



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

JUL 15 1983

SANDIA PUEBLO

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Memorandum

To: Superintendent, Southern Pueblos Agency
Through: Albuquerque Area Director
From: Director, Office of Trust Responsibilities
Subject: Pueblo of Sandia Grant - Eastern Boundary

94-634

This is to confirm receipt of the January 1983, report of Ward Alan Minge, Ph.D., with respect to the subject. The report refers to issues and encroachments regarding the eastern boundary area of Sandia Pueblo. (Also contained in connection with this report is a copy of your Memorandum of May 6, addressed to Mr. Bill Ott, Assistant Director, Management Services, Central Office). A review of Dr. Minge's report indicates that an extensive and in-depth research project preceded the writing of the document. The basic conclusion of Dr. Minge's report is that the Sandia Pueblo Grant, as surveyed under the auspices of the United States in 1859, was of such a nature as to deviate from the Spanish grant documents. These documents formalized Sandia's political and sovereign nature under Spain.

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Dr. Minge's report describes and narrates, in some detail, the history of Sandia under the Spanish government. He notes that the original Cruzate grant of September 20, 1689, was not the document utilized by the United States in its recognition of the Pueblo of Sandia. He outlines the critical historical events showing how the Sandia grant came to be conceived, implemented, and recognized by a succession of governments from 1748, well into the twentieth century.

In 1748 Sandia was reestablished by order of Governor General Joachim Cevallos y Rabal. Lieutenant General Don Bernardo de Bustamente was ordered to proceed to Sandia and establish the boundaries. (See p. 10-11, Minge Report). Bustamente conferred with the neighbors of the Pueblo across the Rio Grande and obtained their consent to the Governor's decree. The western neighbors expressed no objections nor conflict. Concurrently, he obtained the consent of the residents to the north and south of the Grant.

As to the eastern boundary of the Pueblo, the Minge historical study concludes that the "Sierra Madre called Sandia" (p. 15-16) meant the mountain itself. A mid-eighteenth century document, dated 1776, indicates the Sierra Madre mountain itself was the eastern boundary of the Sandia grant. This document constitutes a description of the missions of New Mexico written by Fray Francisco Atanasio Dominguez (Minge Report, p. 16-19).

Dr. Minge summarizes the attitude and policy of the Spanish from the work of Herbert O. Brayer, Pueblo Indian Land Grants of the "Rio Abajo." New

Mexico, Albuquerque, University of New Mexico Press, 1959. Briefly stated, the Pueblo Indians were considered to be wards of the Crown, and the officials of the government provided for the sovereign recognition and legal practices of the Pueblo Indian in land matters. (Minge, p. 25-29).

Certain administrative adjustments by the Mexican government in the 1830s and 1840s provided for administering the Department of New Mexico more efficiently. This included a continued attitude and policy of trusteeship towards the Indians within the protection of the state. (Minge, p. 21-23) However, the Mexican government regarded the Indian inhabitants of the Department of New Mexico as "citizens." This followed from the principles upon which the Mexican government was established. However, the Mexican authorities towards Pueblo Indian lands remained essentially unchanged from its Spanish predecessor. (Minge, p. 29-30).

The Treaty of Guadalupe-Hidalgo of 1848, which ended the Mexican War, provided for recognition and a guarantee of property rights by the United States in the newly acquired territory. However, the actual conditions in the territory were not particularly auspicious for the immediate implementation of this provision of the treaty. Despite the advocacy of the Territorial Governor, James S. Calhoun, for the United States to protect Pueblo lands and persons, and his unsuccessful attempts to secure protection and the clarification of boundaries, no legislative provision was forthcoming from the Congress until the Act of July 22, 1854. (Minge, p. 30-32).

Subsequent to the Act of July 22, 1854, 10 Stat. 300, which, among other provisions, established the Surveyor General's Office of New Mexico, the process began whereby the private and Pueblo land grants of the Spanish government, within the Territory of New Mexico, were recognized, surveyed, and patented by the United States.

One of the most critical parts of the Minge report is the variation noted between three versions of the translating of the Sandia grant documents. The three versions are those of David Whiting (the official translator) in 1856, the translation presented to the Congress prior to the confirmation of the Sandia grant, the translation made by Dr. Minge himself. All three translations refer to the east boundary as being the Sierra Madre or the "main ridge called Sandia." (Minge, p. 34-35) However, differences which Dr. Minge points out with respect to the north, south, and western boundaries were later reflected in the survey of Sandia's boundaries.

