf, et. al.*,

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<sup>891</sup> Kelly, "History of the Pueblo Lands Board," 103-104; Ellis, "Santa Clara Pueblo," 18-21.

<sup>892</sup> Santa Clara Pueblo, Report of the Pueblo Lands Board, June 22, 1931, RG 49, Entry NM 13, NA-RMR, Denver.

<sup>893</sup> Hanna's law partner, Fred T. Wilson, could not file the appeal as he was serving as the New Mexico attorney general at the time of the hearings.

with little time to prepare. He lost both cases and would later lose the Santa Clara and Pojoaque appeals as well.<sup>894</sup>

It was unclear what actions the Board might take at nearby Pojoaque Pueblo. Board legal counsel George A. H. Fraser was unsure whether the Board would even hear claims at Pojoaque. He speculated that the Board would merge Pojoaque with Pecos Pueblo and pass on hearings. Francis C. Wilson had written Board chair Roberts Walker on January 23, 1925, to clear his name in the 1913 sale of the grant and begged the Board to consider what even he considered an extinct grant.<sup>895</sup> The lack of Indians at Pecos and Pojoaque raised the question: was the Board in the business of resurrecting extinct Pueblos? Although settlers and claimants at other pueblos received notice of Board action and were subpoenaed to hearings, Pojoaque claimants were never issued a notice. In fact, they contacted the Board to ask whether land cases would be heard for Pojoaque Pueblo.<sup>896</sup>

The case of the near demise of Pojoaque Pueblo had enabled speculators to engineer, with the help of those charged to defend the pueblo (Pueblo attorney Francis C. Wilson), the willful sale of tribal lands by the last remaining heir. The investment in the scheme by the Collier group of California demonstrated both its confidence in its control of the local political and economic situation and its ignorance of the extent and limits of federal authority and its fiduciary duty to protect the lands of the Pueblos. This ignorance was commonplace and quite willful. As Em Hall shows in *Four Leagues of Pecos*, the

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<sup>894</sup> Kelly, "History of the Pueblo Lands Board," 96.

<sup>895</sup> Francis C. Wilson to Roberts Walker, January 23, 1925, Pueblo Lands Board, NMSRCA.

<sup>896</sup> Kelly, "History of the Pueblo Lands Board," 64.

extinction of Pojoaque Pueblo would likely have transpired with little protest or notice until Francis C. Wilson's greed and self-confidence outweighed his caution and ethics.<sup>897</sup>

By the time the Board heard claims at Pojoaque Pueblo in 1928, it had for three years held hearings at the Bouquet Ranch House, which sat on the edge of the Pojoaque Pueblo Grant. The Bouquet Ranch had been established by Frenchman Jean Bouquet and his wife, Petra Larragoite, who had begun to reassemble the old Ortiz claim.<sup>898</sup> Pojoaque Pueblo's population had fallen by the turn of the century and the surrounding Hispano population was occupying or exploiting its vacant lands. In 1891, Pueblo agent Nathaniel C. Walpole concluded that so many Pojoaque residents had moved to Nambé that he considered the Pueblo extinct.<sup>899</sup> Fredrick W. Hodge's *Handbook on North American Indians* described Pojoaque Pueblo as abandoned in 1907, and John P. Harrington's 1916 *Ethnobotany of the Tewa Indians* confirmed that conclusion during fieldwork in 1909. No Pojoaque Indians lived at the Pueblo, though two families lived in Santa Fe and one in Nambe.<sup>900</sup> By the time of the congressional sub-committee hearings in Tesuque in 1920, Pojoaque was declared extinct by Pueblo agents and other government officials.

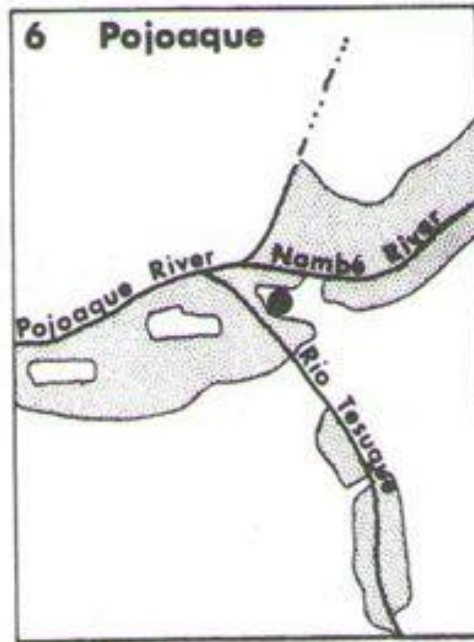
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<sup>897</sup> Hall, *Four Leagues*, 208-213.

<sup>898</sup> Myra Ellen Jenkins and John Baxter, "Pueblo of Pojoaque, 1598-1900," 41, unpublished manuscript, folder 17, box 59, Myra Ellen Jenkins Papers, Center for Southwest Studies, Fort Lewis College, Durango, CO.

<sup>899</sup> Nathaniel C. Walpole to the Commissioner of Indian Affairs William A. Jones, August 11, 1898, U.S. House, 55<sup>th</sup> Cong., 3d Session, 1897-1898, H. Exec. Doc. No. 5, ser. No. 3640, Annual Report of the Department of the Interior, p. 206; and Jenkins and Baxter, "Pueblo of Pojoaque, 1598-1900," 55.

<sup>900</sup> See Fredrick W. Hodge (ed), *Handbook of American Indians North of Mexico* (Washington: Government Printing Office, 1907); Wilfred William Robbins, John P. Harrington and Barbara Freire-Marreco, *Ethnobotany of the Tewa Indians* (Washington: Government Printing Office, 1916); and Marjorie F. Lambert, "Pojoaque Pueblo," in *Handbook of North American Indians, Southwest*. Alfonso Ortiz, ed. (Washington, D.C.: Smithsonian Institution, 1979), 9: 324-329.



**Figure 35: Pojoaque Pueblo, showing non-Indian claims (shaded).** Carlson, *The Spanish American Homeland*, 48.

Hearings on Pojoaque Pueblo claims revealed a situation similar to that in Nambé. Deeds at Pojoaque routinely dated as far back as 1860. For instance, an abstract of title of Secundino Romero's claim dated the original sale of pueblo lands to 1863, when Pojoaque Indian Guadalupe Tapia had sold the land to Romero.<sup>901</sup> A similar sale originated in 1861. That year, Luciana Arce de Ortiz bought two parcels of land, still measured as "307 and 212 Castilian *varas*," a Spanish-colonial measurement, although the sale was executed well into the American period.<sup>902</sup> A second phase of land sales occurred in the mid-1890s. One such transaction was the sale by María de la Cruz Jaramillo de Tapia, a *hispana* married to a Pojoaque Indian, to Tomás García and Josefa

<sup>901</sup> Claim of Secundino Romero, Private Claims 265, 258, 255, Pojoaque Pueblo, Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.

<sup>902</sup> George S. Klock to Pueblo Lands Board, in re lands of Adine Turner Bridgers, Pojoaque, December 16, 1924, Pueblo Lands Board Records, NMSRCA. The land was eventually sold to Cosme Herrera, the hero of the Jacona Grant, who fought the expansion of Nambé ditches in 1916.

Quintana de García in 1896. Two years later, Governor Antonio Montoya and four other Indians sold forty acres of Pueblo land to Ramón Quintana, claiming they composed the entire adult population of the pueblo at the time.<sup>903</sup> Sales by both individual Pojoaque Indians and Pueblo officials accelerated from 1908 to 1914, when the remnant Pojoaque Pueblo population, living either in Santa Fe or at Nambé, sold the lands of their declining pueblo. This included José Antonio Tapia's attempted sale of all remaining Pojoaque lands in 1913, claiming he was the last surviving Pojoaque Pueblo Indian.<sup>904</sup>

The sale of Pueblo lands created controversy and division among Pojoaque Indians. Two factions coalesced. One group retained a connection to Pueblo lands and was ironically led by José Antonio Tapia, the same Indian who had attempted to sell them to D. C. Collier in 1913. The other was led by James D. Porter, a Pojoaque expatriate living at Nambé. Critical of the Tapia group, Porter had the ear of Northern Pueblo superintendent Crandall, who frequently turned to him to police the vacant Pojoaque Pueblo grant. Since his attempted sale in 1913, Tapia maintained that he and his extended family were the sole owners of the grant, for other Pojoaque Indians who were then living on the grant in 1913 had left the reservation and severed their right to its lands.<sup>905</sup> After leaving Pojoaque Pueblo in 1912 for Colorado, Tapia returned periodically, first, in his attempt to sell the grant, and later to attempt to resettle the grant.

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<sup>903</sup> Jenkins and Baxter, "Pueblo of Pojoaque, 1598-1900," 55.

<sup>904</sup> Hall, *Four Leagues*, 208-213; Reports of the General Council of the Northern Pueblos, Pojoaque, signed by Pojoaque heirs Marcos Tapia, Augustin Vigil, Eufrasio Trujillo, March 1922, folder 161, box 9, SWAIA Collection, NMSRCA, Santa Fe. Notice that Eufrasio Trujillo, the lieutenant governor of Nambé, is a signatory of the Pojoaque report, perhaps testimony to claims that Nambé Pueblo "took in" dispossessed Pojoaque refugees.

<sup>905</sup> Richard Ellis, "Pojoaque Pueblo," 11, 1970. unpublished manuscript, folder 1, box 60, Myra Ellen Jenkins Papers, Center for Southwest Studies, Fort Lewis College, Durango, CO.



It was not until the 1930s, well after Pueblo Lands Board hearings, that Tapia returned permanently to Pojoaque and ironically led the resettlement of the grant.<sup>906</sup>

A New Mexico Association of Indian Affairs report stated that the Pojoaque Indians opposed to the José Antonio Tapia approached Francis C. Wilson not to protest the sale of the grant, but to assert their right to a portion of the proceeds from the sale. Ignoring the role that Wilson played in Pojoaque's dispossession, and the well-documented centuries of Pojoque-Hispano blending, the report closed: "The Pueblo Indian is a very fair type of Indian. He is wise in his own way, but unable to cope with the trickery of the wily, *treacherous* people, who have been *camping* on the outskirts of their village for the last three centuries."<sup>907</sup>

The actions of the Lands Board were simply ignored by some Pojoaque claimants. Deeds of sale demonstrated that Cyrus McCormick III, who claimed lands at Tesuque, bought seventeen separate tracts in 1929, concurrently with the Board's hearings at Pojoaque.<sup>908</sup> McCormick also approached Nambé Pueblo, about purchasing the unresolved land claim of Reyes Trujillo and Eufemio Rivera, and sought Pueblo approval in the event that the Indians retained title.<sup>909</sup> The Board eventually heard 472 claims

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<sup>906</sup> Pojoaque Pueblo Poeh Center, *Then and Now: A Historical Photo Sourcebook of Pojoaque Pueblo* (Santa Fe: Pojoaque Pueblo Poeh Center, 1991), 22. Pojoaque Pueblo's current administration building is named for Tapia.

<sup>907</sup> Reports of the General Council of the Northern Pueblos, Pojoaque. Emphasis is mine.

<sup>908</sup> Claim of Cyrus McComick III, Pojoaque Pueblo, Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.

<sup>909</sup> "Application to Purchase Indian Interests to the Lands Herein Described," H. H. Dorman, agent for Cyrus McCormick, to Antonio Vigil, Governor, Loreto Vigil, Agustín Vigil, Gabriel Trujillo, Council members, Nambé Pueblo, March 7, 1929, Manuel A. Sánchez Papers, Coll. 1971-013, NMSRCA, Santa Fe.

totaling 2,084 acres.<sup>910</sup> It rejected 67 claims and upheld 405 claims (85 percent of all claims) for 1,722 acres (See Appendix C). The Board ignored the dire water situation at Pojoaque, having called for the dismissal of the *Exon* suit two years earlier, and recommended Pojoaque Pueblo awards comparable to those at Nambé Pueblo.<sup>911</sup> The Pueblo lands controversy of the early 1920s and the actions of the Pueblo Lands Board seemed to have inspired Pojoaque expatriates to reclaim their grant. Again, like at other Pueblos, the First District Court reversed some claims rejected by the Board, resurrecting 31 more claims for 143.37 acres and increasing the percentage of extinguished claims to 92 percent (See Appendices C and D). Still, a government award for Pojoaque, an estimated \$51,679.79, which was later adjusted to \$56,524.21, offered an incentive for the tiny Pueblo to re-occupy its lands, now vested with funds to develop irrigation and purchase and recover the pueblo's more-fertile lands.<sup>912</sup>

Notwithstanding the possibilities of resurrecting the nearly extinct Pojoaque Pueblo, the actions of the Board generated seemingly endless controversy, especially the contemptuously low awards it recommended. From its first recommendation at Tesuque, which compensated Indians for water rights lost, the Board deviated under Hagerman's inexplicable water theories, which he argued were tailored to the needs of each Pueblo, but found consistency only in paltry awards for Pueblo Indians. The Board's arbitrary findings begged explanation, but Board members Herbert Hagerman and the late Roberts

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<sup>910</sup> Pojoaque Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, May 29, 1931, RG 49, Entry NM 13, NA-RMR, Denver.

<sup>911</sup> Hall, "The Pueblo Land Grant Labyrinth" 121.

<sup>912</sup> See "Summary of Reports," Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA, Santa Fe; Kelly, "History of the Pueblo Lands Board," 64; Hall, *Four Leagues of Pecos*, 246.

Walker had long resolved to conceal them. These inequitable actions drew the attention of Pueblo advocates, settler attorneys and less-partial observers of the Pueblo conundrum, not to mention the Pueblos and Hispanos whose land tenure systems were undergoing swift and vast revision. The District Court's 1928 *Herrera* decision (Nambé) brought even more public scrutiny and the attention of the Brookings Institute, which had begun an unprecedented national survey of Indian Affairs in 1926.

Legal specialist Ray A. Brown examined the work of the Pueblo Lands Board and found that the board was overburdened not only by the magnitude of its task, but by the indifference of two of its members, Embree and Hagerman.<sup>913</sup> Brown explained:

If all three members of the board had the health, time, and ability to do the persistent, grinding work that is now being done by one member in going directly to the Indian communities, there to interview the Indians, the claimants, and their witnesses, and to gather the evidence necessary for a proper determination of the conflicting claims, the whole matter could be concluded without delay and the disturbing controversies arising out of these claims made a matter of history.<sup>914</sup>

Brown was referring to Charles H. Jennings, the so called "mole," whose incessant need to gather information aggravated his fellow Board members. Brown also made observations regarding the Pueblo factionalism, the altruism of the Anglo-dominated urban areas and Hispano control and corruption of local courts:

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<sup>913</sup> Frank C. Miller, foreword to Brookings Institution, Institute for Government Research, *The Problem of Indian Administration (reprint of the 1928 Meriam Report)* (New York, Johnson Reprint Corp., 1971), 59, 71-72. Accessed online at <http://www.narf.org/nill/resources/meriam.htm>

<sup>914</sup> Brookings Institution. Institute for Government Research, *The Problem of Indian Administration (reprint of the 1928 Meriam Report)* (New York, Johnson Reprint Corp., 1971), 804. Accessed online at [http://www.narf.org/nill/merriam/v\\_merriam\\_chapter13\\_part1\\_legal\\_aspects.pdf](http://www.narf.org/nill/merriam/v_merriam_chapter13_part1_legal_aspects.pdf).

Within some of the separate pueblos there exist two parties, the conservatives who resent any inroads on native customs and ideals, and the progressives who desire to follow more closely the life and habits of the white folks about them. Parties, or clans, within the pueblos exercise strong political power and dominate in the election of pueblo officers. To render the situation doubly difficult, many good people in Santa Fe and Albuquerque have interested themselves in these Indians, and the government in any action it takes must count on their influence with the Indians. The local courts, particularly the justices of the peace, are controlled by *the Mexican element* in the population, and the one thing concerning which opinion is unanimous is that it would be most unwise to subject the Indians to their jurisdiction.<sup>915</sup>

Brown's brief survey of the Board was fairly accurate. Pueblo agents from John Calhoun in the 1850s to Clinton Crandall in the 1920s complained bitterly of the "Mexican element" and their control of local courts. But it ignored the role that the political and economic elite played in shaping the territorial jurisprudence, including the consumptive habits of largely Anglo speculators who worked with members of the Hispano elite. Brown's ethnocentrism aside, he gave a narrow-minded and highly-pragmatic assessment of the task the federal government faced in reforming Indian affairs. In fact, Brown criticized advocates more than the federal government itself:

The benevolent desire of the United States government to educate and civilize the Indian cannot be realized with a tribe which has any considerable unsatisfied bona fide claim against the government. The expectation of large awards making all members of the tribe wealthy, the disturbing influence of outside agitators seeking personal emoluments, and the conviction in the Indian mind that justice is being

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<sup>915</sup> Ibid, 774. Emphasis is mine.

denied, renders extremely difficult any cooperation between the government and its Indian wards.<sup>916</sup>

Brown's editorializing aside, pueblos had legitimate complaints against the federal government in the proceedings of the Pueblo Lands Board. The Board recommended that Picurís Pueblo's compensation award be \$47,132.90, about two-thirds of the appraised value of \$71,898.14. San Juan and Pojoaque Pueblo awards were recommended at less than half their value, San Juan receiving only \$29,090.53 of its \$60,758.94 value and Pojoaque \$51,679.79 of an appraised value of \$113,254.03. Even Tesuque Pueblo's award of \$29,301.20, which reformers believed was too high and would only draw suspicion and ire of Congress, deviated from its potential value, fixing land prices at \$105.00 per acre where actual land values went up to \$125.00 per acre.

Board recommendations at Nambé Pueblo and Santa Clara were lowest of the Tewa Basin and drew considerable attention and protest. Nambé's award was recommended at \$19,630.80, less than a third of its appraised value of \$65,674.77. Santa Clara's was recommended at \$86,821.87, slightly more than a third of its appraised \$226,366.43 value. Compensation awarded to Hispano claimants for rejected claims was generally closer to the appraised values of their land plus improvements. Hispanos nonetheless protested or rejected claims and low compensation recommendations that undervalued structures like houses and orchards, which were often considered equal to gardens and cultivated land. The Board's low compensation awards affected Hispanos in other ways as well.

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<sup>916</sup> Ibid, 805.

Many non-Indians with confirmed claims wanted to sell these lands but for more than the low figure of \$35.00 per acre to which Pueblo compensation awards were reduced. The Board's unwillingness to adopt a consistent policy regarding water rights only confused the situation. Citing appraisals that valued lands at up to three times the \$35.00 per acre awards, non-Indians firmly believed that the sale value of their land was higher because their claims included what they considered to be unburdened water rights. Their theory, both self-serving and practical, was irrelevant because their water rights were never affirmed. The convoluted reasoning of Hagerman also held that awards were lowered because Pueblo water rights were never lost. Legislation seemed more and more necessary to cure the deficiencies of the Board's decisions and low awards.

Years of Board hearings and District Court decisions proved that the Pueblo Lands Act would repatriate very little land to New Mexico's native Pueblos. Collier and AIDA's belief in the efficacy of the Pueblo Lands Board dwindled, and they believed they had no choice but to pursue individual eviction suits that would bypass the Pueblo Lands Act, and that targeted every claimant separately. Though similar to Hanna's 1919 ejectment suits, which had anticipated the Bursum Bill controversy, these new eviction suits targeted lands confirmed to non-Indians in Board decisions, lands on which Indian title was extinguished. The suits paradoxically affirmed the Board's work that upheld Indian title and disavowed Board recommendations that extinguished Indian title.

Hanna and Collier, with advice from Hanna's law partners Fred T. Wilson and Dudley Cornell and AIDA legal advisors Howard S. Gans and Nathan R. Margold, decided to file ejectment suits at Taos and Picurís. Adding a suit for Santa Clara would thereby include the towns of Taos, Peñasco, and Española, three of the largest Tewa

Basin towns on Pueblo lands, and invite not only criticism, but also publicity. Collier wrote the governors and Council members of Taos and Picurís in mid-December 1930, explaining that ejectment suits were the “only way to protect your rights and to recapture as much of your land as ought to be recaptured.” “These new suits,” continued Collier, “are intended to recover much land that was decreed away from you by the Pueblo Lands Board, but which is still actually owned by you. Your title has not yet been extinguished.” Collier urged the Taos and Picurís pueblo leaders to maintain secrecy, even within their own tribe, and not to speak of the suits with any white people, save Hanna, Fred Wilson and himself.<sup>917</sup>

Collier has long been credited with both the strategy and the decision to pursue independent eviction suits as the only course of action available to the Pueblos. Historian Lawrence Kelly writes that Collier’s correspondence with the board of directors of AIDA in December of 1930 secured the commitment of eastern Indian advocates to support these suits and see them through.<sup>918</sup> In fact, Richard Hanna, who was “supervised” by AIDA counsel Charles de Y. Elkus, had originated the strategy in 1926, when the Board began its hearings. In an October 1926 memo to Collier, Hanna wrote that while the Pueblo Lands Act stood on shaky constitutional ground, attempting its repeal would “doubtless involve considerable criticism” and would allow the “Indian office to seriously attack our friendship to the Indian cause.” Instead, Hanna suggested that the “Board be allowed to function,” and assemble data that Pueblo advocates could then use

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<sup>917</sup> John Collier to the Governors and Councils of Taos and Picuris Pueblos, New Mexico, December 24, 1930, Collier Collection, series 1, reel 4, microfilm copy, CSWR, UNM, Albuquerque.

<sup>918</sup> Kelly, “History of the Pueblo Lands Board,” 111.

to protect Pueblo land rights. These new ejectment suits were the tactical fruit of that legal strategy.<sup>919</sup>

Specifically, Hanna advised that the Pueblos' private attorneys prepare ejectment suits against adverse claimants and file them concurrently with Board deliberations or Congressional compensation decisions to guarantee that the two-year statutes of limitation would not run against the Pueblo. Hanna further hoped that suits would put pressure on Congress and the Board to award satisfactory sums and that the threat of pending ejectment suits would compel the Board and the courts to act within the framework of the Pueblo Lands Act. This, believed Hanna, would be the most plausible way that the Pueblos could regain the agricultural land, if not through direct decision or with the use of compensation funds, then through the individual ejectment suits that would precisely target the arable lands.<sup>920</sup>

AIDA legal advisor Charles Y. de Elkus disagreed with the filing of ejectment suits, especially the inclusion of all town-site claims in Taos and Picurís. He believed that the suits would only further provoke local political leaders and general public opinion against the Pueblo cause. As president of the Central and Northern California Indian Defense Association, Elkus was one of Collier's valuable connections to donors who helped fund Hanna's, Wilson's and Dudley's legal defense of Pueblos in Board proceedings and in District Court decisions and appeals. Collier ignored Elkus's advice and boldly pressed on. The Picuris and Taos suits were prepared with little fanfare, and threat of ejectment loomed. Collier believed that the suits would push settlers to move

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<sup>919</sup> Richard H. Hanna to John Collier, October 5, 1926, John Collier Papers, series 1, reel 2, microfilm copy at CSWR, UNM, Albuquerque.

<sup>920</sup> Ibid.



for a compromise and legislative solutions, and that the increase of Indian awards would result.<sup>921</sup>

John Collier now worked to rebuild the solidarity between Hispanos and Pueblos that he had worked for years to destroy. Over the previous decade, he worked tirelessly to portray the Pueblos and Hispanos as completely, almost-inherently, separate. He ignored the mixed race background of Hispanos at Nambé and Pojoaque and portrayed the blending of their Pueblo and Hispano communities as a Mexican intrusion. Similarly, he downplayed or wholly ignored the mixed blood in some of his closest Pueblo Indian allies, particularly Tesuque's Martín Vigil and San Juan's Sotero Ortiz. After his schemes failed and the safeguards he and A. A. Berle built into the Pueblo Lands Act were ignored and avoided, Collier was left to pursue a strategy that legally bound Pueblo and Hispano fates together.<sup>922</sup> He stubbornly accepted that they remained connected as long as they were dependent on the same resources and that he could only save a trickle of justice by uniting "settler" and Indian interests and securing legislation that benefitted both Pueblos and Hispanos.

By 1929, John Collier's influence in the government had grown and a political solution to the controversies over the Pueblo Lands Act seemed more possible. Confidence in the Harding and Coolidge administration's corporate friendly government began to wane and then broke on the stormy shores of the Great Depression. While

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<sup>921</sup> Kelly, "History of the Pueblo Lands Board," 112.

<sup>922</sup> Hall, *Four Leagues*, 266. See also Collier to Roger Baldwin, Sec. Garland Fund, 2-10-1931, John Collier Papers, Yale, Part 1, series 1, entry 5; See also testimony of Charles Fahy, Survey of Conditions of the Indians in the United States: Hearings Before a Subcommittee of the Committee on Indian Affairs, 71<sup>st</sup> Congress, 2<sup>nd</sup> Session, per SR 79 (70<sup>th</sup> Cong), pt. 20, Pueblo Lands Board, May 2, 8,9 1931; January 26-30, 1932, 10860.

President Herbert Hoover pursued moderate federal reforms addressing symptomatic economic problems, Collier and like-minded reformers continued to seek the larger, structural transformation of federal Indian affairs. Their efforts were rewarded when Commissioner of Indian Affairs Charles Burke was forced from office with the end of the Coolidge administration. Charles J. Rhoads, who had succeeded Herbert Welsh as the president of the Indian Rights Association, was appointed commissioner and served under new Secretary of the Interior Ray Lyman Wilbur. The appointments of Rhoads and Wilbur, both devout Quakers, were celebrated by Collier, who considered the men “revolutionary type[s] from the standpoint of the Indian Bureau old-guard.” Collier and AIDA hoped their influence in Indian affairs under Rhoads and Wilbur would grow with the change. He outlined an eleven-point program to reform Indian affairs, which included the end of allotment laws, the closing of Indian boarding schools and the protection of tribal culture and resource rights. Their proposed reforms included a recommendation that the Pueblo Lands Act be amended.<sup>923</sup>

Though publically confident that federal Indian affairs were transforming in beneficial ways, Collier still pursued dual reform processes. He challenged the Pueblo Lands Board in court through appeals and eviction suits while he attempted to amend the Pueblo Lands Act in Congress. He worked closely with New Mexico senators Sam Bratton and Bronson Cutting, who had succeeded Holm Bursum and A. A. Jones, to build congressional support to amend the Pueblo Lands Act. To discredit the Board further,

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<sup>923</sup> Francis Paul Prucha, *The Great Father: The United States Government and the American Indians*, abr. ed. (Lincoln: University of Nebraska Press, 1986) 311-312; Kelly, “History of the Pueblo Lands Board,” 91.

