

UCLA

American Indian Culture and Research Journal

Title

Zuni and the Courts: A Struggle for Sovereign Land Rights. Edited by E. Richard Hart.

Permalink

<https://escholarship.org/uc/item/9r41m2fc>

Journal

American Indian Culture and Research Journal , 20(2)

ISSN

0161-6463

Author

Wozniak, Frank E.

Publication Date

1996-03-01

DOI

10.17953

Copyright Information

This work is made available under the terms of a Creative Commons Attribution-NonCommercial License, available at <https://creativecommons.org/licenses/by-nc/4.0/>

Braund have given scholars and fans of Bartram an invaluable source of his writing on the southeastern Indians and the tools and information with which to interpret and use his work.

Robbie Ethridge
University of Georgia

Zuni and the Courts: A Struggle for Sovereign Land Rights.
Edited by E. Richard Hart. Lawrence: University of Kansas Press, 1995. 337 pages. \$ 40.00 cloth.

Some thirty years ago, long after most other Indian tribes had filed land claims, the Pueblo of Zuni initiated litigation related to its aboriginal land claims, rights and uses. In the first case, the Pueblo of Zuni sued the United States, seeking payment for aboriginal lands that had been taken by the United States without compensation. In the second case, also against the United States, the Zuni sought compensation for environmental damages to Zuni trust lands caused by the United States government and by private enterprises where the federal government should have provided protection for those lands. In the third case, the United States, in fulfillment of its trust responsibilities for the Pueblo of Zuni, sued a private rancher in east-central Arizona on behalf of Zuni to establish an easement that protected Zuni access to an ancient religious trail.

Providing an overview of these cases and of Zuni history, Richard Hart has collected essays written by a number of experts and others who testified for the Pueblo—including historians, anthropologists, archaeologists, and scientists—as well as commentary from the Pueblo's attorneys. The collected essays are a valuable contribution to an understanding of a late twentieth-century Indian people's efforts to secure their land rights. The intent of Richard Hart is to make the complex realms of expert testimony accessible to a wide audience. The essays enable the reader to see the kinds of evidence that convinced two U.S. district courts of the merits and validity of Zuni's claims against the United States regarding lost aboriginal lands and environmental damages to their trust lands, and convinced an Arizona district court of the existence under Arizona law of an easement established by Zuni pilgrims across private land that lay between the Pueblo and "Zuni Heaven."

In large part, Hart has been successful in making the information that convinced the courts of the merits of Zuni's claims accessible to a wide audience, particularly in the essays on the environmental damages to Zuni trust lands and on the easement litigation. The brief preface by former governor Robert E. Lewis provides an excellent opening to the volume. The postscripts by Stephen G. Boyden (Zuni's land claims attorney), Floyd A. O'Neil (one of the anthropological experts), Edmund J. Ladd (tribal member and one of the staff of the Museum of New Mexico), and E. Richard Hart (director of the Institute of the North American West) together make an insightful conclusion to the volume. The essay by Edmund Ladd is especially valuable because he is a tribal member and served as an interpreter and translator for Zuni Indian witnesses in testimony in the Pueblo's land claims case.

In the land claims case, the Pueblo of Zuni clearly benefited from being able to carry forward its litigation under separate congressional legislation from that which had been applied to virtually all other Indian land claims, namely the Indian Claims Commission Act of 1946. In particular, Zuni was largely exempt from the Indian Claims Commission Act standards of sole and exclusive aboriginal use that had bedeviled other Indian tribes in the Southwest in their cases against the United States in the 1950s and 1960s. Zuni's land claims had major overlaps and conflicts with the already adjudicated and established land claims of the Navajo and the Western Apache. The editor could have assisted the reader greatly with more maps illustrating the land claims case. Those maps that are provided are so small as to be virtually useless and unintelligible.

