LAND GRANT COMMITTEE

REPORT TO THE
FORTY-SIXTH LEGISLATURE
SECOND SESSION

New Mexico Legislative Council Service
Santa Fe, New Mexico
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**Background**
The Land Grant Committee was created by the signing of Laws 2003, Chapter 431. This is the first year of the committee. The committee is tasked with studying existing law regarding land grants; developing legislation to improve existing law; gathering testimony from land grant heirs, state agencies and other community groups from across New Mexico to understand the relationships, issues and concerns faced by the different groups; and working in conjunction with the Treaty of Guadalupe Hidalgo Task Force.

Committee Membership

Members of the committee during the 2003 interim were as follows:

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Don Tripp

Advisory members were:

Sen. Manny M. Aragon
Sen. Joseph J. Carraro
Rep. Ben Lujan
Rep. Bengie Regensberg
Sen. Richard M. Romero
Rep. James G. Taylor
Rep. Eric A. Youngberg

The committee was staffed by Alfred Creecy, Jon Boller and Sheila Manzagol.
The Land Grant Committee was created with the signing of Laws 2003, Chapter 431. The committee is tasked with studying existing law regarding land grants; developing legislation to improve existing law; gathering testimony from land grant heirs, state agencies and other community groups from across New Mexico to understand the relationships among the different groups and the issues and concerns faced by the different groups; and working in conjunction with the Guadalupe Hidalgo task force.

To carry out these tasks and statutory duties during the 2003 legislative interim, the Land Grant Committee will:

(1) review the existing law and determine the effect these laws have on land grant heirs and other groups throughout the state;

(2) hear testimony regarding the:
   a. history of land grants;
   b. relationship between land grants, the Treaty of Guadalupe Hidalgo and the Protocol of Queretaro;
   c. current statutes and governance of community land grants;
   d. economic development of land grants;
   e. issues concerning land grants and Native Americans; and
   f. current legal status of land grants in New Mexico;

(3) conduct visits to various land grants to determine the conditions and specific problems facing the residents;

(4) work with the Guadalupe Hidalgo Treaty Division of the Office of the Attorney General to resolve state constitutional and statutory legal issues regarding land grants; and

(5) recommend necessary changes in current law or policy to the legislature.
### MEETING SCHEDULE AND BUDGET

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<th>DATE</th>
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**SUBTOTAL** $9,775.96*

Fees for expert witnesses $6,000.00

**TOTAL** $15,775.96

* This does not include $6,049.88 for advisory member travel and per diem.

Actual expenditures $15,187.00
TENTATIVE AGENDA
for the
LAND GRANT COMMITTEE

June 12, 2003
Room 311, State Capitol

Thursday, June 12

10:00 a.m. CALL TO ORDER
—Representative Miguel P. Garcia, Chair

10:15 a.m. DISCUSSION OF WORK PLAN AND ITINERARY FOR 2003 INTERIM
—Members of the public
—Committee members

12:30 p.m. ADJOURN
TENTATIVE AGENDA
for the
LAND GRANT COMMITTEE
July 15-16, 2003
Wells Fargo Auditorium, National Hispanic Cultural Center
Albuquerque

**Tuesday, July 15**

10:00 a.m. CALL TO ORDER — OPENING REMARKS
—Representative Miguel P. Garcia, Chairman
—Tom Chavez, Director, National Hispanic Cultural Center
—Robert Vigil, Barelas Neighborhood Association
—Miguel Gomez, Albuquerque City Council
—Irma Ruiz (South Valley) Rio Grande Community Development Corp.

10:15 a.m. ESTABLISHMENT OF LAND GRANTS IN NEW MEXICO
—David Benavides, New Mexico Legal Aid
—Dr. Estevan Rael-Galvez, New Mexico State Historian

12:30 p.m. LUNCH

2:00 p.m. TREATY OF GUADALUPE HIDALGO AND PROTOCOL OF QUERETARO
—Robert Torrez, Former New Mexico State Historian

3:00 p.m. HISTORICAL ROOTS AND CONTEMPORARY CONSEQUENCES OF THE
CONFISCATION AND REDISTRIBUTION OF LAND
—Dr. Roxanne Dunbar-Ortiz, California State University-Hayward

4:00 p.m. PUBLIC COMMENT

**Wednesday, July 16**

9:30 a.m. CALL TO ORDER

9:45 a.m. STATUTORY LAW AND GOVERNANCE OF COMMUNITY LAND
GRANTS
—Gerald Gonzales, Santa Fe County Manager

10:45 a.m. LAND GRANT GOVERNANCE ISSUES
—Moises Gonzales, Carnuel
—Angela Herrera, Tecolote
—Joe Herrera, Tecolote
—Juan Sanchez, Chilili
—Tina Lopez, Cundiyo

11:45 a.m. PUBLIC COMMENT
TENTATIVE AGENDA
for the
THIRD MEETING
of the
LAND GRANT COMMITTEE

August 25-26, 2003
Rio Arriba County Commission Chambers
Espanola

Monday, August 25
10:00 a.m. CALL TO ORDER — OPENING REMARKS
—Representative Miguel P. Garcia, Chairman
—Richard Lucero, Mayor of Espanola
—Lorenzo Valdez, Rio Arriba County Manager
—Andrew Chavez, Rio Arriba County Commissioner (invited)
—Moises Morales, Rio Arriba County Commissioner

10:30 a.m. ELECTRONIC LAND GRANT DATABASE
—Norman Martinez, Director, Onate Monument Visitors Center
—Malcolm Ebright, Historian

11:15 a.m. NATIVE AMERICAN ISSUES AS RELATED TO LAND GRANTS
—Governor Gerald Nailor, Pueblo of Picuris
—Governor Jacob Viarrial, Pueblo of Pojoaque (invited)
—Herman Agoyo, Pueblo of San Juan

12:30 p.m. LUNCH

2:00 p.m. CURRENT LEGAL ISSUES INVOLVING COMMUNITY LAND GRANTS
—Ted Trujillo, County Attorney, Rio Arriba County

3:30 p.m. RIO ARRIBA COUNTY LANDFILL
—Betty Haagenstad, Ojo Caliente Land Grant

4:00 p.m. PUBLIC COMMENT

5:00 p.m. RECESS

Tuesday, August 26
9:30 a.m. CALL TO ORDER

10:00 a.m. SITE VISIT TO TRUCHAS LAND GRANT

10:45 a.m. ISSUES REGARDING TRUCHAS LAND GRANT
—Truchas Land Grant Board

1:00 p.m. WORKING LUNCH IN CHIMAYO
—Elias Coriz, Rio Arriba County Commissioner
—Jerry Fuentes and Representatives from Santa Cruz, Pueblo Quemado and Las Trampas Land Grants

2:00 p.m. RETURN TO ESPANOLA
TENTATIVE AGENDA
for the
FOURTH MEETING
of the
LAND GRANT COMMITTEE

September 22-23, 2003
Learning Resource Center
Luna Community College
Las Vegas

Monday, September 22
10:00 a.m. CALL TO ORDER — OPENING REMARKS
—Representative Miguel P. Garcia, Chairman
—Leroy Sanchez, President, Luna Community College
—Henry Sanchez, Mayor, Las Vegas
—Leroy Garcia, Chairman, San Miguel County Commission
—Representative Richard D. Vigil, District 70

10:30 a.m. WATER ISSUES
—Paula Garcia, New Mexico Acequia Association
—Hilario Rubio, Office of the State Engineer, Acequia Liaison
—David Benavides, New Mexico Legal Aid

12:30 p.m. LUNCH

2:00 p.m. JUAN TAFOYA LAND GRANT WATER ISSUES
—Jim Carp, General Counsel, Department of Game and Fish
—James Martinez, Juan Tafoya Land Grant

3:00 p.m. ECONOMIC DEVELOPMENT
—Robin Collier, Tierra Wools
—Arturo Archuleta, North Central New Mexico Economic Development District
—Joaquin Lujan, Public Private Partnership LLC, New Economic Strategies Group