Collier focused years of frustration on Herbert J. Hagerman, the Board chair whose dismissive attitude toward Pueblo advocates tarnished the Board's work.<sup>924</sup>

John Collier and Senator Lynn Frazier, a progressive Republican who chaired the Committee on Indian Affairs, tried to stop the First District Court from hearing Board recommendations until the U.S. Supreme Court rendered the *Pueblo of Taos v. Gusdorf* decision. In the meantime, Frazier organized senate subcommittee hearings that began in January and continued in May 1931. The hearings were a part of the larger "Survey of Conditions of Indians in the United States," which were encouraged by the 1929 Meriam report on Indian Affairs. Collier had prepared accusations against the Board and the Office of Indian Affairs for malfeasance in their implementation of the Pueblo Lands Act. At the center of the controversy were the Board's remarkably low compensation awards, which were characteristically less than half of the appraised value of Pueblo lands.<sup>925</sup>

Board members Hagerman and Jennings both testified that after the Tesuque hearings, they were instructed to remain mindful of the "Coolidge economy" when considering the amount of their recommended awards. Collier believed that political motives were at play as well, and blasted the Board's loose interpretation of the tax provisions. Jennings claimed that the policy of allowing payment of tax debts any time before claims hearings was enacted following the First District Court's Nambé decision, which had diluted Section 4 of the Act.<sup>926</sup>

Collier's sensationalistic attack on Hagerman brought to light his work as a Navajo commissioner, especially Hagerman's role in the sale of the Muñoz-Rattlesnake

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<sup>924</sup> Kelly, "History of the Pueblo Lands Board," 112.

<sup>925</sup> Ibid, 120.

<sup>926</sup> Ibid, 115.

Oil Lease, which served Indian interests little but enriched speculators on the Navajo Reservation. Though associated with progressive Republicans, Hagerman apparently still exercised philosophies of the Old Guard, including the full utilization of public lands for corporate profit. Historian Lawrence Kelly writes that Hagerman's preposterous water-priority theory exposed inconsistencies in the Board's approach and in its decisions, despite the long tenures of Hagerman and Jennings. Pueblo attorney Hanna's lengthy testimony early in the hearings built the extensive evidence that Collier expounded on before the subcommittee.<sup>927</sup>

Hagerman, nonetheless, defended the Board's action, particularly his bizarre water theories. He claimed that the abnormally high award at Tesuque, which even exceeded some appraisers' estimates, was so substantial because upstream water usage made it impossible to recover waters. The large award included payment for waters lost with the recommendation that the funds be used to develop irrigation through wells and dams. According to Hagerman, the Board's decision did not mean that Tesuque necessarily lost these water rights. It only meant that that the Board was neither charged nor empowered to adjudicate water rights outside the external boundaries of the Pueblo, and water was, thus, unrecoverable.<sup>928</sup>

The high award at Tesuque, averaging about \$105.00 per acre, addressed the reality of the water scarcity, but did not state there was an actual or legal loss of water rights. On every other Tewa Basin decision, the Board avoided any pronouncement on

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<sup>927</sup> U.S. Senate, Subcommittee on Indian Affairs, *Survey of Conditions of the Indians in the United States: Hearing Before the Subcommittee on Indian Affairs*, 71<sup>st</sup> Congress, 2<sup>nd</sup> Session, S. Res. 79, 308 (70<sup>th</sup> Cong.), and S. Res. 268 and 416 (71<sup>st</sup> Cong.), Pueblo Lands Board, Part 20, May 2, 8-9, 1931, (Washington, D.C.: Government Printing Office, 1931), 10723-10734, 10743-10747.

<sup>928</sup> Kelly, "History of the Pueblo Lands Board," 117-118.

water rights. In his statements to the committee, Hagerman reasoned that Nambé, Picurís, San Juan, San Ildefonso, Santa Clara and Pojoaque Pueblos were not compensated for lost water rights because the Board believed that waters were recoverable, either through adjudication or through extensive reclamation works. Hagerman's almost gymnastic backpedaling cast even more doubt on his actions. After a 1932 report by Indian irrigation engineer John Truesdale and his assistant, José Armijo, determined water priorities for Pojoaque, Tesuque, Nambé and San Ildefonso Pueblos, Hagerman recanted his 1926 recommendation that the *Exon* adjudication suit be dropped. The Truesdale-Armijo report established water priorities, awarding Nambé and San Ildefonso more waters than Tesuque and Pojoaque.<sup>929</sup> It made many recommendations for adjudicating Pueblo waters, including lawsuits to establish water priorities legally and legal injunctions to protect Indian water rights temporarily. Above all, the report suggested the continuation of verbal agreements, privileging local common law tradition and local water governance over federal and judicial arbitration.<sup>930</sup>

Hagerman's muddled water theory aside, the Pueblo Lands Board failed to make a discernable statement on water rights. Nothing in the act empowered or obliged its members to do so. Not only did the Act fail Pueblos by ignoring water rights, but it left a cloud of uncertainty over the water rights on approved tracts by claiming that Pueblos did not lose water rights on lands whose title was extinguished. Add the low compensation

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<sup>929</sup> The Armijo report suggested the following acreages for Pueblos in the Pojoaque-Tesuque drainage basin: Nambé, 427.261; San Ildefonso, 365.472; Pojoaque, 59.794; and Tesuque, 241.5 acres. Acreages were based on the number of irrigable acres, estimated at the highest possible number of cultivated acres at each Pueblo. Total Pueblo acres were 1094.027. Nearly twelve hundred non-Indian tracts remained inside Pueblo boundaries, with more than one-hundred immediately adjacent to Pueblo lands. *Ibid.*, 158.

<sup>930</sup> *Ibid.*, 158-162.

awards to given to Pueblos, which averaged \$35.00 per acre, and the land market of north-central New Mexico was even more complicated. Non-Indians whose rights were affirmed by the Board wanted to sell their land, but for more than the \$35.00-per-acre average that the Board affixed to Pueblo lands. Sellers claimed that their land value included water rights. Hagerman's contention that Pueblos did not lose water rights suggested otherwise.<sup>931</sup>

Collier's attack on Hagerman did not come without consequences. His engineering of congressional hearings and the spectacle of assassinating the character of the mendacious Hagerman offended even Pueblo supporters.<sup>932</sup> Senator Bronson Cutting, who had worked closely with Senator Bratton and Collier on a compensation bill, labelled Collier an "autocrat" and "supercilious." Many New Mexico observers considered Collier's attack on Hagerman nothing more than a witchhunt. It seemed that New Mexicans across the political spectrum defended the corrupt and crestfallen Hagerman. From former political officials too stubborn to accept the *Sandoval* ruling to Pueblo advocates who resented Collier's methods and rapport with Pueblo leaders, New Mexicans stood by their former governor, perhaps more in opposition to Collier than in support of Hagerman. One example stands out. After the Congressional hearings Hagerman returned to New Mexico to find a motorcade of supporters, who escorted their former governor to the Santa Fe Plaza. In the motorcade were NMAIA members,

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<sup>931</sup> Ibid., 124.

<sup>932</sup> John Collier "The case against Herbert Hagerman, of the Indian Bureau, as established to date" 5 February 1931, folder 27, box 7, Richard H. Hanna Collection, Center for Southwest Research, University Libraries, UNM, Albuquerque. See also American Indian Defense Association, *The Pueblos: The Crowning Wrong and the Rescue* (San Francisco: American Indian Defense Association, 1931).

including Witter Bynner, who read a poem honoring Hagerman and ridiculing Collier. Bynner then joined the crowd as they burned Collier in effigy.<sup>933</sup>

Senators Cutting and Bratton kept at work on a bill (Senate Bill 2914) to amend the Pueblo Lands Act. Representative Dennis Chávez worked on a similar bill in the House (House Resolution 9071). Both bills aimed to increase compensation awarded to Indians. Neither included any language regarding water priorities, save statements in the House bill that “left room for judicial determination.”<sup>934</sup> In House hearings, Chávez grew frustrated with government testimony, and complained, “My folks who have lived there for a hundred years . . . should they just move out?” But rather than addressing the issue of water priorities, the House inserted an amendment into the bill that stated, “Nothing herein contained shall in any manner be construed to deprive any of the Pueblo Indians of a prior right to the use of water from streams running through or bordering on their respective pueblos for domestic, stock-water and irrigation purposes for lands remaining in Indian ownership, and such water rights shall not be subject to loss by nonuse or abandonment thereof as long as title to such lands shall remain in the Indians.”<sup>935</sup>

Senator Lynn Frazier saw both bills as excessive in their scope and in the proposed increased awards granted to Pueblos and non-Indians. Each bill would die in committee, but a compromise bill eventually emerged. During testimony regarding the Senate bill, Richard Hanna stated that Pueblo water rights were not claimed under the *Winters* doctrine. Citing the lack of formal treaty between the Pueblos and the federal

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<sup>933</sup> Kelly, “History of the Pueblo Lands Board,” 120.

<sup>934</sup> Kelly, “History of the Pueblo Lands Board” 156. See also, Christopher Vigil “Representative Dennis Chávez and Water, 1922-1933,” (master’s thesis, University of New Mexico, 2005).

<sup>935</sup> Kelly, “History of the Pueblo Lands Board,” 155.

government, Hanna concurred with the Board's division of water rights into Indian versus non-Indian rather than primary versus secondary rights. Hagerman, meanwhile, called for a Northern Rio Grande Conservancy District bill that imitated the Middle Rio Grande Conservancy District.<sup>936</sup>

A Northern Rio Grande Conservancy District, equal to the MRGCD, was an unattainable dream. Unlike the Río Abajo, lands in the Río Arriba were cut into smaller parcels and sat largely on Pueblo lands. While wealthier land owners had large gardens and raised the chile crops that made the valley famous, there remained a lack of corporate agriculture that could effectively lobby for a bill. Shorter growing seasons and a lack of water in large parts of north central New Mexico also meant only costly engineering work could surmount the ecological limitations that impeded development. In many ways, the situation in and around the northern native Pueblos impeded the negotiations of the Board. Unlike the southern Pueblos, where the Middle Río Grande Conservancy District ostensibly could create the surpluses that could be shared, the lack of water resources and the reluctance of Congress to settle and prioritize claims set northern New Mexico on a course of resource conflict that continues to this day.

By 1933, Louis Warner resigned from the Board and was replaced by Guy P. Harrington, the district cadastral engineer for the U.S. Bureau of Reclamation. In a letter to Northern Pueblo superintendent C. E. Faris, Harrington questioned whether Abiquiú should have been considered by the Board. The former *genízaro* community included detribalized Hopis, Plains Indians and Tewa Indians. Five years earlier, *herederos* of the

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<sup>936</sup> Ibid., 74, 155-156. Phillips, Hall, and Black, *Reining in the Rio Grande*, especially chap. 7, 103-126; and, Orona, "River of Culture, River of Power,"; and Markwell, "Unsettling Accounts."



Abiquiú Grant voted on whether to pursue status as an Indian pueblo or to continue operating as a Hispano land grant community, as they had done for the last several decades.<sup>937</sup> Vélez Cachupín treated Abiquiú as an Indian community and settled *genízaros* there in the 1740s, creating an Indian pueblo from exiles and former Indian captives. Spanish-colonial documents referred to the settlement as the “Pueblo de Abiquiú,” and territorial Indian agents often treated Abiquiú as an Indian community. Leslie Poling-Kempes reasoned that “their Native American neighbors were treated so poorly by the government that it would behoove the community to become a village, not an official Indian pueblo.”<sup>938</sup>

Relenting on the issue Harrington wrote: “There is nothing in the records to indicate the race of these people. There is no doubt that many people of Abiquiú have Indian blood. However, they are regarded at the present time as *native Spanish Americans*.”<sup>939</sup> Harrington’s confusion was shared by the Assistant Commissioner of Indian Affairs Henry J. Scattergood, who was puzzled when attorney Richard Hanna continually referred to the Hispano population as the “native people” of the state. Scattergood asked Hanna to clarify: “What do you mean by ‘native people’? Native people or Mexican people?” Hanna offered a compromise, clarifying his statements by using the term Spanish-American, which was gaining traction by the 1930s. A past candidate for governor and for the U.S. Senate, Hanna displayed a sensitivity for the growingly popular use of “Spanish-American.” His usage aligned with a public dialogue

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<sup>937</sup> Avery, “Into the Den of Evils,” 186.

<sup>938</sup> Lesley Poling-Kempes, *Valley of Shining Stone: The Story of Abiquiú* (Tucson: University of Arizona Press, 1997), 143-144.

<sup>939</sup> Guy P. Harrington to C. E. Faris, December 2, 1933, RG 49, Entry NM 13, NA-RMR, Denver. Emphasis is mine.

that emphasized the whiteness of Hispanos to differentiate them from the “redness” or “brownness” of their Pueblo Indian neighbors.<sup>940</sup>

By 1933, a second Pueblo Lands Act was passed to address the deficiencies of the 1924 Act. The second act increased Pueblo compensation and made statements regarding Pueblo water rights without explicitly committing federal protection, paving the way to legal controversies that continue today. By 1934, the United Pueblos Agency began its task of aggressively pursuing the purchase of former Pueblo lands confirmed to non-Indians and other adjacent lands. This Pueblo Land Acquisition Program successfully brought tracts back into Pueblo possession.<sup>941</sup>

Controversies remained and expanded, especially with the appointment of John Collier as the commissioner of Indian affairs in 1933. Since 1924, Pueblo leaders, supported by John Collier, had expanded their legal priorities from defending land and water rights to guaranteeing Indian religious freedom.<sup>942</sup> Now, as Indian commissioner, Collier could achieve the comprehensive reform of federal Indian affairs that he had sought since visiting Taos Pueblo in 1920. However, non-Indians across Indian Country in the Southwest dreaded the prospect of Collier’s administration of Indian affairs.

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<sup>940</sup> Testimony of Richard Hanna, May 2, 1931, U.S. Senate, Subcommittee on Indian Affairs, *Survey of Conditions of the Indians in the United States: Hearing Before the Subcommittee on Indian Affairs*, 71<sup>st</sup> Congress, 2<sup>nd</sup> Session, S. Res. 79, 308 (70<sup>th</sup> Cong.), and S. Res. 268 and 416 (71<sup>st</sup> Cong.), Pueblo Lands Board, Part 20, May 2, 8-9, 1931, (Washington, D.C.: Government Printing Office, 1931), 10707.

<sup>941</sup> Sophie D. Aberle, *The Pueblo Indians of New Mexico: Their Land, Economy and Civil Organization*. Menasha, WI: American Anthropological Association, 1948, 5-8; See also Manuel Sanchez Collection, folder 1-15, box 26, NMSCRA, Santa Fe, regarding the sale of lands to Pueblos.

<sup>942</sup> Tisa Wenger, *We Have a Religion: The 1920s Pueblo Indian Dance Controversy and American Religious Freedom* (Chapel Hill: University of North Carolina Press, 2009), 186.

Despite its deficiencies, the Pueblo Lands Acts arguably revived Pojoaque Pueblo, which was nearly extinct in 1924. Its repopulation was led by none other than José Antonio Tapia, the Pojoaque Pueblo native who had attempted to sell the pueblo to California investors on the eve of statehood. An important, though perhaps unintentional function, of the Board was the attempt by the federal government to normalize relations between Pueblos and Hispanos. First, the federal government regulated economic relations between Pueblo and Hispano communities. It abided by its role as a fiduciary and disallowed the sale of Pueblo lands to non-Indians, unless the need was extreme and the Pueblo and BIA approved. It also dispossessed individual Indians of their private claims against their own pueblo's title, empowering the Pueblo community over the individual Indian. Still unanswered were questions about the status of lands owned by Pueblo Indians *outside* Pueblo boundaries, especially as the State of New Mexico resisted recognizing the rights of Indians as citizens.<sup>943</sup>

Social relations were affected as well. The Board either misunderstood or denied connections between Pueblo and Hispano communities. It ignored signs of Pueblo-Hispano intermarriage as it complicated their seemingly impossible task of “unraveling the Pueblo knot.” Instead, it accepted simple divisions between Pueblos and Hispanos and understood the two peoples as inimical to each other. Their contests over land and water had hardly ended. The Pueblo Lands Board seemed a betrayal to Pueblo advocates. With the First District Court that codified its recommendations, the Board upheld

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<sup>943</sup> For more on Indian citizenship, see Kevin Bruyneel, “Challenging American Boundaries: Indigenous People and the ‘Gift’ of U.S. Citizenship,” *Studies in American Political Development*, 18:1 (2004): 30-43, and, Helen L. Peterson, “American Indian Political Participation,” *American Academy of Political and Social Science* vol. 311, no. 1 (May 1957): 116-121.

hundreds or claims to thousands of acres of Indian land. For advocates, the results seemed little different than the Bursum Bill they had defeated more than a decade earlier.

For claimants, the Board's work was a vindication of their acquiring Pueblo lands. But their success in holding title to their lands was not celebrated by weary claimants. In fact, many sold their lands and took up their traditional vocations in the post-feudal economy, pasturing sheep in the southern Rockies as *partidarios*, picking beets, potatoes and onions in the Intermountain West and finally moving west to California, a land of economic opportunity.

During the New Deal, land-relief projects would once again put Pueblos and Hispanos in competition with one another. Ideas of Pueblo-Hispano relations and of the racial makeup and ethnic identity of both groups that were created during the Pueblo Lands Board era found new life during the New Deal. This discourse, created at a time of great strife, was influential during the New Deal, when ideas of Pueblo and Hispano relationships and especially Hispano racial identity hardened. It was none other than John Collier, the man who came to Taos almost by accident over a dozen years earlier and defied the power of the Republican Party, who would pursue justice on behalf of the Pueblos and attempt to restore the Pueblo world.

## Chapter 12: The Tewa Basin Study and the Promises of a New Deal, 1933-1939

As the Board held its final hearings in the Basin in 1929, conditions worsened when the drought and economic collapse that pervaded the nation destroyed regional employment in mining, in agriculture and on railroads. The Second Pueblo Lands Act of 1933 rectified the administrative deficiencies of the Board, but the land tenure problem in the Tewa Basin was far from resolved. By 1933, many of New Mexico's villages were overpopulated, their agricultural lands overused, and their pastoral lands overgrazed. The collapse of the migratory wage trail, which for decades had offered economic relief to Hispanos and, to a lesser extent, Pueblos, only exacerbated the acute poverty in the Tewa Basin's Hispano villages and Indian Pueblos. When the New Deal brought relief programs to New Mexico, reformers came to the Tewa Basin to re-educate Hispano and Pueblo farmers and save their ancient agriculture and pastoralism through modern, scientific conservation methods.

Political changes in the federal government shaped land tenure in the Tewa Basin. John Collier, the progressive reformer who had helped topple powerful Republican leaders like Albert Fall, Holm Bursum and Herbert Hagerman, emerged in 1933 as the commissioner of Indian affairs under President Franklin D. Roosevelt. An empowered Collier spent the next dozen years reforming Indian affairs across the United States. In New Mexico, Collier used the New Deal to pursue justice on behalf of the Pueblos and achieve land reforms that were blocked by a Pueblo Lands Board and District Court, both of which sought equity. In doing so he relied on convenient racial and ethnic categories that, again, emphasized clear divisions between Pueblo and Hispano communities that suffered the same privations and proved to be equally dependent on federal relief.

Dennis Chávez, the native son who, as a congressman, had fought Collier continued to battle him as a U.S. Senator. Collier's and Chávez's land reform battles took place in an era of unprecedented federal attention to the land problems that plagued New Mexico. While Collier used his influence to guide relief to benefit New Mexico's Indian populations, Chávez worked to ensure that non-Indians would also benefit from Collier's projects. Chávez also worked to thwart Collier's plan among the Pueblos. When the commissioner attempted to use provisions of the Wheeler-Howard bill to ameliorate longstanding divisions at Santa Clara Pueblo, the senator became a voice for disenfranchised and progressive Pueblo Indians who resisted the power of traditional leaders.

The conflict between Collier and Chávez influenced federal relief in the Tewa Basin. Though early programs ignored the ecological and economic limits of the Basin's resources, later projects focused squarely on the problems of overuse and erosion. The federal government actively bought land grants from speculators who eagerly sold their failed investments, often at a loss. These lands were initially used for land reform projects. Gradually, the New Deal transitioned from relief-oriented programs to those aimed at repairing the ailing economy. Instead of distributing purchased grants, the federal government incorporated the grants into federal forest reserves, creating a modern legacy of bitterness in the region that grew after the World War II.

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The Pueblo Lands Board ceased its hearings 1931, two years before the second Pueblo Lands Act was passed. Herbert J. Hagerman left his position in disgrace for his duplicitous actions in both Pueblo and Navajo affairs. Charles H. Jennings quietly left

New Mexico, disillusioned from his experience. After seven years on the Board, his expertise in Indian affairs netted him a job as the superintendent of the Tongue River Agency in Lambe Deer, Montana. Guy Harrington, the water engineer who joined the Board in its waning days, remained its only active board member, handling all issues regarding compensation payments for Hispano claimants. As the Pueblo Lands Board era drew to a close, a larger national political shift was underway. The once-powerful Republican Party's inadequate response to the Great Depression spelled its doom nationwide, and Democrats, led by Franklin D. Roosevelt, ushered a new era of activist governing into national politics.

The 1932 election was a nationwide rejection of the Republican Party. Democrats won state and local offices at an unprecedented rate, although political power had shifted away from the Republican party two years earlier. In New Mexico, Democrat Arthur Seligman defeated two-term incumbent governor Richard C. Dillon in 1930. Dillon's tenure as governor had begun as a high-point for the New Mexico Republican Party, for the racially divided Hispanic and Anglo factions suspended their traditional animosities to defeat Democrat Arthur T. Hannett in 1926. By the end of his second two-year term, Dillon was known more for his foibles than his accomplishments, and New Mexico's already feeble economy lay in the ruins of the governor's administrative inefficiency and what he considered to be "sound business principles."<sup>944</sup>

Seligman came from an upper-class family of Jewish ancestry that had settled in Santa Fe as merchants and bankers in the nineteenth century. He was a mildly popular

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<sup>944</sup> William Hickman Pickens, "The New Deal in New Mexico: Changes in State Government and Politics, 1926-1938," (master's thesis, University of New Mexico, 1971), 39-42, 78.

politician whose politics differed only slightly from those of his Republican opponent. He too preached a sermon of efficiency and “strict business principles” in government. Seligman’s victory can largely be attributed to the endorsement of the immensely popular Republican senator Bronson Cutting. No more able than his predecessor to heal the economic scars of the depression, Seligman died of a heart attack while in office. It fell to his Republican opponent, Andrew W. Hockenhull, to administer the New Deal programs and restrain federal authority in New Mexico.<sup>945</sup>

While Governor Hockenhull reiterated Seligman’s plea for federal emergency relief, President Roosevelt’s chief federal relief administrator, Harry Hopkins, mobilized the resources of the Civil Works Administration (CWA) for employment across New Mexico. In the state, the CWA developed a reputation for unsystematic, project-minded employment and, in 1934, was replaced with the Federal Emergency Relief Administration (FERA), which emphasized workers’ training. Hockenhull lost his bid for reelection to popular Albuquerque mayor Clyde Tingley in 1934. Though he was more vocal than his predecessors, Tingley was no more able than Hockenhull to slow federal growth in the state, but did channel the federal largesse into his preferred programs that ultimately modernized much of New Mexico.<sup>946</sup>

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<sup>945</sup> Ibid., 91.

<sup>946</sup> Ibid., 115-116. According to Pickens, this work immediately employed over eight thousand men and spent nearly \$2.5 million in New Mexico during the Great Depression. Pickens doubts the effectiveness of the New Deal programs, stating that while the New Deal reformed and strengthened the state government, it did little for the average man. Pickens also appears to idealize Bronson Cutting as “responsive” while claiming that Governor Clyde Tingley “responded to political instinct” in instituting changes in state government during the New Deal (177). For an alternative narrative of state government during the New Deal, see Lucinda Lucero Sachs, *Clyde Tingley’s New Deal for New Mexico, 1935-1938* (Santa Fe: Sunstone Press, 2013).



At the state level, longtime state legislators fell victim to their own inability to change with the times and turn away from customary territorial politics. Traditional advocacy issues like taxation and water rights failed to gain many voters as local taxes remained unpaid and whole regions were gripped by a multi year drought. Hispano politics in the early statehood period were arguably in a period of transition. Though disillusioned by Old Guard Republican patronage, Hispanos hardly saw the Democratic Party as a viable alternative. At the national level, the party had been dominated by the conservatives in the American South, and only one Democratic president had held the Whitehouse since 1897.

In the late nineteenth and early twentieth century, nearly all political appointments to positions in territorial government went to men affiliated with the Republican Party. Amado Chaves, the renowned Republican orator and first territorial superintendent of public instruction, gained his prominence while speculating in grant lands with powerful Anglos, especially Thomas B. Catron. Octaviano Larrozolo famously broke with the Democratic Party in 1911 when he again failed to secure his party's nomination for governor. Larrozolo charged that the Democratic leadership failed to look beyond his race and preferred Anglo candidates, despite the fact that Hispanos composed almost two-thirds of the state's population. Larrozolo only met success when he switched to the Republican Party, where he was elected both governor and U.S. senator, representing a party desperate to remain relevant to the native Hispano population.<sup>947</sup>

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<sup>947</sup> See Paul A. F. Walter, "Octaviano Ambrosio Larrazolo," *New Mexico Historical Review* 7:2 (April 1932), 97-103, 98. Walter's distaste for Larrazolo is obvious in his remembrance, characterizing the often controversial politician as destructive to the "Spanish American element" for being a "race separatist."

In *The Spanish Redemption*, historian Charles Montgomery writes, “Anglos and Hispanos coexisted in a precarious balance of power, a sometimes cooperative yet always suspicious arrangement.”<sup>948</sup> He cites an unspoken agreement between the Democratic and Republican parties to evade the race question by two means. First, both parties almost always ran ethnically and racially similar candidates against each other, ensuring that a given election would not evolve into a racial contest. Secondly, certain positions, including minor county and local seats as well as the secretary of state and auditor were traditionally held by Hispano candidates, and Anglos seeking the nomination for these offices were discouraged by their respective parties from running. Under this tacit arrangement, the wealthy Anglo minority held the positions and sympathies of judges and territorial governors.<sup>949</sup> Hispanos controlled local and county offices, but rarely held higher office in either territorial or early statehood government.<sup>950</sup>

At the turn of the century, the Republican Party felt the heat of a growing Progressive movement, which extended the rhetoric of free labor to questions of land ownership and began displacing the Gilded Age robber barons in party leadership. Through the 1880s and 1890s, Felix Martínez led a Las Vegas centered pro-labor faction that publicly criticized the implicit and explicit racism of Anglo economic and political dominance in New Mexico, most effectively advocating this critique through his newspaper *La Voz del Pueblo*. Martínez and his followers set the stage for the political

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<sup>948</sup> Montgomery, *The Spanish Redemption*, 57.

<sup>949</sup> Although Hispano outnumbered Anglos lawyers through the 1870s, they claimed only one judgeship in the entire span of the territorial period. See David A. Reichard, “‘Justice Is God’s Law’: The Struggle to Control Social Conflict and U.S. Colonization of New Mexico, 1846-1912” (Ph.D. diss, Temple University, 1996), 171-176.

