

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**BERNALILLO COUNTY, N.M.,
SANDIA MOUNTAIN COALITION, et al.,**

Appellants,

v.

Pueblo of Sandia

Appellee.

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DKT. NO. 98-5428

APPELLANTS' STATEMENT OF ISSUES ON APPEAL

Pursuant to Rule 10(b), Fed. R. App. P., and this Court's Order dated August 21, 1998, Appellants Bernalillo County, New Mexico, and the Sandia Mountain Coalition, herewith respectfully submit their statement of the issues they expect to raise on appeal, however without prejudice to future modification or supplementation of this statement.

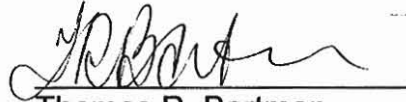
1. Whether the District Court erred in granting summary judgment without finding that there was no genuine issue as to any material fact?
2. Whether the District Court erred in granting summary judgment to plaintiff without fully addressing defendant Bernalillo County's uncontroverted cross-motion showing that plaintiff was not entitled to the requested relief?
3. Whether the District Court erred in finding that plaintiff's suit was not an action to quiet title subject to the Quiet Title Act, 28 U.S.C. §2409a, where uncontroverted evidence showed that the Pueblo had notice of its claim more than 12 years prior to the filing of suit?
4. Whether the District Court erred in holding that the Indian Claims

Commission Act, 25 U.S.C. §70k, did not bar the Pueblo's suit, where the record showed that the Pueblo had knowledge or reason to know of the United States' claims to the Claim Area?

5. Whether the District Court erred in holding that the United States acted arbitrarily and capriciously in refusing to correct the Pueblo's boundary, where the Department of the Interior applied to the Pueblo's claim the presumption of correctness of government surveys?
6. Whether the District Court erred in failing to show, consistent with the Administrative Procedure Act, 5 U.S.C. §§ 552, et seq., deference to the interpretation of law by the agency entrusted with implementation of the statutory authority?
7. Whether the District Court erred in holding that the Department of the Interior had discretion to (a) administratively undertake a new survey of the Pueblo's land grant or (b) transfer land out of the Cibola National Forest and the Sandia Wilderness and from the Forest Service to the Department of Interior in trust for the Pueblo?
8. Whether the District Court erred in finding that the Pueblo had presented "an eminently reasonable interpretation" of the circumstances surrounding its land grant?
9. Whether the District Court erred in extending and applying the "Indian-favoring policy" to the implementation of statutes of general application, such as the Quiet Title Act?

Respectfully submitted,

Dated: September 21, 1998



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