

BEFORE THE INDIAN CLAIMS COMMISSION

THE PUEBLO OF LAGUNA, ET AL.,)	Docket No. 227
)	
PUERLO DE ACOMA,)	Docket No. 266
)	
THE NAVAJO TRIBE OF INDIANS,)	Docket No. 229
)	
Petitioners,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER AMENDING OPINION

The Commission on its own motion makes the following amendments to its opinion in The Pueblo of Laguna v. United States, 17 Ind. Cl. Comm. 615, decided February 28, 1967. These amendments are ordered made to correct the erroneous inclusion of a quotation taken from this Commission's opinion in the Umatilla case, which opinion was subsequently vacated by the Commission, and to make the Laguna opinion consistent with that of its companion case The Pueblo de Acoma v. United States, decided March 31, 1967.

IT IS THEREFORE ORDERED that the following statements found on pages 668-669 of the Laguna opinion be and the same are hereby stricken:

However, "the rule of 'exclusive use and occupancy' must be reasonably applied. The term 'exclusive' is definable as excluding or having the power to exclude, limiting or limited to possession, control, or use by a single individual or organization, and as applied to use and occupancy of land by aboriginal Indians involves considerations of the 'land using entity'." Confederated Tribes of the Umatilla Reservation v. United States, 8 Ind. Cl. Comm. 513, 552. Temporary occupancy by friends or raiding by enemies would not destroy the 'exclusive occupancy' required for Indian title. Lummi Tribe of Indians v. United States, 5 Ind. Cl. Comm. 543, 552, The Omaha Tribe of Nebraska, et al., v. United States, 4 Ind. Cl. Comm. 627, 649-650. However, the tribe or group permitting such temporary occupancy by guests or friends must first have established Indian title through exclusive use and occupancy for the requisite time period. Confederated Tribes of the Umatilla Indian Reservation v. United States, 14 Ind. Cl. Comm. 104, 119.

In lieu thereof the following statements are substituted:

Temporary visiting by friends or raiding by enemies would not destroy the "exclusive occupancy" required for Indian title. Lummi Tribe of Indians v. United States, 5 Ind. Cl. Comm. 543, 552, The Omaha Tribe of Nebraska, et al., v. United States, 4 Ind. Cl. Comm. 627, 649-650. However, the tribe or group permitting such temporary visiting by guests or friends must first have established Indian title through exclusive use and occupancy for the requisite time period. Confederated Tribes of the Umatilla Indian Reservation v. United States, 14 Ind. Cl. Comm. 104, 119.

IT IS FURTHER ORDERED that the following statements found on page 696 of the Laguna opinion be and the same are hereby stricken.

Assuming that the Navajo did occupy some of the recovery area in 1848 or prior thereto, such use is not inconsistent with the exclusive use and occupancy of such area by the Pueblo of Laguna if the Lagunas were there first, did not intend to give it up, and the Navajos are considered as temporary inhabitants or invited guests. We have viewed the obvious Navajo occupancy in some of the recovery area in that manner.

In lieu thereof are substituted the following statements:

Assuming that the Navajo were present at times in some of the recovery area, such presence therein is not inconsistent with the exclusive use and occupancy of such area by the Pueblo of Laguna. The recovery area was the ancestral home of the Pueblo of Laguna.

Dated at Washington, D. C., this 4th day of May, 1967.

/s/ Arthur V. Watkins
Arthur V. Watkins
Commissioner

/s/ Wm. M. Holt
Wm. M. Holt
Commissioner

/s/ T. Harold Scott
T. Harold Scott
Commissioner