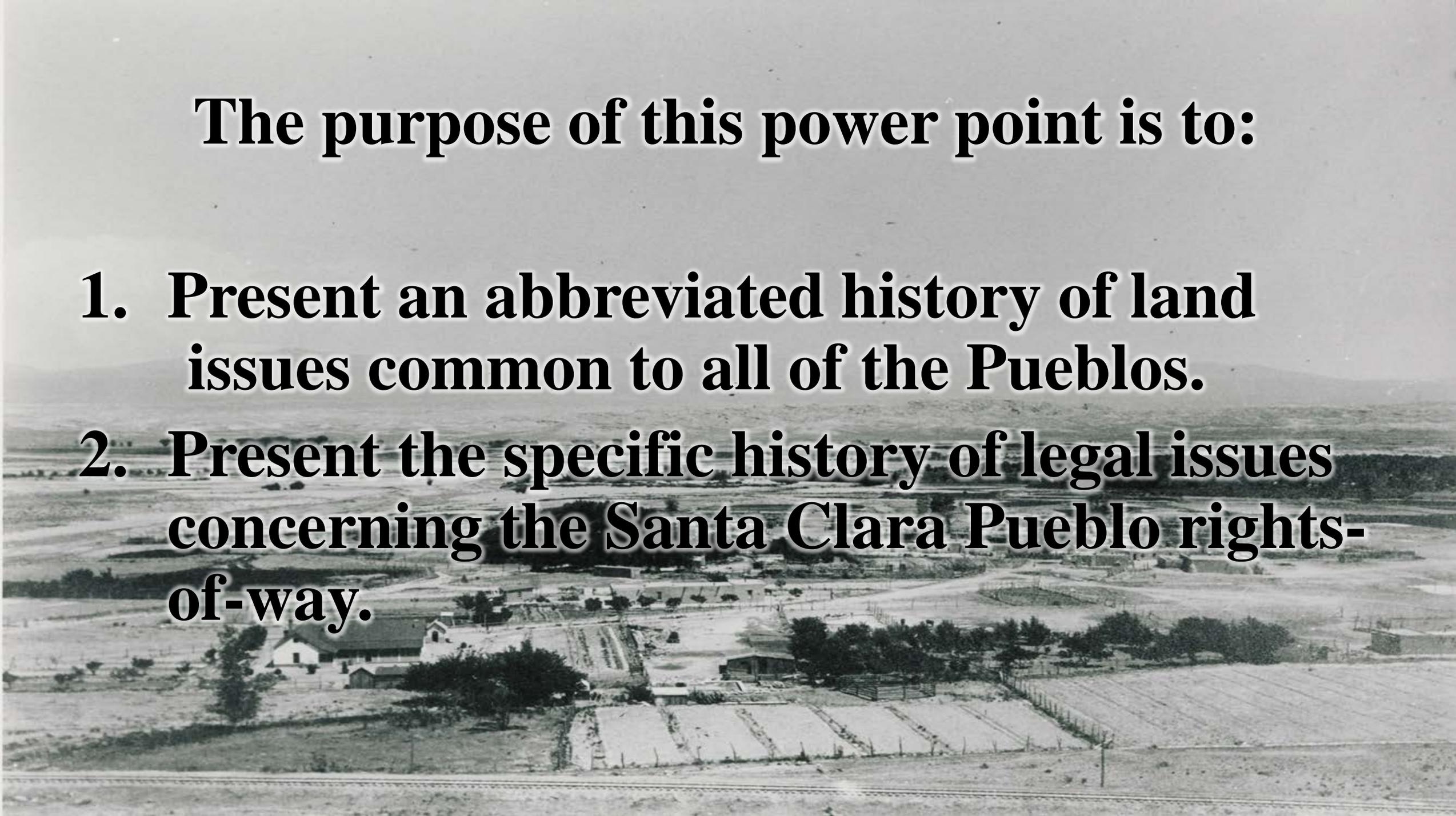




**Pueblo Roads, Trails and Rights-of-Way:
A Legal History for the Joint Meeting
Of NM Indian Affairs and Transportation
October 4, 2018**

An aerial photograph of a rural landscape. In the foreground, there are several rectangular fields, some of which appear to be planted with crops. A small town or village is visible in the middle ground, featuring a prominent white building with a steeple, likely a church. The background shows rolling hills and mountains under a clear sky.

