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THE PUEBLO INDIANS

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the southern slope of the Rockies. Meteorologists explain such storms result when the warm moist Gulf of Mexico air moves inland and becomes unstable over the hot desert terrain of Arizona and western New Mexico, causing heavy thundershowers. The pattern has been that most of these rains fall during the months of June to September. These are also the months that Pueblo religious societies from the traditional villages spend their time in the Kivas fasting and praying. Precipitation increases with elevation, especially along that portion of the Rocky Mountains located in north central New Mexico.

New Mexico is the fifth largest state in the Union, with Alaska, Texas, Montana and California taking precedence in size. In the distant past, this region was isolated from the rest of the Pueblo culture. However, since the coming of the Anglo Americans, the automobile and the airplane have joined the railroad to shorten distances, broaden viewpoints, and change the state's economy. The population has seen a great increase, as well as a change in character. During World War II, many people came to New Mexico's military camps, and returned to settle. Pueblo Indian veterans also returned, with a new understanding of the world, as well as with a pack full of various problems. More recently, many people have come to live in the state from all over the nation, seeking a different and more serene life, surrounded by the beauty of the land.

Within this Pueblo homeland there are some of the greatest masterpieces of the earth. The deepest crack in the earth's surface is here, the Grand Canyon. There are mountains whose snowy peaks act as guides as well as a source of inspiration. The driest of deserts is here, and the Pueblos knew where to find food and water in this desert where others could not. The homeland also contains the Petrified Forest, and the Painted Desert with its glorious rainbows resting on earth. This region, moreover, had the most torrential rivers in America. The awe, love, respect and veneration with which the people viewed these wonders of the earth caused them to create one of the most beautiful and unique religions the world over. It influenced their arts, which even today are a magnificent contribution to man's cultural heritage. Today, Man in America views these great achievements of a power superior to all others as something to exploit, while Pueblo Man viewed them as a trust to be cared for and used with respect. So it is, that the beauty of the land has combined with the presence of the unique Pueblo people to create a great increase in population.

New Mexico has a common boundary with Colorado on the north, Oklahoma and Texas on the east, Texas and Mexico on the south, and Arizona on the west. The northwestern corner of the state touches corners of Arizona, Colorado and Utah. This is the only place in the nation where four states meet. The state's common boundary with Mexico is also unique, for many of the people in that country are of the same racial heritage as the Indians of New Mexico.

Looking at the "Pueblo Culture" map (page xii), one becomes aware that such boundaries as exist today are *political* boundaries. The *natural* boundaries of the Pueblo people encompassed nearly all of the area shown on the map. In this land the Pueblos developed their culture and economy. It is the oldest civilization in North America.

The Pueblo Land Grants

Many non-Indians (and Indians) often make the statement that "the King of Spain gave the land to the Indians." Therefore, ownership of the land they hold today dates from the time that Spain dominated the region. It is seldom remembered that the Pueblo people are the oldest known inhabitants in the United States living in the same area since ancient times. It would be impossible for the King of Spain to "give" them land which they already occupied and owned, and had occupied long before the Spaniards came. However, the Spanish did recognize the rights of the Indians to the lands they were living on, and the waters they had available to them for their economy. A block of land (Pueblo) was set aside for each of the Indian groups. These areas came to be known as "grants."

The Spanish monarchy recognized the rights of the Pueblo Indians, and issued many edicts and ordinances requiring the New Mexico authorities to provide legal protection for them. A study by Herbert O. Brayer *(Pueblo Land Grants)* sets forth the general principles of Spain's policy towards the "Indios de los Pueblos," in these terms: "The Pueblo Indians of New Mexico were considered wards of the Spanish crown. The fundamental legal basis for the Pueblo land grants lies in the royal ordinances. Only the viceroy, governors, and captains-general could make grants to the Indians, and only these officials had the authority to validate sales of land by the Indians. (In the early days of the Spanish dominion the Indians were permitted to sell their land, under certain controls).

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All non-Indians were expressly forbidden to reside upon Pueblo lands. The Spanish government provided legal advice, protection and defenses for the Indians. Provincial officials had the authority to appeal cases directly to the audiencias in Mexico. The Indians had prior water rights to all streams, rivers, and other waters which crossed or bordered their lands. The Pueblo Indians held their land in common, the land being granted to the Indians in the name of their Pueblo."

