

SUPREME COURT OF NEW MEXICO

Rayellen Resources, Inc. v. New Mexico Cultural Properties Review Committee

5 N.M. 492 (2014) · No. 33,497 · Decided February 6, 2014

SUMMARY

The New Mexico Supreme Court reviewed the designation of approximately 400,000 acres on Mount Taylor as a registered cultural property under the New Mexico Cultural Properties Act. The Court held that the listing was lawful and that the Committee provided constitutionally sufficient notice and due process. It reversed the inclusion of approximately 19,000 acres of Cebolleta Land Grant common lands, concluding that such land was not state land under the Act.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Charles W. Daniels; Petra Jimenez Maes; Richard C. Bosson; Edward L. Chávez; Barbara J. Vigil
JURISDICTION	New Mexico
DECIDED	February 6, 2014
DOCKET	33,497
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Certification from the New Mexico Court of Appeals of challenges to a final administrative decision listing approximately 400,000 acres on Mount Taylor as a registered cultural property under the New Mexico Cultural Properties Act.
STANDARD OF REVIEW	The Supreme Court applied the same administrative standard of review as the district court: whether the agency decision was arbitrary, capricious, an abuse of discretion, unsupported by substantial evidence, or otherwise not in accordance with law. Statutory interpretation and whether due process was denied were reviewed de novo; factual findings were reviewed for substantial evidence.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of New Mexico
PARTIES	New Mexico Cultural Properties Review Committee, Alan “Mac” Watson v. Rayellen Resources, Inc., Destiny Capital, Inc., Lynne E.

Elkins, Paula D. Elkins, Joy Burns, Cebolleta Land Grant, Fernandez Company Ltd., Judith Williams Phifer, Orin Curtis Cleve Williams, Rio Grande Resources Corporation, Strathmore Resources (U.S.) Ltd., Laramide Resources (U.S.A.) Ltd., Roca Honda Resources, LLC, Patrick H. Lyons, Commissioner of Public Lands for the State of New Mexico

TOPICS

judicial review of agency action rulemaking procedural due process statutory interpretation
establishment clause

PRACTICE AREAS

administrative law constitutional law historic preservation statutory interpretation real property

QUESTIONS PRESENTED

1. Whether the Committee provided constitutionally sufficient notice and opportunity to be heard before permanently listing Mount Taylor as a cultural property.
2. Whether the Mount Taylor listing satisfied statutory requirements concerning inspection, maintenance, and integrity.
3. Whether Cebolleta Land Grant common lands constitute state land under the Cultural Properties Act.
4. Whether the Committee lawfully followed federal historic-preservation procedures and whether changes between the emergency and permanent nominations invalidated the listing.
5. Whether the listing violated the Establishment Clause because of Mount Taylor's religious significance.

HOLDINGS

1. The Committee's extensive publication, website, media, and personal-notice efforts provided notice reasonably calculated to inform interested parties and an opportunity to be heard. Because the listing was regulatory rulemaking rather than adjudication of individual property rights, personal notice to every affected property owner was not required.
2. The Cultural Properties Act does not impose a size limit on listed properties and does not require findings concerning inspection and maintenance before listing. Substantial evidence supported the Committee's finding that Mount Taylor possessed the required integrity.
3. Cebolleta Land Grant common lands are not state land for purposes of the Cultural Properties Act and therefore could not be included as state land in the Mount Taylor listing.
4. The Mount Taylor listing did not violate the Establishment Clause.

KEY QUOTATIONS

“Our inquiry here must be whether the notice provided by the Committee was reasonably calculated under the circumstances to inform interested parties of its action in order to afford them the opportunity to be heard.” ¶

“The Committee’s action is a regulatory one more akin to general rule-making than adjudication, one undertaken to effectuate the Committee’s statutory powers to identify and preserve our state’s cultural and historic heritage.” (¶ 27)

“We reverse the district court in part by holding that the decision of the New Mexico Cultural Properties Review Committee to list Mount Taylor as a cultural property under the New Mexico Cultural Properties Act did not violate due process guarantees or statutory requirements on inspection, maintenance, and integrity.” (¶ 61)

FACTUAL BACKGROUND

The United States Forest Service determined that Mount Taylor was eligible for listing on the National Register of Historic Places as a traditional cultural property based on its archaeological, historical, ethnographic, and continuing cultural significance to surrounding tribal communities. Several tribes petitioned the New Mexico Cultural Properties Review Committee for emergency and then permanent state listing, covering extensive federal, state, Indian trust, Pueblo, and Cebolleta Land Grant common lands while excluding private land. The Committee permanently listed Mount Taylor after public notice, a hearing, written comments, and a unanimous vote.