The purpose of this power point is to:

- 1. Present an abbreviated history of land issues common to all of the Pueblos.**
- 2. Present the specific history of legal issues concerning the Santa Clara Pueblo rights-of-way.**

A black and white photograph of a rural settlement, likely in a Pueblo region. The scene shows several huts with thatched roofs, some made of mud-brick or adobe. A dirt path or road runs through the center of the settlement. In the background, there are rolling hills or mountains under a clear sky. The overall atmosphere is one of a traditional, possibly arid, community.

Since 1848, land issues
between New Mexico and the Pueblos
have always been contentious!

THE 1848 TREATY OF GUADALUPE HIDALGO

When Mexico ceded land to the United States after the U.S.-Mexican-American war, the Pueblos' land status was unclear.

1834 NONINTERCOURSE ACT

AFTER THE TREATY OF GUADALUPE HIDALGO,
THE QUESTION AROSE:

DOES THE 1834 FEDERAL STATUTE PROHIBITING
NON-INDIANS FROM SETTLING IN INDIAN
COUNTRY APPLY TO THE PUEBLOS?

SPECIFICALLY, ARE PUEBLO LANDS “INDIAN
COUNTRY”?

United States v. Joseph,
94 U.S. 614 (1876)

- Title to Pueblo grants is superior to that of the United States.
- The Nonintercourse Act, making it a crime to settle on Indian lands, does not apply to Pueblo lands. Pueblo Indians are not savages. Pueblo Indians were not the type of Indians Congress considered deserving of federal protection under the Nonintercourse Act.

PUBLIC DOMAIN LANDS

Reservation lands are public domain lands titled to, and held in trust by, the federal government.

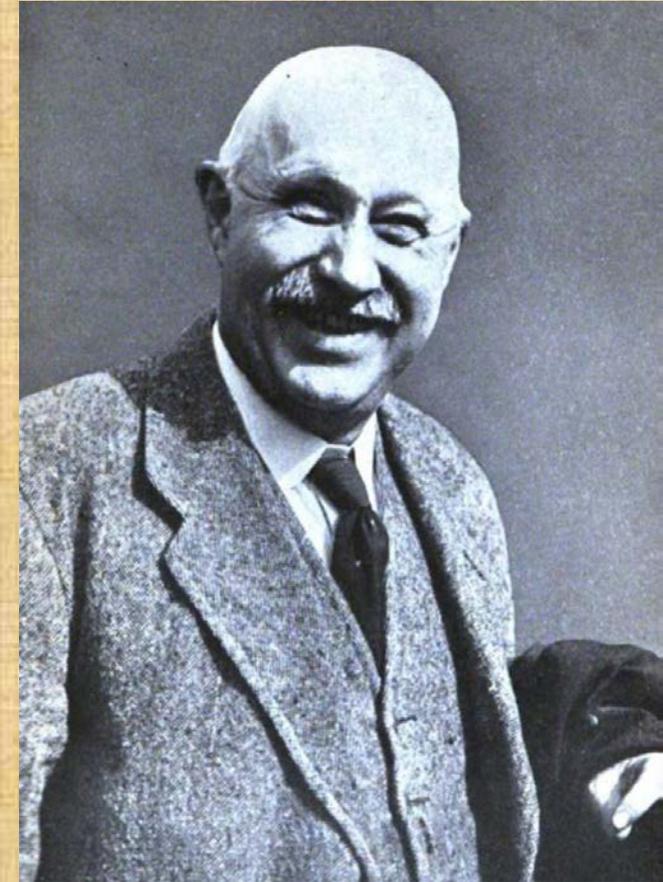
The federal government has a right to administer its own property, whether the property is a reservation or whether the title has been passed to the Indians. *Bowling v. United States*, 191 Fed. 19 (1911), *Tiger v. Western Investment Co.*, 221 U.S. 286 (1911), *Hallowell v. United States*, 22` U.S. 323 (1911).

