

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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PUEBLO OF SANDIA, )  
 )  
Plaintiff, ) Civil No. 1:94CV02624  
 )  
v. ) Hon. Harold H. Greene  
 )  
BRUCE H. BABBITT and )  
MIKE ESPY, )  
 )  
Defendants. )  
-----)

AFFIDAVIT OF RICK HENDRICKS, PH.D.

COUNTY OF BERNALILLO )  
 ) ss.  
STATE OF NEW MEXICO )

Rick Hendricks, Ph.D., being duly sworn, deposes and states:

1. I am a Research Assistant Professor of History at the University of New Mexico and a private consultant. I have specialized in the history of Spanish Colonial New Mexico, including Spanish land grants to Indian communities. I have had extensive training in Latin American history in the colonial and national periods and in the Spanish language. A copy of my résumé is attached as Exhibit A.
2. I have been asked to review the documentary record of the royal Spanish land grant made to plaintiff Pueblo of Sandia and its subsequent history. This affidavit details that record.
3. From pre-Columbian times to 1681 and again from 1748 to the present, members of Sandia Pueblo have occupied and used the lands described in a

land grant from the Governor of New Mexico, in the name of the King of Spain, which, as confirmed by Congress, includes all areas east of the Pueblo up to and including the main ridge of Sandia Peak (the "claim area"). A true and exact copy of a map showing this area is attached as Exhibit B.

4. When the Spanish Conquistadors arrived in New Mexico, they initiated an oppressive policy of coerced religious conversion that led to the Pueblo revolts in the late 1600s. The people of Sandia fled the pueblo after it was sacked during the attempted reconquest of 1681. The Spaniards denied petitions and prohibited all attempts to settle the site following this abandonment. In the late 1740s, the Sandias and other Indian refugees petitioned for permission to return to the pueblo, which was granted in 1748.

5. In 1748, the Governor of New Mexico, in the name of the King of Spain, formally reestablished the Pueblo of Sandia by royal grant. The original grant document is in the possession of the State of New Mexico. A true and exact copy of the 1748 grant (original and as translated) is appended hereto as Exhibits C and D.

6. As set forth in greater detail below, the 1748 royal grant, by its express terms, includes all of the claim area because it sets the eastern boundary of the Pueblo's land as the "Sierra Madre called Sandia" -- that is, the "main ridge" of Sandia Peak, the most prominent land feature in the entire area. When New Mexico was incorporated as a territory of the United States in 1848, the Treaty of Guadalupe Hidalgo ratified all such land grants that had been made by the Spanish sovereigns.

7. Pursuant to the Treaty of Guadalupe Hidalgo, Congress on December 22, 1858 confirmed the Pueblo's 1748 grant, and commissioned a survey to record the boundaries of the tract. Statutes at Large X, 374 (1858); Ex. Doc. No. 36, 34th Cong., 2d Sess. In confirming the Spanish royal grant, Congress adopted the same clear grant language used in the grant as stated in the official "Whiting" translation. The congressional legislation set the eastern boundary of the Pueblo's land as the "main ridge called Sandia...." Whiting Translation (Exhibit E).

8. Following Congress' explicit directive, the Surveyor General instructed his staff to reconcile the surveys with the documentary evidence of land boundaries. John Garretson, the original surveyor, received these instructions, directing that the boundaries were to confirm the "original grant files" and incorporate all natural markers. (Exhibit F). These instructions, however, were not followed by Reuben Clements -- the man who substituted for Garretson and eventually surveyed the boundaries of the Sandia grant in November 1859. In his survey Clements failed to follow standard surveying procedures. There is no evidence that he notified or included tribal members or their representatives in the survey process as required. His survey field notes are incomplete and inconsistent. Furthermore, his survey simply does not match the metes and bounds of the grant documents.

9. As stated above, the eastern boundary of the Pueblo is described in the 1748 Spanish royal grant and in all extant copies of the grant document as the "Sierra Madre called Sandia." Most important, the Whiting translation

incorporated by the 1858 congressional confirmation sets forth the eastern boundary of the grant as the "main ridge called Sandia." Yet Clements surveyed the eastern boundary of the grant as the foothills of the mountain rather than its "main ridge." As a result of this error, the claim area was excluded from that survey. Because this error was buried in surveying jargon in a document that could not be read, much less understood, by the Pueblo members, it was not discovered until many years later when the Forest Service, which subsequently assumed administrative control for the adjacent tract on the eastern side of Sandia Peak, began to take actions in the remote area adverse to the Pueblo's rights.

10. Other grants in the general area, with similar descriptions, were adversely affected by similarly flawed surveys that failed to include land on the western slope of Sandia Peak. Only in the case of Sandia have these defects not been corrected.

  
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Rick Hendricks, Ph.D.

SUBSCRIBED AND SWORN TO BEFORE ME this 2<sup>nd</sup> day of May,  
1996.

  
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Notary Public

My Commission Expires:

6-10-98  
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