4:00 p.m. PUEBLO LAND GRANTS
—Regis Pecos, Pueblo of Cochiti

5:00 p.m. PUBLIC COMMENT

6:00 p.m. RECESS

Tuesday, September 23
9:30 a.m.    CALL TO ORDER

9:45 a.m.    DEPART FOR SITE

10:00 a.m    LAS VEGAS LAND GRANT
—Hilario Rubio, Las Vegas

10:30 a.m.    TECOLOTE LAND GRANT
—Angela Herrera, Tecolote
—Joe Herrera, Tecolote

11:30 a.m.    ANTON CHICO LAND GRANT
—Severiano Sisneros

12:30 p.m.    LUNCH

1:30 p.m.    RETURN TO LUNA COMMUNITY COLLEGE
TENTATIVE AGENDA
for the
FIFTH MEETING
of the
LAND GRANT COMMITTEE

November 12, 2003
Room 311, State Capitol

Wednesday, November 12
10:00 a.m. CALL TO ORDER — OPENING REMARKS
—Representative Miguel P. Garcia, Chairman

10:15 a.m. UPDATE ON JUAN TAFOYA LAND GRANT ISSUES
—James Martinez, Juan Tafoya Land Grant

10:45 a.m. PROPOSED LEGISLATION CONCERNING LAND GRANT STATUTES
—Georgia Roybal and Roberto Mondragon, Land Grant Forum

12:30 p.m. LUNCH

2:00 p.m. COMMITTEE BUSINESS AND PUBLIC COMMENT

3:00 p.m. ADJOURN
TENTATIVE AGENDA
for the
SIXTH MEETING
of the
LAND GRANT COMMITTEE

December 10, 2003
Room 311, State Capitol

Wednesday, December 10
10:00 a.m. CALL TO ORDER — OPENING REMARKS
—Representative Miguel P. Garcia, Chairman

10:15 a.m. PROPOSED LEGISLATION CONcernING LAND GRANTS
—Memorial Continuing Land Grant Committee During Next Interim
—Memorial Requesting Information on Land Owned by the State that was Once
Land Grant Land
—Memorial Requesting the Department of Transportation Meet with the Board of
Trustees of the Truchas Land Grant
—Appropriation for Cleanup of Illegal Dump Sites on Land Grants
—Referendum to Return the Property that was Once a Part of the Juan Tafoya
Land Grant and Now Belongs to the State
—Amending the Open Meetings Act Requiring Notice be Given to the Board of
Trustees of a Land Grant when Agenda Items Involve the Land Grant
—Amending the General Provisions of Chapter 49 NMSA 1978

12:30 p.m. ADJOURNMENT
MINUTES
of the
FIRST MEETING
of the
LAND GRANT COMMITTEE
June 12, 2003
Room 311, State Capitol

The first meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, on June 12, 2003 at 10:20 a.m. in room 311, state capitol.

PRESENT
Rep. Miguel P. Garcia, chair
Sen. Bernadette M. Sanchez, vice chair
Sen. Rod Adair
Sen. Richard C. Martinez
Rep. Don Tripp

ABSENT
Rep. Debbie A. Rodella

Advisory Members
Sen. Joseph J. Carraro
Rep. Bengie Regensberg
Rep. Eric A. Youngberg

Sen. Manny M. Aragon
Rep. Ben Lujan
Sen. Richard M. Romero
Rep. James G. Taylor

Staff
Alfred Creecy
Jon Boller

Representative Garcia thanked the leadership for giving him the opportunity to chair this committee and outlined the statutory tasks given to the committee. Representative Garcia then briefly outlined how the proposed meeting agenda was developed.

Representative Garcia presented the proposed meeting schedule and topics for the meetings with a listing of individuals who had been mentioned as possible presenters at the committee meetings (a copy of the proposed meeting schedule and topics is attached). Including a period of public input at the end of each meeting was discussed, as well as adding a discussion of water issues associated with land grants. Representative Regensberg asked about including material that might come up during the special session, including land transfers. The proposed schedule was adopted and the meeting was adjourned at 11:05 a.m.
MINUTES of the 
SECOND MEETING of the 
LAND GRANT COMMITTEE 

July 15-16 
Wells Fargo Auditorium 
National Hispanic Cultural Center 
Albuquerque 

The second meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. in the Wells Fargo auditorium at the national Hispanic cultural center in Albuquerque.

PRESENT
Rep. Miguel P. Garcia, chair
Sen. Bernadette M. Sanchez, vice chair
Sen. Rod Adair
Sen. Richard C. Martinez

ABSENT
Rep. Debbie A. Rodella
Rep. Don Tripp

Advisory Members
Sen. Manny M. Aragon
Sen. Joseph J. Carraro
Rep. Ben Lujan (July 15)
Sen. Richard M. Romero
Rep. James G. Taylor
Rep. Eric A. Youngberg

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

Staff
Alfred Creecy
Jon Boller
Sheila Manzagol

Guests: A copy of the guest list is in the meeting file.

Copies of written testimony are in the meeting file.
Tuesday, July 15

Opening Remarks

Representative Garcia welcomed the committee and members of the public. He then introduced the members of the committee. Miguel Gomez of the Albuquerque city council, Irma Ruiz of the Rio Grande community development corporation, Alvin Garcia from the attorney general's office and members of the public who were in attendance were introduced.

Establishment of Land Grants in New Mexico

David Benavides from New Mexico legal aid gave a presentation on the establishment of land grants in New Mexico and the southwest. He focused on the patterns of development and legal status of the land grants, including the integration of existing settlements into the land grants as well as the transition from Spanish and Mexican rule to that of the United States. He also pointed out some of the flaws in the transition and the different ways in which the land grants and their people lost their lands.

Senator Carraro asked questions concerning the ownership and taxation of the lands under Spanish and Mexican law as well as what has happened to land grants in other areas.

Representative Lujan was also curious about a comparison of the way claims were handled by the surveyor general in California and the surveyor general in New Mexico.

Representative Garcia questioned Mr. Benavides about the problem of land speculators and their role in delaying statehood.

Dr. Estevan Rael-Galvez, New Mexico state historian, gave a presentation on the social order in colonial New Mexico. He discussed the uses the land was put to and the relationship between the land and the people. Dr. Rael-Galvez talked about the Laws of the Indies and the role these laws played. He explained the requirements established for the land grants and the way land grants were used by the government in Mexico City as a buffer from the nomadic peoples to the north. He emphasized the importance of understanding the use of the land in order to uphold and respect the traditions of the people.

Representative Garcia pointed out the importance of the Native American influence on the establishment and population of the area.

Treaty of Guadalupe Hidalgo and the Protocol of Queretaro

Robert Torrez, former New Mexico state historian, discussed the period after the American invasion and the Treaty of Guadalupe Hidalgo and the Protocol of Queretaro. He also discussed the procedure that the land grants had to go through to be recognized by several different surveyor generals and the progress they made or did not make in recognizing the land grants.

Senator Carraro asked for further clarification on the importance of the Protocol of
Queretaro and its legal effects. He also inquired about any maps that would show the boundaries of the different grants.

Senator Aragon asked about the documentation of the land grants and how well the boundaries of the different land grants were established. He also asked about the status of the mineral rights and if they were a part of the land grant.

Representative Lujan had a question on when the state started charging property taxes for the land grants.

Representative Garcia inquired if the territorial legislature addressed the issue of land grants and the Treaty of Guadalupe Hidalgo.

**Historical Roots and Contemporary Consequences of the Confiscation and Redistribution of Land**

Dr. Roxanne Dunbar-Ortiz from California state university at Hayward discussed the social implications of the way that the Treaty of Guadalupe Hidalgo has been enforced by the United States and the state of New Mexico. She discussed the idea that the heirs to the original settlers met the requirements to be classified as indigenous people and may have protections and rights under the United Nations and international law.

Senator Carraro was interested in the pueblo people and asked if they were recognized as Mexican citizens. He was also interested in what the state legislature could do as this was mainly a federal question.

**Public Comment**

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance. The committee then recessed.