1910 ENABLING ACT

- *Joseph* decision stands until 1910, when the Enabling Act is passed by Congress.
- Enabling Act enables the citizens of the Territory of New Mexico to adopt and ratify a constitution and institute a State government, and then to be admitted into the Union.
- In the 1910 Enabling Act, Senator Albert J. Beveridge ensures that the Pueblos, and their lands, will remain under federal authority if the Territory becomes a State.

1911-PUEBLOS PREPARE FOR STATEHOOD BY CHALLENGING JOSEPH

- With the aid of Federal Liquor Enforcer “Pussyfoot” Johnson, Pueblo Attorney Francis C. Wilson and Indian Superintendent Harold Coggeshall, the Pueblos file an injunction in Rio Arriba County to enjoin the railroads from transporting liquor across Santa Clara Pueblo in violation of the Enabling Act’s prohibition against introducing alcohol into “Indian Country”
- 300 Santa Clara Pueblo members
- 400 Espanola citizens



1912

- New Mexico becomes a State on January 6, 1912.
- The railroad lawsuit is dropped after Felipe Sandoval brings a quart of champagne into Santa Clara Pueblo.
- *United States v. Sandoval* filed in Federal District Court.

WITH STATEHOOD IN 1912, EVENTS BECOME VERY CONTENTIOUS

- The State, not the Federal Government, now governs New Mexico.
- Statehood presents the opportunity for the State of New Mexico to assert power over the Pueblo people and their ancestral lands.
- A letter from C.C. Catron to his father, U.S. Senator Catron, outlines the State's goals.

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February 19, 1913.

University of New Mexico
Center for Southwest Research
Collection: 29
Box: 110 Folder: _____
Vol. 2

Hon. T. B. Catron,
United States Senate,
Washington, D. C.

Dear Father:

Enclosed I send you notice concerning some matter I am a
familiar with.

I have received your telegrams and acted all.

I will have the principals of the Pueblo of San Juan to-
morrow and can then send you the necessary statement from them
relative to the governorship. I am satisfied I can have it for
you in Washington by Monday and will proceed in accordance with your
last telegram to do this as you will have use for it in the future.
I have carefully read your letter in regard to the status of the
Indian matter. I am afraid that all of Wilson's actions will
simply force the assessors of the various counties to tighten up on
the tax question as far as it relates to the Pueblo Indians.
However, if you refer to the sections of the Constitution which I see
you, you will find that no property of a town is subject to taxation.
This means, when applied to the Pueblo Indians, that the common land
would not be subject to taxation but that the tracts which are held
in severally either by Indians or other citizens would be subject to
taxation. Of course the two hundred exemption would, in reality,
except every Indian from paying any tax on his segregated tracts,
and having returned his property for taxation would beyond any ques-
tion of doubt make him a qualified voter regardless of what interpretation
is placed on our constitution. Among other things I am trying
to get them to vote as it will mean three thousand Republican votes
in this state. Personally, however, I do not think that when
practically applied the state or county will at present get any revenue
from these lands for the reasons above stated, but I do say that the
town of Pena Blanca is a good example of what we may expect in the
future. The tax valuation of the properties in Pena Blanca alone
amount to 122,000 dollars and this entire town is situate on a Pueblo
grant. It simply indicates that in the future as the Indians con-
tinue selling their properties this state will have the richest lands
in the entire state subjected to taxation. The merit in the
proposition is really the long distant result, not the present. I
think you understand the situation as well as I do and appreciate
the three things I am trying to do; one is to burn Wilson and
Coggeshall under the charges which were filed against them last year;
the second is eventually to get the Indians to vote and increase the
Republican vote of the State. The third is to eventually get about
thirty million dollars of taxable property for the state.