That the reasoning for Spain's concern for the natives was not only a humanitarian one, is explained by the historian and ethnologist, Adolph Bandelier, "The Spanish government recognized at an early date not merely that the Indian was a human being, but that he was, after all, the chief resource which the New World presented to its newcomers. The tendency of Spanish legislation is therefor marked towards insuring the preservation and progress of the natives . . ."

The first record regarding Spanish land grants occurs in 1684, when Governor Domingo Jironza Petriz de Cruzate was given authority by the crown to make Pueblo grants. The following principle was established in making such grants: A grant for four leagues square (17.712 acres), as measured one league in each cardinal direction, (Twitchell, *Spanish Archives)*. There appears to be no evidence however, that land grants had been made prior to 1689. At that time, eleven Pueblos were given title to their grants, according to some accounts, and these Pueblos possess documents purporting to prove their case. As we shall see, the documents were challenged two hundred years later.

At Guadalupe del Paso, on September 20, 1689, grants were issued to Acoma, Jemez, San Felipe, Santo Domingo and Zia Pueblos. On September 25, Cochiti, Pecos, Picuris, San Juan, Zia and Zuni Pueblos received grants. According to some reports, Bartolome de Ojeda, a Zia man, was present at a granting ceremony to testify to the fidelity of the various Pueblos. Sandia Pueblo was issued a grant on April 5, 1748. Santa Clara had a small tract granted July 19, 1763. In testimony heard after the United States established domination over New Mexico, it was found that eight other Pueblos had lost their original grant papers. These are Isleta, Nambe, Pojoaque, San Ildefonso, Santa Ana, Santa Clara, Taos and Tesuque Pueblos. The Spanish land grants to the Pueblos have been recognized both by the government of Mexico following independence from Spain, and by the United States government.

An interesting adventure in research took place in the 1890s when one Will M. Tipton, an investigator for the Court of Private

Land Claims, made a study of the Pueblo land grants and declared that all of the Cruzate grants were "spurious." Reference to this study was made by Herbert O. Brayer, in his *Pueblo Land Grants* (1938). According to Tipton, the Cruzate grants are invalid and fraudulent for these reasons:

In the first place, Tipton reported, all the grants were countersigned by Don Pedro Ladron de Guitara. No such individual had served as secretary of government and war during the Spanish period. The correct name of Governor Cruzate's secretary was Pedro Ortiz Nino de Guevara. Second, when the signatures of the grant documents were compared with official documents on file in the Spanish archives of New Mexico and the Museum of New Mexico at Santa Fe, it was found that they were counterfeit. Third, a supposed grant to Laguna was made ten years before the Pueblo was even founded. And for a fourth reason, Tipton said that various parts of these documents were found to have been taken from a book titled "Ojeado sobre Nuevo Mejico," written by Antonio Barreyro (Barriero) in 1832. However, considering that the Spanish crown had ordered such grants to be made by various edicts and ordinances, and that Cruzate had received instructions to do so in 1684, it would appear that Tipton's investigations, while they may certainly be valid, were in effect redundant. A further observation may be made here, involving Tipton's probable efforts to make a case for the non-Indian claimants, attempting to prove that the Spanish land grants were spurious. The United States surveyor-general approved the grants in 1856, and recommended that the congress confirm them as "Pueblo lands." (Annual Report of the Secretary of the Interior, 1856, 307-334). Congress approved the grants on December 22, 1858. Despite the approval of the United States assigning the land to the Indians, there are still some people who refer to the "spurious grants," as one means of discrediting the Pueblo ownership of the pitiful remains of their vast landholdings. If one wishes, however, to establish the historically legal position of the Pueblos and their land grants, the royal ordinances of Spain supply such authentication.