The survey of Sandia was initially contracted for with one John W. Garretson. Garretson was contracted by the Surveyor General to survey 17 Pueblos and five Spanish villages on June 10, 1859. However, in slightly over three months, another contract dated September 21, 1859, was entered into with Rauben L. Clements. Garretson had requested to be relieved of doing the surveys for Santo Domingo, San Felipe, Sandia, and the town of Chilibi. The documentation subsequent to each of the contract dates fails to enlighten us as to the circumstances surrounding the Clements contract and the resulting work. (Minge, p. 36-37)

Clements' work produced a series of incongruities and subsequent unanswered questions. Minge notes that "the Clements survey no doubt would have

puzzled Lieutenant General Bustamante y Tagel" who had surveyed the grant 111 years earlier. The Sandia Pueblo grant, as surveyed by Clements, did not include Sandia Mountain and the field notes reveal "wiggles, jags, and other distortions." (Minge, p. 37) This resulted from Clements' ignoring the "official supporting documents and most boundary calls." (Minge, p. 38). The boundaries, as defined by Clements in his survey notes, deviated from the grant in almost every respect. He provided a four-mile north boundary and a seven-mile south boundary, while totally "eliminating the Sandia Mountain from the grant." (Minge, p. 39)

Noting the meanders of the east boundary, as provided by Clements, Minge concludes:

"there was no possible way in which he could have arrived at such a line had he followed the boundary calls given by instructions, documents supporting land confirmed, or from the original grant papers." (Minge, p. 39)

Since the patent to Sandia Pueblo was signed by President Lincoln on November 1, 1864, the Clements survey has gone unquestioned in official proceedings established by the Congress to quiet Pueblo or private land titles in New Mexico. The Court of Private Land Claims, set up in 1890s, the Pueblo Lands Board in the 1920s, neither studied, nor therefore questioned to any degree, the discrepancies wrought by the Clements survey when compared to the Spanish grant documents, as the Minge Report does. (Minge, p. 40)

In November 1906, the Manzano Forest Reserve was established and the Sandia Mountains were incorporated therein. Between 1910 and 1912 consideration was given to obtaining certain lands for grazing, farming, and timber purposes for a number of Pueblos. A proclamation by the General Land Office on July 1, 1910, withdrew the Manzano National Forest lands from settlement, pending a decision as to obtaining use of 7,500 acres for joint use by Sandia, Santa Ana, and San Felipe. The General Land Office, however, cognizant of the "the attitude of the Department of Agriculture" thought the Indian office should modify the total acreage figure. Minge indicates that this was never done. (Minge, p. 96-99)

The Minge Report notes various instances during the 1930s and 1940s when Sandia Indians confronted opposition or resistance to their use of Sandia Mountain. One of these instances involved the killing of deer, licensing of hunters and religious ceremony.

The final portion of the Minge Report relates the significance and long-time use of the Sandia Mountain by Sandia Pueblo. It has been a source of deer, bear, mountain sheep, and small game, for both sustenance and ceremony; a place for the gathering of plants and wood; and finally, a place of sacred shrines. (Minge, p. 104-109)

The most recent Congressional action with respect to Sandia Mountain came in 1978. On February 24, 1978, the President signed P.L. 95-237, the Endangered American Wilderness Act of 1978, 92 Stat. 40. This Act brought a number of areas, nationwide, into the National Wilderness Preservation

Systems. Included among these was the Sandia Mountain Wilderness Area (North and South Units), which comprised some 30,930 acres.

The historical evidence as reviewed and analyzed by Dr. Minge details the inaccuracies of the Clements survey, the resulting survey deviation on the eastern boundary of Sandia Pueblo, and the perpetuation, since 1859, of these conditions. In attempting to have these conditions corrected (with respect to the survey deviation and later incorporation of Sandia Mountain into the National Forest System), we believe an amendment to the Endangered American Wilderness Act of 1978, supra, which would recognize the original boundary and ownership, and at the same time continue to offer protection for the area under the 1978 Act, might be an initial step to a resolution of this problem.

Our office would be willing to provide additional support to the Pueblo of Sandia in their efforts to obtain a resolution to this issue.

Sincerely,

/s/ Sidney L. Mills

Director, Office of
Trust Responsibilities

cc: Albuquerque Area Director
Sandia Pueblo, Governor