W. H. King, Secretary.

LETTER FROM SON TO FATHER

Dear Father:

“I think you understand the situation as well as I do and appreciate the three things I am trying to do; one is to burn Wilson and Coggeshall under the charges which were filed against them last year; the second is eventually to get the Indians to vote and increase the Republican vote of the State. The third is to eventually get about thirty million dollars of taxable property for the State.”

with love, Charlie

IN 1912, THE PUEBLOS PREPARE FOR THE WORST; THE PUEBLO LAND-INTO-TRUST ACT, S.6085, IS INTRODUCED IN CONGRESS

- Santa Clara Pueblo, and nine other New Mexico Pueblos, propose to place their Pueblo land into federal trust for 25 years. The 25 years, with possible extensions, will allow a new generation to educate themselves on how to pay taxes instead of merely engaging in sustenance farming and ranching.
- S.6085 dies in committee.
- The Pueblos' last chance for federal protection is considered by the Supreme Court.

United States v. Sandoval, 237 U.S. 28 (1913)

- Pueblos are considered Indians for federal protection.
- Since 1848, the Federal Government has been negligent in failing to protect the Pueblos' lands and waters.
- The holding in *Sandoval* puts a cloud over the title of all non-Indian lands within the Pueblos.

MORAL OBLIGATION IS THE ROOT OF THE PUEBLO LANDS ACT OF 1924

In considering S.2932, which became the Pueblo Lands Act, the Senate Committee on Public Lands and Surveys found that, “Inasmuch as by the decision of the Supreme Court of the United States [*Sandoval*], referred to above, it was held that the United States was the guardian of these Indians, it seems to follow that if such guardian by reason of negligence has allowed the property of its wards to be lost there is at least a moral, if not legal, obligation to make reasonable restitution for the loss suffered.”

S.Rep. No. 492, at 8 (1924).

PUEBLO LANDS ACT OF 1924

- In order to reverse the negligence of the United States in not protecting Pueblo Indian lands prior to the *Sandoval* decision, and to settle private land claims, the Pueblo Lands Act of 1924 was enacted. Pueblo Lands Act of 1924, ch. 331, 43 Stat. 636.
- The Pueblo Lands Act did not apply to public domain lands granted to the Pueblos through Executive Order. The Board did not apply the Pueblo Lands Act to Executive Order lands granted to Santa Clara Pueblo on July 29, 1905.

CONTINUED...

- Corporations could also claim land. Denver & Rio Grande Western Railroad Company, Western Union, Mountain States Telephone and Telegraph had rights-of-way claims in Santa Clara Pueblo. Federal Aid Projects had highway rights-of-way claims.
- The Pueblo Lands Act of 1924, as supplemented by the Pueblo Relief Act of May 31, 1933, prohibited alienation of Pueblo lands by either the Pueblo or an individual Pueblo member, without the prior permission of Congress.

CONTINUED...

The Pueblo Lands Act of 1924 provided that awards paid by the Federal Government as compensation for Pueblo lands lost to private claims owners were to be used to reacquire Pueblo lands and water and infrastructure lost due to federal negligence. *See Pueblo Lands Act of 1924 at §§ 6, 17, 19.*

The U.S. Supreme Court rejected arguments attempting to invalidate the Pueblo Lands Act of 1924. The Court held that all land transactions alienating Pueblo lands without federal government consent prior to 1913 were void. *United States v. Candelaria, 271 U.S. 432 (1926).*

****Adverse possession does not apply to Pueblo, and Indian, lands.****

PUEBLOS' LANDS ACT OF 1924: CONCLUSION

The Federal Government never fulfilled its intent of restoring land lost to the Pueblos due to federal negligence from 1848-1913.

Santa Clara Pueblo lost approximately 23% of their grant to private land claimants.

WHAT WAS THE LAST WORD ON SANTA CLARA PUEBLO ROADS AND TRAILS USED BY RIO ARRIBA COUNTY?

