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Pueblo of Santa Anna. (To accompany bill H.R. no. 1343.).

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Recommended Citation

H.R. Rep. No. 70, 40th Cong., 2nd Sess. (1868)

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PUEBLO OF SANTA ANNA.

- [To accompany bill H. R. No. 1343.]

JULY 1, 1868.—Ordered to be printed.

Mr. ORTH, from the Committee on Private Land Claims, made the following

R E P O R T .

The Committee on Private Land Claims have, according to instructions of the House, had under consideration the claims of the Indians of the pueblo of Santa Anna, in the Territory of New Mexico, to certain lands, the confirmation of the title to which they claim by virtue of the provisions of the treaty of Guadalupe Hidalgo, and the act of Congress of July 22, 1864:

On examination we find that many years ago the government of Spain granted a certain tract of land to the pueblo of Santa Anna, in the province of New Mexico; that said grant was in writing, and full possession given of the lands granted in compliance with the laws, usages, and customs of that nation; that such grant was recognized by the republic of Mexico, and such possession was a continuous possession until the cession of said province of New Mexico to the United States under the treaty of Guadalupe Hidalgo, and is thus embraced in the provisions of said treaty and the act of Congress of July, 1854.

Your committee further find that the surveyor general for the Territory of New Mexico, in his annual report of September 30, 1855, states that the grant to said pueblo of Santa Anna had been filed in his office, and by him examined and approved.

In support of this claim, the former existence of the grant, and the possession, location, and quantity of land embraced therein, the attention of your committee has been called to the testimony of sundry witnesses, portions of which testimony we herewith present to the House:

Antonio Esculla, being first duly sworn, declares and says: I am about 60 years of age; was born in and have always lived at the pueblo of Santa Anna, where I was baptized in the Catholic church. I am the governor of that pueblo, elected by the pueblo at the last annual election of its officers, on Christmas night, which election is always verified by the cacique, first a few days before calling together the principal men of the pueblo, who, among themselves, select individuals to be submitted to the people for confirmation or rejection, though the nominations so made are very rarely or never rejected. All the male inhabitants of the pueblo, old and young, are then, after the religious services on Christmas night at the church are concluded, convened at the residence of the cacique, and he then and there makes known the nominations, and puts the vote whether the same be confirmed. When I first knew the pueblo it was a very old pueblo, and is situated now where it was then. The boundaries of the pueblo are on the west the lands of the pueblo of Zia; on the north the Borigo spring; on the east a stone monument near the head of the Venado Arroyo; and on the south the Duran Hill. The original grant to the pueblo of Santa Anna we know nothing about, in regard to its existence, though it has been searched for diligently for a long time, though without success. A grant according to our tradition was made by the King of Spain to the pueblo of Santa Anna the same as the other pueblos in the country. I am, as governor of the pueblo, the legal custodian of the papers belonging to the pueblo, but the grant referred to is not among them, and has never been in my possession.

The following is the testimony of José Sarracino, the lieutenant governor of said pueblo :

I am about 50 years of age ; was born in and have always lived at the pueblo of Santa Anna. I am lieutenant governor of the pueblo ; elected at the same time and in the same manner as the present governor, Antonio Esculla. The old men of the pueblo say that the grant the pueblo once held to the land was once in the possession of the pueblo, but that, as it was frequently necessary to produce it in settling questions or disputes, it at length got mislaid and has not since been found. The boundaries of the pueblo grant I understand to be the Borrijo spring, thence Faja Hill, thence the Grulla Hill, thence Chimaja Hill, thence Tecolote Hill, thence Teocuteo Hill, thence Duran Hill, thence the Standing Stone, thence Venado Arroyo. The lands of the pueblo of Santa Anna adjoin those of the pueblo of Zia.

The locality and extent of the lands embraced in the grant to the inhabitants of the pueblo of Santa Anna we believe to be sufficiently proven by the testimony of Simon Delgado, who testifies as follows, viz :

My age is 50 years, and I reside at Santa Fé, and have lived in this county of Santa Fé all my life. I know the pueblo of Santa Anna, and was there in the year 1843 or 1844. When I was there the pueblo had the appearance of being an ancient pueblo. I had known of the existence of the pueblo long before I saw it, and have always heard from the oldest inhabitants that the pueblo of Santa Anna was among the oldest of the Territory, and is known to have existed since before the conquest. The county of Santa Anna, in which the pueblo of that name is situated, was named after that pueblo. The pueblo lies on the Jemez river, as do those of Jemez and Zia. The pueblo of Santa Anna lies about three leagues from that of Zia, both being in Santa Anna county. I have always understood that the land granted Santa Anna by the Spanish government was two leagues square, as was the case with the other Indian pueblos.

We also present the following letter from the Commissioner of the Land Office, in reference to this claim, to wit :

DEPARTMENT OF THE INTERIOR,
General Land Office, May 22, 1868.

SIR : I had yesterday the honor to receive your communication of 20th instant in reference to the pueblo of Santa Anna in New Mexico, and, as requested, transmit herewith an extract of so much of Surveyor General Pelham's report, dated 30th September, 1855, as relates to said pueblo ; and in compliance with your request to be furnished with any other official papers or information in this office in reference to this pueblo, I have the honor to enclose also a transcript, marked A, of so much of a report, dated 6th August, 1867, from the surveyor general of New Mexico, as refers to the pueblo in question. This, together with the report of the surveyor general, dated 5th January, 1867, and accompanying documents, as found printed in Executive Document No. 13, House of Representatives, 40th Congress, 1st session, herewith returned, is all the evidence in this case in possession of this office.

In response to your call for a statement as to whether the confirmation of title in this case can be recommended by this office, I have the honor to state as follows :

It appears, from the testimony taken by the surveyor general, that in the examination of this case no grant was produced, the existence of such grant being traditionary in the pueblo, the affidavit of José Serracino, lieutenant governor of the pueblo, being to the effect that "the old men of the pueblo say that the grant the pueblo once held to the land was once in the possession of the pueblo, but that, as it was frequently necessary to produce it in settling questions or disputes, it at length got mislaid and has not since been found."

The loss of the title papers is also shown, by the report herewith marked A, in eight cases of pueblo claims heretofore confirmed by Congress, viz : The pueblos of Santa Clara, Taos, Tesuque, Nambe, Pojoaque, San Ildefonso, Zia and Isleta, confirmed by the act of 22d December, 1858. (Stats., vol. 11, page 374.)

The evidence shows the pueblo of Santa Anna to be a very ancient one, having an existence as far back perhaps as the time of the conquest, and that it has been in the continuous occupancy of the Indians ever since.

This office would therefore offer no objection to the confirmation of the claim to the extent mentioned in the surveyor general's report, viz : four square leagues, with the church in the pueblo as the centre—four square leagues being the usual maximum granted to pueblos by Spain and Mexico. See the opinion of the United States Supreme Court at the December term, 1867, in the case of *Grisar vs. McDowell*, where it is held as follows : "The same general system of laws for the establishment and government of pueblos, and the assignment to them of lands, that prevailed under Spain, was continued in Mexico, with but little variation, after her separation from the mother country. These laws provided for the assignment

to the pueblos, for their use and the use of their inhabitants, of land not exceeding in extent four square leagues."

With great respect, your obedient servant,

JOS. S. WILSON, *Commissioner.*

Hon. G. S. ORTH,
*Chairman Committee Private Land Claims,
House of Representatives.*

In view, therefore, of the facts herewith presented, your committee have no hesitation in recommending the confirmation of this claim, and accordingly report a bill for that purpose, and ask to be discharged from the further consideration of the subject.