

**MINUTES
of the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**October 31, 2019
Ghost Ranch
Abiquiu**

**November 1, 2019
Pastores Building
87 N.M. Highway 514
Los Ojos**

The fourth meeting of the 2019 interim of the Land Grant Committee was called to order by Representative Miguel P. Garcia, chair, on October 31, 2019 at 10:18 a.m. at Ghost Ranch in Abiquiu.

Present

Rep. Miguel P. Garcia, Chair
Sen. Elizabeth "Liz" Stefanics, Vice Chair
Sen. Gregory A. Baca (10/31)
Rep. Susan K. Herrera
Sen. Richard C. Martinez
Rep. Matthew McQueen (10/31)
Rep. Tomás E. Salazar

Absent

Rep. Rachel A. Black
Rep. David M. Gallegos
Sen. Linda M. Lopez
Sen. Bill B. O'Neill
Sen. Cliff R. Pirtle
Sen. Sander Rue
Rep. Christine Trujillo

Advisory Members

Rep. Eliseo Lee Alcon

Rep. Christine Chandler
Rep. Harry Garcia
Sen. Stuart Ingle
Rep. D. Wonda Johnson
Sen. Gay G. Kernan
Rep. Patricia A. Lundstrom
Rep. Debra M. Sariñana
Sen. James P. White

Guest Legislators

Rep. Alonzo Baldonado (10/31)
Rep. Kelly K. Fajardo (10/31)

(Attendance dates are noted for legislators not present for the entire meeting.)

Staff

Mark Edwards, Bill Drafter, Legislative Council Service (LCS)

Michelle Jaschke, Researcher, LCS

Anthony Montoya, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted on the legislature's website.

Thursday, October 31 — Abiquiu

Welcome and Introductions

Representative Garcia welcomed committee members and asked Arturo Archuleta, program manager, Land Grant Council, to provide an opening invocation. A moment of silence was observed for Senator Carlos R. Cisneros, a committee member who recently passed away. Representative Garcia then asked members of the committee, staff and audience to introduce themselves.

Juan Bautista Baldez Land Grant-Merced Status Update: Land and Elk Permit Issues

Arturo Archuleta told the committee that he would be presenting on behalf of Cy Martinez, board member, Juan Bautista Baldez Land Grant-Merced, who was unable to attend the meeting. A committee member provided a brief background on the history of the land grant-merced and its interaction with the committee and the legislature, including its requests for funding for a water infrastructure project and child care services and help with corruption issues related to a local mutual domestic water association.

Arturo Archuleta discussed legal services provided to the land grant-merced. He also discussed the history of the land grant-merced and the original determination of acreage. He stated that in recent history, individuals in the community have brought claims for ownership of the common lands. While the majority of the individuals living in the land grant-merced community are original heirs, some land has been sold to outside parties. He explained that during the late 1990s and early 2000s, legal battles over title to the land caused a fracture within the community.

Arturo Archuleta said that the issues of land ownership have culminated recently due to a taxation decision. The Rio Arriba County assessor recently informed the land grant-merced that due to a claim of ownership, the land grant-merced would be reduced in acreage and taxes would be assessed only for that reduced acreage. He explained that the loss of this land has implications for both grazing and the issuance of elk permits by the Department of Game and Fish (DGF). Arturo Archuleta stated that the land grant-merced is actively working to petition

the county assessor to revisit the recent decision and has filed a court case to clarify ownership of the land. He explained that this process requires significant legal services, and the land grant-merced and the Land Grant Council have limited legal resources.

In response to questions from committee members, Arturo Archuleta stated that:

- the court case related to land ownership was filed very recently;
- one issue of the legal case is that the land grant-merced, as an entity, was not a named party, and a motion to intervene on behalf of the land grant-merced has been filed;
- Cañones is the only community within the land grant-merced boundaries;
- a major source of income for the community has been elk permits issued by the DGF, and the land reduction and permit reduction have had a negative economic effect on the community;
- the cost of private elk permits ranges from \$800 to \$5,000, depending on the type of permit; and
- it is unclear at this time whether the court case includes damages for lost permit income.

Elk Permit Issues: Juan Bautista Baldez Land Grant-Merced and General Permitting for Land Grants-Mercedes

Michael B. Sloane, director, DGF, addressed the elk permit issue from the view of the DGF. He stated that in 2013, a meeting took place with several interested parties. In May 2018, an individual brought forth a deed and tax bill showing ownership of certain lands. Mr. Sloane explained that due to this information, the DGF informed the land grant-merced that unless contrary information could be produced, the acreage of the land-grant merced would be reduced for elk permitting purposes. Mr. Sloane stated that the land grant-merced did not respond, and the DGF reduced the land grant-merced acreage used to calculate elk permits. He also stated that several more individuals have brought forth documentation regarding other claims to land within the land grant-merced, and the land grant-merced has not responded to the DGF with additional information. The acreage removed from the land grant-merced has been designated with a disputed status. Mr. Sloane explained that this status means that no permits will be issued to any party for the land in dispute.