**Wednesday, July 16**

The meeting was reconvened by Representative Miguel P. Garcia, chair, at 9:50 a.m. on July 16. Representative Garcia made a few opening remarks concerning the need to continue to strive for justice and to right the wrongs that have been done. He also stressed the role that women play in the traditions of people.

**Statutory Law and Governance of Community Land Grants**

Gerald Gonzales, Santa Fe county manager, provided information on the legal status of land grants and how the law has been developed. He explained some of the Spanish and Mexican laws that concerned land grants. Mr. Gonzales discussed the Homestead Act and its implications to the land grants. He pointed out some of the restrictions placed on the land grants by the statutes and the land grants being recognized by the courts as quasi municipalities.

Senator Aragon asked about the effect of case law on the status of land grants.
Land Grant Governance Issues

Moises Gonzales of the Carnuel Land Grant gave a description of the grant and commented about the statutes and the confusion that arises because of some inconsistencies. He also stressed the importance of giving the land grants the ability to oversee and manage their lands.

Representative Youngberg was interested in the demographics of the grant.

Senator Romero asked about the cooperation between the land grant and the counties.

Angela Herrera and Joe Herrera of the Tecolote Land Grant talked about the issues concerning their land grant, primarily regarding voting for the board of trustees and remediation of bad elections. They also were concerned with meetings and the conflicts between the general and the specific statutes.

Juan Sanchez of the Chilili Land Grant grouped the problems for his land grant into three areas: the development of the statutes without an understanding of the land grants themselves, the failure of the legislature to understand the interests of the heirs to the land grant and the ownership of the grant and the failure of the legislature to define the status of the land grants.

Tina Lopez of the Santo Domingo de Cundiyo Land Grant presented information on the issues of concern to the board of trustees of the land grant. Included were concerns that the board of trustees had too much power in the selling of the lands of the land grant and the ability of all members of the grant to vote in grant elections.

Public Comment

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance.
The third meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:18 a.m. in the Rio Arriba county commission chambers in Espanola.

PRESENT
Rep. Miguel P. Garcia, chair
Sen. Bernadette M. Sanchez, vice chair
Sen. Rod Adair
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Don Tripp

ABSENT
Advisory Members
Sen. Joseph J. Carraro
Sen. Richard M. Romero

Staff
Alfred Creecy
Jon Boller
Sheila Manzagol

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

Guests: A copy of the guest list is in the meeting file.

Copies of written testimony are in the meeting file.
Monday, August 25

Opening Remarks

Representative Garcia welcomed those in attendance and introduced the committee. Opening remarks were given by Richard Lucero, the mayor of Espanola, Moises Morales, Andrew Chavez and Lorenzo Valdez, Rio Arriba county commissioners. Members of the public in attendance were given the opportunity to introduce themselves.

Electronic Land Grant Database

Malcolm Ebright, Robin Olyer and Norman Martinez presented information on a project to develop a computer database that holds relevant information on the land grants in Rio Arriba county. The database is made up of scanned original documents with translations and provides different search methods to help research the history of land grants in New Mexico. The database is incomplete but continues to grow. Rio Arriba county passed a resolution to start and fund the project. Three historians are currently working on the project but more funding is required. The database is a historical reference that gives context to background documents and can be used in research to try to develop solutions to the problems facing the land grants and the state.

Native American Issues as Related to Land Grants

Herman Agoyo, former governor of the Pueblo of San Juan, presented information to the committee concerning the treatment of Native Americans and land grants. He discussed how the Native Americans were here before the Spanish and have had a long history and strong cultural ties to the land. Mr. Agoyo stated that he believed that the Native Americans had a prior right to the land in the same way they had a prior right to the water and their claims should be resolved before any of the claims of the land grants. He also felt that retribution for past injustices should be made. He stated that the GAO study on land grants did not deal with the pueblo land grants other than to list them.

Regis Pecos presented information on the preservation of sacred sites throughout New Mexico. He wants to create a win-win situation that will benefit Hispanics as well as Native Americans; however, this will require creative solutions.

Current Legal Issues Involving Community Land Grants

Ted Trujillo, county attorney for Rio Arriba county, and Moises Gonzales, assistant planning director for Rio Arriba county, presented information on the relationship between county government and land grants. They discussed the problem of having so much state, federal and trust land in the county and the loss of the property on the tax rolls. They stressed the importance of having all parties involved in the discussion when resolving disputes. Another topic was the need to ensure building was done on the dry land and not on irrigable land, which allows for land that can be used for agriculture not being consumed as housing.
**Rio Arriba County Landfill**

Betty Haagenstad from the Ojo Caliente Land Grant presented information on the proposed use of property currently under the management of the bureau of land management being used for a new landfill. One of the arguments she gave in objection of the proposal was that the original environmental impact study done on the need and feasibility of the landfill was done prior to Taos and Los Alamos being removed from the project. The community is concerned about the actual need for the landfill and the possibility of leakage and contamination as well as the further loss of grazing rights for the area. They are also concerned about the proximity to archaeological sites in the area.

**Public Comment**

After the presentations of the invited speakers, the floor was opened to comment by the public in attendance.

A motion was made, seconded and passed without objection that legislation be written to the effect that if the facts show that land was a part of the common lands of a land grant, was obtained by unjust means and now is owned by the state, the land should be returned to the heirs of the land grant.

**Tuesday, August 26**

The meeting was reconvened by Representative Miguel P. Garcia, chair, at 9:50 a.m. on August 26. The committee boarded a bus and was driven for a tour and presentation at the Truchas Land Grant. Members of the Truchas Land Grant board of trustees provided a history and some common problems faced by the board and members of the land grant. The Truchas Land Grant is run differently than other land grants. It is a corporation and has shareholders, who are not heirs, that are members of the grant. This configuration has unique problems and shows the necessity of dealing with each land grant and its unique problems. Representatives from the Santa Cruz, Pueblo Quemado and Las Trampas land grants were also present and provided information on their governance and problems. The meeting was adjourned after returning to Espanola.
The fourth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, on September 22 at 10:18 a.m. in the learning resource center at Luna community college in Las Vegas.

**PRESENT**
Rep. Miguel P. Garcia, chair  
Sen. Bernadette M. Sanchez, vice chair  
Sen. Rod Adair  
Sen. Richard C. Martinez  
Rep. Debbie A. Rodella  
Rep. Don Tripp

**ABSENT**
Advisory members  
Sen. Manny M. Aragon  
Sen. Joseph J. Carraro  
Rep. Ben Lujan  
Rep. Bengie Regensberg  
Sen. Richard M. Romero  
Rep. James G. Taylor  
Rep. Eric A. Youngberg

**Staff**
Alfred Creecy  
Jon Boller  
Sheila Manzagol

**Guests**
A copy of the guest list is in the meeting file.

Copies of written testimony are in the meeting file.
Monday, September 22

Opening Remarks

Representative Garcia welcomed and introduced the committee. Opening remarks were given by Leroy Garcia, chairman of the San Miguel county commission, and Henry Sanchez, mayor of Las Vegas. Members of the public in attendance were given the opportunity to introduce themselves.

Water Issues

Paula Garcia of the New Mexico acequia association gave information regarding the links between the acequias and land grants. She emphasized the historical process and the divergent legal battles involved with each. In many cases, the water rights of the acequias are protected to the extent that the legislature has recognized the acequia associations as special entities. The water rights associated with the common lands of land grants are unclear and the GAO report concerning land grants does not address water rights or water issues but the adjudication process continues. One of the conflicts is between domestic water use and agricultural water use. Water tends to be underallocated for domestic uses. There has also been a difference in the way water rights have been handled for the pueblos and the land grants. The state has an obligation to protect the water rights of the acequias through the Treaty of Guadalupe Hidalgo.

Representative Tripp started a discussion on how the adjudication process affects the land grants. He also wanted to know if land grants had forfeited any water rights prior to 1965 due to nonuse and was told that the adjudication process continues and that some land grants had lost their water rights due to nonuse.

Senator Martinez and Senator Sanchez questioned the difference between the pueblos and the land grants and the way that the claims have been treated.