- On March 17, 1930, the Pueblo Lands Board issued the last word in its Report No. 1 – Santa Clara Pueblo.
- On June 14, 1931, the Federal District Court approved the Pueblos' Lands Board report on Santa Clara Pueblo.
- The Board dissolved on June 30, 1931.

**SURVEY OF CONDITIONS OF THE INDIANS
IN THE UNITED STATES**

HEARINGS

BEFORE A

**SUBCOMMITTEE OF
THE COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE**

SEVENTY-FIRST CONGRESS

SECOND SESSION

PURSUANT TO

**S. Res. 79, 308 (70th Cong.), and S. Res. 263 and 416
(71st Cong.)**

**A RESOLUTION DIRECTING THE COMMITTEE ON INDIAN
AFFAIRS OF THE UNITED STATES SENATE TO MAKE**

**A GENERAL SURVEY OF THE CONDITION OF
THE INDIANS OF THE UNITED STATES**

**CONTINUING UNTIL THE END OF THE REGULAR SESSION
OF THE SEVENTY-FIRST CONGRESS SENATE RESOLU-**

**TION NUMBERED 79 AUTHORIZING A GENERAL
SURVEY OF INDIAN CONDITIONS**

PUEBLO LANDS BOARD

PART 20

HEARINGS AT

**ALBUQUERQUE, NEW MEXICO; SANTA FE, NEW MEXICO
TAOS, NEW MEXICO**

Printed for the use of the Committee on Indian Affairs

**UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1932**

Pueblo Lands Board
Copy

**REPORT NO. 1
Santa Clara Pueblo**

**Report on Titles to Land
Granted or Confirmed to
Pueblo Indians Not
Extinguished**

used from time immemorial by sheepmen, traders and the public going to and from the said Baca Location. Evidence of this is the attempt to close this road to those going to and from the Baca Location which was annulled by the order of the Indian Office after investigation less than two years ago. This road, and its branch to the Puye ruins, has no State and probably no County status now. It would therefore seem that the repair and upkeep must be by its present users only, the Lumber Company, those going to and from the Baca Location to trade, and the Indians.

There are many roads or trails in various parts of the Pueblo Grant, of undoubted long use, but they are not considered within the State Highway system. The records of Rio Arriba County are such that it is absolutely impossible to determine with any degree of certainty what, if any, county status they may have.

There are many roads or trails in various parts of the Pueblo Grant, of undoubted long use, but they are not considered within the State Highway system. The records of Rio Arriba County are such that it is absolutely impossible to determine with any degree of certainty what, if any, county status they may have.

**THERE HAVE BEEN
FEW RIGHTS-OF-WAY AGREEMENTS
BETWEEN THE LOCAL GOVERNMENTS
AND SANTA CLARA PUEBLO
SINCE THE MARCH 17, 1930
PUEBLO LANDS BOARD REPORT.**

*However, the original use of the roads
and trails used by the public has changed
dramatically over the decades!*

**THERE ARE APPROXIMATELY 30,000
ESPANOLA RESIDENTS USING THE
ROADS AND TRAILS THAT WERE
ORIGINALLY USED IN 1911 BY
APPROXIMATELY 400 PEOPLE.**

INCREASED USE OF THE ROADS AND TRAILS MEANS UNINTENDED (USUALLY BAD) CONSEQUENCES FOR THE FUTURE OF THE SANTA CLARA PUEBLO COMMUNITY

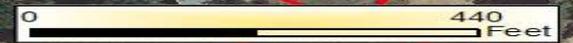
- **Increased non-Native population within the Pueblo's boundaries means increased traffic on the roads and trails.**
- **Increased traffic requires more stringent Pueblo law enforcement to protect the health, safety and welfare of the community.**
- **Increased population means that the Pueblo lands lose their cultural and traditional identity.**
- **Loss of cultural and traditional identity leads to the erosion of Santa Clara Pueblo.**