It is useful at this point to briefly review the main course of the United States in dealing with Pueblo land problems. The United States recognized the rights implicit in the Spanish land grants, which were made a part of the Treaty of Guadalupe Hidalgo. About the year 1849, these holdings were surveyed to establish the boundaries of the various Pueblos. The original surveys were made by contract with private individuals and contained many errors. Another survey was made in 1913 by the United States General

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Land Office, more accurately describing the boundaries of each Pueblo. In several places, however, there were overlappings of the individual Pueblo boundaries in the latter survey. These overlappings remained, were shown on the plotted maps, and the problems were not resolved. Congress established the office of surveyor-general for the Territory of New Mexico July 22, 1854. This person had the task of administering the provisions of the Treaty of Guadalupe Hidalgo. He made three reports, based on the Spanish grants and the testimony of the Pueblos, on September 30 and November 30, 1856; and on January 6, 1867.

On the basis of these reports, congress confirmed the original land grants of all the present existing Pueblos, except Laguna and Zuni, which were subsequently confirmed and patented in the acts of December 22, 1858 and February 6, 1869. President Lincoln issued patents to all the Pueblos whose grants had been confirmed in 1858. Acoma was confirmed November 1, 1864, and was patented November 19, 1877. Laguna's was confirmed on April 20, 1898 and patented November 16, 1909. Zuni's was confirmed March 3, 1931 and patented February 15, 1933.

Land and the Legal Process

Congress established the Court of Private Land Claims, March 3, 1891. This court took over the functions formerly exercised jointly by the surveyor-general for New Mexico and the congress. It conducted investigations and hearings, and rendered decisions in the form of decrees. Through this court, the grants of Laguna, Santo Domingo, San Felipe, Santa Clara, and most of the Pueblos' tribally held lands outside of the original grants, were confirmed.

Despite these legal decisions, infiltration and trespassing on Pueblo land continued. One method of Pueblo land loss can be described. Land speculators would purchase privately owned land near the Pueblos, at high prices the Indians could not afford. The speculators sold the land, usually to a Spanish individual for grazing purposes. The Spanish stockman would approach his Pueblo governor friend, asking if he could graze his sheep or cattle on Pueblo land "for a year or two," generally during years of drought. The friendly Pueblo governor was willing to help his neighbor and agreed to the use of the land for grazing. The "one or two" years became four, six, or eight. After a time, the stockman was firmly established on Indian land. The chances are that no one remembered how the Spaniard came to be occupying Pueblo land.

During the administration of the United States, the Spaniard or his descendants would be paying taxes on the land, and the land office in Santa Fe recorded the land as belonging to the Spanish interloper. If the Spaniard failed to pay taxes, an Anglo American connected with the land office could be expected to move in.

That is one way the loss of land occurred. It was habitual trickery. Other insidious ways were found, both by the Spanish and Anglo Americans, to usurp Indian land. The story of these shady deals makes a litany of incorrigible corruption practiced upon the Pueblo people, most of whom could not read in those times. Through the years of United States federal jurisdiction, small parcels of land have been added from time to time to one or another Pueblo.

A whole parade of lawsuits occurred during the last quarter of the 19th century, before New Mexico acquired statehood in 1912. Of great importance was the case of United States v. Joseph, which involved federal protection of Indian land against trespass and non-Indian settlement. In 1876 the Joseph case was decided against the Pueblos by the Supreme Court. In 1891 the United States Attorney General ruled that federal statutes authorizing the Commissioner of Indian Affairs to regulate Indian traders had no application to the Pueblos. In 1894, the Department of the Interior ruled that laws relating to the approval of leases of Indian tribal land had no application to the Pueblos. In 1900 the Territorial court, in a suit to quiet title brought by one who claimed to have legally acquired some Pueblo land, issued a decree against the Pueblo of Nambe, stating the Pueblo had actually granted away the land. In 1904, the Territorial court decided the Pueblos were liable for taxes (reversed later by congressional enactment).

Finally, in 1913, a case was decided by the Supreme Court which clearly shifted the center of control over the Pueblos from Santa Fe to Washington. Until then, under the Territorial government, the Pueblos were generally treated, in the legal sense, like any other municipal corporation of the Territory, as distinguished from most other Indian tribes under federal jurisdiction and trusteeship. This landmark case is known as United States v. Sandoval. The ruling of the Supreme Court was that the federal government had the right of jurisdiction over the Pueblos. The court declared that the Joseph decision had been made as a result of error and misinformation provided by the Territorial government.

The effect of the Sandoval decision was "to spread consternation among the people of New Mexico who held lands to which the Pueblos laid claim," wrote Felix Cohen *(Handbook of Indian Law)*.

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