Hilario Rubio, a member of the board of trustees of the Las Vegas land grant and the acequia liaison for the office of the state engineer, testified that the basic problems with water rights and land grants is that the adjudication process takes too long. Mr. Rubio said that the issues should be resolved by congress and not by the courts. The question of whether the rights exist is not in question. Enforcement of the Treaty of Guadalupe Hidalgo would preempt the state's water laws and the land grants would thus be able to utilize their water rights.

Representative Tripp asked about the management and revenues of the Las Vegas land grant. He was informed that the land grant generated revenue through the leasing of the land and that the land grant board of trustees was appointed by the district court for the everyday running of the grant. The court itself actually runs the land grant.

Representative Rodella asked if the land grant board of trustees had ever considered changing the law to allow for elections of the board and was told that it had been considered but that there are advantages to having the court make the final decisions.
David Benavides from New Mexico Legal Aid presented information on water usage from the historical aspect of the land grants. He stated that the land grants had their own sense of water use with the emphasis on self-sufficiency. He concentrated his remarks on five areas. He first discussed the customs involved with water usage, particularly the idea that all share the burden of shortages. He next discussed the use of diversions and the rights of acequias. Next came the problems involved with establishing dates to establish the priority for the use of water. The fourth issue he discussed was the determination of what acreage to use when determining and adjudicating rights. Finally, he discussed the problems of using the forest service's lands and acquiring easements and maintenance of the ditches.

Representative Garcia was curious about Mr. Benavides' thoughts on the use of the historical documents, and if not the documents, then custom regarding the adjudication of water rights. Mr. Benavides thought that the issue was about who has the burden in court and that in upholding the Treaty of Guadalupe Hidalgo, the burden should be on the state. Representative Garcia then initiated a discussion on the Pueblo Rights doctrine and the effect it has on the land grants' water rights.

**Water Issues of the Juan Tafoya Land Grant**

James Martinez and Ruth Armijo of the Juan Tafoya land grant provided information on water issues of particular concern to the Juan Tafoya land grant. They gave the background and history of the grant, explaining that their water rights, which come from a spring in an area that was once a part of the land grant, have been passed along to various people and now belong to the department of game and fish. The land grant does not own the land now but does maintain and own the water rights. They are concerned that the state will take their water rights and that if the state turns the land over to another person, they will have to fight for their water rights.

Jim Karp, general counsel for the department of game and fish, stated that the department has tried to negotiate with the land grant but has been unsuccessful. The basis of the negotiation is that access to the land in question is through lands belonging to the land grant. While the department of game and fish has tried to trade the rights of access for other property and water rights that the department owns in the land grant, the land grant claims to already possess the water rights to this area.

**Economic Development**

Robin Collier of Tierra Wools, Arturo Archuleta of the north central New Mexico economic development district and Esperanza Lujan of the Public Private Partnership LLC gave testimony on the need for sustainable economic development in the land grants. They discussed the use of traditional agricultural-based economics and the various problems these economies have faced. They stressed the need for the state to come up with incentive programs to encourage the land grants to remain in farming and agriculture. They also discussed the need for the state to recognize the land grants as governmental entities and to provide education on economic sustainability.

**Public Comment**
After the presentations of the invited speakers, the floor was opened to comment by the public in attendance.

**Tuesday, September 23**

The meeting was reconvened by Representative Garcia at 9:50 a.m. on August 26. The committee then boarded a bus and was driven for tours and presentations at the Las Vegas, Tecolote and Anton Chico land grants. Members of the land grant board of trustees provided a history and some common problems faced by the board and members of the land grants. At the Tecolote land grant, members of the committee met with residents of the land grant and heard about the different problems they face. The meeting was adjourned after the committee returned to Las Vegas.
MINUTES
of the
FIFTH MEETING
of the
LAND GRANT COMMITTEE
November 12, 2003
Room 311, State Capitol

The fifth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. in room 311, state capitol.

PRESENT
Rep. Miguel P. Garcia, chair
Sen. Bernadette M. Sanchez, vice chair
Sen. Rod Adair
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Don Tripp

ABSENT
Advisory Members
Sen. Joseph J. Carraro
Sen. Manny M. Aragon
Rep. Ben Lujan
Rep. Bengie Regensberg
Sen. Richard M. Romero
Rep. James G. Taylor
Rep. Eric A. Youngberg

Staff
Alfred Creecy
Jon Boller
Sheila Manzagol

Guests: A copy of the guest list is in the meeting file.

Opening Remarks

Representative Garcia welcomed and introduced the committee. Members of the public in attendance were given the opportunity to introduce themselves. Representative Garcia then gave a brief history of the work already accomplished by the committee. He stressed the importance of continuing the work and the need to have the committee continue in the next interim. A motion was passed to take the necessary action to have the legislative council continue the land grant committee in the next legislative interim.

Representative Garcia then started a discussion on the need to determine what land, if any, the state now owns that at one time belonged to a land grant. A motion was passed to direct the staff to draft a memorial to determine what lands the state now owns that once were a part of a land grant and report the results by October of next year.

The next topic that Representative Garcia brought up was the problem of state agencies
holding hearings on topics of concern to land grants and not informing the land grants or inviting input from the land grants. A motion was passed to draft legislation that would require a state agency to inform the board of trustees of a land grant if any meetings are held to discuss topics of interest to that land grant. Another motion was passed to draft a memorial to have the department of transportation meet with the board of trustees of the Truchas land grant to resolve problems with the highway that passes through the land grant.

The committee passed a motion to ask the legislative council to approve a meeting in December to approve legislation drafted as a result of previous meetings.

Senator Martinez asked the committee to endorse an appropriation to help clean up illegal dump sites on land grant properties. The committee passed a motion to endorse the appropriation.

Senator Carraro asked that the minutes of the August meeting be amended to reflect his desire for a motion to return all land that now belongs to the state that once belonged to a land grant and was obtained through unjust or unscrupulous means. The committee passed a motion to amend the minutes and to draft a memorial to return the lands to the land grants.

**Juan Tafoya Land Grant Issue Update**

James Martinez and Ruth Armijo gave an update on the issue concerning the Juan Tafoya land grant and the department of game and fish. They had met but no progress had been made. Representative Garcia asked for clarification on the taxes being paid on the tracts within the village of Marquez. Bruce Thompson of the department of game and fish stated that the grazing of the land grants' animals had continued and the issues had not been resolved. The department does not want to make access contingent on grazing rights.

A motion was passed to develop legislation to return the land to the land grant.

**Proposed Legislation**

Roberto Mondragon and Georgia Roybal presented the changes to legislation proposed by the New Mexico land grant forum. After discussion and changes to the proposed legislation, the meeting adjourned.
MINUTES
of the
SIXTH MEETING
of the
LAND GRANT COMMITTEE
December 10, 2003
Room 311, State Capitol

The sixth meeting of the Land Grant Committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. in Room 311, State Capitol.

PRESENT
Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Rep. Don Tripp

ABSENT

Advisory Members
Rep. Ben Lujan

Sen. Manny M. Aragon
Sen. Joseph J. Carraro
Rep. Bengie Regensberg
Sen. Richard M. Romero
Rep. James G. Taylor
Rep. Eric A. Youngberg

Staff
Alfred Creecy
Jon Boller
Sheila Manzagol

Guests: A copy of the guest list is in the meeting file.

Representative Garcia welcomed and introduced the committee. Members of the public in attendance were given the opportunity to introduce themselves. The floor was then opened to comment by the public in attendance.

The committee then approved the following legislation:
– memorial continuing the Land Grant Committee during the next interim;
– memorial requesting a study to determine what land the state now owns that once belonged to land grants;
– memorial requesting that the Department of Transportation meet with the board of trustees of the Truchas Land Grant;
– appropriation for cleanup of illegal dumpsites on land grants;
– return of State Game Commission property that was once a part of the Juan Tafoya Land Grant;
– amending the Open Meetings Act to require that notice be given to the board of trustees of a land grant when appropriate; and
– amending the general provisions of Chapter 49 NMSA 1978.

The meeting was then adjourned.
PROPOSED LEGISLATION
JOINT MEMORIAL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

A JOINT MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO CONTINUE THE LAND GRANT COMMITTEE.