PROCEDURAL HISTORY

The New Mexico Cultural Properties Review Committee temporarily listed Mount Taylor in 2008 and permanently listed it in 2009. The Rayellen parties appealed under Rule 1-075 NMRA to the Fifth Judicial District Court, which reversed the listing on due-process, statutory, and related grounds but agreed that Cebolleta Land Grant common lands were not state land. The Court of Appeals granted petitions for certiorari and cross-petitions, then certified the entire case to the New Mexico Supreme Court as presenting issues of substantial public interest.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the district court with instructions to amend its judgment in conformity with the Supreme Court's opinion.

CASES CITED

- ACLU of N.M. v. City of Albuquerque, 2008-NMSC-045, ¶¶ 9, 19, 144 N.M. 471, 188 P.3d 1222
- Sais v. N.M. Dep’t of Corrs., 2012-NMSC-009, ¶ 15, 275 P.3d 104
- Rio Grande Chapter of Sierra Club v. N.M. Mining Comm’n, 2003-NMSC-005, ¶ 17, 133 N.M. 97, 61 P.3d 806
- Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313-14 (1950)

- Uhden v. New Mexico Oil Conservation Commission, 1991-NMSC-089, ¶¶ 4, 7-13, 112 N.M. 528, 817 P.2d 721
- Timberon Water Co., Inc. v. N.M. Pub. Serv. Comm'n, 1992-NMSC-047, ¶ 23, 114 N.M. 154, 836 P.2d 73
- Nat'l Council on Comp. Ins. v. N.M. State Corp. Comm'n, 1988-NMSC-036, ¶¶ 14, 21, 107 N.M. 278, 756 P.2d 558
- Maso v. State Taxation & Revenue Dep't, Motor Vehicle Div., 2004-NMSC-028, ¶ 10, 136 N.M. 161, 96 P.3d 286
- Bd. of Educ. of Carlsbad Mun. Schs. v. Harrell, 1994-NMSC-096, ¶ 52, 118 N.M. 470, 882 P.2d 511
- Jones v. N.M. State Racing Comm'n, 1983-NMSC-089, ¶ 20, 100 N.M. 434, 671 P.2d 1145
- Bishop v. Evangelical Good Samaritan Soc., 2009-NMSC-036, ¶ 8, 146 N.M. 473, 212 P.3d 361
- State v. Nick R., 2009-NMSC-050, ¶ 16, 147 N.M. 182, 218 P.3d 868
- State v. Smith, 2004-NMSC-032, ¶ 10, 136 N.M. 372, 98 P.3d 1022
- Mondragon v. Tenorio, 554 F.2d 423, 424-25 (10th Cir. 1977)
- Maestas v. Board of Trustees of Anton Chico Land Grant, 1985-NMSC-068, ¶¶ 8-9, 103 N.M. 77, 703 P.2d 174
- Armijo v. Cebolleta Land Grant, 1987-NMSC-006, ¶ 6, 105 N.M. 324, 732 P.2d 426
- Bd. of Trs. of Town of Las Vegas v. Montano, 1971-NMSC-025, ¶ 16, 82 N.M. 340, 481 P.2d 702
- N.M. Bd. of Exam'rs in Optometry v. Roberts, 1962-NMSC-053, ¶ 20, 70 N.M. 90, 370 P.2d 811
- Johnson v. N.M. Oil Conservation Comm'n, 1999-NMSC-021, ¶ 17, 127 N.M. 120, 978 P.2d 327
- Smith v. Board of Commissioners of Bernalillo County, 2005-NMSC-012, ¶ 33, 137 N.M. 280, 110 P.3d 496
- Pamela A.G. v. Pamela R.D.G., 2006-NMSC-019, ¶ 12, 139 N.M. 459, 134 P.3d 746
- Albuquerque Bernalillo Cnty. Water Util. Auth. v. N.M. Pub. Regulation Comm'n, 2010-NMSC-013, ¶ 21, 148 N.M. 21, 229 P.3d 494
- Cerrillos Gravel Products, Inc. v. Board of Commissioners of Santa Fe County, 2005-NMSC-023, ¶¶ 3, 28, 138 N.M. 126, 117 P.3d 932
- State v. Hill, 1918-NMSC-046, ¶ 2, 24 N.M. 344, 171 P. 790
- Lemon v. Kurtzman, 403 U.S. 602, 612-13 (1971)
- Pruey v. Dep't of Alcoholic Beverage Control of N.M., 1986-NMSC-018, ¶ 12, 104 N.M. 10, 715 P.2d 458