**THE PUEBLO LANDS BOARD
EXTINGUISHED TITLE TO 3,440 ACRES
OF SANTA CLARA PUEBLO LAND.**

De Mesilla Unit 185

58

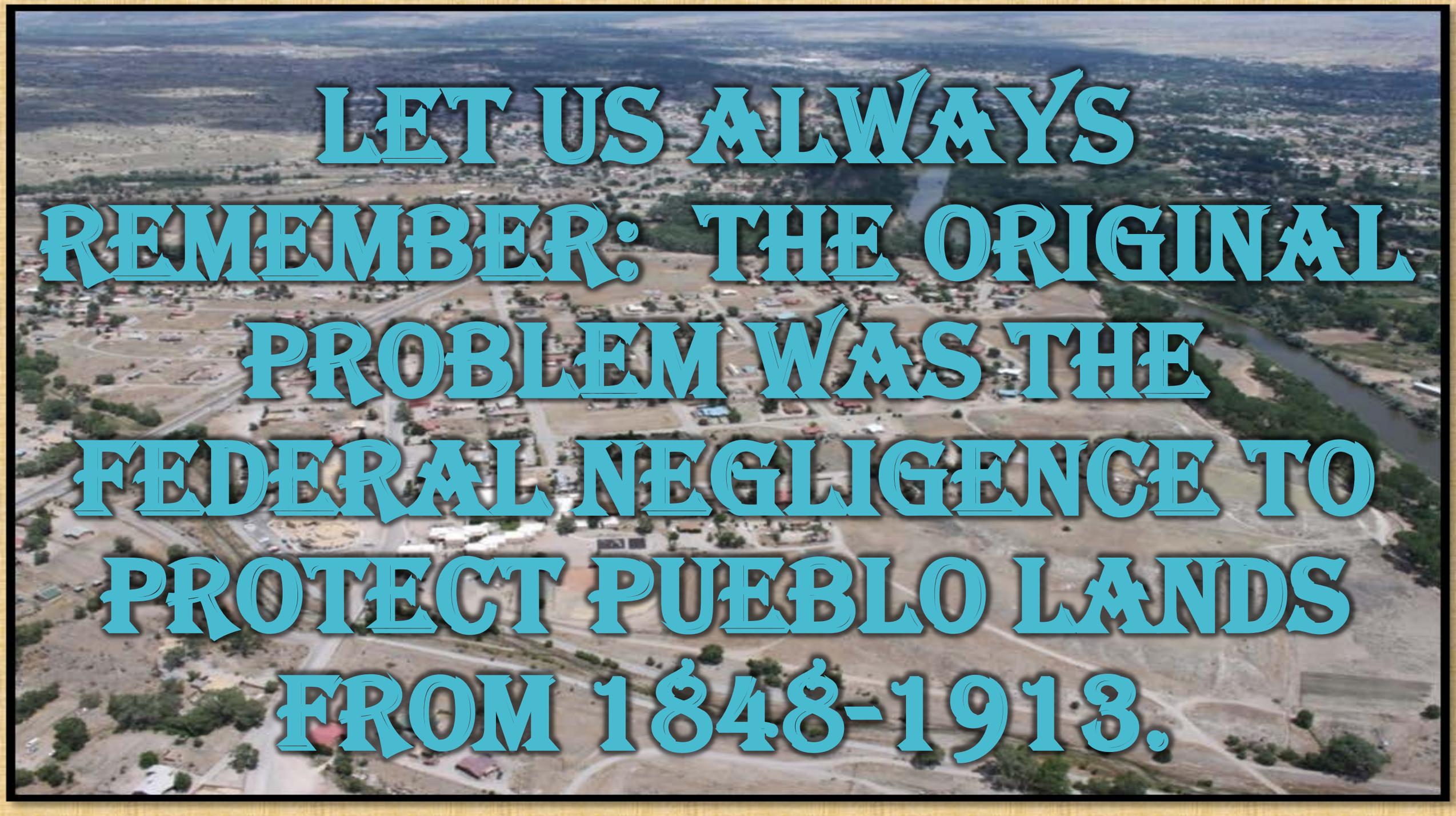


SUMMARY OF REPORTS

Pueblo Grant or Purchase	Total Acreage Within Grant	Date Reports Filed	Number of Adverse Claims	Acreage of Adverse Claims	ACTION BY LANDS BOARD					ACTION BY DISTRICT COURT						ACTION BY CIRCUIT COURT		INDIAN COMPENSATION		Non-Indian Award Recommended			
					Claims Approved Whole or Part	Average of Approved Claims	Claims Rejected Whole or Part	Acreage of Rejected Claims	Appraised Value of Approved Claims Less Improvements	Compensation Awarded To Indians	Number of Case	Claims Sustained Whole or Part	Acreage of Claims Sustained	Claims Reversed Whole or Part	Acreage of Claims Reversed	Decree Rendered	Award to Indians	Title Cases	Award Cases		Additional Award	Final Award Recommended	
Jemez	18228.7	Nov. 24, 1925	4	19.17	4	19.17	None		\$ 2385.00	\$ 500.00	1629			1	.79	Jan. 2, 1929	No Appeal	District Court Sustained	No Appeal	\$	\$ 500.00	None	
Tesuque	17471.1	Nov. 24, 1925	18	451.32	9	192.72	15	258.61	18301.20	29301.20	1630	10	160.62	10	237.18	April 27, 1927	" "	No Appeal	" "	426.23	29727.43	1094.63	
Nambe	13711.6	Aug. 12, 1926	242	3841.37	177	654.36	65	3187.61	65574.77	19630.80	1720	39	2616.99	32	570.62	May 25, 1929	" "	" "	" "	11675.40	38345.03	18881.43	
Taos	17390.1	Mar. 17, 1927	546	3042.25	445	2016.43	78	1025.82	62681.63	48497.00	1784	13	170.94	64	842.99	June 26, 1929	No Appeal	District Court Sustained	" "	27631.85	76128.85	13815.57	
Tenorio	5695.9	Mar. 17, 1927	38	3347.55			38	3347.55			1785	38	3347.55			April 27, 1929	" "	" "	" "			40147.26	
Zia	17514.6	May 7, 1927	None																			None	
Santa Ana	15109.8	July 19, 1927	None																			None	
El Ranchito	4945.2	July 19, 1927	26	126.31	21	96.15	5	30.16	7179.26	5035.54	1814	4	13.85	2	16.31	May 31, 1929	" "	No Appeal	" "	952.62	5988.16	820.13	
Santo Domingo	92398.4	Dec. 29, 1927	54	641.80	36	550.71	18	91.97	17172.35	13888.20	1830	15	10.98	3	80.99	April 25, 1929	" "	" "	" "	2522.80	16411.00	66.00	