Aside from the all-too-brief essays by T.J. Ferguson on Zuni archaeology and culture history, by E. Richard Hart on historic Zuni land uses, and by S. Lyman Tyler on the Zuni Indians under the laws of Spain, Mexico, and the United States, the anthropological and historical essays on the land claims case are quite disappointing in the quality of the information on Zuni land uses and in the questionable methodologies of expert assessments of the historical and anthropological evidence. Fred Eggan's essay on Zuni history and anthropology needs footnotes for the factual information, since his statements are frequently erroneous. For example, on page 22 he asserts that Governor Onate first settled Spanish colonists at San Juan Pueblo and later at Santa Fe. Actually, Onate's successor Governor Peralta established the villa of Santa Fe in 1610 after Onate had been removed from office. The

Pueblo of Jemez is likely to dispute Eggan's claim on page 23 that Zuni had the first real tribal organization in the Pueblo Southwest. Finally, the essay displays a regrettable obscurity about Spanish colonial history in its efforts to demonstrate the uniqueness of the Pueblo Revolt in the late seventeenth century. The revolt was important but hardly exceptional, even in northern New Spain during the seventeenth century.

The quality of the historical essays by Ward Alan Minge (on Zuni's Royal Contract with Spain and on the New Mexican *reducciones*) and the late Myra Ellen Jenkins (on Zuni history during the early American period) can only be described as dismal. These essays represent the work of advocates rather than of expert witnesses. Jenkins repeatedly demonstrates a lack of understanding of intertribal relationships. The entire essay is intended to establish the factual basis for Zuni's claims to recognized aboriginal sovereignty over a large portion of the southern Colorado Plateau in the early American period. None of her conclusions or interpretations is sustainable from the evidence available in the historical record; even from the historical information that she chose to provide in this essay, they are more than questionable. In the 1840s, 1850s, and early 1860s (until Kit Carson and the Ute people forced the Navajo to submit to the dictates of the United States), the Zuni were constantly beset by the Navajo and largely confined to a narrow domain in the upper Zuni River valley. At the same time, the Apache were a continuous and constant threat to the Pueblo of Zuni from the south and west. The notion that, because some Navajo and some Apache people occasionally traded with the Zuni at Zuni Pueblo, the Navajo and Apache recognized Zuni's aboriginal sovereignty over huge areas of Arizona and New Mexico is simply not sustained by the evidence. Minge's interpretation of the *reducciones*, namely that there were none in New Mexico, is contradicted by the histories of Zuni, Jemez, and other New Mexican pueblos in the seventeenth century. The poor quality of the three essays by Jenkins and Minge stand in contrast with the excellent essay by S. Lyman Tyler on the Zuni Indians under the laws of Spain, Mexico, and the United States.

The essays about Zuni's environmental damage case are uniformly good and achieve the editor's intent of making complex expert testimony accessible to a wide audience. John O. Baxter provides a historical overview of the impacts of logging in the Zuni Mountains in the upper Zuni River drainage and of livestock

grazing in the same area during the late nineteenth and early twentieth centuries. Jeffrey S. Dean's essay on dendrochronological dating of alluvial deposits and erosion in the Zuni area is an especially able demonstration of the book's efforts to make complex scientific evidence understandable to a general audience. Because of the increasing importance of oral tradition in establishing the bases for tribal concerns in such areas as the Native American Graves Protection Act and the National Historic Preservation Act, as well as in providing an important part of the evidentiary bases for tribal claims in environmental litigation, Andrew Wigells's essay makes a valuable contribution in explaining the evidentiary use of oral tradition in litigation such as Zuni's claim against the United States for environmental damage to its trust lands.

The two essays on the Barefoot Trail (*U.S. v. Platt*) by E. Richard Hart and Hank Meshorer explore the use rights of the Zuni on private lands in Arizona. The easement rights that Zuni sought and secured in this litigation were vital to Zuni's ceremonial life; these easement rights protected a pilgrimage route and the use right of Zuni pilgrims. The two essays provide an excellent overview of the issues in the case, the legal strategies, and the evidentiary basis for Zuni's success.

The collected essays largely fulfill the editor's purpose of explicating the bases for the success of the Pueblo of Zuni in its land claims, environmental damages, and use rights litigation. As editor of this collection, E. Richard Hart has fulfilled his goal of making complex testimony accessible to a wide audience.

Frank E. Wozniak