<sup>950</sup> Montgomery, *The Spanish Redemption*, 56-62. See also, E. B. Fincher, *Spanish-Americans as a Political Factor in New Mexico, 1912-1950* (New York: Arno Press, 1974).

success of Governor Ezequiel C. de Baca, who offered a moderated reform program that spoke to Hispano interests. By the early twentieth century, Hispano politicians had long carved out a niche for themselves in the northernmost counties. In the 1920s, Hispanos Benigno C. Hernández and Nestor Montoya won congressional seats as Republicans. Both men were, however, reliable Old Guard Republicans, unlikely to disturb the status quo.<sup>951</sup>

The loss of land grants through adjudication, partition suits and tax seizures begs a few questions: why did not politicians, be they Democrats or Republicans, Anglo or Hispano, intercede to protect Hispano land claims? They had, after all, proved willing to protect Hispano claims within Pueblo Indian land grants. Why did they choose not to protect Hispanos' legitimate claims to lands outside of the exterior boundaries of pueblos? For one, nearly any politician of consequence in both parties actively participated in land grant speculation. Republicans Thomas B. Catron, Stephen B. Elkins, Albert B. Fall, Alois B. Renehan, LeBaron Bradford Prince, John S. Watts, and Ralph Emerson Twitchell famously served in a host of political positions, from special attorney for the Pueblo Indians, to U.S. attorney for the Territory, delegate to Congress, Territorial Supreme Court justice, and even U.S. senator, all the while actively buying interest in land grants and representing heirs and claimants in front of both the surveyor general and Court of Private Land Claims. So did Democrats, including Napoleon B. Laughlin, Antonio Joseph, and A. A. Jones, who also served as Territorial Supreme Court justice, territorial governor, and U.S. senator, respectively. With land grants enveloping most property of value, land speculation was ubiquitous and resource-rich land was in

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<sup>951</sup> Kelly, *Assault on Assimilation*, 217-223.

short supply. Defending undivided Hispano land rights offered little political gain for politicians courting voters. Perhaps more importantly, it offered even less of a financial gain for politicians whose own personal portfolios guided their business-friendly governance of official state affairs.<sup>952</sup>

Amid the beginning of the New Deal, New Mexico state politics were seemingly in flux. New Mexico came to rely heavily on the federal benefits secured by a progressive congressional delegation throughout the New Deal. Dennis Chávez, who served consecutive terms as representative from 1930-1934, vacated his seat in 1934 to run for the U.S. Senate against popular incumbent Bronson Cutting.<sup>953</sup> Born into a wealthy New York family, Cutting had come to New Mexico in 1910 as a health seeker and bought the *Santa Fe New Mexican* in 1912. He inserted his progressive agenda into New Mexico politics and immediately came into conflict with Old Guard Republicans Albert B. Fall and Holm Bursum.<sup>954</sup> He was equally hated by Democrats, including Arthur Hannett, who labelled Cutting a “race agitator.”<sup>955</sup>

New Mexico historian William H. Pickens claims that the “Spanish Americans adored Cutting,” who “employed their brothers, fought for their candidates and conversed in their tongue.”<sup>956</sup> Writing three decades earlier, Thomas C. Donnelly portrayed Cutting in a similar light, lauding his ability to blend with the Spanish-speaking population

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<sup>952</sup> Ebright, *Land Grants and Lawsuits*, 42-45

<sup>953</sup> Richard Lowitt, *Bronson Cutting: Progressive Politician* (Albuquerque: University of New Mexico Press, 1992), 14-28.

<sup>954</sup> Phillip B. Gonzales, “El Jefe: Bronson Cutting and the Politics of Hispano Interests in New Mexico, 1920–1935,” *Aztlán* 25:2 (Fall 2000): 67-108, 68-71.

<sup>955</sup> Ibid.

<sup>956</sup> William H. Pickens, “Bronson Cutting vs. Dennis Chávez: The Battle of the Patronos in New Mexico, 1934,” *New Mexico Historical Review* 46:1 (January 1971): 5-36, 12.

socially as well as politically.<sup>957</sup> Historical sociologist Phillip B. Gonzales rejects this characterization as “received wisdom” of the innate ability and talents of “dynamic outsiders” to exert influence over *nuevomexicanos*. Gonzales argues that Cutting offered Hispanos an alternative to a southern-controlled and openly racist Democratic Party that was especially important after Octaviano Larrazolo’s fall from power. He characterizes their relationship as a mutually beneficial political bond rather than a simple and feudalistic *patrón-peón* relationship.<sup>958</sup>

Dennis Chávez’s background was unmistakably different from Bronson Cutting’s. Born in Los Chávez, New Mexico, in 1888 to a working-class family of staunch Republicans, Dionisio “Dennis” Chávez embraced the state Democratic Party as a vehicle of opportunity. He married Imelda Espinosa of the prominent Espinosa family in 1911 and worked as an engineer for the City of Albuquerque. After serving as an interpreter for Senator A. A. Jones and putting himself through law school at Georgetown, Chávez returned to Albuquerque in 1920, where he operated a successful law office. He was elected to one term (1922-1924) in the New Mexico House of Representatives and, in 1930, was elected to New Mexico’s lone U.S. Congressional seat, which he won again in 1932.<sup>959</sup> In 1934, Chávez announced that he would vacate his seat in the House to run against Senator Cutting.

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<sup>957</sup> Thomas C. Donnelly, “New Mexico: An Area of Conflicting Cultures,” in *Rocky Mountain Politics*. ed. Thomas C. Donnelly (Albuquerque: University of New Mexico Press, 1940), 247-248.

<sup>958</sup> Gonzales, “El Jefe: Bronson Cutting and the Politics of Hispano Interests in New Mexico, 100.

<sup>959</sup> Rosemary T. Díaz, “El Senador, Dennis Chávez: New Mexico Native Son, American Senior Statesman, 1888-1962.” Ph.D. diss., Arizona State University, 2006. See also Maurilio E. Vigil, *Los Patronos: Profiles of Hispanic Political Leaders in New Mexico History* (Washington, D.C.: University Press of America, 1980), 149-154.

The 1934 senatorial election was a hotly contested one, as Chávez challenged Cutting and readily discussed race in his attempts to reach Hispano voters. Like Octaviano Larrozolo before him, Chávez violated the unspoken agreement to leave explicit discussions of race out of political campaigns. But he understood that he needed to reach members of Cutting's voting bloc, especially Hispano voters in north-central New Mexico. Chávez was successful in there, winning Santa Fe, Río Arriba and Taos Counties (the Tewa Basin plus Taos and Santa Fe) by nearly one thousand votes. But he lost badly among Hispanos in his native Río Abajo. When Chávez lost the election by a mere 2,284 votes, he accused Cutting of voter fraud.<sup>960</sup>

Cutting died in a plane crash in May 1935 while en route to Washington to defend himself against the voter fraud charges, and Governor Hockenhull appointed Chávez to Cutting's seat.<sup>961</sup> Cutting's progressive and reformist allies were dismayed with Chávez's appointment and a group of southern Democratic senators even walked off the Senate floor when Chávez was introduced.<sup>962</sup> When he won his seat outright in a special election a year later, he completed a fully Democratic delegation, which included Senator Carl Hatch (1933-1949), and Congressmen John Dempsey (1935-1941), Clinton P. Anderson (1941-1947) and Antonio M. Fernández<sup>963</sup> (1943-1956). The liberal-minded, progressive

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<sup>960</sup> Pickens, "Bronson Cutting vs Dennis Chávez," 23-25.

<sup>961</sup> Gonzales, "El Jefe," 100. Lowitt, *Bronson Cutting: Progressive Politician*, 274-285; Pickens, "Bronson Cutting vs Dennis Chávez," 25-29.

<sup>962</sup> Díaz, "El Senador, Dennis Chávez: New Mexico Native Son," 135.

<sup>963</sup> In Congressman Fernández introduced a bill (H. R. 4797) to return federal lands within the exterior boundaries of the San Joaquín del Río Chama Grant to the heirs of the original grantees. See Edwin A. Tucker and George Fitzpatrick, *Men who Watched the Mountains: The Forest Service in the Southwest*. United States Department of Agriculture, U.S. Forest Service, Southwestern Region (Washington, 1972), online at <http://www.foresthistory.org/ASPNET/Publications/region/3/tucker-fitzpatrick/chap27.aspx>

goals of New Mexico's delegation matched those of the Roosevelt administration, and the state's senators and representatives were able to direct substantial federal funding to New Deal projects and programs throughout the state.

Roosevelt and the Democrat-controlled Congress built on electoral victories in 1932 and 1934, creating a liberal-Democrat dominated "New Deal Voting Coalition." A combination of the traditional Democratic constituencies, the coalition included the urban North, the South, and big-city political machines, but also new constituents, such as union-hungry urban workers, anti-Prohibition immigrants, African Americans, women and rural voters. This New Deal political machine overwhelmed progressive Republican Kansas governor Alf Landon in the presidential election of 1936.<sup>964</sup> The 1936 victory was arguably not a victory for Democrats at large, but a "ratification of the New Deal," and the cementing of the new liberal coalition that arguably shaped the Democratic Party for the next six decades.<sup>965</sup>

Early New Deal programs in New Mexico eased the way for Democratic victories in state and local elections. After President Roosevelt laid out his "New Deal for America" in the election of 1932, Harry Hopkins immediately began organizing new agencies and funding their work across the nation. With twelve-hundred Civilian Conservation Corps (CCC) camps spread across the nation by the end of 1933, the CCC stood as veritable proof of the Roosevelt administration's commitment to immediate employment through public works. In New Mexico, CCC camps were often the first

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<sup>964</sup> Richard Kirkendall, "The New Deal and American Politics," in *Fifty Years Later: The New Deal Evaluated*, ed. Harvard Sitkoff (Philadelphia: Temple University Press, 1985), 11-36, 22-27.

<sup>965</sup> Ibid 20. See also, William E. Leuchtenburg, *Franklin D. Roosevelt and the New Deal, 1932-1940* (New York: Harper Perennial, 2009).

opportunity for young Hispano men to earn wages for their labor. A CCC camp was established in Frijoles Canyon in the southwestern part of the Tewa Basin in 1934. For the next seven years, workers constructed roads, a new lodge and visitor's center, and miles of trails for the struggling Bandelier National Monument, whose remote location prevented substantial tourism. Historian Maria E. Montoya demonstrates that the CCC in northern New Mexico imposed racial divisions of authority and labor. Camp administrators even brought young men from Texas and Oklahoma to serve in higher-paying leadership positions over *nuevomexicanos*, despite their knowledge of the local ecology.<sup>966</sup> CCC labor was rarely, if ever, used in early land projects for the Tewa Basin's struggling Hispano communities.

The Rural Rehabilitation Corporation (RRC), a subsidiary of the independent Resettlement Administration (the precursor of the Farm Security Administration) was the first federal program to offer relief to Hispano villages. The RRC came to New Mexico in late 1933 and began offering loans to farmers along the Río Grande watershed as early as 1934. The Resettlement Administration, however, lacked a clear understanding of the economic situation in New Mexico, and apparently made little effort at doing so. RRC loans encumbered already indebted farmers who had nearly no capital and were likely to never have the means to repay their debt and almost certainly worsened their economic

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<sup>966</sup> Maria E. Montoya, "The Roots of Economic and Ethnic Divisions in Northern New Mexico: The Case of the Civilian Conservation Corps" *Western Historical Quarterly* 26:1 (Spring 1995), 28-30. For more on the CCC on New Mexico, see Richard Melzer, *Coming of Age in the Great Depression: The Civilian Conservation Corps Experience in New Mexico, 1933-1942* (Santa Fe: Yucca Tree Press, 2000). Melzer mines interviews with CCC enrollees, but avoids discussion of racial or ethnic strife on New Mexico's CCC camps or their project sites.



situation.<sup>967</sup> Farmers in Santa Cruz used relief loans to pay excessive back-taxes owed to the Santa Cruz Irrigation District rather than to invest in improvements on their land. The RRC advocated change, but did not work with the residents to guide or inform it. Consequently, the program, offering ample capital but little practical advice, failed to yield considerable improvements.<sup>968</sup>

The situation in Santa Cruz was only a small symptom of larger economic and ecological issues that affected the entire Tewa Basin. From the inception of the New Deal, the majority of New Mexico's population was eligible for direct relief and Hispanos represented well over 80 percent of the New Deal relief load.<sup>969</sup> The worsening conditions in the Tewa Basin can be traced back to the mid-1920s. The effect of the failing of regional labor markets was evident during Pueblo Lands Board hearings, which spanned four and a half years, from 1925 to 1930. When the Board heard claims in Tesuque and Nambé in 1925 and 1926, it was common for claimants to press their cases in absentia. Many claimants were working in mines and fields across the Intermountain West and were represented by their wives and by attorneys at the hearings. By the San Ildefonso and Santa Clara hearings in 1929-1930, claimants often presented their own

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<sup>967</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Proposals for the Santa Cruz Area*. By Hugh G. Calkins, Regional Bulletin No. 28, Conservation Economics Series No. 1 (Albuquerque, New Mexico, 1935), "Failure of Rural Rehabilitation in the Tewa Basin," 2-3, 5, 7-8.

<sup>968</sup> , *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 68; USDA, SCS, Region 8, *The Santa Cruz Irrigation District*, 9-10; U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Proposals for the Santa Cruz Area*. By Hugh G. Calkins, Regional Bulletin No. 28, Conservation Economics Series No. 1 (Albuquerque, New Mexico, 1935), "Failure of Rural Rehabilitation in the Tewa Basin," 1-5. For more on Santa Cruz, see, Peter F. Hamon, "The Landholding System of Santa Cruz," *University of Oklahoma Papers in Anthropology* (11:1), 21-40; and, Richard Stewart Ellis, "Santa Cruz: Authority and Community Response in the History of a New Mexico Town" (Ph.D. Diss. University of Oklahoma, 1980).

<sup>969</sup> Forrest, *Preservation of the Village*, 80.

claims at hearings, signaling that they were no longer working outside New Mexico. They also more often presented their claims without legal representation, which most could no longer afford. The Pueblo Lands Board hearings happened at critical time when the lack of access to cash made Hispanos depend more squarely on land resources that they often illegally appropriated from their Pueblo neighbors. At the same time many relocated permanently, leaving Basin villages for communities in Colorado, Wyoming, Idaho, Washington, and Oregon. Most of those who stayed in the Tewa Basin faced an uncertain future and turned to federal relief for assistance.<sup>970</sup>

The Hispano population, booming since the 1880s, had pushed villages to their ecological and economic limits by the 1920s. The carrying capacity for the Tewa Basin had been stretched since the 1880s, when the railroad connected the Basin to regional markets and increased competition for resources. The expansion of the railroad and of mining and agricultural industries from the 1880s to the 1920s injected necessary cash into local economies and drew population away from villages already overusing their dwindling resources. Droughts in the late 1920s and the stock market crash in 1929, however, destroyed agribusiness throughout the Rocky Mountain West, closing the migratory labor trail that extended from northern New Mexico to the Pacific Northwest. By the beginning of New Deal programs in the 1930s nearly every village in northern

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<sup>970</sup> See Hearings Before the Pueblo Lands Board, Nambé Pueblo, 1925-1926, Pueblo Lands Board Records, NMSRCA; and Santa Clara Pueblo, Report of the Pueblo Lands Board making recommendations to Secretary of the Interior for the Compensation to Non-Indian Claimants, June 22, 1931, RG 49, Entry NM 13, NA-RMR, Denver.

New Mexico qualified for federal assistance. Three years later, the whole region, Indian Pueblos and Hispano villages alike, was a federal dependency.<sup>971</sup>

The collapse of the regional labor economy led to the repopulation and overpopulation of Hispano villages. Ojo Sarco offers an example of the effects of overpopulation. Ojo Sarco sat on the boundary of the Sebastián Martín and Las Trampas grants, on the eastern slopes of the Rocky Mountains in the eastern Tewa Basin. It had engaged in acequia disputes with Las Trampas since the Spanish-colonial era. The conflict ended in a 1928 when a legal decision awarded Las Trampas primary water rights to the springs and streams that fed both communities.<sup>972</sup> The effect was immediate. Ojo Sarco's population, which grew from 224 in 1910 to 239 in 1920 dropped to 189 in 1930, reducing the pressure on meager and diminishing resources. The start of the Great Depression in 1929 was coupled with droughts in the Intermountain West in 1930 and 1931, leading to the collapse of the regional economy and the massive and sudden repopulation of Tewa Basin villages. Ojo Sarco's population surged to 258 in 1935, an

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<sup>971</sup> Deutsch, *No Separate Refuge*, 162-185. See also, USDA, SCS, Region 8, *Village Dependence on Migratory Labor in the Upper Río Grande Area*, 37-41.

<sup>972</sup> A 1755 dispute arose when Trampas *herederos* attempted to appropriate the exclusive use the Rito de San Leonardo del Ojo Sarco. Truchas won the support of Vélez Cachupín and exclusive use of the waters, only to have Trampas revive the dispute in 1836, where it won exclusive use of the waters. The suits were revived again in 1893 and 1928, when they were resolved and Las Trampas won the greater share of waters. See John O. Baxter, *Dividing New Mexico's Waters, 1700-1912* (Albuquerque: University of New Mexico Press, 1997), 43-44. See also deBuys, *Enchantment and Exploitation*, 178; Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 200; and U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Village Livelihood in the Upper Río Grande Area*. By Hugh G. Calkins, Regional Bulletin No. 44, Conservation Economics Series No. 17 (Albuquerque, New Mexico, 1937).

increase of over 35 percent a year after the village experienced its worst drought in over four decades.<sup>973</sup>

When federal relief began to trickle into New Mexico in 1929, Ojo Sarco would have seemed a candidate for Herbert Hoover's well-intentioned but inadequate relief projects. State officials were either ill-informed about or in denial of the decaying state of New Mexico's villages. Governor Richard Dillon ignored the dependence of villages like Ojo Sarco on migratory wage labor. In 1929, he assured officials in Washington that New Mexico faced no unemployment problem since most of its people were pastoralists and were not in "sharp competition in the matter of earning a livelihood."<sup>974</sup> By the mid-1930s, over twenty thousand Hispanos lived in the Tewa Basin, composing somewhere between 80 and 90 percent of the total population. This was estimated at between 10-20 percent above the Basin's carrying capacity, leading to the overuse of pastoral lands, to considerably smaller yields in agricultural fields and to larger ecological damage. When federal relief agencies began projects in the Basin in 1933, they found almost every village overpopulated.<sup>975</sup>

The start of the Great Depression and the droughts of the 1930s only accelerated and exacerbated problems in the Tewa Basin, processes that had been underway for decades before they came to a head in the late 1920s. In the early statehood period, New Mexico's choicest properties were firmly in federal hands. The state had a small tax base, and state government pressured other units of government and private landowners, including counties and community land grants, to pay delinquent taxes. Cash-poor

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<sup>973</sup> Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 197-202.

<sup>974</sup> Dillon quote in Forrest, *Preservation of the Village*, 81.

<sup>975</sup> Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 33-38.

communities, barely achieving subsistence, were forced to sell off portions of their common lands to pay these debts. Communities like Santa Cruz had lost land to irrigation districts created by commercial growers to control water rights and seize tax-delinquent lands.<sup>976</sup> *Parciantes*, or water rights holders, along the upper Santa Cruz River were marginalized by outsiders and newcomers such as John Block, who owned a small mercantile and contracted with Frank Bond to provide supplies to the weak regional produce market. When these schemes failed, the state often inherited the land, along with the tax liability and the debt left by defunct irrigation districts. Collecting on tax delinquencies enlarged state lands for two decades, until federal relief finally ended this practice in 1934.<sup>977</sup>

Combined with tax delinquencies, the creation and expansion of U.S. National Forests in the first two decades of the twentieth century exacerbated the dismal situation in land grant communities. Already dependent on migratory labor to bring money into their cash-poor economies, Hispano and Indian Pueblo villagers increasingly lost access to land and resources that they had traditionally used to maintain their meager but stable livelihoods.<sup>978</sup> For some, these lands were part of ancestral properties. Villagers in Chamita and Velarde still travelled to the Juan José Lobato and Sebastián Martín grants, respectively, for fuelwood. The private owners of these grants either approved of or

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<sup>976</sup> Forrest, *The Preservation of the Village*, 84-85, 100; USDA, SCS, Region 8, *The Santa Cruz Irrigation District*, 10.

<sup>977</sup> Forrest, *Preservation of the Village*, 10, 79-80, 100 and 153.

<sup>978</sup> Deutsch, *No Separate Refuge*, 162-185. See also, USDA, SCS, Region 8, *Village Dependence on Migratory Labor in the Upper Río Grande Area*, 37-41. See also U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Reconnaissance Survey of Human Dependency on Resources in the Río Grande Watershed*. By Hugh G. Calkins, Regional Bulletin No. 33, Conservation Economics Series No. 6 (Albuquerque, New Mexico, 1936).

overlooked these customary uses. This would change when the federal government purchased the Martín and southern portion of the Lobato grant for relief programs by 1935, before transforming them into federal forest and rangelands and restricting access by local users.<sup>979</sup>

The Tewa Basin was an area desperate for relief when New Deal agencies came in 1933. Hispanos still depended on seasonal employment in cotton fields, sheep ranches, lumber camps and regional mines to supplement their small agricultural yields. In the spring of 1933, railroad companies permanently laid off 60 percent of their workforce and coal mines operated at one-third of their capacity. By November of 1933, relief workers estimated that 90 percent of the relief load in New Mexico consisted of seasonal employees, and that 80 percent of these unemployed and underemployed workers were “Spanish Americans.”<sup>980</sup> The New Mexico Child Welfare Department was flooded with requests. Truchas, Ojo Sarco, Cordova and Española requested aid from the Red Cross. Lydia Eicher Haystead, a field representative from the New Mexico State Relief Office, visited Chama after a petition sent to Governor Seligman implored aid in

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<sup>979</sup> Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 158-159.172-173. The southern portion of the Lobato was once controlled by Thomas B. Catron, who joined George Howard Hill and his son, George Volney Hill, who controlled the northern portion of the grant in a 1908 lawsuit to partition their joint ownership of the grant. The federal government purchased the southern portion between 1933-1935 and used it for New Deal projects for the Hispano population. Colorado Supreme Court justice William S. Jackson sold the northern portion of the grant, which he acquired from the Hill’s in 1915, to the federal government in 1942, whereafter it was incorporated into Forest Service lands. See Ebright, “Juan José Lobato Grant,” 7-9; “Catron and Renehan sued by Lobato Heirs,” *Santa Fe New Mexican* (undated clipping, likely 1908) Elisha V. and Boaz W. Long Papers, NMSRCA, Santa Fe, NM.

<sup>980</sup> “New Mexico and Relief before November 15, 1933,” folder 1, box 1, Suzanne de Borhegyi Forrest Collection, Coll.1987-026, New Mexico State Archives and Records Center. Santa Fe (hereafter Forrest Collection).

securing employment, but not direct relief. Residents in Tierra Amarilla displayed the same stubborn independence, asking only for aid to feed their stock.<sup>981</sup>

Those lucky enough to produce an agricultural surplus faced the dilemma of moving their products to market. Many farmers were unable to convert their surplus to the cash necessary to survive winter. Field agents remarked that most Tewa Basin communities were isolated, and the lack of passable roads made programs like the national Farm to Market impossible.<sup>982</sup> Early New Deal programs, however, ignored both the grave situations and their practical solutions.

The RRC was among the first programs introduced to the Tewa Basin. The centerpiece was a low-interest-loan program modeled on farm operations in the Midwest. Along with the Federal Emergency Relief Administration, the RRC encouraged farmers to re-invest the loans into their land. Barely able to yield enough crops for the little cash they relied on, these farmers were an obvious loan risk. By the end of 1933, the RRC had loaned thousands of dollars to farmers in Santa Cruz, who gladly accepted the money but did not invest it directly into their overburdened and dry fields. Most Santa Cruz farmers immediately paid the Santa Cruz Irrigation District for outstanding debts. The Irrigation District, bonded by private investors and approved by the state, had for two decades confiscated the lands of farmers who failed to pay their yearly fees. Lands were then sold to the highest bidders, typically Anglos who initiated the district as a means of taking the once-rich agricultural lands from small land holders and combining the tracts into commercial agricultural farms. The loans, then, stabilized an irrigation district that had

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<sup>981</sup> See reports of Lydia Eicher Haystead, April 3 (Chama) and April 6 (Truchas), 1932, folder 1, box 1, Forrest Collection.

<sup>982</sup> Telegram from Chester H. Gray, in re Farm to market program, September 28, 1932, folder 3, box 1, Forrest Collection.

provided little of the water stability it promised and had consistently dispossessed Hispano farmers of their land.<sup>983</sup>

This blindness characterized early federal efforts in the Tewa Basin. The RRC implemented farming practices developed in Iowa for commercial farming in and around Española, including Santa Cruz, and ignored the fact that the area had hardly produced a surplus in the past decade. Perhaps most injurious to the Santa Cruz farmers was that, unbeknown to them, they were immediately made ineligible for any direct federal relief upon accepting the RRC loan until they paid back the entire amount. By 1936, Santa Cruz farmers had petitioned Governor Clyde Tingley for work in New Deal projects. The petition, signed by nearly three dozen Santa Cruz heads of family, read:

We the undersigned relief clients from the counties of Santa Fe and Rio Arriba wish your aid, requesting the Rehabilitation Administration to develop some kind of project so that we can get work. . . . We have tried to get work on W.P.A. Projects and have been informed that only relief clients are permitted to work. . . . We owe money to the government and have not been able to meet obligations because we have no work. . . . We earn no cash and our crops are small this year. . . . We are informed of WPA project[s] for Santa Cruz River bank protection for [the] town of Riverside which was not started due to shortage of Relief Clients.<sup>984</sup>

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<sup>983</sup> U.S. Department of Agriculture, Soil Conservation Service, Region Eight, *Proposals for the Santa Cruz Area*, By Hugh G. Calkins, Regional Bulletin No. 28, Conservation Economics Series No. 1 (Albuquerque, New Mexico, 1935); Eshrev Shevky. "Rural Rehabilitation in New Mexico." *New Mexico Business Review* 5 (1936), 5-9; U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Rural Rehabilitation in New Mexico*. By Hugh G. Calkins, Regional Bulletin No. 50, Conservation Economics Series No. 23. (Albuquerque, New Mexico, 1935); Lionel D. Haight of the University of New Mexico offered a pitiful rejoinder to Shevky's article, defending the RRC and FERA, See Lionel D. Haight "Discussion of 'Rural Rehabilitation'" *New Mexico Business Review* 5 (1936), 9-13: See also, USDA, SCS, Region 8, *The Santa Cruz Irrigation District*.

<sup>984</sup> Petition to Hon. Clyde Tingley, Governor of New Mexico, 1936, in re: Rehabilitation in Rio Arriba and Santa Fe County," folder 7, box 2, Forrest Collection.