WHEREAS, until the 2003 interim there had never been a legislative land grant committee; and

WHEREAS, the issues concerning land grants have been largely ignored or handled in a piecemeal fashion since statehood; and

WHEREAS, there are many complex issues still to be resolved concerning land grants and the issues encompass a large portion of the people and land in the state; and

WHEREAS, the people of New Mexico depend on the legislature to resolve the issues concerning land grants in a fair and just manner after all parties concerned have an opportunity to be heard;
NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the New Mexico legislative council be requested to continue the land grant committee during the 2004 interim; and

BE IT FURTHER RESOLVED that a copy of this memorial be transmitted to the New Mexico legislative council.
A JOINT MEMORIAL
REQUESTING THAT THE OFFICE OF CULTURAL AFFAIRS DETERMINE THE
EXTENT TO WHICH THE STATE OWNS LANDS THAT PREVIOUSLY WERE
COMMON LANDS OF A SPANISH OR MEXICAN LAND GRANT-MERCEDES.

WHEREAS, community land grants-mercedes have existed in
New Mexico since the beginning of Spanish settlement in the
early sixteenth century; and
WHEREAS, many land grants-mercedes lost control of the
community lands of the original grants through dishonest,
unjust or illegal means; and
WHEREAS, the rights, privileges and immunities guaranteed
to the people of New Mexico by the Treaty of Guadalupe Hidalgo
are preserved inviolate by the constitution of New Mexico; and
WHEREAS, the Protocol of Queretaro preserves the legal
values of the land grants-mercedes possessed by the heirs,
notwithstanding the striking of Article X of the Treaty of Guadalupe Hidalgo in ratification;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the office of cultural affairs and the office of the attorney general, in connection with other federal or state agencies, conduct a study to determine the extent to which lands that were formally part of the common lands of a land grant-merced now belong to the state and how the land was obtained or acquired by the state and report the results of the study to the legislature not later than November 1, 2004; and

BE IT FURTHER RESOLVED that, if the facts show that land that was once a part of the common lands of a land grant-merced was obtained through dishonest, unjust or illegal means and is now owned by the state, the office of cultural affairs and the office of the attorney general determine what actions are required for the land to be returned to the heirs of the land grant-merced; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the office of cultural affairs and the office of the attorney general.
JOINT MEMORIAL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

A JOINT MEMORIAL

REQUESTING THE STATE DEPARTMENT OF TRANSPORTATION TO MEET WITH
THE BOARD OF TRUSTEES OF THE LA NUESTRA SENORA DEL ROSARIO DE
SAN FERNANDO Y SANTIAGO LAND GRANT.

WHEREAS, the La Nuestra Senora del Rosario de San Fernando
y Santiago land grant was granted in 1754 by the Spanish
monarch and withstood the Mexican secession from Spain in 1821;
and

WHEREAS, the La Nuestra Senora del Rosario de San Fernando
y Santiago land grant was protected under the Treaty of
Guadalupe Hidalgo as confirmed by the Court of Private Land
Claims in 1892; and

WHEREAS, the La Nuestra Senora del Rosario de San Fernando
y Santiago land grant was granted a patent by the congress of
the United States and signed into law by President Roosevelt in

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1903; and

WHEREAS, the state department of transportation built state highway 76 through the La Nuestra Senora del Rosario de San Fernando y Santiago land grant in 1950 without obtaining properly negotiated fair lease agreements; and

WHEREAS, state highway 76 has been the site of many traffic accidents and an area of many illegal dumpsites that litter the land grant;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the state department of transportation be requested to meet with the board of trustees of the La Nuestra Senora del Rosario de San Fernando y Santiago land grant to resolve the fair lease agreements and the issues of safety concerning state highway 76 and report to the legislature not later than November 1, 2004; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the state department of transportation and the board of trustees of the La Nuestra Senora del Rosario de San Fernando y Santiago land grant.
BILL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

MAKING AN APPROPRIATION TO THE DEPARTMENT OF ENVIRONMENT FOR

REMOVING SOLID WASTE, LIQUID WASTE AND HAZARDOUS WASTE FROM THE

COMMON LANDS OF COMMUNITY LAND GRANTS ORGANIZED UNDER STATE

LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. APPROPRIATION.--Six hundred thousand dollars

($600,000) is appropriated from the general fund to the

department of environment for expenditure in fiscal year 2005

to contract for the removal of solid waste, liquid waste and

hazardous waste illegally deposited on the common lands of

community land grants organized under state law. Any

unexpended or unencumbered balance remaining at the end of

fiscal year 2005 shall revert to the general fund.

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BILL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO PUBLIC LANDS; TRANSFERRING CERTAIN LANDS UNDER
CONTROL OF THE STATE GAME COMMISSION TO THE JUAN TAFOYA LAND
GRANT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. TRANSFER OF LAND.--The state game commission
shall transfer title in fee simple to the board of trustees of
the Juan Tafoya land grant all lands currently owned by the
commission that were formerly part of the original grant of
lands to the Juan Tafoya land grant.

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BILL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO OPEN MEETINGS; REQUIRING THAT NOTICE BE GIVEN TO
THE BOARD OF TRUSTEES OF A LAND GRANT-MERCED WHEN THE MEETINGS
OF A PUBLIC BODY INVOLVE ISSUES OF CONCERN TO THE LAND GRANT-
MERCED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-15-1 NMSA 1978 (being Laws 1974,
Chapter 91, Section 1, as amended) is amended to read:

"10-15-1. FORMATION OF PUBLIC POLICY--PROCEDURES FOR OPEN
MEETINGS--EXCEPTIONS AND PROCEDURES FOR CLOSED MEETINGS."

A. In recognition of the fact that a representative
government is dependent upon an informed electorate, it is
declared to be public policy of this state that all persons are
etitled to the greatest possible information regarding the
affairs of government and the official acts of those officers

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and employees who represent them. The formation of public policy or the conduct of business by vote shall not be conducted in closed meeting. All meetings of any public body, except the legislature and the courts, shall be public meetings, and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. Reasonable efforts shall be made to accommodate the use of audio and video recording devices.

B. All meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of any state agency, any agency or authority of any county, municipality, district or any political subdivision held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or [for the purpose of] taking [any] action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times, except as otherwise provided in the constitution of New Mexico or the Open Meetings Act. [No] A public meeting once convened that is otherwise required to be open pursuant to the Open Meetings Act shall not be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting.

C. If otherwise allowed by law or rule of the
public body, a member of a public body may participate in a
meeting of the public body by means of a conference telephone
or other similar communications equipment when it is otherwise
difficult or impossible for the member to attend the meeting in
person, provided that each member participating by conference
telephone can be identified when speaking, all participants are
able to hear each other at the same time and members of the
public attending the meeting are able to hear [any] a member of
the public body who speaks during the meeting.

D. [Any] Meetings at which the discussion or
adoption of [any] a proposed resolution, rule, regulation or
formal action occurs and at which a majority or quorum of the
body is in attendance, and [any] closed meetings, shall be held
only after reasonable notice to the public. The affected body
shall determine at least annually in a public meeting what
notice for a public meeting is reasonable when applied to that
body. That notice shall include broadcast stations licensed by
the federal communications commission and newspapers of general
circulation that have provided a written request for [such]
notice. If an agenda item of the meeting concerns matters that
involve a land grant-merced pursuant to Chapter 49 NMSA 1978,
notice shall be given to the board of trustees or other
governing body of the land grant-merced involved.

E. A public body may recess and reconvene a meeting
to a day subsequent to that stated in the meeting notice if,
prior to recessing, the public body specifies the date, time
and place for continuation of the meeting and, immediately
following the recessed meeting, posts notice of the date, time
and place for the reconvened meeting on or near the door of the
place where the original meeting was held and in at least one
other location appropriate to provide public notice of the
continuation of the meeting. Only matters appearing on the
agenda of the original meeting may be discussed at the
reconvened meeting.

