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Attorneys for Plaintiff,
YSLETA DEL SUR PUEBLO, a federally recognized Indian tribe

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

YSLETA DEL SUR PUEBLO, a federally
recognized Indian tribe,

Plaintiff,

v.

CITY OF EL PASO, and EL PASO WATER
UTILITIES PUBLIC SERVICE BOARD,

Defendants.

Case No.: 3:17-cv-00162

**VERIFIED COMPLAINT FOR
DECLARATORY JUDGMENT
CONFIRMING TITLE TO REAL
PROPERTY**

Honorable _____

Plaintiff Ysleta Del Sur Pueblo for its Complaint states:

Parties

1. Plaintiff Ysleta Del Sur Pueblo (“Pueblo”) is a federally recognized sovereign Indian tribe entitled to all of the privileges and immunities associated with that status. Federally Recognized Indian Tribe List, 82 Fed. Reg. 4915, 4919 (Jan. 17, 2017).

2. Defendant City of El Paso is a home-rule municipality with local governmental authority within the State of Texas.

3. Defendant El Paso Water Utilities Public Service Board provides water and wastewater services to customers in El Paso County.

4. The defendants claim an interest in the real property at issue in this Complaint.

The Property

5. The Pueblo seeks a declaratory judgment confirming that the Pueblo is the owner of approximately 111.73 acres of real property particularly described as:

a. A parcel of land located south of the Gateway East Boulevard and Zaragoza Road Intersection containing 31.9029 acres more or less, identified by the following legal description: a portion of Tracts 10, 11, 12, 13, 14B, 15B and 16, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas. A map of said parcel is attached as **Exhibit A**.

b. A parcel of land located on the southeast corner of Gateway East Boulevard and Zaragoza Road Intersection containing 9.240 acres more or less, identified by the following legal description: a portion of Tracts 7A, and 8C, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas. A Plat of Survey and Metes and Bounds description of said parcel is attached as **Exhibit B**.

c. A parcel of land located south of the Gateway East and Zaragoza Road Intersection containing 1.578 acres more or less, described as a portion of Tracts 9 and 10, Block 55, Ysleta Grant, City of El Paso, El Paso County, Texas. A Plat of Survey and Metes and Bounds description of said parcel is attached as **Exhibit C**.

- d. A parcel of land located at 1100 N. Zaragoza Road containing 69.0 acres more or less, known as Blackie Chesher Park, City of El Paso, El Paso County, Texas.

Said parcels are referred to collectively as the Property.

Jurisdiction & Venue

6. Plaintiff seeks a declaratory judgment confirming its title to real property deriving from a Spanish grant to Plaintiff recognized by federal law, and the laws of Spain and Mexico, and preserved by the United States in the Treaty of Guadalupe Hidalgo. Federal jurisdiction is therefore appropriate pursuant to both 28 U.S.C. § 1331 and 28 U.S.C. § 1362.

7. Venue is proper because the real property at issue is situated within the judicial district of this Court, and all both of the defendants are located within this district. 28 U.S.C. § 1391(b)(1)-(2).

Factual Averments

8. Ysleta del Sur Pueblo was established by Tiwa (or Tigua) speaking Pueblo Indians who were relocated by the Spanish from the Pueblo of Isleta, New Mexico, to their current locations between 1680 and 1682.

9. In 1751, Spain granted the land of the Ysleta del Sur Pueblo to the Pueblo's members as communal property.

10. In 1825, the Mexican State of Chihuahua confirmed the Pueblo grant.

11. In 1825, the Mexican alcalde of El Paso conducted the first survey of the Pueblo grant and confirmed the total area to be 17,588 acres.

12. In 1845, Texas was admitted into the United States.

13. In 1848, the Mexican-American War ended with the Treaty of Guadalupe Hidalgo. Treaty of Peace, Friendship, Limits and Settlement, Feb. 2, 1848, U.S.-Mex., 9 Stat. 922.