By ignoring the reality of the subsistence economy of the area, Rural Rehabilitation “completely failed to touch the realities of the economic plight of the Tewa Basin.”<sup>985</sup>

While the Resettlement Administration shifted its focus to experimental farms in the Southwest,<sup>986</sup> a newly transferred and transformed Soil Conservation Service began work in New Mexico and Arizona. Originally created as the Soil Erosion Service in the Department of Interior in 1933, the Service was renamed by the Soil Conservation Act and reestablished in the Department of Agriculture in 1935.<sup>987</sup> The head of the reformed Soil Conservation Service (SCS), Hugh Hammond Bennett, who was previously with the Bureau of Chemistry and Soils, expounded on the state of erosion across the nation’s parched and overused lands, both public and private.<sup>988</sup>

Bennett immediately used his post to criticize FERA’s conservation efforts. FERA’s plans included building ponds and terraces to prevent water wastage and soil erosion. Bennett argued that such action was a piecemeal solution to a grave nationwide problem. He was suspicious of FERA’s plans and its influence on untrained state

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<sup>985</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Failure of Rural Rehabilitation in the Tewa Basin*, Regional Bulletin no. 28 (Albuquerque 1935), 2-3, 5, 7-8; see also USDA, SCS, Region 8, *Proposals for the Santa Cruz Area*, 8.

<sup>986</sup> For a full discussion of rural resettlement under the Resettlement administration and the Farm Security Administration, See; Brian Q. Cannon, *Remaking the Agrarian Dream: New Deal Rural Resettlement in the Mountain West* (Albuquerque, University of New Mexico Press, 1996).

<sup>987</sup> There is considerable deliberation that suggests that the Soil Erosion Service (SES) was established under the Department of Interior in 1933 rather than the Department of Agriculture, a more logical assignment, because of the influence of Indian commissioner John Collier, who wished to harness the massive SES budget for projects in the Navajo Reservation in Arizona and New Mexico. See Robert J. Morgan, *Governing Soil Conservation: Thirty Years of the New Decentralization* (Baltimore: Johns Hopkins Press, 1965), 7: See also, Dinwoodie, “Indians, Hispanos, and Land Reform: A New Deal Struggle in New Mexico,” 292-297. Dinwoodie believes that Collier hoped to utilize SES money and its management of CCC labor on various projects in Navajo and Pueblo lands.

<sup>988</sup> Morgan, *Governing Soil Conservation*, 3-13.

extension services that implemented their programs.<sup>989</sup> With the support of Secretary of Agriculture Henry Wallace, Bennett worked to create state conservation laws that recognized the SCS as the authority on all things conservation.<sup>990</sup> Drawing on his difficult experiences while serving in the Department of Interior, he passionately fought to ensure that the SCS was untethered and that it exercised all the authority allowed by the 1935 Soil Conservation Act and 1933 Agricultural Adjustment Act. In a 1935 talk, Bennett claimed to “propose a plan of land conservation that replaces the old system of exploitation.”<sup>991</sup>

New Mexico’s land was in a critical condition in 1935. Some experts estimated that as much as 85 percent of all land was in a state of mass erosion. Sparse and inconsumable grasses, which failed to hold onto soil grew. This meant that topsoil could easily be lost to winds or torrential rains. The widespread erosion across New Mexico eventually led to the establishment of a SCS regional office headquartered in Albuquerque. Commissioner of Indian Affairs John Collier, however, worked behind the scenes to ensure that the SCS would not impede his programs in the Southwest. He recommended that Hugh G. Calkins, whom Collier had met when he served as the chief of operations of the Forest Service in New Mexico and Arizona, serve as director of the Region Eight Albuquerque office. Calkins was appointed the Regional Conservator, and

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<sup>989</sup> Ibid., 12.

<sup>990</sup> J.C. Headley, “Soil Conservation and Cooperative” *Extension* 59:2, 1985, 290-291.

<sup>991</sup> Text of speech of H.H. Bennett delivered October 29, 1935, U.S. Soil Conservation Service Region Eight Papers, MSS 289, folder 10, box 11 Center for Southwest Research, University Libraries, UNM, Albuquerque.

the SCS immediately embarked on numerous cooperative studies with the Bureau of Indian Affairs and the U.S. Forest Service.<sup>992</sup>

Collier urged Calkins to cooperate on a study of the Indian lands in Arizona and New Mexico. The Indian commissioner created the Indian Land Research Unit in the spring of 1933 and named Eshref Shevky its director. Born in Turkey and schooled in England, Shevky had completed his Ph.D. in sociology at Stanford in 1922, where he developed a reputation for brilliance. Shevky was widely read in anthropology, sociology, economics, colonial administration and education. He met Collier in the late fall of 1922, and Collier, engaged in his massive campaign to stop the Bursum Bill, convinced Shevky to undertake a study of health and economic conditions of Taos Pueblo.<sup>993</sup>

Complementing Collier's hiring of Shevky, Calkins created the Technical Cooperation with the Bureau of Indian Affairs program (TC-BIA).<sup>994</sup> Collier immediately placed Shevky in the Navajo Reservation and at several New Mexico pueblos to direct field studies. The Indian commissioner was pressured to extend his studies of poverty on Indian Pueblos and the Navajo Reservation to surrounding Hispano villages, something he was reluctant to authorize.<sup>995</sup> While Senator Bronson Cutting urged Collier to reconsider, Representative Chávez openly criticized Collier's plans in congressional

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<sup>992</sup> Lawrence C. Kelly, "Anthropology in the Soil Conservation Service" *Agricultural History* 59:2 (April 1985): 138-139.

<sup>993</sup> Donald L. Parman, *The Navajos and the New Deal* (New Haven: Yale University Press, 1976), 99-100.

<sup>994</sup> United States Department of Agriculture, Natural Resources Conservation Service, *Conservation and Culture: The Soil Conservation Service, Social Science and conservation on Tribal Lands in the Southwest*, By Rebekah C. Beatty Davis, Resource Economics and Social Sciences Division, Historical Notes Number 6 (Washington, D.C., 1997), v., 21-22, 27-29.

<sup>995</sup> *Ibid.*, 19.

committee hearings and in the press, an action New Deal scholars have consistently interpreted as political grandstanding.<sup>996</sup> Though Chávez's motivations may be debatable, the results of his and Cutting's advocacy are not. By the fall of 1934, Shevky formally suggested to Calkins that a broad survey of north-central New Mexico, including both the Indian Pueblos and Hispano villages, was necessary. Collier relented and ceased his protest.<sup>997</sup>

Shevky and Calkins immediately transferred crews engaged in field research on the Navajo Reservation to the Tewa Basin of north-central New Mexico.<sup>998</sup> Building on studies started by Calkins in 1934 as Forest Service chief, teams of economists, rural sociologists and cultural anthropologists engaged in human-dependency surveys, and conservation and economic surveys under the auspices of the newly formed SCS. From March through July of 1935, the SCS executed fieldwork for its monumental *Tewa Basin Study*, visiting all six Tewa-speaking Pueblos and Picurís, and over three dozen Hispano villages. Led by Eshref Shevky, the Indian Land Research Unit of the Office of Indian Affairs and the SCS doggedly pursued new data on the Indian Pueblos and the Hispano communities that surrounded them.<sup>999</sup>

The study immediately set itself apart from previous efforts by its ambition and its scope. It also marked one of the earliest field applications of applied anthropology, an aspect of a growing functionalism movement in American anthropology that refuted Franz Boas's "culture history" methods in favor of a more-sociological look into the

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<sup>996</sup> Dinwoodie "Indians, Hispanos, and Land Reform," 303.

<sup>997</sup> Ibid., Forrest, *Preservation of the Village*, 134-136.

<sup>998</sup> Beatty Davis, *Conservation and Culture*, 18.

<sup>999</sup> U.S. Department of the Interior. Bureau of Indian Affairs. Indian Land Research Unit U.S. Department of Agriculture. Soil Conservation Service. Region Eight. *Tewa Basin Study* (3 vols.) (Albuquerque 1935).

present condition of their subjects.<sup>1000</sup> The instructions given to the field workers are more telling of the intentions of the *Tewa Basin Study* than the study itself. Field workers were given a question chart and a set of instructions that were intended to guide their “leisurely conversations” with subjects. They were advised to “not [to] press or insist upon an answer if one was not forthcoming,” and to “explain what you want as clearly as possible and in more or less the same way to the different groups.” “In other words,” stated the instructions, “standardize your stimuli so that reactions can be comparable.”<sup>1001</sup> The three-volume report that resulted from these intensive field studies became a standard reference for land reform projects over the next four years.<sup>1002</sup>

While academically trained sociologists and anthropologists were employed as field workers, the study nonetheless relied on local *hispanahablantes* (Spanish speakers conversant in native colloquial Spanish) who could effectively communicate with Spanish-speaking Pueblos and Hispanos to complete field work. Ernest Maes and Juan Archuleta visited the majority of the Spanish-speaking households, making initial contact

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<sup>1000</sup> Kelly, “Anthropology in the Soil Conservation Service,” 140-141; Beatty Davis, *Conservation and Culture* 19, 28. Weigle 13-18, Forrest 216 (fn).

<sup>1001</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Inventory of Materials on the Río Grande Watershed: An Evaluation of Surveys and Reports*. By Hugh G. Calkins, Regional Bulletin No. 34, Conservation Economics Series No. 2 (Albuquerque, New Mexico, 1937), 15; U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Population of the Upper Río Grande Watershed*. By Hugh G. Calkins, Regional Bulletin No. 43, Conservation Economics Series No. 16 (Albuquerque, New Mexico, 1937).

<sup>1002</sup> USDOl, Bureau of Indian Affairs, Indian Land Research Unit and USDA, SCS, Region Eight, *Tewa Basin Study* (3 vols.) (Albuquerque 1935). The SCS published the report as a three volume study. The first volume was devoted to the Indian Pueblos, the second to the “Spanish American” villages and the third to physical surveys, maps and supplemental studies of the Basin, including tax delinquency. Marta Weigle’s 1975 *Hispanic Villages of Northern New Mexico: A Reprint of Volume II the 1935 Tewa Basin Study with Supplementary Materials* (Santa Fe, NM: Lightning Tree, 1975), reprints only the second volume of the Tewa Basin Study and contains an extensive bibliography of other SCS materials.

before the full survey was conducted. Antonio Mirabal, a Taos Pueblo native who had served as Elsie Clews Parsons's informant for her work on Pueblo religion, and who would later befriend Dennis Chávez in mutual opposition to Collier, served as the Pueblo field worker.<sup>1003</sup> The analysis of the data that they acquired was nonetheless reserved for the trained academicians. Informed by the paternalistic values of broker-state advocacy that marked most New Deal programs, the SCS stated that understanding the situation in the north “evolves *neither from individual insight nor from a lifetime of experience*. It emerges *only from organized studies* of the institutional activities of people.”<sup>1004</sup> In the Cuba Valley, for example, initial fieldwork and reports were completed by Ernest Maes, but analysis and interpretation were left to social economist Lloyd H. Fisher.<sup>1005</sup>

The *Tewa Basin Study*, along with other early SCS and TC-BIA studies, exposed the decaying state of both Indian Pueblos and Hispano villages, whose populations had been venturing north for decades to work in industries from the Intermountain West to the Pacific Northwest. At its height in the 1920s, from 7,500 to 10,000 workers from 14,000 largely Hispano families the Upper Rio Grande Valley travelled along the migratory wage trail.<sup>1006</sup> By 1935, less than two thousand successfully found work outside the state.<sup>1007</sup> Historian Sarah Deutsch writes that this sudden decrease in migrant

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<sup>1003</sup> Antonio Mirabal to John Collier (copy to Dennis Chávez), May 9, 1936, folder 25, box 80, Dennis Chávez Papers. MSS 394. Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>1004</sup> Ibid, 14-15. Emphasis is mine.

<sup>1005</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Report on the Cuba Valley Regional Bulletin no. 36* (Albuquerque 1937); Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 253.

<sup>1006</sup> Deutsch, *No Separate Refuge*, 163-165.

<sup>1007</sup> Allan G. Harper, Andrew G. Cordova, and Kalvero Oberg, *Man and Resources in the Middle Río Grande Valley* (Albuquerque: University of New Mexico Press, 1943), 76-77.

work led to the collapse of the regional community in northern New Mexico and southern Colorado.<sup>1008</sup>

At San Ildefonso, fieldworkers found that the situation had improved little since the Pueblo Lands Board hearings five years earlier. Twenty-six Pueblo families, totaling 126 people, were no match for Hispanos totaling 130 families of 618 people that lived within the league, an increase of 68 residents (12%) since 1930. Fieldworkers remarked that San Ildefonso was undergoing a transition from the native blue corn, *nixtamal*, used for *atole* and *chaquegiie* (two forms of corn gruel), to yellow corn used to feed stock, suggesting also a growing dependence on flour likely purchased from one of the Española valley's merchants. Chile was the only cash crop, but any produce was vulnerable as both San Ildefonso Pueblo and the Hispano village that flourished inside its boundaries had inferior irrigation rights to the Pojoaque River and only had the rights to use its waters one day a week. The Hispano population on the Pueblo grant had also grown dependent on the Ramón Vigil Grant for grazing, compelling Frank Bond to hire Abel Sánchez, a San Ildefonso Indian, to patrol its boundaries to stop firewood harvesting and to issue grazing permits. Hispanos were also dependent on the use of agricultural equipment at the pueblo, especially a threshing machine purchased in 1933 with early New Deal funds.<sup>1009</sup>

At Nambé, the *Study* reported a wholly different situation. Although fieldworkers portrayed San Ildefonso as a native Pueblo exploited by surrounding Hispanos, they found that decades of "racial infiltration" had created a cohesive and "unusually friendly" community. They noted, "Here, more than anywhere else in the area, where the Indian

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<sup>1008</sup> Deutsch, *No Separate Refuge*, 164.

<sup>1009</sup> Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 53-54.

and Mexican have been living side by side for as long as they can remember . . . there is a definite tendency to mix.” The *Study* further remarked that Nambé Indians used Spanish more than their native Tewa and had even in their appearance become so “Latinized” that young Pueblo men attending dances in Santa Fe and Albuquerque “passed for Mexican.”<sup>1010</sup>

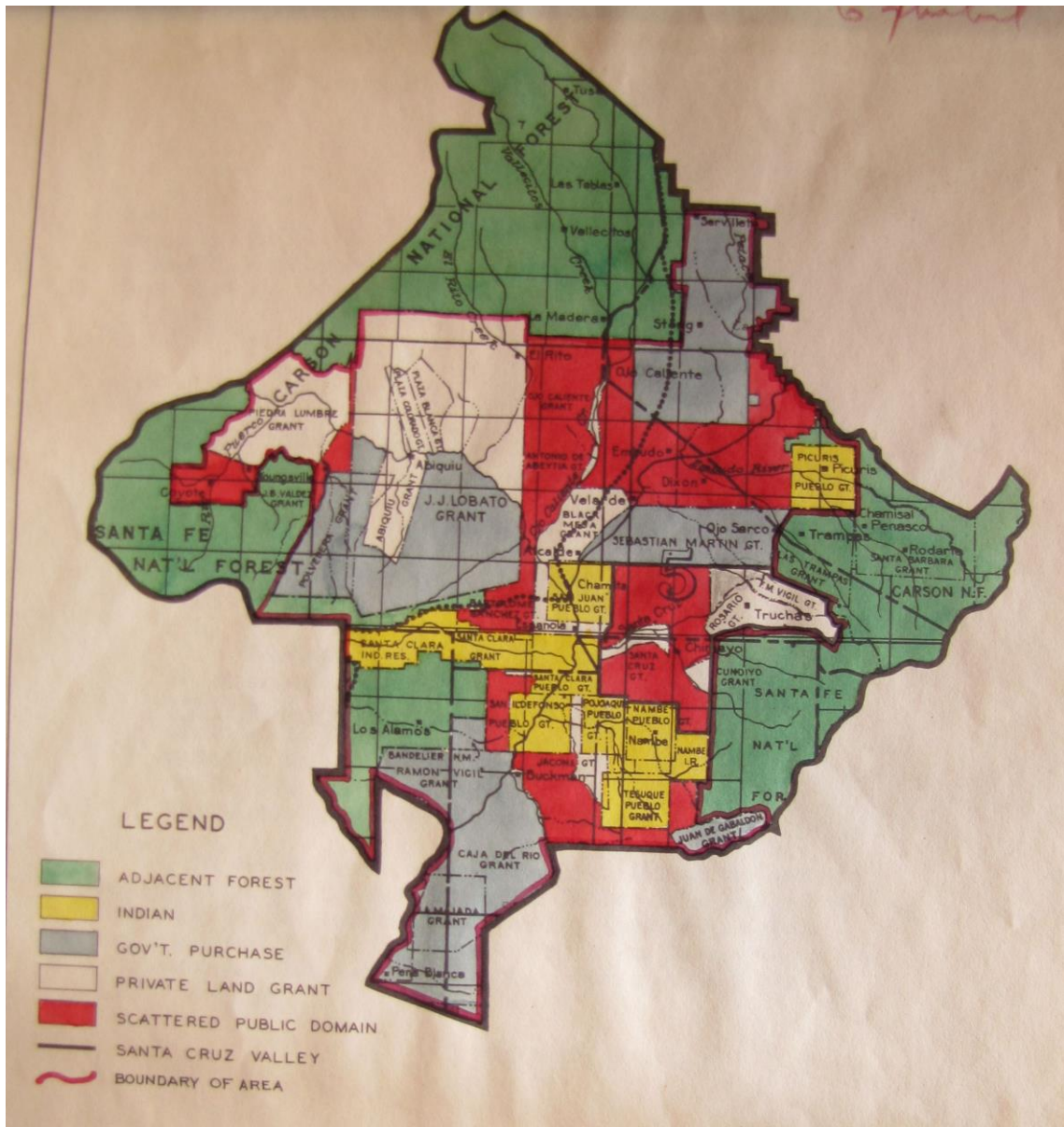
SCS studies illustrated the differences between the east and west sections of the Río Grande watershed. The western section was dominated by the *partido* system, while the eastern part was a collection of small, communally operated land holdings, averaging 3-4 acres, or 10-12 acres at their largest. Landholding in the Tewa Basin confirmed the report, even down to the micro-level. By 1935, western basin grants like the Baca Location No. 1 (which included the Valle Grande) and the Ramón Vigil Grant had gradually fallen into the hands of Frank Bond, who continued indebting the local *partidarios* with unpayable loans. Land holdings in the eastern portion of the Basin were either still communal or were broken into small parcels, such as the remnants of the Santa Cruz, Truchas, and Trampas Grants.<sup>1011</sup>

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<sup>1010</sup> Ibid, 38-39.

<sup>1011</sup> Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, ii (introduction).





**Figure 36: Tewa Basin Map, 1937.** By 1937, federal land purchases controlled most former land grant lands in the Tewa Basin. Lands colored white remained private property, which included the Francisco Montes Vigil grant; Montes Vigil was later purchased and incorporated into the Carson National Forest, as were the former land grant lands of the Las Trampas Grant. Piedra Lumbre remained in private hands. The northern half of the Juan José Lobato Grant was purchased by the federal government as well, its land incorporated into the Santa Fe National Forest. The Plaza Blanca and Plaza Colorada grants were pieced out into private ownership. The Truchas, Abiquiú, and Cundiyo grants retained their common lands, despite speculation and tax seizures. Other government purchases, including the Ramón Vigil, Caja del Río, Juan de Gabaldón and Sebastian Martín Grant were incorporated into Forest Service and later Bureau of Land Management lands. Soil Conservation Service – Region Eight, Annual Report, 1938, folder 10, box 12 SCS Records, CSWR, University Libraries, UNM, Albuquerque.

The *Study* criticized Frank Bond and Edward Sargent as the powers who caused both the economic and ecological degradation of the Basin and its people. Bond had weathered the storms of the Pueblo Lands Board era and expanded his holdings, increasing his sheep yields by toughening his practices. Amarante Serna, for example, had been a *partidario* for Bond for over thirty-five years. His agreement to increase the one hundred head of sheep he rented from Bond by twenty ewes was typical. Serna also paid three pounds of wool for every ewe rented. He met the agreement as long as each ewe weighed fifty-five pounds, but was not compensated for additional weight. Before 1916, Serna easily met this requirement and returned as many as fifteen hundred lambs in one season. After several good seasons, he had accumulated over eight hundred sheep of his own. Serna, however, could not find winter rangelands to forage his flock. Bond controlled nearly all the regional rangeland for sheep through either direct ownership, by his rental of rangelands, or by renting sheep to other *partidarios*, whose names were on grazing permits but nevertheless grazed Bond's rented sheep. Serna was forced to sell most of his flock to Bond, who rented the sheep back to Serna the next season.<sup>1012</sup>

The effect of these manipulative grazing practices was the destruction of nearly all foraging lands in the Basin. The *Study* estimated that 52.5 percent of all land, including Indian Pueblo land, was overstocked with sheep and cattle. Waterways had become clogged with silt. Agricultural fields were overused and topsoil was washed away when droughts were followed by floods. The SCS's studies found that dominant forces driving this downward spiral were the "increasing press of population on

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<sup>1012</sup> U.S. Department of Agriculture. Soil Conservation Service, Region Eight, "Sharecropping with Sheep," *Tewa Basin Study*, vol. 3 (Albuquerque 1935). See also, Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 213-218.

dwindling land resources, seasonal wage labor reduced by drought and depression, the unstable market for cash crops like chile and fruit, the extreme polarization of wealth, including the semifeudal *partido* system, and the excessive relief load throughout the basin, much of it deriving from ill-conceived loans and unsuitable agricultural methods encouraged by early New Deal entities, including land use methods from Iowa.”<sup>1013</sup>

Later assessments of the *Tewa Basin Study* have considered it a foundational work, “developing ideas and methodologies for the analysis of the link between culture and environment.”<sup>1014</sup> The study is also a marked departure from racialized reporting that attributed the socio-economic poverty of Hispanos to their mixed-race ancestry. Rather, it recognized that “problems did not result from variations in human aptitude but rather from the deterioration of resources in the area.”<sup>1015</sup> By ignoring the consanguine history of the Río Arriba, these New Deal bureaucrats swiftly refuted race-based explanations and utilized anthropology and sociology in a region long dominated by racial science and the hard sciences.<sup>1016</sup> Shevsky’s human-dependency studies led to a greater understanding

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<sup>1013</sup> Ibid. These included identifying and expanding the production of so called cash crops, often with little recognition of the limits of the local markets, the isolation of farms from regional trade centers and the misguided belief that people would abandon their own farms to purchase goods they typically produced themselves. See U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Handling of a Cash Crop (Chili)*. By Hugh G. Calkins, Regional Bulletin No. 46, Conservation Economics Series No. 19 (Albuquerque, New Mexico, 1937).

<sup>1014</sup> Beatty Davis, *Conservation and Culture*, 19.

<sup>1015</sup> Ibid, 20.

<sup>1016</sup> For more on the development of race science, see John Higham, *Stranger in the Land: Patterns of American Nativism, 1860-1925* (New York: Atheneum, 1975), 131-157. Higham credits Franz Boas’s 1911 book *The Mind of the Primitive Man* for refuting nativists’ use of anthropology to confirm race-based ideas of immigrants. Franz Boas, *The Mind of Primitive Man* (New York: Macmillan, 1911). Higham, *Stranger in the Land*, 153.

of the socioeconomic ills that affected the Tewa Basin. But it was John Collier who ensured that the SCS studies aligned with his designs for Pueblo land reform.

As Indian commissioner, Collier now had the authority to enact across the Tewa Basin land reform that had been unachievable after the Pueblo Lands Board decisions. He ensured that the SCS's work in New Mexico merged with BIA programs. In New Mexico, Collier removed Indian affairs employees whose loyalty to him was questionable, and he immediately drew criticism when he reunited the Zuni, Northern and Southern Pueblo agencies into the United Pueblo Agency. He chose Dr. Sophie Aberle, a graduate of Yale Medical School, who also had a doctorate in anatomy, to head the agency. Aberle first travelled to New Mexico in 1925 to study the sexual practices of San Juan Pueblo Indians. By 1935, she had published widely on child birth and mortality among the northern Pueblos.<sup>1017</sup>

Aberle immediately came into conflict with Pueblo agents, Pueblo advocates and traditional Pueblo leaders. Collier defended Aberle from critics, who included Taos Pueblo natives Antonio Mirabal and Antonio Luján, and his wife, Mabel Dodge Luhan, a self-proclaimed expert, who accused Aberle of not understanding “the Indian psychology.”<sup>1018</sup> In return, Aberle was loyal to the Indian commissioner and kept him abreast of Pueblo affairs in New Mexico, particularly the actions of advocacy groups working against him.

In 1934, Collier resurrected plans for a Pueblo land-acquisition program that had been developed during the second Pueblo Lands bill (see Appendix B) debate from 1931

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<sup>1017</sup> See Kathlene F. Ferris, “Sophie D. Aberle and the United Pueblos Agency, 1935-1944” (master’s thesis, University of New Mexico, 1997), 24. See also Aberle, *The Pueblo Indians of New Mexico*

<sup>1018</sup> Kelly, “John Collier and the Pueblo Lands Board Act,” 9-11.

to 1933. It identified desirable parcels of land that Pueblos had lost to non-Indians when the Pueblo Lands Board confirmed their adverse claims. The program planned to use compensation monies awarded to Pueblos by the Board to regain traditional lands.<sup>1019</sup> Purchases were attempted at Picurís in 1932, but Hispanos seemed uninterested in selling their lands. With the general failure of the Picurís land repurchase program, Commissioner of Indian Affairs Charles Rhoads even suggested that Picurís be abandoned and the population relocated to land near or on San Juan Pueblo, with whom Picurs natives had longstanding social and marital relations.<sup>1020</sup>

Under Collier, the Office of Indian Affairs developed elaborate repurchase plans with Pueblo superintendents and agents and Pueblo leaders.<sup>1021</sup> They sought out individuals who, they believed, would be willing to sell their land back to the pueblos. Pablo Mascareñas, a Hispano resident of Vadito, which sat wholly on the lands of Picurís Pueblo, proved willing to sell his lands to Picurís. Represented by former Surveyor General Manuel Sánchez, Mascareñas sold over ten acres to Picurís Pueblo in 1934 and 1935.<sup>1022</sup> He and his cousin, Juan D. Mascareñas, even had the value of their lands reassessed by the Taos County treasurer to reach a lower price that the Pueblo would be

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<sup>1019</sup> Summary: Pueblo Land Acquisition Program, folder 7, box 8, Richard H. Hanna Collection, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>1020</sup> Ebright, Hendricks and Hughes, *Four Square Leagues*, 120.

<sup>1021</sup> Pueblo Land Acquisition Program, Summary, Richard H. Hanna Collection, folder 7, box 8, Richard H. Hanna Collection, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>1022</sup> Manuel A. Sánchez to Pablo Mascareñas, May 4, 1935, folder 1, box 3, Manuel A. Sánchez Papers, NMSRCA, Santa Fe; See also Records of the Interdepartmental Rio Grande Committee, Records Relative to the Rio Grande Conservancy, 1933-1943, RG 75, Entry 797B, folder 5 of 7, box 3, folder titles "Correspondence and Reports," National Archives – Archives I, Washington, D.C..

willing to pay. By 1936, both men had moved to Wamsutter, Wyoming, in search of work.<sup>1023</sup>

The Mascareñas cousins proved to be the exception. Much to the frustration of Pueblo attorneys and agents, Hispanos generally refused to sell land back to Pueblo Indians. If they agreed to sell, many demanded sums beyond the actual value of the land. The contentious climate of the past decade undoubtedly played a part in their unwillingness to sell. But the overzealous planning of the OIA ignored the likelihood that Hispanos refused to part with the land for the same reason they bought or seized it in the first place: they needed it.<sup>1024</sup>

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<sup>1023</sup> Deeds from Pablo Mascareñas, conveying land to Pueblo of Picurís, various acreages and sums, August 3, 1934, Manuel A. Sánchez Papers, NMSRCA, Santa Fe.