F. Meeting notices shall include an agenda
containing a list of specific items of business to be discussed
or transacted at the meeting or information on how the public
may obtain a copy of such an agenda. Except in the case of an
emergency, the agenda shall be available to the public at least
twenty-four hours prior to the meeting. Except for emergency
matters, a public body shall take action only on items
appearing on the agenda. For purposes of this subsection, "emergency" refers to unforeseen circumstances that, if not
addressed immediately by the public body, will likely result in
injury or damage to persons or property or substantial
financial loss to the public body.

G. The board, commission or other policymaking body
shall keep written minutes of all its meetings. The minutes
shall include at a minimum the date, time and place of the
meeting, the names of members in attendance and those absent,
the substance of the proposals considered and a record of any decisions and votes taken that show how each member voted. All minutes are open to public inspection. Draft minutes shall be prepared within ten working days after the meeting and shall be approved, amended or disapproved at the next meeting where a quorum is present. Minutes shall not become official until approved by the policymaking body.

H. The provisions of Subsections A, B and G of this section do not apply to:

1. meetings pertaining to issuance,

2. suspension, renewal or revocation of a license, except that a hearing at which evidence is offered or rebutted shall be open.

All final actions on the issuance, suspension, renewal or revocation of a license shall be taken at an open meeting;

2. limited personnel matters; provided that for purposes of the Open Meetings Act, "limited personnel matters" means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee; provided further that this [subsection] paragraph is not to be construed as to exempt final actions on personnel from being taken at open public meetings, nor does it preclude an aggrieved public employee from demanding a public hearing. Judicial candidates interviewed by [any] a commission shall have the right to
demand an open interview;

(3) deliberations by a public body in connection with an administrative adjudicatory proceeding. For purposes of this paragraph, "administrative adjudicatory proceeding" means a proceeding brought by or against a person before a public body in which individual legal rights, duties or privileges are required by law to be determined by the public body after an opportunity for a trial-type hearing. Except as otherwise provided in this section, the actual administrative adjudicatory proceeding at which evidence is offered or rebutted and any final action taken as a result of the proceeding shall occur in an open meeting;

(4) the discussion of personally identifiable information about any individual student, unless the student, his parent or guardian requests otherwise;

(5) meetings for the discussion of bargaining strategy preliminary to collective bargaining negotiations between the policymaking body and a bargaining unit representing the employees of that policymaking body and collective bargaining sessions at which the policymaking body and the representatives of the collective bargaining unit are present;

(6) that portion of meetings at which a decision is made concerning purchases in an amount exceeding two thousand five hundred dollars ($2,500) that can be made
only from one source and that portion of meetings at which the contents of competitive sealed proposals solicited pursuant to the Procurement Code are discussed during the contract negotiation process. The actual approval of purchase of the item or final action regarding the selection of a contractor shall be made in an open meeting;

(7) meetings subject to the attorney-client privilege pertaining to threatened or pending litigation in which the public body is or may become a participant;

(8) meetings for the discussion of the purchase, acquisition or disposal of real property or water rights by the public body;

(9) those portions of meetings of committees or boards of public hospitals where strategic and long-range business plans or trade secrets are discussed; and

(10) that portion of a meeting of the gaming control board dealing with information made confidential pursuant to the provisions of the Gaming Control Act.

1. If any a meeting is closed pursuant to the exclusions contained in Subsection H of this section [the closure]:

   (1) the closure, if made in an open meeting, shall be approved by a majority vote of a quorum of the policymaking body; the authority for the closure and the subject to be discussed shall be stated with reasonable

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specificity in the motion calling for the vote on a closed meeting; the vote shall be taken in an open meeting; and the vote of each individual member shall be recorded in the minutes. Only those subjects announced or voted upon prior to closure by the policymaking body may be discussed in a closed meeting; and

(2) the meeting, if a closure is called for when the policymaking body is not in an open meeting, shall not be held until public notice, appropriate under the circumstances, stating the specific provision of the law authorizing the closed meeting and stating with reasonable specificity the subject to be discussed is given to the members and to the general public.

J. Following completion of [any] a closed meeting, the minutes of the open meeting that was closed or the minutes of the next open meeting if the closed meeting was separately scheduled shall state that the matters discussed in the closed meeting were limited only to those specified in the motion for closure or in the notice of the separate closed meeting. This statement shall be approved by the public body under Subsection G of this section as part of the minutes.
BILL

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

DISCUSSION DRAFT

FOR THE LAND GRANT COMMITTEE

AN ACT

RELATING TO LAND GRANTS; DEFINING TERMS; REVISING GOVERNANCE, ELECTIONS AND MEETINGS OF THE BOARD OF TRUSTEES AND MANAGEMENT OF LAND GRANTS-MERCEDES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 49, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in Chapter 49 NMSA 1978:

A. "heir" means a person who has a beneficial interest in land within the boundaries of a land grant-merced under the person's management and control or who is a descendent of those determined to be owners at the time of confirmation of the land grant-merced by the board of trustees .148511.2
or by the district court;

B. "land grant-merced" means a grant of land made by the government of Spain or by the government of Mexico to a community, town, colony or pueblo or to a person for the purpose of founding or establishing a community, town, colony or pueblo; and

C. "qualified voting member" means an heir who is registered to vote in a land grant-merced as prescribed in the land grant-merced bylaws."

Section 2. A new section of Chapter 49, Article 1 NMSA 1978 is enacted to read:

"[NEW MATERIAL] RIGHTS OF LESSEES AND PURCHASERS.--A person who through purchase or lease may come to live within the limits of a land grant-merced shall only have a right to the lands acquired through the purchase or lease but not to any common lands within the land grant-merced."

Section 3. Section 49-1-1 NMSA 1978 (being Laws 1907, Chapter 42, Section 1, as amended) is amended to read:

"49-1-1. MANAGEMENT OF SPANISH AND MEXICAN GRANTS.--[Section 1.] All [grants of land] land grants-mercedes in the state [of New Mexico made by the government of Spain or by the government of Mexico to any community, town or pueblo] or [of the class of grants mentioned] land grants-mercedes described in Section [800] 49-1-2 NMSA 1978 shall be managed, controlled and governed by their bylaws, by the Treaty of Guadalupe.
Hidalgo and as [herein] provided in Sections 49-1-1 through 49-1-18 NMSA 1978 as political subdivisions of the state."

Section 4. Section 49-1-2 NMSA 1978 (being Laws 1907, Chapter 42, Section 2, as amended) is amended to read:

"49-1-2. APPLICATION...[Sec. 2. This article]

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all [grants of land made by the government of Spain or by the government of Mexico to any community, town, colony or pueblo or to any individual for the purpose of founding or establishing any community, town, colony or pueblo; to all grants that were prior to March 18, 1907 land grants-mercedes confirmed by the congress of the United States or by the court of private land claims to any community, town, colony or pueblo; and to all grants or private land claims recommended by any surveyor general of New Mexico for confirmation by congress to any town, colony, community or pueblo] or designated as [a grant to any town, colony, community or pueblo] land grants-mercedes in any report or list of land grants prepared by [such] the surveyor general and confirmed by congress [in accordance therewith], but shall not apply to any land grant [which] that is now managed or controlled in any manner, other than [herein] as provided in Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any general or special act.

B. If a majority of the members of the board of trustees of a land grant-merced covered by specific legislation
determine that the specific legislation is no longer beneficial
to the land grant-merced, the board has the authority to
petition the legislature to repeal the legislation and to be
governed by its bylaws and as provided in Sections 49-1-1
through 49-1-18 NMSA 1978.

C. Any issue that is not addressed in a specific
statute for a land grant-merced shall be addressed pursuant to
Sections 49-1-1 through 49-1-18 NMSA 1978."