14. The Treaty of Guadalupe Hidalgo transferred territory previously held by Mexico to the United States, including the lands comprising the Pueblo grant.

15. The Treaty also created the international boundary between the United States and Mexico in the middle of the principal stream of the Rio Grande.

16. Article VIII of the Treaty of Guadalupe Hidalgo guaranteed to citizens of Mexico within the affected areas, which at the time included the Ysleta del Sur Pueblo Indians, protection of their land titles upon the transfer of sovereign authority from Mexico to the United States.

17. After the Rio Grande flooded in 1849, Mexico expropriated Ysleta del Sur Pueblo lands located south of the Rio Grande's new course for the Senecú Pueblo. The Ysleta del Sur Pueblo sought to confirm its rights to its lands that remained north of the Rio Grande.

18. In 1853, as a result of this dispute, the El Paso district surveyor resurveyed the portion of the Pueblo grant remaining north of the Rio Grande.

19. The 1853 survey confirmed that "one league and 21 labors" (8,148.34) acres of grant area remained north of the international boundary.

20. In 1854, the State of Texas confirmed its recognition of the Pueblo grant. An Act of the relief of the Inhabitants of the town of Ysleta in the county of El Paso, Texas Legislature, Feb. 1, 1854, chapter XXXVII: 53.

21. In the decades after Texas joined the United States, the Texas state legislature passed successive incorporation acts which purported to transfer title to the Pueblo's lands.

22. In 1968, the United States confirmed its recognition of Ysleta del Sur Pueblo as an Indian Tribe. An Act relating to the Tiwa Indians of Texas, Pub. L. No. 90-287, 82 Stat. 93 (Apr. 12, 1968).

23. The 1968 "Tiwa Indian Act" transferred the federal government's trust responsibilities to the State of Texas. An Act relating to the Tiwa Indians of Texas, Pub. L. No. 90-287, 82 Stat. 93 (Apr. 12, 1968).

24. In 1987, Congress restored the trust relationship between the Pueblo and the United States. Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act, Pub. L. No. 100-89, 101 Stat. 666 (Aug. 18, 1987).

25. The Pueblo grant has not been vacated or abandoned by the members of the Ysleta del Sur Pueblo.

26. Members of the Pueblo continue to reside on or near these 1751 Spanish grant lands and the Pueblo has remained a visible presence in the community.

27. The Pueblo is and since 1751 has been the owner of the Property.

28. The Property is located within the boundaries of the 1751 Spanish Land Grant.

29. The Property has been used by the Pueblo since before the 1751 Spanish land grant and continues to be used by the Pueblo.

30. The Pueblo has never conveyed to any entity title ownership in the Property.

31. The Pueblo is entitled to a declaratory judgment in its favor under 28 U.S.C. § 2201, confirming that title to the Property is vested in the Pueblo alone and that both defendants,

and each of them, be declared to have no estate, right, title or interest in or to the Property and that the defendants, and each of them, be forever enjoined from asserting any estate, right, title or interest in or to the Property adverse to the Pueblo.

Prayer for Relief

Wherefore, the Pueblo asks the Court to enter a declaratory judgment in its favor pursuant to 28 U.S.C. § 2201:

- a. Confirming that Plaintiff is and has been the rightful holder of title to the Property since 1751 and that the defendants are declared to have no estate, right, title or interest in or to the Property;
- b. Enjoining the defendants from claiming any estate, right, title or interest in or to the Property; and
- c. Granting all other relief that the Court deems proper.

DATED: May 22, 2017

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VERIFICATION

I, Chris Gomez, Lt. Governor of the Ysleta del Sur Pueblo, state that I have read the foregoing verified complaint and know the contents thereof. The same is true and correct to the best of my knowledge, information and belief, except as to those matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

Executed May 22, 2017



Chris Gomez
Lt. Governor
Ysleta del Sur Pueblo