<sup>1024</sup> Ibid.

TABLE No. 6.—Federal Land Purchases Since 1934

	Acreage	Purchase Price
Grand Totals	1,087,811	\$ 2,132,745
For Indian Use—Totals	452,398	883,024
Acoma Pueblo Purchases	184,642	222,723
Borrogo Grant	16,079	48,239
Isleta Pueblo Purchases	17,492	31,809
Laguna Pueblo Purchases	64,355	133,246
Bernabe Montano Grant	44,070	132,211
Antonio Sedillo Grant	86,204	150,860
Zia-Santa Ana Pueblo Purchases	39,556	169,996
For Non-Indian Use—Totals	467,290	922,442
Caja del Rio Grant	68,848	86,060
Cayamungue Grant	604	1,208
Gabaldon Grant	8,000	32,000
La Mojada Grant	26,000	28,600
J. J. Lobato Grant <sup>1</sup>	65,000	130,000
Ojo de San Jose Grant	3,986	4,983
Polvadera Grant	33,696	84,242
Rio Puerco Purchases <sup>2</sup>	153,316	362,354
Taos County Purchases	75,752	158,817
Tewa Basin Misc. Tracts	879	1,759
Ramon Vigil Grant <sup>3</sup>	31,209	32,419
For Joint Indian and Non-Indian Use	168,123	327,279
Sebastian Martin Grant <sup>4</sup>	45,000	31,950
Espiritu Santo Grant <sup>4</sup>	113,141	282,852
San Ysidro Grant <sup>4</sup>	9,982	12,477

<sup>1</sup> The southern portion.

<sup>2</sup> Acreage and price are for the total optioned area; title transfers in progress in July, 1942.

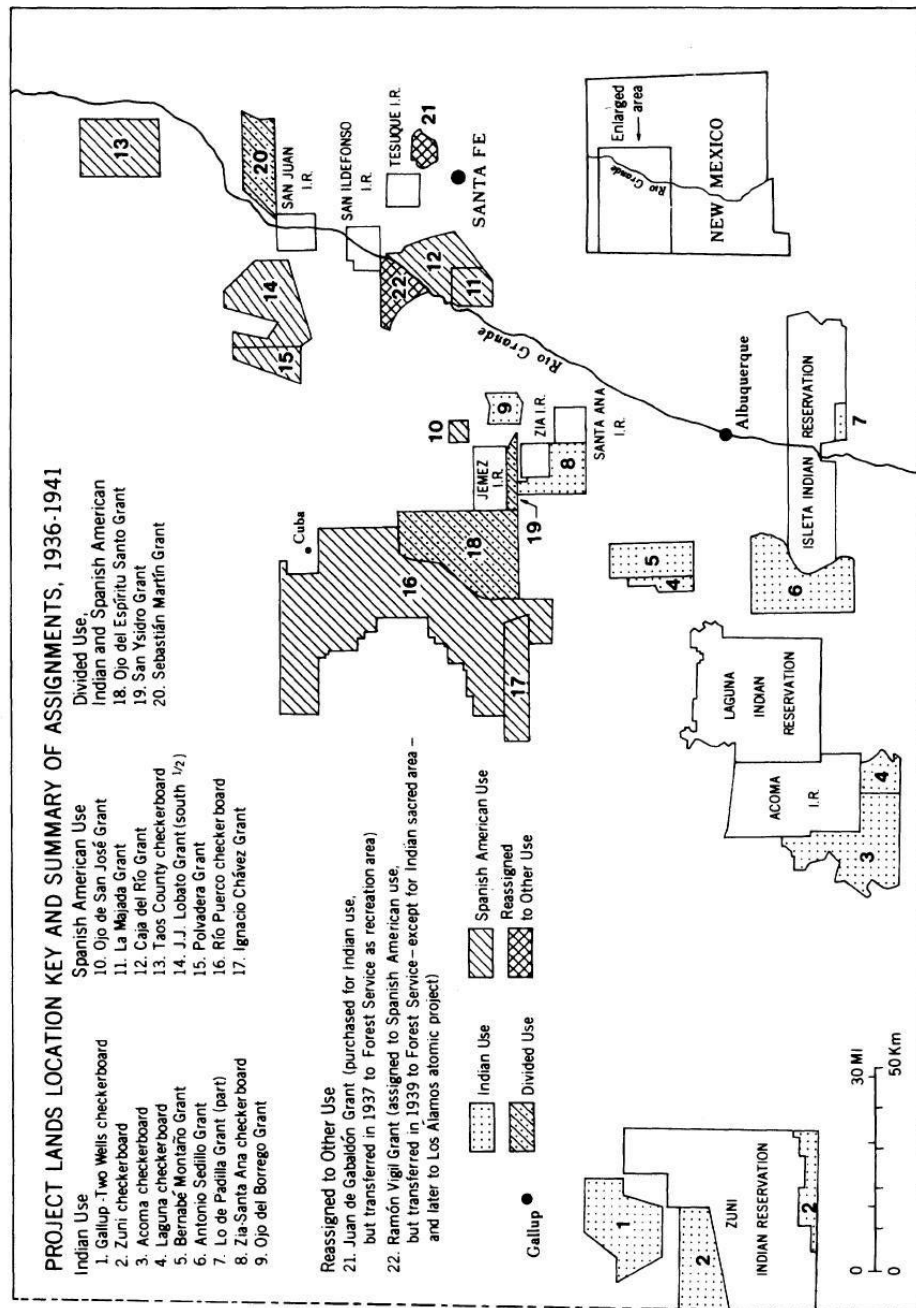
<sup>3</sup> 5,913 acres of grant are reserved as area for the San Ildefonso Pueblo.

<sup>4</sup> There is an equal division of use rights between Indian and non-Indian users.

Source: Interdepartmental Rio Grande Board.

**Figure 37: Federal Land purchases, 1934-1943.** Allan G. Harper, Andrew G. Córdova, and Kalvero Oberg, *Man and Resources in the Middle Río Grande Valley* (Albuquerque: University of New Mexico Press, 1943), 91.





**Figure 38: New Deal Project lands, 1936-1941.** The division of federal project lands by Indian and "Spanish American" use incensed Hispanics, whose population was six to ten times that of their pueblo neighbors. While Collier engineered Resettlement Administration purchases and assignments to favor Pueblos, Hispanics turned to Senator Dennis Chávez for relief. David H. Dinwoodie, "Indians, Hispanics, and Land Reform: A New Deal Struggle in New Mexico," (1986), 296.



While re-acquiring former Pueblo lands proved difficult, the Office of Indian Affairs turned to New Deal programs, particularly the Resettlement Administration, to purchase lands to replace Pueblo losses. A land-acquisition plan developed for the Tewa Basin focused on former land grant properties that, by the 1930s, had been traded several times after being lost or sold by heirs. By September of 1934, H. H. Dorman, a New York native and close personal friend of Senator Bronson Cutting, sold the 68,848-acre Caja del Rio Grant to the federal submarginal-land program. Dorman owned a house in downtown Santa Fe and was a neighbor to former Pueblo attorney Francis C. Wilson. Dorman had represented Cyrus McCormick when the wealthy Santa Fe transplant speculated in Pojoaque and Nambé Pueblo lands in 1929.<sup>1025</sup> He was also a founder of the New Mexico Progressive Party and aided Cutting in managing the *Santa Fe New Mexican*. He received \$1.25 per acre for the Caja del Río grant, which was badly overused and offered little forage land.<sup>1026</sup>

The Indian Affairs land-acquisition plan also identified as candidates the Black Mesa Grant, the Mesa Prieta Grant, and the Cañón de San Diego Grant, all of which were owned by Frank Bond or controlled through his own leasing.<sup>1027</sup> It also examined the Plaza Blanca Grant and the Plaza Colorado Grant, and the northern half of the Juan José Lobato Grant, which was owned by Colorado State Supreme Court justice William S.

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<sup>1025</sup> See “Application to Purchase Indian Interests to the Lands Herein Described,” H. H. Dorman, agent for Cyrus McCormick, to Antonio Vigil, Governor, Loreto Vigil, Agustín Vigil, Gabriel Trujillo, Council members, Nambé Pueblo, March 7, 1929, Manuel A. Sánchez Papers, NMSRCA, Santa Fe.

<sup>1026</sup> Forrest, *Preservation of the Village*, 147. For more on Dorman, see, Corrine Sze, “Harry H. Dorman House,” *Bulletin of the Historic Santa Fe Foundation*, 28:1 (November 2001), 1-21.

<sup>1027</sup> Records of the Interdepartmental Rio Grande Committee, Records Relative to the Rio Grande Conservancy, 1933-1943, RG 75, Entry 797B, box 3, “Land Acquisition – Tewa Basin,” Washington D.C., National Archives – Archives I.

Jackson. The Town of Abiquiú Grant also attracted federal interest. Though he did not realize his dream of developing irrigation on the Lobato, Jackson had witnessed a decade of decreasing rainfall and was happy to sell the land to the federal government. The Town of Abiquiú Grant, on the other hand, rejected entreaties to sell its lands.<sup>1028</sup> Historian Doris Avery argues that even though the Abiqueños' *genízaro* past had helped them preserve their lands, they continued to adopt a Hispano identity.<sup>1029</sup> In 1928, *herederos* voted to determine their community as either an Indian Pueblo or a Hispanic village. Lesley Poling Kempes opines that witnessing how "their Native American neighbors were treated so poorly by the government" may have influenced their decision to "become a village[,] not an official Indian pueblo." This decision resulted in a tax burden for the residents of Abiquiú.<sup>1030</sup>

Individuals paid their taxes on private land, but one individual was designated to collect the taxes on the communal lands and turn the revenue into the state. At some time during the mid-1930s, the state of New Mexico seized most of the Abiquiú grant for delinquent taxes. Avery writes: "Evidently, J. M. C. Chávez, the designated collector, had been pocketing the taxes. In response, the village pulled together to reinvent themselves yet again to form the Abiquiú Cooperative Livestock Association and gained the aid of Senator Dennis Chávez to stall the sale of the land until they could raise

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<sup>1028</sup> Ebright, "Juan José Lobato Grant," 7-9; "Catron and Renehan sued by Lobato Heirs," *Santa Fe New Mexican* (undated clipping, likely 1908).

<sup>1029</sup> Avery, "Into the Den of Evils: The Genízaros of Colonial New Mexico," 80. See also, Gilberto Benito Córdova, "Missionization and Hispanicization of Santo Thomas Apostol de Abiquiú, 1750-1770," (Ph.D dissertation, University of New Mexico, 1979).

<sup>1030</sup> Ebright and Hendricks, *Witches of Abiquiú*, 255; Poling-Kempes, *Valley of Shining Stone*, 143-144.

enough money to buy it back.”<sup>1031</sup> Apart from Abiquiú’s reluctance to sell its lands, the Resettlement Administration was largely successful in convincing land grant owners to sell their land to the federal government. Abiquiú was a community grant that retained communal ownership of the grant, but most grant lands that the federal government targeted for purchase were private grants, many of which operated as quasi-community grants.<sup>1032</sup>

Advised by the Office of Indian Affairs, the Resettlement Administration purchased the 50,529-acre Sebastián Martín Grant from a collection of heirs, and Anglos who had purchased tracts in early 1934. Santa Fe Indian School superintendent Chester E. Faris wrote field agent Mark W. Radcliffe in September 1934 to applaud plans to clear the eastern portion of the grant to create access roads and ease Indian use. Like many of his Indian affairs counterparts, Faris ignored traditional use by the communities of Las Trampas and Truchas and was surprised when Hispano communities began to protest the extensive purchase of lands for Indian projects.<sup>1033</sup>

The layering of federal programs continued to hinder progress. Four years into the New Deal, agencies continued to duplicate projects and administrators complained of overlapping jurisdictions. In 1937, Secretary of the Interior Harold I. Ickes and Secretary

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<sup>1031</sup> Avery, “Into the Den of Evils: The Genízaros of Colonial New Mexico”, 87.

<sup>1032</sup> The Soil Conservation Service, in particular, pursued the purchase of former Abiquiú land grant lands from Pablo Gonzales, who encouraged the SCS to look into purchasing the lands of the Plaza Colorada and Plaza Blanca grants as well. See Harlan S. Bellman, D. Y. Harris, and C. C. McClure to L. J. Horn, October 23, 1939, folder 3, box 3, Records of the Interdepartmental Rio Grande Board concerning the Rio Grande watershed, 1937-42, Record Group 75, Entry 104, Records of the Northern Pueblo Agency, National Archives - Rocky Mountain Region, Denver, CO.

<sup>1033</sup> C.E. Faris to Mark W. Radcliffe, September 24, 1934, RG 75, Records Relating to Conservation, Land Acquisition, and Child Welfare, 1922 – 1957, folder 2, box 2, Indian Affairs Land Acquisition, Records Group 75, Entry 1417, National Archives – Archives I, Washington D.C..

of Agriculture Henry A. Wallace created the Interdepartmental Rio Grande Committee. It included representatives of every major federal agency working in the greater Río Grande watershed, including the Indian Service, the Division of Grazing, the General Land Office of the Interior Department, and the Forest Service, Soil Conservation Service, and Farm Security Administration of the Department of Agriculture. Chaired by Walter V. Woehlke of the Indian Service, other representatives included experts familiar with the problems that plague the watershed, including M. M. Kelso from the Farm Security Administration and Eshref Shevky from the Soil Conservation Service.

The Committee was successful insofar as it served as a clearinghouse for data on the population and the natural resources of the area. The ecological deterioration of the watershed proved that only limited commercial agriculture and a relatively small livestock industry was possible without causing irreparable harm to the environment. The Committee recommended the coordination of federal activities in the watershed and the reform of land use practices among the native populations, primarily by the creation of an Interdepartmental Rio Grande Board that would permanently coordinate federal activities.<sup>1034</sup> From its inception, the real charge of the Committee was to formulate a plan where “the relief load now carried by the federal Government might be abolished or materially reduced.”<sup>1035</sup>

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<sup>1034</sup> U.S. Department of Agriculture. U.S. Department of the Interior. Interdepartmental Rio Grande Committee. *Report and Recommendations* (Washington D.C. 1937),17.

<sup>1035</sup> Summary Report of the Interdepartmental Rio Grande Committee presented to Senator Dennis Chávez and Senator Carl Hatch, Records of the Interdepartmental Rio Grande Committee, Records Relative to the Rio Grande Conservancy, 1933-1943, RG 75, Entry 797B, folder 6 of 7, box 3, folder titles “Correspondence and Reports, ” National Archives – Archives I, Washington, D.C..

While the Board looked for ways to end federal obligations to Pueblos and Hispanos, Collier exerted extraordinary influence over the early activities of federal programs in the Tewa Basin. While Collier and the Office of Indian Affairs identified lands and planned agricultural education and demonstration projects for New Mexico's Pueblos, Hispano land grant heirs began to protest Collier's policies and actions. Though residents of Velarde and Chama had no proprietary rights to the Sebastián Martín and Juan José Lobato grants, they maintained usufruct practices and depended on the grants for grazing, firewood and for traditional community uses, such as food and herb gathering, to augment their agricultural yields or for use in their *remedios* (folk remedies).<sup>1036</sup> All the while, Collier's influence secured land rights for Pueblo and Navajo Indians, often at the expense of Hispano villagers.<sup>1037</sup>

While Collier maneuvered to shape New Deal reform, he met steady opposition from Dennis Chávez, first as a congressman and later as a senator. Chávez and Collier were already familiar with one another before they were strengthened or empowered by the growing federal programs of the New Deal. Collier had been well known in New Mexico politics for over a decade. Although regarded as an agitator and muckraker, Collier made a formidable bureaucrat, even a dangerous power to some enemies. By leading the national protest against the Bursum Bill, he not only torpedoed the political career of Holm Bursum, but also exposed the corruption of former senator and then Secretary of the Interior Albert B. Fall. During the hearings of the Pueblo Lands Board, Collier revealed the fraudulence of former territorial governor Herbert J. Hagerman. Collier fed disparaging information to the Senate Indian Affairs Committee, where

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<sup>1036</sup> Weigle, *Hispanic Villages of Northern New Mexico (1935 Tewa Basin Study)*, 76, 82.

<sup>1037</sup> Dinwoodie, "Indians, Hispanos, and Land Reform," 301-305.

Hagerman admitted that he had acted unilaterally against the recommendations of the other board members, particularly in relation to water rights, and had sold oil leases in Navajo Country with little or no consultation with the tribe.<sup>1038</sup>

The uncompromising Collier was willing to alienate even potential allies, accusing all of smallmindedness at best, or even worse, duplicity or corruption.<sup>1039</sup> And Collier was unintimidated by powerful politicians, despite being summoned before congressional committees where he would have to meet face to face with those politicians whom he criticized. For Chávez, Collier, like Cutting, had helped to dislodge the Old Guard Republican dominance of New Mexico politics and created opportunities for young Democrats like himself. Indeed Collier assisted the undoing of Albert B. Fall, Holm Bursum, and Herbert J. Hagerman, three of the strongest leaders whose careers spanned late territorial and early statehood period of New Mexico.

But however dangerous Collier was, Chávez was undaunted, even fearless. As a congressman, Chávez had sponsored failed legislation intended to resolve the Pueblo-lands-compensation issue. He saw this effort as an appropriate and important political act and fought to increase the awards of both Pueblos and Hispanos. Collier, on the other hand, believed that Chávez's sponsorship was only a symbolic gesture, a mere concession to keep New Mexico's political waters calm and amenable to reform. In 1931 Indian Affairs Committee hearings, Chávez bickered with Pueblo attorney Richard H. Hanna.<sup>1040</sup> Hanna, an old Democratic political rival, considered Chávez a dirty

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<sup>1038</sup> Kelly "History of the Pueblo Lands Board, 1924-1933," 117-118.

<sup>1039</sup> Kelly, *The Assault on Assimilation*, 193-195.

<sup>1040</sup> Testimony of Richard Hanna, May 2, 1931, U.S. Senate, Subcommittee on Indian Affairs, *Survey of Conditions of the Indians in the United States: Hearing Before the Subcommittee on Indian Affairs*, 71<sup>st</sup> Congress, 2<sup>nd</sup> Session, S. Res. 79, 308 (70<sup>th</sup> Cong.),

“Mexican” politician and tried to embarrass him by contesting nearly every statement Chávez made during the hearings. Though both Chávez and Collier recognized that they typically stood on opposite sides of any issue concerning Pueblos and Hispanos, the two maintained a cordial relationship through 1934. This would change when Chávez took Cutting’s seat upon the popular progressive senator's death the in 1935, and when he won the position outright in 1936.

Chávez eventually attacked the center of Collier’s reform of Indian affairs in the United States, the Indian Reorganization Act. Proposed by Montana Senator Burton K. Wheeler and Nebraska Congressman Edgar Howard in 1934, the legislation restored aspects of Indian self government, ended allotment policies enacted under the Dawes Act that had destroyed Indian title for nearly fifty years, and created a supposedly impartial Indian court system where natives could have a voice in tribal law and order.<sup>1041</sup> The old-guard in Indian affairs, including many Christian, assimilationist Native Americans employed by the Bureau of Indian Affairs, decried the regression to traditional tribal practices and rallied to defeat the bill.

The centerpiece of Collier’s plan to restore tribal authority were tribal constitutions, which allowed tribes to essentially become federal municipalities under Chief Justice John Marshall’s “domestic dependent nation” doctrine of the 1830s. To Collier’s surprise, most tribes opted not to adopt tribal constitutions, which would have extended democratic electoral government over customary tribal governments and could

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and S. Res. 268 and 416 (71<sup>st</sup> Cong.), Pueblo Lands Board, Part 20, May 2, 8-9, 1931, (Washington, D.C.: Government Printing Office, 1931), 10707.

<sup>1041</sup> Peter Iverson, *“We Are Still Here:” American Indians in the Twentieth Century* (Wheeling, Ill.: Harlan Davidson, 1998), 89-90. See also, Parman, *Indians and the American West in the Twentieth Century*, 94-103, and Rusco, *A Fateful Time*, 24-25.

have subverted traditional governance.<sup>1042</sup> His opponents deemed his plans socialistic, especially the transformation of individualized land tenure to communal decades after it left collective tribal ownership.

As opposition to Collier's Pueblo land reform effort mounted, especially from non-Indians across the region, he ingeniously expanded the scope of federal programs in the upper Rio Grande and enlarged his influence on the programs under the Interdepartmental Rio Grande Committee. In 1937, the IRGC attempted to contain the tension between Hispanos and Indians in areas like the Tewa Basin by identifying a new common enemy, commercial stockmen. The next year the Committee, now made permanent and called the Interdepartmental Rio Grande Board, identified Chávez as the politician most swayed by commercial operators.<sup>1043</sup> This was hardly surprising, given that Walter V. Woehlke and Allan G. Harper, who were Collier's reformer allies and colleagues in the Indian Service, headed the Board.

Despite this depiction of Chávez as a politician who would only sway to commercial grazing demands, small farmers still approached him as the only person who could thwart Collier's reforms. Hispanos, through protests and petitions, fought to shape land reform to maintain their economic independence, rather than accepting a permanent place on relief rolls. As a congressman, Chávez was contacted by representatives of First Savings Bank and Trust, who asked that he use his influence to force the approval of the

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<sup>1042</sup> Iverson, "We Are Still Here," 92-93; Parman, *Indians and the American West in the Twentieth Century*, 102-103.

<sup>1043</sup> Dinwoodie, "Indians, Hispanos, and Land Reform," 309-311, 318-320. Chávez was embroiled in many New Deal controversies, including accusations that he intended to use the WPA in state politics. See, Jason Scott Smith, *Building New Deal Liberalism: The Political Economy of Public Works, 1933-1956* (New York: Cambridge University Press, 2006), chap.6, 160-189, 163.



sale of the Caja del Rio, La Majada and Ramón Vigil Grants to the Indian Service of the federal government.<sup>1044</sup> The majority of correspondence, however, came from persons opposing the massive land tenure shift taking place with federal dollars. First National Bank president Paul A. F. Walter contacted Senator Chávez to express his apprehensions over the loss of tax income through the purchase of private lands by the government and their transfer to Indian use and federal ownership.<sup>1045</sup>

Henry Quintana submitted petitions signed by residents of Santa Cruz, Santa Clara (Pueblo), San Ildefonso (Pueblo), and the mixed communities of Pojoaque, Nambe and Tesuque and asking for “fair treatment” from the Indian Department.<sup>1046</sup> Río Arriba County residents filed a similar petition protesting the purchase of the Sebastián Martín Grant for the exclusive use of Pueblo Indians in March 1936. Led by Lebanese merchant M. J. Merhege, the residents cited their customary use of and dependence on the Martín Grant and preferred that it be turned into national forest land or open government domain.<sup>1047</sup> Two months later, Santa Fe County clerk Frank Ortiz forwarded to Chávez

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<sup>1044</sup> First Savings Bank and Trust to Rep. Dennis Chávez, in regards to the sale of the Caja del Rio, La Majada and Ramon Vigil Grants to the Indian Service of the Federal Government, November 14, 1934, folder 6, box 80, Dennis Chávez Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque. (hereafter Dennis Chávez Papers).

<sup>1045</sup> P.A.F. Walter, First National Bank, to Senator Chávez, August 20, 1935, folder 13, box 80, Chávez Papers.

<sup>1046</sup> Henry Quintana to Hon Dennis Chávez and Carl A. Hatch, December 24, 1935, folder 13, box 80, Chávez Papers.

<sup>1047</sup> Petition addressed to Senator Dennis Chávez from Río Arriba County residents protesting the purchase of the Sebastian Martin Grant for the exclusive use of Pueblo Indians, March 1936, folder 13, box 80, Chávez Papers.

the complaints of Chupadero residents that Tesuque Pueblo was inflating land prices by paying top dollar for irrigable land, which would gradually drive up property taxes.<sup>1048</sup>

In May of 1937, Taos County Democratic Party chairman J. E. Borrego wrote Chávez to protest Indian Affairs projects in Taos County, claiming mistreatment of Hispanos by Indian Affairs field agents.<sup>1049</sup> Four years later, as New Deal land reform projects waned across New Mexico, Chávez still engaged his office in defending Hispano land interests. He emerged as the champion for the land rights cause in Costilla and Amalia. Facing the potential sale of the Sangre de Cristo Grant, land grant heirs fought to retain legal rights to their private tracts. The *ejido* had long been lost by land grant, but was still used for fuelwood by heirs. Losing legal rights to their private tracts would have made them even more vulnerable to displacement.<sup>1050</sup>

Former Democratic National Committee chairman and General Motors chairman John J. Raskob purchased over one-hundred thousand acres, including the Sangre de Cristo Grant, and established Raskob Acres and the Costilla Land Development Company. Some believed that Raskob was emulating Bronson Cutting and wanted to make a political run for the U.S. Senate. When Raskob became delinquent in tax payments, his business partner, Thomas D. Campbell, interceded. Campbell was one of the largest land owners in the West, owning huge tracts in Montana and North Dakota. He had earned the moniker, “the wheat king,” for his work under President Herbert Hoover and for the Soviet Union, advising them on massive wheat production. Campbell

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<sup>1048</sup> Frank V. Ortiz to Senator Dennis Chávez, May 26, 1936, folder 13, box 80, Chávez Papers.

<sup>1049</sup> Taos County Democratic Chairman J.E. Borrego to Senator Dennis Chávez, March 10, 1937, folder 16, box 81, Chávez Papers.

<sup>1050</sup> Forrest, *Preservation of the Village*, 168.

envisioned extending his wheat empire into the Sangre de Cristos and convinced the New Mexico State Tax Commission to allow him to pay Raskob's delinquent taxes in anticipation of his purchase.<sup>1051</sup>

When Costilla and Amalia heirs protested to Chávez, his office interceded and, with Governor John Miles, hammered out an agreement whereby the Farm Security Administration would loan money to buy a portion (less than 10,000 acres) of the 100,000-acre tract from Campbell, who would retain the balance. But the May 1941 agreement was negated when the FSA attorneys brought by the Interdepartmental Rio Grande Board advised against the loan to the Sangre de Cristo heirs.

Ignoring their decision, Chávez aggressively pursued the renegotiation of an agreement. In August 1941, he vowed to use "political force if necessary to bring about a just settlement."<sup>1052</sup> He and the Costilla and Amalia heirs charged that the State Tax Commission was a pawn in a subterfuge that allowed Raskob to retain his interest in the grant when Campbell, his business partner, bought the grant with barely a public notice and no public sale.<sup>1053</sup> Campbell and Raskob had successfully used a similar tactic five years earlier, when Campbell bought the tax-delinquent 216,000-acre Sevilleta de La Joya Land Grant near Socorro from Raskob. Their 1936 transaction was not brought to

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<sup>1051</sup> Drew Pearson and Robert S. Allen, "Settlement Is Reached in Costilla Land Dispute," in "Washington Daily Merry-Go-Round," *Washington Post*, October 6, 1941, p.5

<sup>1052</sup> "Chávez to Pursue Land Grant Fight – Will Use Political Force if Necessary," *Albuquerque Journal*, August 31, 1941, p.2.