Section 5. Section 49-1-3 NMSA 1978 (being Laws 1907,
Chapter 42, Section 3, as amended) is amended to read:

"49-1-3. BOARD OF TRUSTEES--MANAGEMENT OF GRANT--
POWERS.--The management and control of all [the grants] land
grants-mercedes and tracts of land to which Sections 49-1-1
through 49-1-18 NMSA 1978 are applicable [by virtue of Section
49-1-2 NMSA 1978] is [hereby] vested in a board of trustees, to
be known as the "board of trustees of the [___________ land
grant] land grant-merced del pueblo de _____" (designating [the
same by] the name of [such] the town, colony, pueblo or
community), and the board shall have the [following general
powers] power to:

A. [to] control, care for and manage the [grant] land
grant-merced and real estate, [and to] prescribe the terms
and conditions under which the common lands [thereof] may be
used and enjoyed and [to] make all necessary and proper bylaws,
rules and regulations that shall be in substantial compliance
with applicable statutes for the government thereof;

B. [to sue and be sued under the title aforesaid] as set forth in this section; however, a board member may not be sued as an individual for actions performed in an official capacity;

C. [to sell] convey, lease or mortgage in accordance with the land grant-merced bylaws so much of the [land grant] land grant-merced or real estate under its control [as aforesaid] as is held in common;

D. determine the number of animals that may be permitted to graze upon the common lands and determine other uses of the common lands that may be authorized;

[D. to E. prescribe the price to be paid for the use of the common lands and resources of the land grant-merced and [to prohibit] a person failing or refusing to pay [such] that amount from using [any] a portion of the [same] common lands while [he] the person continues in default in [such] those payments; provided that the amount [so] fixed shall be in proportion to the number and kinds of livestock pasturing upon [such] the common lands or to other authorized use of the common lands;

[E. to adopt and use an official seal;

[F. to appoint judges and clerks of election at all elections herein provided for in Sections 49-1-1 through 49-1-18 NMSA 1978, subsequent to the first, and [to]
canvass the votes cast thereat in those elections; and

[G. to] H. make such bylaws, rules and regulations, not in conflict with the constitution and laws of the United States or the state of New Mexico as may be necessary for the protection, improvement and management of such common lands and real estate and for the use and enjoyment thereof of the common lands and of the common waters thereof of the land grant-merced;

I. determine land use, local infrastructure and economic development of the common lands of the land grant-merced; and

J. determine zoning of the common lands of the land grant-merced pursuant to a master zoning plan approved by the local government division of the department of finance and administration that considers the health, safety and general welfare of the residents. The department of finance and administration shall act as arbitrator for zoning conflicts between land grants-mercedes and neighboring municipalities and counties."

Section 6. Section 49-1-4 NMSA 1978 (being Laws 1907, Chapter 42, Section 4, as amended) is amended to read:

"49-1-4. BOARD OF TRUSTEES--QUALIFICATIONS.--The [said] board of trustees shall consist of five [-5-] members. In land grants-mercedes where there is more than one precinct, no more than three [-3-] of whom members shall be [a resident from]
residents of the same precinct. A person shall be qualified to be a member of the board if the person is a qualified voter at a general election in this state, and shall have an interest in said grant by inheritance or by purchase of an interest in common lands a voting member and is not in default of any dues, rent or other payment for the use of any of the common lands of the land grant-merced.

Section 7. Section 49-1-5 NMSA 1978 (being Laws 1907, Chapter 42, Section 5, as amended) is amended to read:

"49-1-5. ELECTION OF MEMBERS OF BOARD OF TRUSTEES--VOTERS' QUALIFICATIONS--REGISTRATION.--

A. Elections for the board of trustees shall be held on the first Monday in April of each alternate year. All persons residing within the limits of such grant who have an interest in the common lands by inheritance or by purchase of an interest in the common lands, who have resided for the period of five years prior to the election at which they offer to vote, who are qualified electors at the general elections held in this state and who are registered as herein provided shall be qualified to vote at such elections. Each of such voters may vote or on a day designated in the bylaws, either every two or every four years as specified in the bylaws of the land grant-merced.

B. All qualified voting members of the land
grant-merced are qualified to vote and may vote for [five] trustees [all upon one ballot but no ballot shall be counted that bears the names of two persons residing in the same precinct, except in cases where there are not five precincts within such grant. The persons receiving the greatest number of votes shall be declared elected as such trustees] as specified in the land grant-merced bylaws.

[B—] C. The registration of [all] qualified [voters] voting members shall be conducted in the manner prescribed in the Election Code, substituting [however] the words "board of trustees" and "secretary" wherever the words "county commission" and "county clerk" are used in that [act] code.

[C—] D. The registration books [so] compiled before each election shall be used at [such] that election [and]. No person shall vote at [such] the election unless duly registered in the books, and no ballot of any unregistered person shall be counted or canvassed.

[D—] In each community land grant in which an election is to be held in April of the year 1937, the boards of trustees, immediately after the passage and approval of this act, shall proceed to call registration boards and provide for the registration of all duly qualified electors for the election to be held at such time; provided that the board of registration shall be required to meet only one day for the
purpose of registering the electors, which day shall not be
less than twenty days prior to the election.]

E. The board of trustees of each land grant-merced
shall give public notice in Spanish and English of the time of
the election and fix and give notice of the polling places in
each precinct by handbills posted in at least five public
places in each precinct at least fifteen days prior to the
election. Notice shall also be given by publication for
fifteen days prior to the election in a newspaper in general
circulation within the land grant-merced if there is one.

F. Elections shall be conducted, as nearly as is
practicable, in the same manner as provided by law for the
holding of general elections in this state. The judges and
clerks of elections shall be appointed and the votes canvassed
by the board of trustees."

Section 8. Section 49-1-7 NMSA 1978 (being Laws 1907,
Chapter 42, Section 7, as amended) is amended to read:
"49-1-7. ELECTION--CANVASSING VOTES. --[Sec. 7. Said
commitee, board or body of men, or the board of county
commissioners of said county, appointing such] The election
judges and [calling such election] board of trustees shall meet
[on the first Monday] not later than seven days following
[such] the election and canvass the votes cast [thereat] and
issue to the five persons having a majority of [such] votes a
certificate showing [such persons to] they have been duly
Section 9. Section 49-1-8 NMSA 1978 (being Laws 1907, Chapter 42, Section 8, as amended) is amended to read:

"49-1-8. ORGANIZATION OF BOARD--BONDS--VACANCIES.--[The]

A. All members of [such] the newly elected board [so elected] of trustees shall meet [on the first Monday] no later than seven days after the votes are canvassed and organize themselves by the election of a president, secretary and treasurer. The treasurer shall perform such duties as may be required [of him] by [such] the board [said treasurer] and shall [also] furnish to [said] the board a good and sufficient surety bond in a sum as [hereinafter fixed said bond] set forth in this section, to be conditioned as are the bonds of other public officials handling public [moneys and] money. It is [hereby made] the duty of [said] the treasurer to deposit all the [moneys] money coming into his hands as [such] treasurer in some bank organized and doing business in New Mexico.

B. [Provided, however, that] In the event of the death or resignation of [said] the treasurer, the [said] board shall fill the vacancy by appointing one of the members of [said] the board as [such] treasurer, who shall, before entering into the performance of his duties as [such] treasurer, execute and furnish to [said] the board a good and sufficient surety bond, similar to the bond entered into by his predecessor.
C. [Provided, further, that] The amount of the bond required of the treasurer and his successor shall at all times be for a sum of at least double the amount received by and deposited in the bank by the treasurer.

D. [Provided, further, that] In the event the board of trustees delegates any other of its members to collect money due the land grant-merced, that person shall be bonded in the same manner as is herein provided in this section for the bonding of the treasurer [and in any event].

E. Those authorized to collect money shall give receipts for the money collected, which receipts shall be in the form prescribed by the board of trustees in the bylaws as an official receipt.

Section 10. Section 49-1-9 NMSA 1978 (being Laws 1907, Chapter 42, Section 9, as amended) is amended to read:

"49-1-9. MEETINGS. - [Sec. 9.] Regular meetings of the board of trustees shall be held at such times as such no less than quarterly and in a public place as the board may determine in accordance with the bylaws. The time and place of regular meetings shall be posted in Spanish and English in a public place within the land grant-merced at least ten days prior to the meeting. Special meetings may be held at any time on call of the president, with five days..."
Section 11. Section 49-1-10 NMSA 1978 (being Laws 1907, Chapter 42, Section 10, as amended) is amended to read:

"49-1-10. QUORUM. -- [Sec. 10.] A majority of the board of trustees shall constitute a quorum for the transaction of business, and the land grant-merced and its inhabitants shall be bound by the acts of the board done pursuant to the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978 and the land grant-merced bylaws."