Sandia	24715.5	Jan. 16, 1928	386	3262.57	291	777.32	95	2485.25	28637.68	20950.90	1839	31	2066.93	11	135.94	Dec. 16, 1929	" "	" "	" "	3823.35	24774.25	1532.11	
San Felipe	34766.5	May 14, 1928	234	7797.48	163	487.07	71	7310.41	27712.70	20341.10	1870	19	3557.49	48	3697.73	April 22, 1930	" "	" "	" "	21860.88	42201.98	16404.18	
Isleta	188661.2	Aug. 20, 1928	79	647.87	30	438.43	50	209.44	3998.67	3218.21	1910	45	138.42	7	74.10	Jan. 6, 1930	" "	No Appeal	" "	1532.21	4750.42	5792.96	
Picuris	17468.2	Oct. 20, 1928	677	2691.09	549	2068.25	128	622.84	71898.14	47132.90	1933	27	119.24	102	503.60	Oct. 2, 1930	" "	" "	" "	15625.69	62758.59	11464.73	
San Ildefonso	16199.6	July 22, 1929	455	1616.63	293	863.31	162	753.32	52128.38	24441.05	2031	131	521.69	41	231.63	Dec. 5, 1930	" "	" "	" "	6147.12	30588.17	15689.41	
San Juan	16137.1	April 15, 1929	740	5697.14	525	3499.72	215	2197.42	60758.94	29090.53	1991	180	1696.84	47	500.58	Oct. 28, 1930	Lands Board Sustained	" "	District Court Affirmed	6985.54	36076.07	14805.82	
Acoma	94169.0	Oct. 7, 1929	1	3.65			1	3.65			2079	1	3.65			May 14, 1931						None	
Laguna	118871.9	Oct. 10, 1929	83	31213.90	12	286.04	72	30927.90	5858.20	33566.47	2080											33566.47	30668.87
Santa Clara	16899.1	Mar. 24, 1930	902	7757.75	656	3416.46	246	4341.49	226366.43	86821.87	2135	146	3440.05	121	901.24	June 14, 1931	Lands Board Sustained		Dismissed on Appellant's motion	27154.87	113976.74	34885.72	
Cochiti	24299.9	April 30, 1930	249	5306.27	172	261.69	77	5040.42	16439.75	7311.62	2133	39	4649.91	38	382.23	April 9, 1931		" "	" "	13130.56	20442.18	9417.14	
Pecos	18814.6	Aug. 4, 1930	339	18814.56	339	18814.56			See Boards Report No. 2	28144.99												28144.99	None
Pojoaque	13470.8	Aug. 4, 1930	472	2084.58	405	1722.36	65	368.30	113254.03	51679.79	2243	34	224.93	31	143.37	May 25, 1931				4844.42	56524.21	1767.26	
Zuni	Not Patented	Aug. 9, 1930																					None
Totals	786938.8		5545	98363.26	4127	36164.75	1401	62202.16	\$780347.13	\$469552.17	772	22740.0	558	8319.3						144313.54	\$620904.54	\$217253.22	