<sup>1053</sup> "Campbell Has Grant Option," *Albuquerque Tribune*, September 4, 1941, p.5.

light until Campbell purchased Raskob's Raskob Acres, also through tax-delinquency, in 1941.<sup>1054</sup>

Chávez lambasted the State Tax Commission for allowing what amounted to a direct sale and not forcing the land to go up for public auction. Sangre de Cristo heirs pressed for the FSA loan to no avail. The State Tax Commission held firm and prohibited the FSA from interceding. Chávez took to the newspapers, criticized the tax commission for following the letter of the law, but losing its "sense of right and wrong in the process."<sup>1055</sup> The tax commission responded by meeting with the Interdepartmental Rio Grande Board to negotiate the purchase, which fell through when the FSA refused to get involved in what was becoming an acerbic political dispute played out in the papers.<sup>1056</sup>

In an address before the state legislature, Senator Chávez called the state tax commissioners "hard hearted" and stated that they "sold out" Sangre de Cristo heirs. He attacked Miles for abandoning a plan set out by FSA representatives Vance Rogers, Ralph Will, and Alfred Hurt, all of whom also served on the IRGB. Pressured by Chávez and public outcry that he had engineered in the press, Governor Miles held meetings with state tax commissioners and Campbell. When Miles doubted whether the state could back out of the sale, Chávez encouraged the Costilla and Amalia heirs to pursue a lawsuit, and even sent his brother-in-law, Attorney Gilberto Espinosa, to meet with

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<sup>1054</sup> "Campbell Takes Title to La Joya Grant," *Albuquerque Journal*, August 31, 1941, p.2.

<sup>1055</sup> "Tax Board says Chávez Inaccurate – Cites Record in Land Grant Sale" *Albuquerque Journal*, October 13, 1941, p.1.

<sup>1056</sup> Alfred M. Hurt to Senator Dennis Chávez, April 15, 1941, folder 5, box 3, Interdepartmental Rio Grande Board – Project Subject Files, 1937-1942, Record Group 75, Entry 105, National Archives - Rocky Mountain Region, Denver, CO.

heirs.<sup>1057</sup> Campbell eventually relented, recognizing the right of heirs to their private tracts, but his recognition in no way bound later owners to follow suit.<sup>1058</sup>

Senator Chávez came to serve not only Hispanos whom he represented as a senator; he also offered aid to disfranchised Indians excluded from Pueblo governance backed by Collier. Though Collier went to great lengths to portray Pueblos as remarkably peaceful, he was soon confronted with the acrimonious factionalism in many, if not most, Tewa Basin Indian pueblos. By the 1930s, Santa Clara<sup>1059</sup> and San Ildefonso<sup>1060</sup> were both experiencing their fiftieth year of serious division. Factions fought to maintain control of the revived Pojoaque Pueblo in 1929.<sup>1061</sup> Nambé, which likely experienced the most intermarriage with Hispanos, was in crisis in the late nineteenth and early twentieth century, when governors routinely sold off Pueblo lands. Rooted in splits between clans or moieties and exacerbated after the influence of Indian Schools in Pueblo life, conservative-progressive camp factionalism continued to undermine Collier's efforts at reform.

Though he was arguably not a primordialist, as many of his reform-minded colleagues were, Collier still routinely sided with more conservative factions and worked with tradition-minded Pueblo leaders in advocacy and reform. He would even go so far as to malign Pueblo leaders whom he saw as too acculturated. Most famous of his breaks

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<sup>1057</sup> "Miles Questions Power to Rescind Costilla Pact - Chávez Asserts FSA Submitted Concrete Plan - Cites Conference - Group Meets Here to Consider Legal Action and Case," *Albuquerque Journal*, August 29, 1941, p.1.

<sup>1058</sup> Forrest, *Preservation of the Village*, 166-169.

<sup>1059</sup> Norcini, "The Political Process of Factionalism and Self-Governance at Santa Clara Pueblo, New Mexico," 550, 557; see also Arnon and Hill, "Santa Clara Pueblo" 298; and Hall, "Land Litigation and the Idea of New Mexico Progress," 54.

<sup>1060</sup> Whitman, "The San Ildefonso of New Mexico," 398; Edelman, "San Ildefonso Pueblo," 309-310.

<sup>1061</sup> Ellis, "Pojoaque Pueblo," 11.

were those with Diego Abeita of Isleta and Antonio Mirabal and Antonio (Tony) Luján of Taos. In May 1936, Mirabal criticized Collier in an open letter, in which he complained of Sophie Aberle's and Collier's administration of federal funds. Mirabal also sharply protested the practice of Indian Service employees serving as delegates to the All Indian Pueblo Council.<sup>1062</sup> Factions in Santa Clara and San Ildefonso presented a challenge to Collier's plans to reform Indian governance and land tenure. In 1936 Progressive factions at Santa Clara, San Ildefonso, Taos, and Cochiti sought out Chávez to intercede as they were increasingly marginalized by an Indian Service that valued native tradition over modern innovation.

A year earlier, in 1935, Santa Clara became the first Indian Pueblo to adopt a tribal constitution under the Indian Reorganization Act. Collier believed that an IRA constitution would cure the Pueblo of the factionalism that plagued it for decades. The tribal constitution did open up tribal governance Pueblo women for the first time.<sup>1063</sup> The progressive faction of Santa Clara, led by José and Santos Naranjo, and Andrés and Vidal Gutiérrez, nonetheless fed Chávez information to undermine Collier's IRA reforms.<sup>1064</sup> Chávez also fed newspapers information on the controversial sale of the Ramón Vigil Grant to San Ildefonso from Pueblo Land Board compensation monies, a sale Collier nixed in the belief that he could leverage Resettlement Administration funds to purchase

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<sup>1062</sup> Antonio Mirabal to John Collier, May 9, 1936, folder 10, box 80, Chávez Papers

<sup>1063</sup> Norcini, "The Political Process of Factionalism and Self-Governance at Santa Clara Pueblo, New Mexico," 572-574. For more on the participation of Santa Clara Pueblo women in tribal governance, see Gloria Valencia-Weber, "*Santa Clara Pueblo v. Martinez*: Twenty-five Years of Disparate Cultural Visions: An Essay Introducing the Case for Re-argument Before the American Indian Nations Supreme Court," *Kansas Journal of Law & Public Policy* 14 (fall 2004), 49-66.

<sup>1064</sup> See Vidal Gutiérrez to Dennis Chávez, January 1937, folders 16 and 17, box 81, Chávez Papers.

the grant. Collier's intercession reduced the lands granted to San Ildefonso to the 6,000-acre Sacred Area of the grant, and San Ildefonso natives asked Chávez to investigate why had Collier blocked the outright purchase of the entire 26,000-acre grant.<sup>1065</sup>

Chávez's advocacy on behalf of pueblo progressives benefitted him in many ways. For one, proved that he was not, in fact, anti-Indian, as he was commonly portrayed in the press. And Indians who approached Chávez for intervention proved that Collier's vision of reform was not accepted by all of the Pueblos. The senator was able to slow or even to stop the progress of Collier's Indian New Deal. This was especially important in projects and programs that affected the non-Indian voting public, which sometimes benefited but more often suffered from Pueblo and Navajo land projects, particularly those withdrawing lands from the public domain. These non-Indian Hispano constituents in northern New Mexico were a valuable part of the Chávez political machine. They were people whom Cutting consistently had won over, even when he was challenged by Hispano candidates.<sup>1066</sup>

Collier immediately used his federal office to enact reform to benefit Indian communities in New Mexico. He used the Resettlement Administration to purchase lands on behalf of Pueblos, achieving what he could not in the Pueblo Lands Board era. He could not redeem the lands Pueblos lost through invasion and sale, but he could extend Pueblos's land base with federal dollars, acting as a true guardian and virtuous fiduciary of Indian lands while simultaneously extending their autonomy over their affairs through the Indian Reorganization Act. Collier was critical to identifying and

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<sup>1065</sup> Indian Affairs Land Acquisition, Legal Opinion Files of Theodore H. Haas, Chief Counsel, March 31, 1939, box 2, Record Group 75, Entry 652B, National Archives – Archives I, Washington D.C..

<sup>1066</sup> Dinwoodie, "Indians, Hispanos, and Land Reform," 301-305.

directing the purchase of lands, many of them former land grants lost through speculation or tax seizure.<sup>1067</sup>

Collier not only flooded the Indian Office with allies, but worked behind the scenes to place his friends in important positions in New Deal projects across the Basin. Both Calkins and Shevky were Collier's longtime friends before they ran human-dependency surveys, which Collier used to substantiate the need for funding. Pueblo lawyers Nathaniel Margold and William Brophy became field workers and troubleshooters before taking important federal positions. Margold went onto the Solicitors Office and Brophy into the Bureau of Indian Affairs, where he would succeed Collier as commissioner in 1945.

Many of Collier's associates were longtime reformers. *Sunset* magazine editor Walter V. Woehlke was among them. Writing in 1921, Woehlke disparaged the Hispano population as a "swarthy island in a star-spangled sea" and admonished the "so-called 'native' or 'Spanish-American' population" for "clinging to language, customs, and traditions to the despair of the Americanization movement."<sup>1068</sup> Woehlke became the director of the Interdepartmental Río Grande Committee and Interdepartmental Río Grande Board. Allan G. Harper, who succeeded Collier as head of the American Indian Defense Association and also headed the Indian Rights Association of Philadelphia, worked as a troubleshooter for Collier in 1936. From 1937-1939, he headed the Soil Conservation Service's TC-BIA. Through Harper and the TC-BIA, Collier was able to

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<sup>1067</sup> Collier to Chávez, 11 March 1936, folder 13, box 80, Chávez Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

<sup>1068</sup> Walter V. Woehlke, "The New Day in New Mexico: Race Prejudice and Boss Rule are Yielding to Progress in this Ancient Commonwealth" *Sunset Magazine* June 1921, 21-24, 54-56.



control the Soil Conservation Service by allowing or blocking its access to Indian New Deal labor, including native CCC enrollees. Eventually, Harper took the helm of the Interdepartmental Rio Grande Board and, from 1939-1941, purged it of critics of Collier's Indian policies.<sup>1069</sup>

In July 1937, amid the possible repeal of the Indian Reorganization Act, Senator Chávez delivered his speech, "Lo, the Poor Indian," on CBS radio. He criticized Collier for imposing reform rather than self-governance, took aim at stock reduction and characterized Indian Bureau employees as "professional uplifters" and "white experts," who ignored Indian perspectives and excluded natives from their own salvation. Finally, he said the Indian was "handicapped by the Bureau."<sup>1070</sup> Collier hardly took this assault lying down: he called Indians the "victims of Senator Chávez."<sup>1071</sup>

When Chávez successfully dislodged federal programs from Collier's control and influenced federal support of non-Indian projects, Collier discredited their work. In 1939, UPA superintendent Sophie Aberle submitted to Collier a confidential report evaluating the Soil Conservation Service's administration of Pueblo Lands from 1935-1939 and criticizing the service for spending too much on administration and too little on actual work.<sup>1072</sup> In 1941, Collier opposed the \$12,000,000 construction of the White Rock Canyon Dam, which was proposed by John J. Dempsey, undersecretary of the

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<sup>1069</sup> Forrest, *Preservation of the Village*, 138, 155.

<sup>1070</sup> "Lo, the Poor Indian" speech by Senator Dennis Chávez on CBS radio, 1 July 1937, Dennis Chávez, January 1937, folders 16 and 17, box 81, Chávez Papers.

<sup>1071</sup> "50,000 Indians ask Removal of Sen. Chávez," *Santa Fe New Mexican*, 18 July 1937, *ibid.*

<sup>1072</sup> Sophie Aberle, "Confidential Report to Collier - An Evaluation of the Soil Conservation Service Administration of Pueblo Lands, 1935-1939" (1939), folder 23, box 3, Sophie Aberle Papers, Center for Southwest Research, University Libraries, UNM, Albuquerque.

interior and former New Mexico congressman. Dempsey claimed the dam would generate hydro-electric power and aid flood control and water conservation in the Española Valley. The dam, countered Collier, “will obliterate an ancient and deep rooted civilization” and drive “twelve hundred pueblos Indians and twenty-five hundred Spanish Americans from their land.”<sup>1073</sup>

Despite the lengths to which Collier and the BIA sought to redirect the enmity of Pueblos and Hispanos, two decades of relentless battles over land use perpetuated hostile sentiment. In 1941 Andrew Córdova, a field worker with the Bureau of Agricultural Economics working in the Taos County Project, recorded the ongoing protest of the expansion of tribal lands. Referencing some of the few claims that were overturned by the Pueblo Lands Board, residents of Chamisal wanted the land “that Picurís took from them a dozen years earlier.” Hispanos in Arroyo Hondo, Colonias, and Los Córdovas, near Taos implored the federal government to block the transfer lands of the former Antonio Martínez Land Grant to Taos Pueblo.<sup>1074</sup>

Hispanos not only fought projects designated for the Pueblos. They also rejected federal programs aimed to modernize their traditional irrigation systems. In the face of federal innovation, Hispano communities refused to abandon the age-old technology of

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<sup>1073</sup> “White Rock Dam Opposed,” *Albuquerque Tribune*, 15 October 1941. A 17 October 1941 *Albuquerque Journal* editorial chastised Collier for his reactionary opposition: “The commissioner should ascertain the facts, or at least withhold fire until he learns what they are.”

<sup>1074</sup> J. T. Reid, *It Happened in Taos* (Albuquerque: University of New Mexico Press, 1946), 57. Córdova also investigated the effect of federal land purchases on the New Mexico’s tax income. See Andrew R. Cordova, “Effects of Government Land Purchases on the Tax Structure of Three New Mexico Counties,” *New Mexico Business Review* 8 (January 1939), 3-10. See also U.S. Department of Agriculture. Soil Conservation Service, Region Eight. *Federal Relief Expenditures for Labor in Three Sub-areas of the Upper Río Grande Watershed during 1935-1936*. By Hugh G. Calkins, Regional Bulletin No. 41, Conservation Economics Series No. 14 (Albuquerque, New Mexico, 1937), 3.

their *acequia* systems. In the summer of 1939, FSA plans for a waters facilities program in Córdova and Chimayó were thwarted when *parciantes* on the community acequias became suspicious of the program and blocked or filibustered votes to approve the program. When difficulties arose, the Interdepartmental Rio Grande Board and the FSA sent Hispano field representatives to meet with the *parciantes* and quell their fears. Under instructions, Lawrence K. Sandoval, Ernest Maes and Américo Romero attempted to meet with only the *comisión*, the elected board that governed Córdova's acequias.<sup>1075</sup>

Parciantes refused to allow their opinions to be ignored, and Sandoval, Maes and Romero spent weeks meeting with *parciantes* to discuss proposals that included widening ditches to increase flow and capacity and create storage facilities for seasonal surpluses. The practice of capturing waters that a *parciante* could not use flew in the face of communal ethics, expressed in the saying, *aqua que no has de beber, déjala correr* ("water that you will not drink, let it run"). Maes and Romero initially reported that old communal fissures were at fault for Córdova *parciantes*' reticence.<sup>1076</sup> On July 6, 1939, Americo Romero reported that both Córdova and Chimayó feared that their ditches and lands would meet the same fate as those at Santa Cruz, where the Santa Cruz Irrigation

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<sup>1075</sup> For more on acequia governance, including the role of *mayordomos* and the *comisión*, see José Rivera, *Acequia Culture: Water, Land, and Community in the Southwest* (Albuquerque: University of New Mexico Press, 1998), and Sylvia Rodríguez, *Acequia: Water Sharing, Sanctity, and Place* (Santa Fe: School of American Research Press, 2006).

<sup>1076</sup> Memorandum for E. Shevky, IRGB, Ernest E. Maes, July 6, 1939, folder 5, box 3, Interdepartmental Rio Grande Board – Project Subject Files, 1937-1942, Record Group 75, Entry 105, National Archives - Rocky Mountain Region, Denver, CO. Maes wrote that at a June 28 meeting, supporters of the water facilities project told him that opposition came from an old dispute between ditches that lined the eastern and western edges of Córdova.

District created additional expenses, indebtedness, rising land values, higher tax assessments and eventual loss.<sup>1077</sup>



A farm area located near the village of Cordova, New Mexico illustrating the extreme subdivision of Spanish-American ownership of farm lands, brought about through inheritance. Note the elongated strips which are thus partitioned in order to provide heirs with land abutting on irrigation ditches. Note also that most of the holdings are smaller than the 8-acre tract which is identified.

**Figure 39: Córdoba, 1941.** Parciantes in favor of the FSA water facilities plan were by and large those on the upper ditch (western), while those opposing were largely those on the lower (eastern) ditch. Harper, Cordova and Oberg, *Man and Resources in the Middle Rio Grande Valley*, 1943, 71.

As the New Deal shifted from relief and reform to more moderate measures that aimed at preserving the economy, projects on former land grant land took increasingly conservative forms. From 1939-1941, federal projects on land grants, especially those

<sup>1077</sup> Americo Romero to Ralph Will, July 6, 1939, folder 5, box 3, Interdepartmental Rio Grande Board – Project Subject Files, 1937-1942, Record Group 75, Entry 105, National Archives - Rocky Mountain Region, Denver, CO.

slated for Hispano use, were more working classrooms aimed at reforming land use practices than programs that sought to return of alienated lands to land grants. The radical land reform suggestions of the Soil Conservation Service, including outright land transfers to communities, were modified and reprised in the suggestions of the Interdepartmental Rio Grande Board in 1937. But the Board only discussed the restoration of limited and well-supervised usufruct rights, a far cry from restoring fee simple title.<sup>1078</sup>

The Soil Conservation Service's call for radical land reform in 1933 started with the re-education of both Pueblo and Hispano farmers in efficient and environmentally friendly agricultural methods. This program brought the SCS into immediate conflict with the New Mexico State Extension Service, which complained to Governor Clyde Tingley that the well-funded SCS was intruding in its jurisdiction. The SCS's push for radical land reform fell on deaf ears and the bulk of its studies remained unpublished. After criticizing and alienating most other government programs, the SCS stood alone in its conflicts. In 1939, a severely weakened SCS published and disseminated the *Tewa Basin Study*, perhaps as a last gasp to prove its theories relevant. Releasing public and federal lands to local use and restoring usufruct rights were among its most radical ideas, all of which were aimed at restoring economic self-sufficiency and rolling back relief.

While the Tewa Basin drew early federal aid and programs, interest waned. The Middle Río Grande valley had, by this time, the patronage of Senator Dennis Chávez, and the Mesilla Valley was under the close combined supervision of both the SCS and the State Extension Service. The latter worked closely with the Agricultural College in Las

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<sup>1078</sup> U.S. Department of Agriculture. U.S. Department of the Interior. Interdepartmental Rio Grande Committee. *Report and Recommendations* (Washington D.C. 1937).

Cruces. Even Taos, just north of the Tewa Basin, had the Taos County Project, an experimental social study with massive federal funding, developed largely from the suggestions of George I. Sánchez in his classic 1940 study, *The Forgotten People: A Study of New Mexicans*.

In *Forgotten People*, Sánchez observed that “the cornerstone of Taos County – communal land holdings – has been destroyed by taxation and by uncontrolled exploitation.”<sup>1079</sup> Of Taos County’s 1,448,743 acres, federal lands amounted to 666,502 acres, state lands to 102,528 acres, and private land to 679,683 acres, with decreasing amounts of the private land owned by Hispanos. The *rancherías* and agricultural plots, most smaller than six acres, had been sold by a growing but increasingly transplanted and transient Hispano population. Sánchez noted the high price that Hispanos paid for land and water rights in Taos forced many locals to sell their land and move to the outskirts of town, which provided little solace from the high taxes close to town. This new form of land speculation had greatly altered the population of Taos County as more and more of the native youth were forced to seek employment and education in either Santa Fe or Albuquerque.<sup>1080</sup>

Sánchez, long a tireless advocate of New Mexico’s Hispanos, had leveled his criticism against state and federal programs a few too many times and when the Taos County Project emerged, J. T. Reid, who taught traditional woodwork at the University of New Mexico, was appointed project head, even though he had little experience or knowledge of the socioeconomic issues that plagued Taos County. Sánchez criticized

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<sup>1079</sup> George I. Sánchez, *Forgotten People: A Study of New Mexicans* (1940; reprint; Albuquerque: Calvin Horn, 1967), 60-61.

<sup>1080</sup> *Ibid*, 61.

studies that claimed Hispano and Pueblo poverty was the result of mental deficiencies and detrimental racial, cultural, and social mixing. Since the late 1920s, Sánchez rallied against mental tests and those who advocated their viability, pointing out the deep cultural misunderstandings that marred meaningful or thoughtful interpretation. When he left New Mexico for being passed over to head the Taos County Project, which sought to ameliorate the conditions he exposed in *The Forgotten People*, *nortebños* lost their most vocal and most articulate activist.<sup>1081</sup>

The early 1940s also marked the stronger effort to coordinate federal and state activities across the Tewa Basin. The Interdepartmental Rio Grande Board played a surprisingly small role in the management of federal programs, especially after Allen Harper removed members of the Soil Conservation Service from federal projects. The

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<sup>1081</sup> Lynne Marie Getz, *Schools of their Own: The Education of Hispanos in New Mexico, 1850-1940* (Albuquerque: University of New Mexico Press, 1997), 48-65. Getz writes an engrossing account of Sánchez's career in New Mexico, where he fought for the reform of school funding in the face of opposition from Albuquerque and oil-producing communities in New Mexico's eastern counties. Sánchez's vocal opposition angered University of New Mexico president James F. Zimmerman, who worked behind the scenes to ensure that he was not chosen to head the Taos County Project. J. T. Reid was selected to head the project instead, and Sánchez, who justifiably felt he was the logical choice, resigned his position with the University of New Mexico and moved to Austin, Texas where he established the first Mexican American studies program in the nation at the University of Texas at Austin. See also, Carlos Kevin Blanton, *George I. Sánchez: The Long Fight for Mexican American Integration* (New Haven: Yale University Press, 2015), 26-45. Blanton underscores Sánchez's call for integration and assimilation of Mexican Americans (Hispanos), which ran contrary to New Dealers idealization of the village and colloquial cultural practices of Hispanos, who, Sánchez believed, were bridled by their isolation and backwardness. Contrary to Getz, Blanton suggests that Sánchez left for Texas to pursue his academic career; he does not even mention the Taos County project. See 62-64. For more information on the Taos County Project, see, J. T. Reid, *It Happened in Taos* (Albuquerque: University of New Mexico Press, 1946). Uncritical and celebratory in tone, *It Happened in Taos* substantiates the massive funds expended in the Taos County Project. The Río Pueblo district of the Tewa Basin (Peñasco and surrounding villages) benefited from the Cooperative Health Clinic created by the Project.

State Interagency Council emerged with representation from the federal Bureau of Agricultural Economics, Farm Credit Administration, WPA, FSA, Forest Service, and SCS, as well as the Extension Service, Vocational Education program, Highway Department, and State Planning Board. With no clear leader and the inability to exert influence over its many members, the Interagency Council changed into a clearinghouse where members shared information, but disassociated and pursued their own agendas.<sup>1082</sup>

M. M. Kelso, regional representative for the Farm Security Administration and later of the Bureau of Agricultural Economics, reported that “the relationship between the State Planning Office and the Extension Service on the one hand and the Rio Grand(e) board on the other have been anything but cordial.”<sup>1083</sup> Even the Taos County project, whose director, J. T. Reid, and assistant director, Andrés S. Hernández, met difficulties from agencies unwilling to relinquish control of their projects. At the beginning of World War II, federal employees left for assignments in the military, foreign service and other agencies in federal government. A. G. Sandoval, Andrew Córdova and Kalvero Oberg left New Deal programs to work for the State Department in Latin America, as did Olen Leonard, who authored later works on community grants and Irving Rusinow, the now well-known New Deal photographer.<sup>1084</sup> Córdova and Oberg co-authored Allen G.

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<sup>1082</sup> See Minutes of the State Interagency Council, January 6 and March 3, 1942, folder 2, box 164, Records of the Bureau of Agricultural Economics, Record Group 83, Entry PI 104 21, National Archives II, College Park Maryland.

<sup>1083</sup> M. M. Kelso to Bushrod Allin, February 27, 1942, folder 2, box 164, Records of the Bureau of Agricultural Economics, Record Group 83, Entry PI 104 21, National Archives II, College Park Maryland.

<sup>1084</sup> Olen E. Leonard, *The Role of the Land Grant in the Social Organization and Social Processes of a Spanish-American village in New Mexico* (Albuquerque: Calvin Horn, 1970); Irving Rusinow, *A Camera Report on El Cerrito* (Washington D.C.: U.S. Department of Agriculture, 1942).



Harper's final report on the Interdepartmental Río Grande Board's activities, published as *Man and Resources in the Middle Rio Grande Valley* in 1943.

As the once abundant New Deal projects waned, the federal government considered what to do with the hundreds of thousands of acres it had purchased for demonstration and conservation projects. The fading IRGB recommended that the federal government abide by 1936 agreements, which gave preferential use of the Sebastián Martín, Ramón Vigil and Caja del Río Grants to Pueblo Indians, but allowed Hispano grazing rights on surplus project lands. Under the agreement, the southern half of the Juan José Lobato Grant would be reserved for Hispano use and the unassigned Polvadera grant, would serve as a surplus, to be assigned upon demand.<sup>1085</sup>

By the spring of 1939, the Department of Agriculture was changing its administration of project lands. A January 30, 1939 memoranda approved by Secretary of Agriculture Henry Wallace demanded that the five remaining project areas in the Tewa Basin administered by SCS for intensive rehabilitation be transferred to the U.S. Forest Service, except timbered areas, which could be opened to commercial use. Timbered areas of the Lobato, Polvadera, and Sebastián Martín Grants would also be converted into commercial timber lands and transferred from SCS to Forest Service. Other woodland

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<sup>1085</sup> "Recommendations for Transfer of Jurisdiction, Allocations of Land-Use Rights and Administration of Resettlement Administration's Indian Land-Purchase Projects in New Mexico," Interdepartmental Rio Grande Committee, 1936, Folder 4, Box 2, Interdepartmental Rio Grande Board – Project Subject Files, 1937-1942, RG 75-105, NARA - Denver. The 1936 composition of the IRGC included John A. Adams of the Forest Service, M. M. Kelso of the FSA; Archie D. Ryan of the Grazing Service; Eshref Shevky of the SCS; and Walter Woehlke, of the Indian Service, who chaired the Committee. All were local or regional representatives of their respective agencies. They and their successors were gradually undermined by policies created by regional and national offices, which favored corporate friendly programs that needed less local management by federal agencies and reduced competition.

areas would remain with the SCS, but the memorandum questioned where forest boundaries should be established and whether lightly wooded sections of the Lobato, Martín and Polvadera should remain with the Conservation Service. The SCS protested, but to no avail.<sup>1086</sup>

In the summer of 1939, John Hatcher, acting chief of the Division of National Forest Planning and Establishment in Washington, visited New Mexico to discuss forest boundaries. Hatcher was anxious to see that tracts of public domain in northern New Mexico that were managed by the SCS and most land grants acquired in New Deal programs would eventually be transferred to the Forest Service. When he saw the denuded forests on the SCS-administered Ramón Vigil, Juan José Lobato, Abiquiú, Sebastián Martín and Polvadera Grants, he suggested that portions at highest risk of erosion be transferred to the Forest Service. Hatcher also drove through Nambé, Cundiyo, Trampas, Peñasco, Ojo Sarco, Truchas and saw portions of the Francisco Montes Vigil and Rancho del Río Grande Grants, and commented on the need to incorporate the grants into the Carson and Santa Fe National Forests as soon as possible.<sup>1087</sup>

Throughout the New Deal, both Pueblos and Hispanos fought to shape reform, particularly land tenure reform, in their favor. Pueblos were arguably much more

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<sup>1086</sup> Memorandum for the Secretary of Agriculture, H. H. Bennett, Soil Conservation Service, F.A. Silcox, Forest Service, signed and approved H.A. Wallace, Secretary of Agriculture and M. S. Eisenhower, Land Use Coordinator, January 30, 1939, folder 7, box 4, Interdepartmental Rio Grande Board – Project Subject Files, 1937-1942, Record Group 75, Entry 105, National Archives - Rocky Mountain Region, Denver, CO.

