

Council Activities since last Interim Committee Update

Since that last update to the Interim Committee the Council has continued to provide support to community land grants throughout the state. This includes working as a liaison for community land grants between state and federal agencies; engaging in policy work at the federal and state level; providing direct financial and technical assistance to land grants, and conducting several trainings and workshops for community land grants.

Liaison Work

Served as a liaison between the Forest Service and the Nuestra Senora del Rosario, San Fernando y Santiago and Abiquiu Land Grant regarding boundary issues.

Served as a liaison between the Forest Service and the San Joaquin del Rio de Chama land grant relating to the Cemetery Issue.

Served as a liaison between the Bureau of Land Management and the San Antonio de Las Huertas relating to the land grant's interest in acquiring BLM that is former common land.

Served as a liaison between DFA-LGD and Cristobal de la Serna Land Grant and between Cristobal de La Serna and San Antonio de Las Huertas Land Grant relating to the expenditure of Capital Outlay appropriations.

Served as a Liaison between Congresswomen Michelle Lujan Grisham's office and the San Antonio de Las Huertas land grant, relating to a land transfer bill and the Tome Land Grant and a Wilderness expansion bill.

Policy Work At the Federal Level

The Council engaged the US Forest Service Southwest Regional Office, the Santa Fe, Carson and Cibola National Forests in policy discussions relating to traditional uses of former common lands. This was the catalyst for work on a Master Stewardship Agreement with the US Forest Service that would allow the Council to facilitate forest restoration and watershed health projects with local land grants on former common lands within the Cibola, Carson and Santa Fe National Forests. Nearly a year of work was put into developing a draft agreement for consideration and approval by both the Land Grant Council and the US Forest Service. There was urgency to get the agreement executed by September 30 of 2013 due to the US Forest Services authority to enter into such agreements expiring at the end of that federal fiscal year. The Council informed DFA of its intent to pursue the agreement and requested that DFA provide input and assistance into the formulation of the agreement and was unresponsive. The Council then requested that staff attorney provided by the Attorney General's office review the agreement in order to proceed with its execution. In August when the Council was set to formally approve the agreement they were informed that DFA and the US Forest Service met independently and without the Council's knowledge to discuss the agreement and that DFA determined that they did not believe they had the technical expertise to administer the fiscal requirements under the agreement would therefore not

sign off on the agreement as the fiscal agent of the Council. This determination caused the US Forest Service to back off as well and the authority for the US Forest Service to enter into the agreement expired without the issue being resolved. Had the agreement been put in place it would have lasted 10 years. This raises the question as to whether or not DFA has the authority to prevent the Council from entering into agreements or refuse to administer any funds received by the Council that are not part of a legislative appropriation.

The Council continues to work with Congressional delegation on Traditional Use Consultation Act legislation, including engaging Acequia leadership to ensure that the draft bill moves closer to introduction. As well worked with Congressional delegation on the introduction of amendments to the Farm Bill that would carve out a set aside for land grants with USDA rural development funding as well as make land grants eligible for Equip funding. Neither amendment made it through final drafting process.

Members of the Council travelled to Washington D.C., at their own expense, to meet with Congressional Delegation regarding draft legislation concerning the traditional use rights on former common lands that are now managed by the Federal Government. As well the council met with the White House concerning establishing better working relationships with Federal Administrative agencies like BLM and US Forest Service and to request support for traditional use legislation when it is introduced. Travel to D.C. was at the expense of the council members since the Governor's office did neither approve nor disapprove the request for out-of-state travel. The Council included out-state travel, specifically for D.C. trips, in their budget as their enabling legislation calls for them to "develop and promote federal legislation for an appropriate congressional response to longstanding community land grant claims in New Mexico", however the current administration also requires Governor's office approval for all out-of-state travel. Because the trip was scheduled for the latter part of the fiscal year, the end of April, and the Council never received official denial of the trip it maintained funds in the out-of-state travel budget till the end of the fiscal year as it attempted to get approval for the travel and reimburse the two members that made the trip. Unfortunately, the approval nor denial was ever granted and those funds allocated to the trip reverted to the general fund at the end of the Fiscal Year.

Policy Work At the State Level

The Council worked with the Secretary of State, Attorney General's Office, State Archives and UNM to transfer and establish the Community Land Grant Registry under the Land Grant Council. DFA refused to become the custodian of any of the existing or future documents relating to the Community Land Grant Registry and so therefore the Council was required to seek alternate placement for the records. The Council through their A.G. appointed staff attorney requested that the records be held temporary at state archives while the Council explored the possibility of have UNM Land Grant Studies Program be the Custodian of the registry. State archives approved to hold the records provided they be submitted under DFA's retention schedule since the Land Grant Council has not retention schedule and is administratively attached to DFA. DFA refused to allow the council to use their retention schedule and so the A.G.'s staff attorney

appealed to the State Records and Archives center again and under a new agreement committed to house the records. The Council purchased a fireproof filing cabinet and had it shipped to the UNM Land Grant Studies Program office in anticipation of an MOU between the Council and UNM being executed that would allow the Land Grant Studies Program to be the custodian of all new community land grant registry records. The documents that were a part of the registry housed at the Secretary of State's office have been transfer to the State Archives and Records Center and will remain there indefinitely. Digital copies of those records will be made with the assistance of the UNM Land Grant Studies Program to be archived at UNM and some of those records will be placed on the Council's website. The MOU between UNM and the Land Grant Council was fully executed in September and the records of the registry can now officially housed at the UNM Land Grant Studies Program office.