Mr. Sloane then stated that in 2018, the DGF issued the land grant-merced three mature bull hunting permits, two antlerless permits and two either-sex bow permits. In 2019, the DGF issued two mature bull permits, one antlerless permit and one either-sex bow permit. Mr. Sloane explained that the DGF received what seemed to be legal documents showing ownership of the disputed land, and with no contrary information, the DGF was required to reduce the official acreage of the land grant-merced. Mr. Sloane stated that he appreciates the ongoing legal case because it will provide the DGF with a legal opinion on the ownership of the disputed land.

In response to questions, Mr. Sloane stated that:

- the reduction in elk permits is almost exclusively the result of a change in how permits are allocated rather than a change in the land grant-merced acreage;
- the DGF issued the same total number of elk permits in 2019 as in 2018;
- the determination of whether land is eligible for elk permits is dependent on how the land is used by elk, rather than the amount of land; and
- elk permits may be resold to anyone, whether in-state or out-of-state.

Governance Attorney Program Updates

Governance Attorney Program. Gabriel Pacyniak, assistant professor of law, Natural Resources and Environmental Law Clinic, University of New Mexico School of Law (UNM SOL), provided a brief overview of Senate Bill 244 (2019), the Community Governance Attorney Act, which passed in the legislature and was signed into law by the governor. Mr. Pacyniak stated that a commission with three members appointed by the governor will choose up to two students in their final year of law school to participate each year in a waiver of tuition for services program. He explained that these students must commit to provide legal services to land grants-mercedes, acequias or colonias. In return, the students will receive a tuition waiver for their final year of law school with 50 percent waived for each year served. Mr. Pacyniak then stated that the Natural Resources and Environmental Law Clinic has begun drafting proposed rules for the implementation of the legislation. The clinic has continued to work with the Higher Education Department and other stakeholders to determine potential commissioners.

Mr. Pacyniak then discussed an appropriation from the 2019 legislative session, which, he said, included language that would prevent money from being used to fund the Community Governance Attorney and Conditional Tuition Waiver Program. He suggested that the legislature could reappropriate or reallocate the money for its intended purpose in the upcoming legislative session. He then provided the committee with suggested amendments to the Community Governance Attorney Act. Mr. Pacyniak stated that the Community Governance Attorney and Conditional Tuition Waiver Program could be broadened to allow students to commit to work with other eligible employers. He also stated that it could be beneficial to amend the Community Governance Attorney Act to permit the waiver match to originate from any funding source. Finally, Mr. Pacyniak briefed the committee on an upcoming weekend continuing legal education course to be offered in the spring of 2020. The course will focus on land grant-merced and acequia legal issues, Mr. Pacyniak said.

Sandra "Sandy" Liggett, general counsel, Higher Education Department, stated that the department has been diligently working to get the Community Governance Attorney and Conditional Tuition Waiver Program fully operational. The Higher Education Department is currently waiting for the governor to appoint members to the commission.

In response to questions, the presenters stated that:

- the annual in-state tuition for UNM SOL is around \$15,000, but the cost of attendance is approximately \$30,000 per year; the current plan is to provide \$50,000, split evenly between two students each year;
- if more than two students are recommended to the Higher Education Department for participation in the program, the law requires that the money be provided to the student with the greatest financial need;
- students who do not complete the two years of service are required to repay the waivers, and terms of repayment include approximately 18 percent interest; and
- the governor has begun vetting potential commissioners.

Members of the committee requested:

- draft language that would reappropriate funding granted in 2019 to clearly state that its intended purpose is to fund the Community Governance Attorney and Conditional Tuition Waiver Program;
- draft language to broaden the Community Governance Attorney and Conditional Tuition Waiver Program; and
- that the Higher Education Department include funding for the Community Governance Attorney and Conditional Tuition Waiver Program in its budget request.

Land Grant Natural Resource Policing — Potential Legislation. Lea "Cori" Strife, clinical law student, Natural Resources and Environmental Law Clinic, UNM SOL, introduced herself and provided a brief update on the proposal for land grant resource officers, which was discussed during the committee's July meeting. She provided the members with an overview of proposed draft legislation.

In response to questions, Ms. Strife stated that:

- the capacity of resource officers will be limited;
- a fine issued by a resource officer would be enforced by the land grant-merced;
- immunity under the Tort Claims Act may be available through a liability waiver that is purchased by the land grants-mercedes through the Public Liability Fund; and
- she will review the provisions of law that allow a majordomo of an acequia to file a claim in court at no cost, larceny as an enforceable offense and ejection as a penalty for listed crimes.

Members of the committee requested staff to prepare legislation for the final committee meeting.

Update on the Piedra Lumbre Visitor Center: Transfer of Property; Plan for Development; Required Next Steps

Arturo Archuleta explained that multiple land grants-mercedes are working to pool resources and money received from the state for the property transfer of the Piedra Lumbre Visitor Center. The land grants-mercedes received more money than was expected during the last legislative session, Arturo Archuleta said, and they plan to request that the surplus money be reauthorized for other uses on the property.