**PRIOR TO POSSIBLE RESOLUTIONS,
SANTA CLARA PUEBLO
NEEDS TO KNOW THE RIGHTS-OF-WAY
THAT THE RESPECTIVE LOCAL
GOVERNMENT WANTS.**

**THIS INFORMATION WOULD LEAD TO
GOOD-FAITH NEGOTIATIONS FOR
TERMS AND FAIR COMPENSATION.**

An aerial photograph of a town, likely in the American Southwest, showing a river winding through the landscape and hills in the distance. The text is overlaid on the image in a large, stylized, blue font with a white outline.

**LET US ALWAYS
REMEMBER: THE ORIGINAL
PROBLEM WAS THE
FEDERAL NEGLIGENCE TO
PROTECT PUEBLO LANDS
FROM 1848-1913.**

An aerial photograph of a town, likely in the Southwest, showing a river winding through the landscape, a multi-lane highway, and various buildings and parking lots. The text is overlaid in a large, stylized, light blue font with a dark blue outline.

**TODAY'S PROBLEMS ALSO
STEM FROM THE PUEBLO
LANDS BOARD'S INABILITY
TO ANTICIPATE FUTURE
GROWTH AND CONFLICTS**



SCDC Old Smoke Shop Location

SCDC J.W. Owens Location

LAGUNA

PASEO DE ONATE

TRUJILLO
SANDIA

CORLETT

RIVERSIDE



**RESERVATION OF CIVIL
JURISDICTION MUST BE
PLACED IN ANY RIGHTS-OF-
WAY ACCESS INSTRUMENT
TO PROTECT THE PUEBLO
IN THE FUTURE**

A scenic landscape featuring a river flowing through a valley. The foreground is a dirt path with sparse vegetation. The middle ground shows a river with green banks and some trees. In the background, there are rolling hills and mountains under a clear blue sky. The text is overlaid on the image in a stylized, blue, outlined font.

**RIGHTS-OF-WAY ACCESS
LEADING TO TRADITIONAL
SITES CAN BE PROCURED
BY THE FEDERAL
GOVERNMENT.**



QUESTIONS?