<sup>1087</sup> Memorandum, LP Boundaries, transfer, E. G. Miller, Assistant Regional Forester, July 12, 1939, folder 9, box 4, Interdepartmental Rio Grande Board – Project Subject Files, 1937-1942, Record Group 75, Entry 105, National Archives - Rocky Mountain Region, Denver, CO.

successful; many lands purchased for Indian projects were incorporated into Pueblo reservations or reserved for their exclusive use. Project lands designated for Hispanos use, on the other hand, were gradually incorporated into U.S. Forest Service or Bureau of Land Management lands. While Chávez and Collier dominated the debate over federal projects on Tewa Basin Lands, the native communities proved more willing to force both politicians and reformers to heed their concerns.

With the beginning of the United States's involvement in the Second World War, the safety valve that had allowed village populations to escape poverty before the depression once again opened. Wartime jobs in agriculture, mining, and timber industries and even in the shipyards of California offered new destinations for Hispano villagers, many of whom would not return as they had fifteen years earlier, when regional droughts had forced them home.<sup>1088</sup> The economy of the Tewa Basin continued to shift. Frank Bond had held grazing rights the Valle Grande (Baca Location No.1) atop the Pajarito Mesa since 1918. With his brother, George, Bond purchased the entire grant in 1926 sold timber leases, and ran his sheep flocks on the rich fields of the Valle Grande. The Reconstruction Finance Corporation, which had mortgaged the Valle Grande's timber to various lumber companies since 1933, released it in 1942. When Frank Bond passed away in 1945, his son, Franklin, abandoned the *partido* system in favor of hiring shepherds and cowboys seasonally.<sup>1089</sup>

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<sup>1088</sup> Charles P. Loomis, "Wartime Migration from the Rural Spanish Speaking Villages of New Mexico" *Rural Sociology* 7, (1942): 384-395.

<sup>1089</sup> Kurt F. Anschuetz and Thomas Merlan, *More Than a Scenic Mountain Landscape: Valles Caldera National Preserve Land Use History*, United States Department of Agriculture, Forest Service, Rocky Mountain Research Station, General Technical Report RMRS-GTR-196, (September 2007), 35-36, 42-44.

The Bond Family continued to control the traditional economy of the Española Valley. This changed when J. Robert Oppenheimer was assigned the task of finding a site for a secret nuclear weapons laboratory. Oppenheimer he looked no further than the Pajarito Mesa, where the New York-born scientist had spent summers hiking the Frijoles Canyon as a child and returned occasionally as an adult. He believed its geographic isolation would be ideal.<sup>1090</sup> To maintain secrecy the federal government consolidated the lands below the mesa, including the Ramón Vigil Grant and homesteads both atop and below the mesa. The federal government negotiated with the Los Alamos Ranch School and it was paid a fair-market value, some \$335,000, or \$225 per acre. Twenty-three homesteaders were offered less than \$5,000, or between \$7,000 and \$15,000 per acre, with no opportunity to negotiate. When homesteaders refused to part with their property, the federal government condemned the property and homesteaders, most of whom had no legal representation, were instructed to receive their checks at the federal district courthouse.<sup>1091</sup>

My great grandfather, Adolfo García, was among those evicted from his homestead. His father, Juan Luís, had escaped captivity by Navajos as a boy when his adoptive Navajo mother aided his return to the Tewa Basin.<sup>1092</sup> , and, with his sons, won homesteads on which they farmed and later operated a lumber mill. The loss of his nearly-three-hundred-acre homestead, for which he was paid less than seven-hundred

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<sup>1090</sup> Rothman, *On Rims and Ridges*, 214-217.

<sup>1091</sup> Malcolm Ebright and Richard Salazar, "Hispanic Homesteaders on the Pajarito Plateau: An Unconstitutional Taking of Property at Los Alamos 1942-1945," unpublished report, 2007.

<sup>1092</sup> Orlando Naranjo, "Juan Luís García and the Navajos," *Herencia: The Quarterly Journal of the Hispanic Genealogical Research Center of New Mexico* 16:1 (January 2008).

dollars, created a bitter legacy. My mother, María Juana Barbara (García) Rodríguez (Baca) was a child when eviction took place, but the stories of government eviction during for the Manhattan Project sat with her until adulthood; they became my bedtime stories. In the year after their eviction, my grandmother, María Marina García Rodríguez (Adolfo's daughter) and grandfather, José Filadelfio Rodríguez, relocated to Jerome, Arizona, where my grandfather worked in copper mines. He returned home when his mother died and found a job in Los Alamos with the Manhattan project, working as a maintenance man at the very institution that had dispossessed his in-laws and dislocated his family.

The effects of Los Alamos on the Tewa Basin economy were widespread. The changing economy had an immediate impact on the land ethic held by both Hispanos and Pueblos. Anacleto Apodaca, a federal extension agent working in the Tewa Basin in 1951 noted a difference in attitudes of older men, who were generally reluctant to abandon traditional methods for innovation, and young men, who accepted new technologies and yearned for a good-paying job in Los Alamos.<sup>1093</sup> Another observer noted similarities in nearby Pueblos, especially at the poverty-stricken San Ildefonso

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<sup>1093</sup> Anacleto G. Apodaca, *The Spanish-American Farmer of the Tewa Basin and the Extension Service*, Press Bulletin 1059 (State College, N.M.: Agricultural Experiment Station, New Mexico College of Agriculture and Mechanical Arts, 1951). See also, Anacleto G. Apodaca, "Major Difficulties Encountered by County Extension Agents in Reaching Spanish-Speaking People in New Mexico" (master's thesis, George Washington University, 1949), and Anacleto G. Apodaca, "The Hispano Farmers' Conception of the Federal Agricultural Services in the Tewa Basin of New Mexico," (Ph.D. diss., Cornell University, 1951). See also, David H. Donnelly and Paul Beckett. *The Soil Conservation Problem in New Mexico* (Albuquerque: University of New Mexico Press, 1946). See also Anacleto G. Apodaca, "Corn and Custom: Introduction of Hybrid Corn to Spanish American Farmers in New Mexico" in *Human Problems in Technological Change*, ed. Edward H. Spicer (New York: Russell Sage Foundation, 1952), 35-39.

Pueblo, where a native remarked, “If you can find a retired Indian, he worked at Los Alamos!”<sup>1094</sup>

The change came with consequences. The National Laboratory at Los Alamos had a limited number of jobs, leading many Tewa Basin residents to turn, again, to migratory wage labor on the *manito* trail.<sup>1095</sup> Wartime mobilization initially stabilized the economy, but jobs were won at the cost of leaving the village, sometimes permanently. Parallels between the 1920s and 1950s are alarming. Like the twenties, the fifties saw increasing numbers of laborers journeying north to work in agricultural fields across the Rocky Mountain West, this time migrating with their entire families. In spite of the efforts of New Deal reformers to preserve the villages of northern New Mexico, village and pueblo depopulation accelerated as families flowed to growing cities like Albuquerque and Denver. Also like the twenties, the fifties were fraught with dubious federal land policies and the corporatization of forest resources, favoring timber companies and capital production over subsistence users.<sup>1096</sup>

Unlike the twenties, the fifties were not followed by half a decade of intense federal relief programs. Rather, in the 1960s, the federal and state governments continued ignoring the situation in both Hispano villages and Indian pueblos. Uneven

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<sup>1094</sup> Carlson, *Spanish American Homeland*, 181.

<sup>1095</sup> For more on post World War II wage labor migrations, see Farm Labor, New Mexico (7), 1946-1947. Records of the Extension Service, 1888-2000, Record Group 33, College Park Maryland.

<sup>1096</sup> See Suzanne Forrest, “The Vallecito’s Sustained Yield Unit: The (All Too) Human Dimension of Forest Management in Northern New Mexico, 1945-1968,” in *Forests under Fire: A Century of Ecosystem Mismanagement in the Southwest*. ed. Charles J Huggard and Arthur R. Gómez (Tucson: University of Arizona Press, 2001), 67-92; David Correia, “The Sustained Yield Forest Management Act and the Roots of Environmental Conflict in Northern New Mexico” *Geoforum* 38 (2007): 1040-1051; and Jake Kosek, *Understories: The Political Life of Forests in Northern New Mexico* (Durham: Duke University Press, 2006), especially 101-141.

economic development drew Hispanos and Pueblos from their villages to growing economies in Los Alamos and Albuquerque. Federal termination-and-relocation policies did not affect Pueblo communities as deeply as they did other tribes. Historian James Vlasich nonetheless points to this change in policy as the “death knell for Indian agriculture.”<sup>1097</sup> The Pueblo agricultural character, once again, differentiated them in the minds of the federal government, and organizations like the All Indian Pueblo Council and United Pueblo Agency curbed the effects of federal relocation policies and fought to assure pueblos superior water rights were upheld in decades-long water adjudication lawsuits.

Dependency on federal and state programs grew during the New Deal and continued, even as the population became increasingly urban or semi-urban. As Hispanos became more and more alienated from land, their demands for economic, cultural and environmental justice were supplanted by calls for the maintenance and extension of government welfare programs. With prospects for land repatriation absent, Hispano poverty conditioned their relationship to the state. Rather than demanding justice, they asked only for survival.<sup>1098</sup>

By the early 1960s, wages earned Los Alamos had supplanted local production in subsistence economies throughout the Tewa Basin, while the laboratory waste caused untold ecological harm to Pueblo and Hispano communities in nearby watersheds. The alienation from traditional farming and increased poverty created a seedbed for political radicalism, but a radicalism unlike the militant, youth-oriented Chicano and American Indian Movements that grew more and more vocal across the nation. Traditional tribal

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<sup>1097</sup> Vlasich, *Pueblo Indian Agriculture*, xiv-xv.

<sup>1098</sup> Forrest, *Preservation of the Village*, 181-200.

religious leaders, not a radical youth faction, led Taos Pueblo's fight for the return of Blue Lake from the U.S. Forest Service. Likewise, the membership of the Alianza Federal de Mercedes, founded in 1963 by former Pentecostal preacher Reies López Tijerina, was primarily comprised of older land grant heirs including Korean, World War II and even World War I veterans, who had lost faith that the federal government, who owned the land grants of their ancestors, would provide relief.



## Epilogue

The end of the New Deal marked a series of transformations. Two men that I argue defined the era in New Mexico, John Collier and Dennis Chávez, guided transformative changes for Indian affairs and the modernization of New Mexico. Collier's reforms changed the administration of Indian affairs, preserving traditional power structures and empowering native communities and recognizing their sovereignty to a greater extent in the previous century. The Pueblo lands question also transformed how Pueblo Indians pressed for the protection of their lands from outside interests. During the early American territorial period, they fought for protections under the Treaty of Guadalupe Hidalgo, as fee simple owners of their land grants. Simultaneously, Pueblo Indians and their agents fought to extend federal guardianship for both pueblo peoples and their lands. By the middle of the twentieth century, they fought the State of New Mexico, who attempted to withhold their right to vote, limit their rights as citizens, and still tried to tax their lands. They joined dozens of other Indian nations around the United States in the Indian Claims Commission; many pueblos fought for payment of compensation promised by the Pueblo Lands Board twenty-five years earlier. They began the American period arguing for protections due to them as *wards*, today, they have reclaimed rights as *sovereign* tribal nations.

Chávez guided federal monies to New Mexico for two more decades after the New Deal programs began their decline in 1942. The senator arguably modernized New Mexico, bringing monies to improve transportation, commerce and communication. As New Mexico's economy matured, the reliance on land and water for traditional uses lessened. Water reclamation projects created reservoirs in north central New Mexico that

fed growing urban or semi-urban communities in the middle Río Grande valley and agribusiness in southern New Mexico and Texas. New Mexico grew by way of the military industrial complex, creating arms never to be used in a Cold War economy. By the time of his death in 1962, the pastoral and agricultural economy that Chávez was born into seventy-four years earlier was extinct. One year later, in 1963, Reyes López Tijerina, a Texas born land grant heir who sharecropped and served as a Pentecostal preacher, founded the *Alianza Federal de Mercedes*, and vowed to regain land grants stolen by the federal government. Many land grant heirs that maintained traditional agro-pastoral economy found a new leader in Tijerina, simultaneously rejecting Senator Joseph M. Montoya, Chávez's heir apparent and demanding the federal government restore access to traditional lands it had briefly reestablished during the New Deal.

After the Tierra Amarilla Courthouse raid in 1967, Tijerina's Alianza began a decade long descent. While Taos Pueblo celebrated the repatriation of its sacred Blue Lake, Tijerina and many of his followers faced imprisonment for assaulting federal officers and destroying federal property. He inspired a generation of Hispanos and Chicanos across the nation. To reiterate Sylvia Rodríguez's observation, *nuevomexicano* identity and ethnicity after the civil rights era, was understood through its ongoing relationship to land and water, which crystallized as the symbol of Hispano cultural survival and social self-determination.

Modern land grant activists struggle to break free from the shadow that Tijerina continued to cast over land grant activism. Episodes as Tierra Amarilla in the 1980s inspired former Lieutenant Governor Roberto Mondragón's creation of the New Mexico Land Grant Forum, which in turn inspired the creation of the New Mexico Land Grant

Consejo. The 2001 and 2004 Treaty of Guadalupe Hidalgo reports by the General Accounting Office inspired a new wave of activism, bringing clarity, coherence, a renegotiated relationship with state government and the promise of a future for dozens of *mercedes* in New Mexico.

Conclusion: *Tenemos el Sangre de Indio: Somos Indigena*

Nuevo México querido,  
no hagas caso al mitote  
entre indios y Americanos  
toditos semos coyotes

New Mexico beloved,  
pay no attention to rumor,  
among Indians and Americans  
we are all coyotes [mixed bloods].

- *Traditional music verse*<sup>1099</sup>

Throughout this dissertation, I have examined Hispanos's complicated relationship with Pueblo Indians, one popularly defined by conflict that has repeatedly rendered their relationship two dimensional. Scholars continually write about Hispano-Pueblo relations highlighting areas of conflict that make headlines and find their way into the archives of governments, lawyers, and bureaucrats. Like John Kessell, I believe that a sole focus on tension obscures complex relationships, and that in these relationships lie stories that can inform us about how Hispanos appropriated Pueblo lands in extralegal but perhaps less-devious ways. By reading Hispano and Pueblo land tenure together, we can find parallels and patterns that lead to a deeper understanding of their shared experience.

This dissertation began with modern aspirations, but the project gradually transformed as I attempted to connect the histories of Hispano and Pueblo dispossession. Again, it seems that in studying New Mexico, even self-proclaimed modernists invariably must tip our hats to the colonial era. Understanding New Mexico as a post-colonial space, where the oppressions of centuries past loom, presents arguably the most satisfying and accurate portrait of our history. But it obscures as well, and representations gradually inform our interpretation of the past, leaving little room for less-sensational episodes that have created the human environment we live in today. One of these stories is that *land grant history is one the Hispanos and Pueblos share.*

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<sup>1099</sup> Lamadrid, *Hermanitos Comanchitos*, 1.

My dissertation title, “Somos Indigena,” comes from a 1999 quote by Santa Fe artist and activist Edwin Rivera, who responded to Santa Fe environmentalists who protested Hispano wood gathering and its impact on the elusive Mexican spotted owl. Rivera asserted Hispano indigenosity, boldly stating; “*Tenemos el Sangre de Indio; tenemos raices en la tierra: somos indigena*” (“We have Indian blood. We have roots in the land. We are indigenous.”). Atrisco land grant heir Richard Griego reiterated Rivera’s claims nearly a decade later, imploring a crowd of land grant heirs to “forget that stuff we learned about being Spanish when we were children. Our blood is mixed. We are more Indian than Spanish. And we *are* an indigenous people.” Taken lightly, these statements appear only envious, simplifying the complexity of the relationship between Pueblos who hold their land grant lands and the federal government that for decades did little to protect them. Just as the history of Pueblo-federal relationship is more complex than public wisdom suggests, so are claims to Hispanic indigenosity. These claims are not to Pueblo membership, but to both a pre-Columbian past and the authenticity of their culturally based land rights.

Perhaps Hispano land grant activists simplify the implications of federal guardianship of Pueblo lands. They likely ignore the fact that the Pueblo-state relationship derives from complicated and contradictory government policies fixated on the Pueblos’ unique agricultural character, which the state saw as essential to both assimilation of natives and the preservation of Pueblo tribalism. Long held on the periphery of federal policy, Hispanos expressed their frustrations and exercised their power in state government. Hispanos motivation to reclaim their native ancestry varies. While conducting research for this dissertation at the New Mexico State Records Center

in Santa Fe, I witnessed at least a half dozen Hispanos completing genealogies that attempted to stake a claim to tribal membership at Nambé or Pojoaque. One can only assume that they are motivated by the perceived casino revenues and the hope that they can qualify for payments to tribal members. Under the U.S. Supreme Court's *Martinez v. Santa Clara* ruling (1969), tribes can define tribal membership however they choose, and can ignore claims regardless of their authenticity.

The New Deal changed the relationship that Hispanos had with the federal government, cultivating expectations that the federal government would continue constructive land reform, respecting the usufruct rights of Hispanos to their former common lands. Instead, it shaped the role that the federal government played in continued community dispossession. Federal termination and relocation policies and reduced usufruct rights in the 1950s created seedbeds for the radicalism of the 1960s and 1970s. Civil rights-era ethnic protest in northern New Mexico centered around land and water rights. Taos Pueblo's fight for the return of Blue Lake and the Alianza's Tierra Amarilla Courthouse raid were emblematic of this activism. But it was Pueblo elders and a largely mature Alianza membership who led their respective movements. Their activism was inspirational and influential among later generations whose connection to traditional agricultural economies lessened over time.

The importance of Los Alamos National Labs to the Tewa Basin economy for almost seventy-five years has altered the economy. As Pueblos and Hispanos are even further removed from the struggles of their ancestors, how they will respond to future contests remains uncertain. Tensions over land and water rights have transformed as well. As economies transition again, this time away from Los Alamos National

Laboratories, the entertainment and tourism industries, which have long eluded most of the Tewa Basin, have changed the importance of water resources to its communities.

New Mexico State Engineer Steve Reynolds's 1966 filing of the *New Mexico v. Aamodt* lawsuit intended to adjudicate water rights along the Río Pojoaque stream system, which includes the Río Nambé, Río Tesuque, Río Pojoaque and the Río Chupadero. The *Abbott* case seeks the same along the Río Truchas and Río Santa Cruz watershed, forcing the state of New Mexico to establish priority dates on all waterways in the Río Truchas-Río Santa Cruz water system.

Just as the Middle Río Grande Conservancy District had in the 1930s, the *Aamodt* and *Abbott* water rights adjudication cases brought Pueblos and Hispanos into court against one another. If the *US v. Joseph* (1876) and both *US v. Sandoval* decisions (1897 and 1913) have taught us anything, it is that the law is prone to manipulation and fraught with inconsistencies borne from the vested self-interest of lawyers and legal philosophies informed by economics and ideas of human progress. If law renders confusion, we should hold the law suspect and look toward other devices to understand the past and plan for the future. Water now feeds growing bedroom communities for those avoiding Los Alamos's cold weather or Santa Fe's high prices. Hope still remains. The Seed Sovereignty Conference, held in New Mexico from 2007-2009, marked a significant alliance between Hispanos and Pueblos against corporate agriculture.

There are a number of historiographic gaps that I attempted to close in this dissertation. Some were temporal, like the gaps between the *U.S. v. Joseph* case (1876) and the creation of Pueblo Lands Board, and space between the Court of Private Land Claims and the end of the New Deal; others, almost philosophical, like the gap between

our understanding of Pueblo and Hispano land tenure. Filling the gap in scholarship discussing land tenure in the late nineteenth and early twentieth centuries was straight forward, and I have left much to be done. Linking Pueblo and Hispano land tenure beyond their shared experience is a philosophical exercise, one that I may have neglected and perhaps could not address given my approach to this study. This untraditional rereading of Pueblo and Hispano land tenure took rather traditional methodology that limited inventive explanations. But it rooted the land tenure story in both the legal and social experiences of both Pueblo Indians and Hispano *mercedarios*, and for that, I am immensely satisfied.



## Appendix A: Pueblo Lands Act, 1924

### **Pueblo Lands Act**

June 7, 1924

c. 331, 43 Stat. 636. (1924)

S. 2932

#### **SEC. 1.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to quiet title to various lots, parcels, and tracts of land in the State of New Mexico for which claim shall be made by or on behalf of the Pueblo Indians of said State as hereinafter provided, the United States of America, in its sovereign capacity as guardian of said Pueblo Indians shall, by its Attorney General, file in the District Court of the United States for the District of New Mexico, its bill or bills of complaint with a prayer for discovery of the nature of any claim or claims of any kind whatsoever adverse to the claim of said Pueblo Indians, as hereinafter determined.

#### **SEC. 2.**

That there shall be, and hereby is, established a board to be known as "Pueblo Lands Board" to consist of the Secretary of the Interior, the Attorney General, each of whom may act through an assistant in all hearings, investigations, and deliberations in New Mexico, and a third member to be appointed by the President of the United States. The board shall be provided with suitable quarters in the city of Santa Fe, New Mexico, and shall have power to require the presence of witnesses and the production of documents by subpoena, to employ a clerk who shall be empowered to administer oaths and take acknowledgments, shall employ such clerical assistance, interpreters, and stenographers with such compensation as the Attorney General shall deem adequate, and it shall be provided with such necessary supplies and equipment as it may require on requisitions to the Department of Justice. The compensation and allowance for travel and expenses of the member appointed by the President shall be fixed by the Attorney General.

It shall be the duty of said board to investigate, determine, and report and set forth by metes and bounds, illustrated where necessary by field notes and plats, the lands within the exterior boundaries of any land granted or confirmed to the Pueblo Indians of New Mexico by any authority of the United States of America, or any prior sovereignty, or acquired by said Indians as a community by purchase or otherwise, title to which the said board shall find not to have been extinguished in accordance with the provisions of this Act, and the board shall not include in their report any claims of non-Indian claimants who, in the opinion of said board after investigation, hold and occupy such claims of which they have had adverse possession, in accordance with the provisions of section 4 of this Act: *Provided, however,* That the board shall be unanimous in all decisions whereby it shall be determined that the Indian title has been extinguished.

The board shall report upon each pueblo as a separate unit and upon the completion of each report one copy shall be filed with the United States District Court for the District of New Mexico, one with the Attorney General of the United States, one with the Secretary of the Interior, and one with the Board of Indian Commissioners.

### **SEC. 3.**

That upon the filing of each report by the said board, the Attorney General shall forthwith cause to be filed in the United States District Court for the District of New Mexico, as provided in section 1 of this Act, a suit to quiet title to the lands described in said report as Indian lands the Indian title to which is determined by said report not to have been extinguished.

### **SEC. 4.**

That all persons claiming title to, or ownership of any lands involved in any such suit, or suits, may in addition to any other legal or equitable defenses which they may have or have had under the laws of the Territory and State of New Mexico, plead limitation of action, as follows, to wit: (a) That in themselves, their ancestors, grantors, privies, or predecessors in interest or claim of interest, they have had open, notorious, actual, exclusive, continuous, adverse possession of the premises claimed, under color of title from the 6th day of January, 1902, to the date of the passage of this Act, and have paid the taxes lawfully assessed and levied thereon to the extent required by the statutes of limitation, or adverse possession of the Territory or of the State of New Mexico, since the 6th of January, 1902, to the date of the passage of this Act, except where the claimant was exempted or entitled to be exempted from such tax payment. (b) That in themselves, their ancestors, grantors, privies, or predecessors in interest or claim of interest, they have had open, notorious, actual, exclusive, continuous, adverse possession of the premises claimed with claim of ownership, but without color of title from the 16th day of March, 1889, to the date of the passage of this Act, and have paid the taxes lawfully assessed and levied thereon to the extent required by the statutes of limitation or adverse possession of the Territory or of the State of New Mexico, from the 16th day of March, 1899, to the date of the passage of this Act, except where the claimant was exempted or entitled to be exempted from such tax payment.

Nothing in this Act contained shall be construed to impair or destroy any existing right of the Pueblo Indians of New Mexico to assert and maintain unaffected by the provisions of this Act their title and right to any land by original proceedings, either in law or equity, in any court of competent jurisdiction and any such right may be asserted at any time prior to the filing of the field notes and plats as provided in section 13 hereof, and jurisdiction with respect to any such original proceedings is hereby conferred upon the United States District Court of the District of New Mexico with right of review as in other cases: *Provided, however,* That any contract entered into with any attorney of attorneys by the Pueblo Indians of New Mexico, to carry on such litigation shall be subject to and in accordance with existing laws of the United States.

## **SEC. 5.**

The plea of such limitations, successfully maintained, shall entitle the claimants so pleading to a decree in favor of them, their heirs, executors, successors, and assigns for the premises so claimed by them, respectively, or so much thereof as may be established, which shall have the effect of a deed of quitclaim as against the United States and said Indians, and a decree in favor of claimants upon any other ground shall have a like effect.

The United States may plead in favor of the pueblo, or any individual Indian thereof, as the case might be, the said limitations hereinbefore defined.

## **SEC. 6.**

It shall be the further duty of the board to separately report in respect of each such pueblo—

(a) The area and character of any tract or tracts of land within the exterior boundaries of any land granted or confirmed to the Pueblo Indians of New Mexico and the extent, source, and character of any water right appurtenant thereto in possession of non-Indian claimants at the time of filing such report, which are not claimed for said Indians by any report of the board.

