

Memorandum

To: NALC Seminar
From: Kyle Harwood
Date: November 18, 1998
Re: The Story

This Story line was prepared for a verbal presentation of these issues.

1. The Pueblo's use of this area dates back to 1300 AD, as supported by historical anthropologists.
2. The Spanish entrance to the Middle Rio Grande Valley throughout the 1600's lead to a petition to the King of Spain that was formally granted, in fee to the Pueblo of Sandia, in 1748.
3. The Spanish language used in the grant refers to the "sierra madre de Sandia" and several English translations refer to the main ridgeline of the Sandia Mountains.
4. The Treaty of Cordova settled the independence of Mexico from Spain in 1821 and the recognition of patents made under Spanish law was maintained.
5. The Treaty of Guadalupe Hidalgo settled the U.S.-Mexico war in 1848 and incorporated the Territory of New Mexico into the United States. In 1858, pursuant to the ratification of the Treaty of Guadalupe Hidalgo, the U.S. government commissioned a survey to confirm the Spanish grant of land.
6. The 1858 Clements survey established the eastern boundary of the Sandia grant at the base of the foothills instead of at the main ridgeline of the Sandia Mountains, a difference of approximately 10,000 acres (the claim area).

7. Sandia Pueblo asserts that its members have continuously used the claim area for ceremonial and religious purposes. Prior to the 1980's, the Pueblo had not asserted any formal claim to the claim area. The Pueblo protests that the increasing regulation of the claim area by Forest Service and the increasing use of the claim area have adversely affected their uses.
8. In 1983, a formal Pueblo request to DOI resulted in a favorable memorandum that endorsed the assertion of the Pueblo to the claim area. Thereafter, the Pueblo commissioned several historical studies to support their claim.
9. In 1986, the Assistant Secretary of the Interior endorsed the claim of the Pueblo and requested that the Solicitor's Office complete the necessary legal work to correct the survey.
10. In 1987, an Assistant Solicitor authored an opinion (the Vollman opinion) that concluded that the Pueblo's claim is meritorious and that the Secretary of DOI is authorized under law to make the administrative changes.
11. The DOI sent the Vollman opinion to the USDA for review. The USDA released the opinion to the media and public outrage developed in response to a perception that the Pueblo would divest private property owners in the claim area (a claim that the Pueblo declared that it would not pursue).
12. The DOI subsequently overturned the conclusions of the Vollman opinion in a late 1988 memorandum (the Tarr report). The Tarr report concluded that the Pueblo's claim is without merit and that the Secretary of DOI is without authority to grant the requested relief.
13. Between 1988 and 1994 the Pueblo lobbied the DOI for a retraction of the Tarr report and the re-validation of the Vollman opinion. Although the Pueblo received support at each opportunity to present the claim, the DOI choose to maintain the Tarr report as their official position.

14. On December 7, 1994, the Pueblo filed a Complaint for Declaratory Judgement and Injunctive Relief. One month later the Sandia Mountain Coalition files a motion to intervene. Two months later the Pueblo filed an Amended Complaint. The U.S. promptly files a motion to dismiss. Several months later (June 1995), Bernalillo County files a motion to intervene. Throughout the remainder of 1995 and through most of 1996 the parties file numerous motions on requests for additional time, motions for summary judgement and orders for hearing.
15. On December 10, 1996, the District Court for the District of Columbia enters an opinion and order denying the Defendant's Motion to Dismiss.
16. Throughout most of 1997 the parties develop a factual record to the court and move for cross-summary judgement on the issue.
17. On July 20, 1998, the District Court for the District of Columbia enters an opinion and order denying the Defendant's Motion for Summary Judgement and grants the Plaintiff's Motion for Summary Judgement.
18. On October 19, 1998, the U.S. federal government (as defendants) and Bernalillo County and the Sandia Mountain Coalition (as intervenor-defendants) file Statements of Issues to be Raised on Appeal. On the same day, all parties jointly moved to hold the consolidated appeals in abeyance pending settlement negotiations. A report on the settlement negotiations is due in February 1999.