James Duran, forest supervisor, Carson National Forest, provided an update on the process to transfer the Piedra Lumbre property. He stated that it is a lengthy process that does not provide for much discretion. He then introduced members of his team.

Sarae Leuckel, New Mexico zone lands leader, United States Forest Service Region 3, discussed an upcoming meeting that will provide answers to several questions, including which entity will hold the deed to the property. She explained that the purchase agreement will need to be drafted, and the federal government will need additional documentation that the proposed transferee can hold property. She then explained that the utilities that currently serve the property are under a nontransferable special use permit. The new property owner will need to negotiate rights of way to obtain utilities.

Gerald Chacon, board member, San Joaquin del Rio de Chama Land Grant-Merced, stated that members of the land grants-mercedes wish to perform a walk-through of the property prior to transfer. He explained that he has concerns regarding asbestos on the property. He also assured the committee that the land grants-mercedes plan to develop buildings that will be both economically beneficial and aesthetically respectful of the terrain.

Steve Polaco, president, Tierra Amarilla Land Grant-Merced, reiterated that the land grants-mercedes wish to thoroughly inspect the property prior to transfer of ownership. He stated that there is also concern regarding the sewage system and utilities. Melvin Apodaca, board member, Tierra Amarilla Land Grant-Merced, discussed his wish to present to the committee a plan to move forward with developing the location.

Julia Shaver, clinical law student, Natural Resources and Environmental Law Clinic, UNM SOL, explained to the committee that issues related to co-ownership agreements between the land grants-mercedes is a recently introduced question for the clinic to consider. The scope of engagement will include determining how partnerships among land grants-mercedes will be handled.

Amy Simms, recreation supervisor, Carson National Forest, reiterated that the Carson National Forest will make the Piedra Lumbre Visitor Center available for a tour by land grants-mercedes members.

In response to questions, the presenters stated that:

- the funds provided by the state are only for the purchase of the property, and, due to the surplus from last year's allocation, the land grants-mercedes will ask for a reauthorization of the surplus funding for development of the area; and
- the fiscal agent for the transfer of the property will be the San Joaquin del Rio de Chama Land Grant-Merced.

Abiquiu Land Grant-Merced Status Update

Max Archuleta, range manager, Abiquiu Land Grant-Merced, reviewed several challenges that the land grant-merced is facing at this time, including water rights, road maintenance, law enforcement, illegal dumping, elk permitting and general administrative needs. He stated that the land grant-merced will be submitting an audit in November to continue capital outlay projects. The land grant-merced received \$170,000 during the 2019 legislative session, Max Archuleta said. He also stated that the land grant-merced has received funding for a newly constructed water system through a National Cattlemen's Beef Association Environmental Stewardship Award.

Max Archuleta then provided an overview of requests that will be made during the 2020 legislative session, including gymnasium renovations, playground development and fire department renovations. In response to other questions, Max Archuleta stated that the land grant-merced received 18 mature bull elk hunting permits and nine antlerless elk permits in 2019, and the land grant-merced has ownership of the property for which capital outlay funding is being requested.

Santa Cruz de la Canada Update

John Chavez, former board member, Santa Cruz de la Canada Land Grant-Merced, thanked the committee for the opportunity to present. He stated that the land grant-merced has held meetings to organize new elections and to organize under Chapter 49 NMSA 1978. The land grant-merced has actively performed outreach to find and document heirs. He explained that a website has been created to provide ancestry information to potential heirs. After an heir has been verified, the heir has the ability to vote and hold office in the land grant-merced, Mr. Chavez said. He also stated that he believes that the community is against organizing as a municipality. Mr. Chavez referenced a memorial from a previous legislative session that encouraged the forming of a municipality. Mr. Chavez stated that the ultimate goal is for the land grant-merced to remain a political subdivision of the state under Chapter 49 NMSA 1978. Members of the committee commended the presenter for the lineage documentation that has been gathered for potential heirs.

Youth Gardening, Arts and Leadership Programs

Lupita Salazar, arts and leadership program manager, Northern Youth Project (NYP), explained that the NYP is based in Abiquiu and focuses on providing youth programming for that area of northern New Mexico. Community members donated land and seed, which has allowed

youth an opportunity to work in the community. She stated that the program has evolved into multiple components: an agricultural apprentice program that provides pay for older participants; a culinary arts program that teaches youth to cook and prepare healthy meals; an arts program that teaches traditional arts and crafting techniques; and a leadership program that involves regular meetings with youth to develop and create new ideas and to get outdoors to experience the land. Ms. Salazar stated that these programs allow youth to build a connection to the community.

Public Comment

Al Duran stood in support of the proposal to designate the Santa Cruz de la Canada Land Grant-Merced as a municipality.

Vanessa Chavez stated that she will present a budget proposal at the next committee meeting to expand the land grant-merced youth program.

Friday, November 1 — Los Ojos

Tour

Committee members met in Los Ojos and toured the Laguna del Campo Lake.

Adjournment

There being no further business, the committee adjourned at 1:37 p.m.