(b) Whether or not such tract or tracts of land or such water rights could be or could have been at any time recovered for said Indians by the United States by seasonable prosecution of any right of the United States or of said Indians. Seasonable prosecution is defined to mean prosecution by the United States within the same period of time as that within which suits to recover real property could have been brought under the limitation statutes of the Territory and State of New Mexico.

(c) The fair market value of said water rights and of said tract or tracts of land (exclusive of any improvements made therein or placed thereon by non-Indian claimants) whenever the board shall determine that such tract or tracts of land or such water rights could be or could have been at any time recovered for said Indians by the United States by seasonable prosecution of any right of the United States or of said Indians, and the amount of loss, if any, suffered by said Indians through failure of the United States seasonably to prosecute any such right.

The United States shall be liable, and the board shall award compensation, to the pueblo within the exterior boundaries of whose lands such tract or tracts of land shall be situated or to which such water rights shall have been appurtenant to the extent of any loss suffered by said Indians through failure of the United States seasonably to prosecute any right of the United States or of said Indians, subject to review as herein provided. Such report and award shall have the force and effect of a judicial finding and final judgment upon the question and amount of compensation due to the Pueblo Indians from the United States for such losses. Such report shall be filed simultaneously with and in like manner as the reports hereinbefore provided to be made and filed in section 2 of this Act.

At any time within sixty days after the filing of said report with the United States District Court for the District of New Mexico as herein provided the United States or any pueblo

or Indians concerned therein or affected thereby may, in respect of any report upon liability or of any finding of amount or award of compensation set forth in such report, petition said court for judicial review of said report, specifying the portions thereof in which review is desired. Said court shall thereupon have jurisdiction to review, and shall review, such report, finding, or award in like manner as in the case of proceedings in equity. In any such proceeding the report of the board shall be prima facie evidence of the facts, the values, and the liability therein set forth, subject, however, to be rebutted by competent evidence. Any party in interest may offer evidence in support or in opposition to the findings in said report in any respect. Said court shall after hearing render its decision so soon as practicable, confirming, modifying, or rejecting said report or any part thereof. At any time within thirty days after such decision is rendered said court shall, upon petition of any party aggrieved, certify the portions of such report, review of which has been sought, together with the record in connection therewith, to the United States Circuit Court of Appeals for the Eighth Circuit, which shall have jurisdiction to consider, review, and decide all questions arising upon such report and record in like manner as in the case of appeals in equity, and its decision thereon shall be final.

Petition for review of any specific finding or award of compensation in any report shall not affect the finality of any findings nor delay the payment of any award set forth in such report, review of which shall not have been so sought, nor in any proceeding for review in any court under the provisions of this section shall costs be awarded against any party.

## **SEC. 7.**

It shall be the further duty of the board to investigate, ascertain, and report to the Secretary of the Interior who shall report to the Congress of the United States, together with his recommendation, the fair market value of lands, improvements appurtenant thereto, and water rights of non-Indian claimants who, in person or through their predecessors in title prior to January 6, 1912, in good faith and for a valuable consideration purchased and entered upon Indian lands under a claim of right based upon a deed or document purporting to convey title to the land claimed or upon a grant, or license from the governing body of a pueblo to said land, but fail to sustain such claim under the provisions of this Act, together with a statement of the loss in money value thereby suffered by such non-Indian claimants. Any lands lying within the exterior boundaries of the pueblo of Nambe land grant, which were conveyed to any holder or occupant thereof or his predecessor or predecessors in interest by the governing authorities of said pueblo, in writing, prior to January 6, 1912, shall unless found by said board to have been obtained through fraud or deception, be recognized as constituting valid claims by said board and by said courts, and disposed of in such manner as lands the Indian title to which has been determined to have been extinguished pursuant to the provisions of this Act: *Provided*, That nothing in this section contained with reference to the said Nambe Pueblo Indians shall be construed as depriving the said Indians of the right to impeach any such deed or conveyance for fraud or to have mistakes therein corrected through a suit in behalf of said pueblo or of an individual Indian under the provisions of this Act.

## **SEC. 8.**

It shall be the further duty of the board to investigate, ascertain, and report to the Secretary of the Interior the area and the value of the lands and improvements appurtenant thereto of non-Indian claimants within or adjacent to Pueblo Indian settlements or towns in New Mexico, title to which in such non-Indian claimants is valid and indefeasible, said report to include a finding as to the benefit to the Indians in anywise of the removal of such non-Indian claimants by purchase of their lands and improvements and the transfer of the same to the Indians, and the Secretary of the Interior shall report to Congress the facts with his recommendations in the premises.

## **SEC. 9.**

That all lands, the title to which is determined in said suit or suits, shall, where necessary, be surveyed and mapped under the direction of the Secretary of the Interior, at the expense of the United States, but such survey shall be subject to the approval of the judge of the United States District Court for the District of New Mexico, and if approved by said judge shall be filed in said court and become a part of the decree or decrees entered in said district court.

## **SEC. 10.**

That necessary costs in all original proceedings under this Act to be determined by the court, shall be taxed against the United States and any party aggrieved by any final judgment or decree shall have the right to a review thereof by appeal or writ of error or other process, as in other cases, but upon such appeal being taken each party shall pay his own costs.

## **SEC. 11.**

That in the sense in which used in this Act the word "purchase" shall be taken to mean the acquisition of community lands by the Indians other than by grant or donation from a sovereign.

## **SEC. 12.**

That any person claiming any interest in the premises involved but not impleaded in any such action may be made a party defendant thereto or may intervene in such action, setting up his claim in usual form.

## **SEC. 13.**

That as to all lands within the exterior boundaries of any lands granted or confirmed to the Pueblo Indians of New Mexico, by any authority of the United States of America or any prior sovereignty, or acquired by said Indians as a community by purchase or otherwise and which have not been claimed for said Indians by court proceedings then

pending or the findings and report of the board as herein provided, the Secretary of the Interior at any time after two years after the filing of said reports of the board shall file field notes and plat for each pueblo in the office of the surveyor general of New Mexico at Santa Fe, New Mexico, showing the lands to which the Indian title has been extinguished as in said report set out, but excluding therefrom lands claimed by or for the Indians in court proceedings then pending, and copies of said plat and field notes certified by the surveyor general of New Mexico as true and correct copies shall be accepted in any court as competent and conclusive evidence of the extinguishment of all the right, title, and interest of the Indians in and to the lands so described in said plat and field notes and of any claim of the United States in or to the same. And the Secretary of the Interior within thirty days after the Indians' right to bring independent suits under this Act shall have expired, shall cause notice to be published in some newspaper or newspapers of general circulation issued, if any there be, in the county wherein lie such lands claimed by non-Indian claimants, respectively, or wherein some part of such lands are situated, otherwise in some newspaper or newspapers of general circulation published nearest to such lands, once a week for five consecutive weeks, setting forth as nearly as may be the names of such non-Indian claimants of land holdings not claimed by or for the Indians as herein provided, with a description of such several holdings, as shown by a survey of Pueblo Indian lands heretofore made under the direction of the Secretary of the Interior and commonly known as the "Joy Survey," or as may be otherwise shown or defined by authority of the Secretary of the Interior, and requiring that any person or persons claiming such described parcel or parcels of land or any part thereof, adversely to the apparent claimant or claimants so named as aforesaid, or their heirs or assigns, shall, on or before the thirtieth day after the last publication of such notice, file his or their adverse claim in the United States Land Office in the land district wherein such parcel or parcels of land are situate, in the nature of a contest, stating the character and basis of such adverse claim, and notice of such contest shall be served upon the claimant or claimants named in the said notice, in the same manner as in cases of contest of homestead entries. If no such contest is instituted as aforesaid, the Secretary of the Interior shall issue to the claimant or claimants, or their heirs or assigns, a patent or other certificate of title for the parcel or parcels of land so described in said notice; but if a contest be filed it shall proceed and be heard and decided as contests of homestead entries are heard and decided under the rules and regulations of the General Land Office pertinent thereto. Upon such contest either party may claim the benefit of the provisions of section 4 of this Act to the same extent as if he were a party to suit to quiet title brought under the provisions of this Act, and the successful party shall receive a patent or certificate of title for the land as to which he is successful in such proceeding. Any patent or certificate of title issued under the provisions of this Act shall have the effect only of a relinquishment by the United States of America and the said Indians.

If after such notice more than one person or group of persons united in interest makes claim in such land office adverse to the claimant or claimants named in the said notice, or to any other person or group of persons who may have filed such contest, each contestant shall be required to set forth the basis and nature of his respective claim, and thereupon the said claims shall be heard and decided as upon an original contest or intervention.

And in all cases any person or persons whose right to a given parcel or parcels of land has become fixed either by the action of the said board or the said court or in such contest may apply to the Commissioner of the General Land Office for a patent or certificate of title and receive the same without cost or charge.

#### **SEC. 14.**

That if any non-Indian party to any such suit shall assert against the Indian title a claim based upon a Spanish or Mexican grant, and if the court should finally find that such claim by the non-Indian is superior to that of the Indian claim, no final decree or judgment of ouster of the said Indians shall be entered or writ of possession or assistance shall be allowed against said Indians, or any of them, or against the United States of America acting in their behalf. In such case the court shall ascertain the area and value of the land thus held by any non-Indian claimant under such superior title, excluding therefrom the area and value of lots or parcels of land the title to which has been found to be in other persons under the provisions of this Act: *Provided, however,* That any findings by the court under the provisions of this section may be reviewed on appeal or writ of error at the instance of any party aggrieved thereby, in the same manner, to the same extent, and with like effect as if such findings were a final judgment or decree. When such finding adverse to the Indian claim has become final, the Secretary of the Interior shall report to Congress the facts, including the area and value of the land so adjudged against the Indian claim, with his recommendations in the premises.

#### **SEC. 15.**

That when any claimant, other than the United States for said Indians not covered by the report provided for in section 7 of this Act, fails to sustain his claim to any parcel of land within any Pueblo Indian grant, purchase, or donation under the provisions of this Act, but has held and occupied any such parcel in good faith, claiming the same as his own, and the same has been improved, the value of the improvements upon the said parcel of land shall be found by the court and reported by the Secretary of the Interior to Congress, with his recommendations in the premises.

#### **SEC. 16.**

That if any land adjudged by the court or said lands board against any claimant be situate among lands adjudicated or otherwise determined in favor of non-Indian claimants and apart from the main body of the Indian land, and the Secretary of the Interior deems it to be for the best interest of the Indians that such parcels so adjudged against the non-Indian claimant be sold, he may, with the consent of the governing authorities of the pueblo, order the sale thereof, under such regulations as he may make, to the highest bidder for cash, and if the buyer thereof be other than the losing claimant, the purchase price shall be used in paying to such losing claimant the adjudicated value of the improvements aforesaid, if found under the provisions of section 15 hereof, and the balance thereof, if any, shall be paid over to the proper officer, or officers, of the Indian community, but if the buyer be the losing claimant, and the value of his improvements

has been adjudicated as aforesaid, such buyer shall be entitled to have credit upon his bid for the value of such improvements so adjudicated.

**SEC. 17.**

No right, title, or interest in or to the lands of the Pueblo Indians of New Mexico to which their title has not been extinguished as hereinbefore determined shall hereafter be acquired or initiated by virtue of the laws of the State of New Mexico, or in any other manner except as may hereafter be provided by Congress, and no sale, grant, lease of any character, or other conveyance of lands, or any title or claim thereto, made by any pueblo as a community, or any Pueblo Indian living in a community of Pueblo Indians, in the State of New Mexico, shall be of any validity in law or in equity unless the same be first approved by the Secretary of the Interior.

**SEC. 18.**

That the pleading, practice, procedure, and rules of evidence shall be the same in all causes arising under this Act as in other civil causes in the Federal courts, except as otherwise herein provided.

**SEC. 19.**

That all sums of money which may hereafter be appropriated by the Congress of the United States for the purpose of paying in whole or in part any liability found or decreed under this Act from the United States to any pueblo or to any of the Indians of any pueblo, shall be paid over to the Bureau of Indian Affairs, which Bureau, under the direction of the Secretary of the Interior, shall use such moneys at such times and in such amounts as may seem wise and proper for the purpose of the purchase of lands and water rights to replace those which have been lost to said pueblo or to said Indians, or for purchase or construction of reservoirs, irrigation works, or the making of other permanent improvements upon, or for the benefit of lands held by said pueblo or said Indians.

Approved, June 7, 1924.



## Appendix B: Pueblo Lands Compensation Act, 1933

### **Pueblo Lands Compensation Act**

May 31, 1933

c. 45, 48 Stat. 108. (1933)

H.R. 4014

#### **SEC. 1.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in fulfillment of the Act of June 7, 1924 (43 Stat. 636), there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sums hereinafter set forth, in compensation to the several Indian pueblos hereinafter named, in payment of the liability of the United States to the said pueblos as declared by the Act of June 7, 1924, which appropriations shall be made in equal annual installments as hereinafter specified, and shall be, deposited in the Treasury of the United States and shall be expended by the Secretary of the Interior, subject to approval of the governing authorities of each pueblo in question, at such times and in such amounts as he may deem wise and proper; for the purchase of lands and water rights to replace those which have been divested from said pueblo under the Act of June 7, 1924, or for the purchase or construction of reservoirs, irrigation works, or other permanent improvements upon or for the benefit of the lands of said pueblos.

#### **SEC. 2.**

In addition to the awards made by the Pueblo Lands Board, the following sums, to be used as directed in section 1 of this Act, and in conformity with the Act of June 7, 1924, be, and hereby are, authorized to be appropriated:

Pueblo of Jemez, \$1,885; pueblo of Nambe, \$47,439.50; pueblo of Taos, \$84,707.09; pueblo of Santa Ana, \$2,908.38; pueblo of Santo Domingo, \$4,256.56; pueblo of Sandia, \$12,980.62; pueblo of San Felipe, \$14,954.53; pueblo of Isleta, \$47,151.31; pueblo of Picuris, \$66,574.40; pueblo of San Ildefonso, \$37,058.28; pueblo of San Juan \$153,863.04; pueblo of Santa Clara, \$181,114.19; pueblo of Cochiti \$37,826.37; pueblo of Pojoaques, \$68,562.61; in all, \$761,954.88: *Provided, however*, That the Secretary of the Interior shall report back to Congress any errors or omissions in the foregoing authorization measured by the present fair market value of the lands involved, as heretofore determined by the appraisals of said tracts by the appraisers appointed by the Pueblo Lands Board, with evidence supporting his report and recommendations.

#### **SEC. 3.**

Pursuant to the aforesaid Act of June 7, 1924, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, a sum to compensate white settlers or non-Indian claimants who have been found by the Pueblo

Lands Board, created under said Act of June 7, 1924, to have occupied and claimed land in good faith but whose claim has not been sustained and whose occupation has been terminated under said Act of June 7, 1924, for the fair market value of lands, improvements appurtenant thereto, and water rights. The non-Indian claimants, or their successors, as found and reported by said Pueblo Lands Board, to be compensated out of said appropriations to be disbursed under the direction of the Secretary of the Interior in the amounts due them as appraised by the appraisers appointed by said Pueblo Lands Board, as follows:

Within the pueblo of Tesuque, \$1,094.64; within the pueblo of Nambe, \$19,393.59; within the pueblo of Taos, \$14,064.57; within the Tenorio Tract, Taos Pueblo, \$43,165.26; within the pueblo of Santa Ana (El Ranchito grant), \$846.26; within the pueblo of Santa Domingo, \$66; within the pueblo of Sandia, \$5,354.46; within the pueblo of San Felipe, \$16,424.68; within the pueblo of Isleta, \$6,624.45; within the pueblo of Picuris, \$11,464.73; within the pueblo of San Ildefonso, \$16,209.13; within the pueblo of San Juan, \$19,938.22; within the pueblo of Santa Clara, \$35,350.88; within the pueblo of Cochiti, \$9,653.81; within the pueblo of Pojoaque, \$1,767.26; with the pueblo of Laguna, \$30,668.87; in all, \$232,086.80: *Provided, however,* That the Secretary of the Interior shall report back to Congress any errors in the amount of award measured by the present fair market value of the lands involved and any errors in the omissions of legitimate claimants for award, with evidence supporting his report and recommendations.

#### **SEC. 4.**

That for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico in the certain lands hereinafter described, upon which lands said Indians depend for water supply, forage for their domestic livestock, wood and timber for their personal use and as the scene of certain of their religious ceremonials, the Secretary of Agriculture may and he hereby is authorized and directed to designate and segregate said lands, which shall not thereafter be subject to entry under the land laws of the United States, and to thereafter grant to said Pueblo de Taos, upon application of, the governor and council thereof, a permit to occupy said lands and use the resources thereof for the personal use and benefit of said tribe of Indians for a period of fifty years, with provision for subsequent renewals if the use and occupancy by said tribe of Indians shall continue, the provisions of the permit are met, and the continued protection of the watershed is required by public interest. Such permit shall specifically provide for and safeguard all rights and equities hitherto established and enjoyed by said tribe of Indians under any contracts or agreements hitherto existing, shall authorize the free use of wood, forage, and lands for the personal or tribal needs of said Indians, shall define the conditions under which natural resources under the control of the Department of Agriculture not needed by said Indians shall be made available for commercial use by the Indians or others, and shall establish necessary and proper safeguards for the efficient supervision and operation of the area for national forest purposes and all other purposes herein stated, the area referred to being described as follows:

Beginning at the northeast corner of the Pueblo de Taos grant, thence northeasterly along the divide between Rio Pueblo de Taos and Rio Lucero and along the divide between Rio Pueblo de Taos and Red River to a point a half mile east of Rio Pueblo de Taos; thence southwesterly on a line half mile east of Rio Pueblo de Taos and parallel thereto to the northwest corner of township 25 north, range 15 east; thence south on the west boundary of township 25 north, range 15 east, to the divide between Rio Pueblo de Taos and Rio Fernandez de Taos; thence westerly along the divide to the east boundary of the Pueblo de Taos grant; thence north to the point of beginning; containing approximately thirty thousand acres, more or less.

## **SEC. 5.**

Except as otherwise provided herein the Secretary of the Interior shall disburse and expend the amounts of money herein authorized to be appropriated, in accordance with and under the terms and conditions of the Act approved June 7, 1924: *Provided, however*, That the Secretary be authorized to cause necessary surveys and investigations to be made promptly to ascertain the lands and water rights that can be purchased out of the foregoing appropriations and earlier appropriations made for the same purpose, with full authority to disburse said funds in the purchase of said lands and water rights without being limited to the appraised values thereof as fixed by the appraisers appointed by the Pueblo Lands Board appointed under said Act of June 7, 1924, and all prior Acts limiting the Secretary of the Interior in the disbursement of said funds to the appraised value of said lands as fixed by said appraisers of said Pueblo Lands Board be and the same are, expressly repealed: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized to disburse a portion of said funds for the purpose of securing options upon said lands and water rights and necessary abstracts of title thereof for the necessary period required to investigate titles and which may be required before disbursement can be authorized: *Provided further*, That the Secretary of the Interior be, and he is hereby, authorized; out of the appropriations of the foregoing amounts and out of the funds heretofore appropriated for the same purpose, to purchase any available lands within the several pueblos which in his discretion it is desirable to purchase, without waiting for the issuance of final patents directed to be issued under the provisions of the Act of June 7, 1924, where the right of said pueblos to bring independent suits, under the provisions of the Act of June 7, 1924, has expired: *Provided further*, That the Secretary of the Interior shall not make any expenditures out of the pueblo funds resulting from the appropriations set forth herein, or prior appropriations for the same purpose; without first obtaining the approval of the governing authorities of the pueblo affected: *And provided further*, That the governing authorities of any pueblo may initiate matters pertaining to the purchase of lands in behalf of their respective pueblos, which matters, or contracts relative thereto, will not be binding or concluded until approved by the Secretary of the Interior.

## **SEC. 6.**

Nothing in this Act shall be construed to prevent any pueblo from prosecuting independent suits as authorized under section 4 of the Act of June 7, 1924. The Secretary

of the Interior is authorized to enter into contract with the several Pueblo Indian tribes, affected by the terms of this Act, in consideration of the authorization of appropriations contained in section 2 hereof, providing for the dismissal of pending and the abandonment of contemplated original proceedings, in law or equity, by, or in behalf of said Pueblo Indian tribes, under the provisions of section 4 of the Act of June 7, 1924 (43 Stat. L. 636), and the pueblo concerned may elect to accept the appropriations herein authorized, in the sums herein set forth, in full discharge of all claims to compensation under the terms of said Act, notifying the Secretary of the Interior in writing of its election so to do: *Provided*, That if said election by said pueblo be not made, said pueblo shall have one year from the date of the approval of this Act within which to file any independent suit authorized under section 4 of the Act of June 7, 1924, at the expiration of which period the right to file such suit shall expire by limitation: *And provided further*, That no ejectment suits shall be filed against non-Indians entitled to compensation under this Act, in less than six months after the sums herein authorized are appropriated.

#### **SEC. 7.**

Section 16 of the Act approved June 7, 1924, is hereby amended to read as follows:

"SEC. 16. That if the Secretary of the Interior deems it to be for the best interest of the Indians that any land adjudged by the court or said Lands Board against any claimant be sold, he may, with the consent of the governing authorities of the pueblo, order the sale thereof, under such regulations as he may make, to the highest bidder for cash; and if the buyer thereof be other than the losing claimant, the purchase price shall be used in paying to such losing claimant the adjudicated value of the improvements aforesaid, if found under the provisions of section 15 hereof, and the balance thereof, if any, shall be paid over to the proper officer, or officers, of the Indian community, but if the buyer be the losing claimant, and the value of his improvements has been adjudicated as aforesaid, such buyer shall be entitled to have credit upon his bid for the value of such improvements so adjudicated."

#### **SEC. 8.**

The attorney or attorneys for such Indian tribe or tribes shall be paid such fee as may be agreed upon by such attorney or attorneys and such Indian tribe or tribes, but in no case shall the fee be more than 10 per centum of the sum herein authorized to be appropriated for the benefit of such tribe or tribes, and such attorney's fees shall be disbursed by the, Secretary of the Interior in accordance herewith out of any funds appropriated for said Indian tribe or tribes under the provisions of the Act of June 7, 1924 (43 Stat. L. 636), or this Act: *Provided however*, That 25 per centum of the amount agreed upon as attorneys' fees shall be retained by the Secretary of the Interior to be disbursed by him under the terms of the contract, subject, to approval of the Secretary of the Interior, between said attorneys and said Indian tribes, providing for further services and expenses of said attorneys in furtherance of the objects set forth in section 19 of the Act of June 7, 1924.

**SEC. 9.**

Nothing herein contained shall in any manner be construed to deprive any of the Pueblo Indians of a prior right to the use of water from streams running through or bordering on their respective pueblos for domestic, stock-water, and irrigation purposes for the lands remaining in Indian ownership, and such water rights shall not be subject to loss by nonuse or abandonment thereof as long as title to said lands shall remain in the Indians.

**SEC. 10.**

The sums authorized to be appropriated under the terms and provisions of section 2 of this Act shall be appropriated in three annual installments, beginning with the fiscal year 1937.

Approved, May 31, 1933.

Appendix C: Table 1: Results of Pueblo Lands Board decisions in the Tewa Basin

PUEBLO GRANT	Total Acres of Pueblo Grant (ac)	Number of Adverse Claims	Total Adverse Claims (ac)	Average Adverse Claims (ac)	Claims Approved in Whole or Part (%)	Acres of Approved Claims (ac)	Average Acres of Approved Claims (ac)	Claims Rejected	Acres of Claims Rejected (ac)	Average Acres of Claims Rejected (ac)
Tesuque	17,471.1	18	451.32	25.075	9 (50%)	192.72	21.41	15	258.61	17.74
Nambé	13,711.6	242	3,841.37	15.87	177 (73%)	654.36	3.69	65	3,187.61	49.04
Pojoaque	13,470.8	472	2,084.58	4.41	405 (85%)	1,722.36	4.25	65	368.30	5.66
San Ildefonso	16,199.6	455	1,616.63	3.55	293 (64%)	863.31	2.97	162	753.32	4.65
San Juan	16,137.1	740	5,697.14	7.69	525 (70%)	3,499.72	6.66	215	2,197.42	10.22
Santa Clara	16,899.1	902	7,757.75	8.6	656 (72%)	3,416.46	5.2	246	4,341.49	17.64
Picuris	17,468.2	677	2,691.09	3.97	549 (81%)	2,068.25	3.76	128	622.84	4.86
Total Tewa Basin (with Picuris)	111,357.50	3,506	24,139.88	11.527	2,614 claims approved	12,417.8	8.79	896	11,729.59	15.77

**Table 1: Results of Pueblo Lands Board decisions in the Tewa Basin**

Source: Adapted from "Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup> Session, on H. R. 9071, February 17, 1932, 1932, Washington, D.C., Government Printing Office, 1932," and "Summary of Reports," Pueblo Lands Board, Erik Sverre Collection (formerly known as the Carmen Quintana Collection), NMSRCA.

Appendix D: Table 2: Actions of the First District Court on Pueblo Lands Board decisions, Tewa Basin

Pueblo Grant	Number of Adverse Claims	Total Adverse Claims (ac)	Acres of Approved Claims (ac)	Average Adverse Claims (ac)	ACTIONS OF FIRST DISTRICT COURT				Total acres approved by Pueblo Lands Board and First District Court (ac)
					Number of claims sustained in whole or part	Acres of claims sustained in whole or part	Number of rejected claims reversed in whole or part	Acres of claims reversed in whole or part	
Tesuque	18	451.32	192.72	21.41	10	160.62	10	237.18	429.90
Nambé	242	3,841.37	654.36	8.5	39	2,616.99	32	570.62	1,224.98
Pojoaque	472	2,084.58	1,722.36	4.25	34	224.93	31	143.37	1,865.73
San Ildefonso	455	1,616.63	863.31	2.97	131	521.69	41	231.63	1,094.94
San Juan	740	5,697.14	3,499.72	6.66	180	1,696.84	47	500.58	4,000.30
Santa Clara	902	7,757.75	3,416.46	5.2	146	3,440.05	121	901.24	4,317.70
Picuris	677	2,691.09	2,068.25	3.76	27	119.24	102	503.60	2,571.85
<b>Total Tewa Basin (with Picuris)</b>	<b>3,506</b>	<b>24,139.88</b>	<b>12,417.8</b>	<b>8.79</b>	<b>567</b>	<b>8,780.36</b>	<b>384</b>	<b>3,088.22</b>	<b>15,505.10</b>

**Table 2: Actions of the First District Court on Pueblo Lands Board decisions, Tewa Basin**

Source: Adapted from "Authorization of Appropriations to Pay in Part the Liability of the United States to Certain Pueblos: Hearings Before the Committee on Indian Affairs, 72<sup>nd</sup> Congress, 1<sup>st</sup> Session, on H. R. 9071, February 17, 1932, 1932, Washington, D.C., Government Printing Office, 1932," and "Summary of Reports," Pueblo Lands Board, Erik ~~Syver~~<sup>Syver</sup> Collection (formerly known as the Carmen Quintana Collection), NMSRCA.

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