Section 12. Section 49-1-11 NMSA 1978 (being Laws 1907, Chapter 42, Section 11, as amended) is amended to read:

"49-1-11. SALE, MORTGAGE OR ALIENATION OF COMMON LANDS -- RESTRICTIONS. -- [No sale, mortgage or other alienation of the common lands within such grant shall take effect unless authorized by a resolution duly adopted by the said board of trustees and until after approval of such resolution by the district judge of the district within which said grant or a portion thereof is situate.]

A. The board of trustees of a land grant-merced shall not sell the common lands of the land grant-merced.

B. A conveyance of any property of a land grant-merced shall be in accordance with the land grant-merced bylaws and the provisions of this section and shall be for the benefit of the land grant-merced.
C. A mortgage or other conveyance shall not be effective until thirty days following authorization by the land grant-merced board of trustees by resolution in an open meeting and approval of the resolution by the district judge of the district in which the property is located.

D. An heir of a land grant-merced may file a protest of a mortgage or conveyance of the property with the board of trustees of the land grant-merced within thirty days of the passing of the resolution conveying the property. If a protest is filed, the board shall have a public meeting in which to address the protest.

E. If there are no protests or after all protests have been resolved, the board of trustees is authorized to execute the necessary documents in the name of and under the seal of the land grant-merced and all heirs shall be bound by the board's actions.

F. If the conveyance of property of a land grant-merced is to a non-heir of the land grant-merced, the conveyance shall contain a reversion clause."

Section 13. Section 49-1-12 NMSA 1978 (being Laws 1907, Chapter 42, Section 12, as amended) is amended to read:

"49-1-12. MEETINGS TO BE PUBLIC--ANNUAL REPORT.--

A. All meetings of [said] the board of trustees shall be [public, and no] open to the heirs. Executive sessions, other than organizational meetings to prepare agendas
and documents necessary to serve the heirs prior to regular 
meetings in accordance with the bylaws of the land grant-
merced, shall not be held. All [persons residing within the 
limits] heirs of [such grant] the land grant-merced shall have 
the right to be present at all times when [such] the board is 
in session and to be heard on all matters in which they may be 
interested.

B. A person residing within the limits of the land 
grant-merced or who has an issue with the land grant-merced and 
is not an heir may be allowed to be heard if requested in 
writing and placed on the agenda. The person may be present 
only during that period allowed on the agenda.

C. The board of trustees shall annually make public 
a report of all [the] its transactions [of said board] for 
[said] that year. The report shall include agendas, minutes, 
actions taken and all financial transactions. The report shall 
be maintained in a public place and available for public 
review.

D. The secretary of the board shall reduce to 
writing, in a book kept for that purpose, minutes of the 
business transacted at each meeting of the board."

Section 14. Section 49-1-13 NMSA 1978 (being Laws 1907, 
Chapter 42, Section 13, as amended) is amended to read:

"49-1-13. VACANCIES. -- [Sec. 13.] If a vacancy [shall 
occur in any such] occurs on the board, the remaining members
[thereof] shall fill [such] the vacancy by appointment [to be] made at a regular meeting [and]. The person [so] appointed shall hold [his] office until the next regular election."

Section 15. Section 49-1-14 NMSA 1978 (being Laws 1907, Chapter 42, Section 14, as amended) is amended to read:

"49-1-14. SALARIES OF TRUSTEES--RECORDS--EXPENDITURES--

A. The board of trustees may fix in the land grant-merced bylaws and pay to its members a salary not to exceed two hundred dollars ($200) to any member in [any] one month [which]. The salary as fixed shall be in full as compensation for the duties performed by [such] the board or the individual members [thereof] within the exterior boundaries of the [grant-merced] provided, however, that] land grant-merced and for attendance at regularly scheduled meetings. The secretary of the board may be allowed a salary not to exceed two hundred twenty-five dollars ($225) in [any] one month [provided further that].

B. Board members may be authorized per diem and mileage pursuant to the Per Diem and Mileage Act.

C. The board of trustees and the [secretary] treasurer shall keep permanent and legible records capable of audit and [that] no money or funds shall be paid by the board of trustees or by any person authorized to expend money except by written check drawn upon vouchers."

Section 16. Section 49-1-15 NMSA 1978 (being Laws 1907, .148511.2
Chapter 42, Section 15, as amended) is amended to read:

"49-1-15. REMOVAL FROM LAND GRANT-MERCED--DELINQUENCY--

FORFEITURE.--

A. If [any] a person [or persons shall hold] holds in possession or [claim] claims in private ownership, within the exterior boundaries of [such land grant] a land grant-Merced, any tract, piece or parcel of land to which, in the opinion of [such] the board of trustees, he has no right or title, [such] the board may institute an action of ejectment against [him and] the person. If upon the trial it [shall appear] appears that such possession is without right, judgment shall be rendered in favor of [such] the board for [the] possession [thereof] of the tract, piece or parcel of land and for such damages as it may have proved for the wrongful detention [thereof].

B. [Provided, further that] Any delinquent [person who moves outside the exterior boundaries of such grant and resides outside such exterior boundaries for a period of five years such person] heir shall lose the right to vote and all right or interest that [he] the heir may have had in the common lands of [said grant] the land grant-Merced unless [he] the heir pays in full all legal assessments or dues due by [him] the heir."

Section 17. Section 49-1-16 NMSA 1978 (being Laws 1907, Chapter 42, Section 16, as amended) is amended to read:
49-1-16. TRESPASS ON COMMON LANDS OR WATERS--

INJUNCTIONS.--[Sec. 16.] The several courts of this state shall entertain bills of complaint filed by the board of trustees of a land grant-merced to enjoin persons from trespassing upon the common lands or using the common waters within such grant if it appears that the complainant is without a plain, speedy and adequate remedy at law or that the persons committing such trespasses committing trespass are insolvent or unable to respond in damages.

Section 18. Section 49-1-17 NMSA 1978 (being Laws 1907, Chapter 42, Section 17, as amended) is amended to read:

"49-1-17. PROCESS--HOW SERVED ON BOARD.--[Sec. 17.]

A. Process in all actions or suits against a board of trustees of a land grant-merced shall be served upon the president or, in his absence, upon the secretary.

B. Board of trustee members may not be sued in their individual capacities for activities performed while in an official capacity."

Section 19. Section 49-1-18 NMSA 1978 (being Laws 1907, Chapter 42, Section 19, as amended) is amended to read:

"49-1-18. CONSTRUCTION.--[Sec. 19. This article] Sections 49-1-1 through 49-1-18 NMSA 1978 shall not be construed as applying to any land grant which is managed or controlled in any manner other than
that [hereinbefore] provided in Section 49-1-2 NMSA 1978."

Section 20. Section 49-1-19 NMSA 1978 (being Laws 1933, Chapter 164, Section 6) is amended to read:

"49-1-19. FAILURE OF TRUSTEE TO PERFORM DUTIES--

PENALTY.--[That] Any member of the board of trustees who [shall fail] fails or [refuse] refuses to perform any of the duties required to be performed by the board of trustees of [such land grant] the land grant-merced or any member [thereof, under Article 1 of Chapter 29, New Mexico Statutes Annotated, 1929 Compilation, as amended] of the board pursuant to Sections 49-1-1 through 49-1-18 NMSA 1978 or by any other law [of the State] of New Mexico [shall be guilty] is guilty of a misdemeanor and upon conviction [therefor] shall be punished by a fine of not less than twenty-five dollars ($25.00) [dollars] nor more than one hundred [($100.00)] dollars ($100) or by imprisonment in the county jail for a period of not less than thirty days nor more than ninety days, or both [such fine and imprisonment in the discretion of the court]."

Section 21. REPEAL.--Section 49-1-6 NMSA 1978 (being Laws 1907, Chapter 42, Section 6, as amended) is repealed.