The Council through its contract staff has been researching the amount of property taxes paid by land grants for common lands throughout the state in order to help inform policy decisions related to property taxes and common lands. Although research is not complete to-date tax information has been collected for 21 land grants in Statewide (13 Counties) for 2012 tax year. This figure includes 13 land grants that are political subdivisions of the state, 2 statute specific land grants and 6 sub-grants. In total those 21 land grants paid approximately \$32,150.00 in property taxes for approximately 161,500 acres of common land. The range of property taxes paid by individual land grants is from \$0.00 to \$11,000.00. The average payment in property taxes by a land grant is \$1,500.00. The range of ownership of common lands per individual land grants paying proper taxes is from 0 acres to 104,000 acres. The range for the price per acre paid by land grant is \$0.00 to \$55.00. The average per acre cost by land grant is \$3.25. The average per acre cost for all common lands combined is \$0.20 per acre.

During the past legislative session the Council endorsed and supported all of the land grant related bills adopted by the Land Grant Interim Committee. As well the Council tracked all bills impacting land grants introduced during the session. Members provided testimony to legislative standing committees on land grant related bills when necessary.

Members of the Council and contract staff have been in conversation with the New Mexico Professional Survey Association regarding the survey requirements for surveys adjacent to or within the patented boundaries of statue specific land grants.

In response to the request by members of the Land Grant Interim Committee the Council has engaged in discussions with the New Mexico Acequia Association regarding the development of a joint acequia and land grant infrastructure funding mechanism. The Council and the Association are developing a concept paper on the issue and hope to share their finding at the November Interim committee hearing.

The Council through consultation with various community land grants organized under Chapter 49 has developed recommended changes to the land grant general provisions that will be presented later today.

Direct Financial and Technical Support to Land Grants.

Land Grant Support Fund FY 2013 Projects & Status

The Council approved funding for direct financial assistance to 4 community land grants. However the support fund was not as successful as in years past due largely to inefficiencies related to getting grant agreements out to land grants for execution. Projects were awarded funding December of 2012 and grant agreements were not sent out by DFA until the end of April 2013. All projects monies had to be spent by June 30, 2013.

Tome - \$1,500 originally for purchase of portable toilets, changed to equipment purchase as a result of delay in grant agreement, spent \$1,200.

San Joaquin del Rio de Chama - \$2,600 for purchase of Storage container and landscape equipment - Spent \$2,400 reverted \$200.

Cristobal de La Serna - \$500 for postage to mail out Documentary to heirs - failed to submit reimbursement request prior to end of fiscal year.

Atrisco - \$2,600 for Farm Demonstration Project - Declined due to delay in grant agreement.

Technical Assistance to individual community land grants

Since the Council update to the interim committee the council has been able to provide direct technical assistance to 6 community land grants. This includes:

San Antonio de Las Huertas - received technical support with meeting facilitation assistance relating to a CFRP Planning grant to address wildfire management in Sandia National Forest. In addition the Council help facilitate meeting between the land grant and BLM regard land transfer and disposal process. Also the Council assisted the land grant with the fulfillment of statutory requirements for disposal of land grant property

San Miguel del Vado Land Grant Election Issue - The Council has been providing technical expertise relating to land grant elections to the San Miguel del Vado land grant through the District Court as the result of the court's intervention in the election of members to the board of trustees.

Cristobal de La Serna - The council assisted the Cristobal de la Serna land grant with the preparation of there budgetary reporting requirements and provided them with technical assistance related to the attempted expenditure of a legislative capital outlay appropriation they received.

Tajique - The Council provided technical assistance to the Tajique Land Grant in the development of their bylaws, the setting up and conduct of the election of the board of trustees and the completion of their first Infrastructure and Capital Improvement Plan.

Tierra Amarilla - The Council has been providing direct assistance to the Tierra Amarilla Land Grant with their reorganization efforts stemming from the fallout over the mineral rights embezzlement issue. This has included technical assistance with identifying steps to reorganization, process for identification of heirs to become qualified registered voters, redevelopment of bylaws and preparing for a new election.

Juan Bautista Baldez Land Grant - The council has provided assistance to the Juan Bautista Baldez Land Grant with the completion of their ICIP, with technical advice relating to their governance structure and with assistance with issues relating to Elk permits from NM Department of Game and Fish.

Trainings & Workshops

Since the last update the council has co-hosted with the UNM Land Grant Studies Program 6 trainings & workshops.

Workshop with Forest Service on Traditional Uses - 11/3/12 UNM

Workshop on Master Stewardship Agreements and Forest Restoration - 1/12/13 UNM

Elections - 2/9/13 San Miguel; 3/16/13 Canones

Understanding Land Grant Statutes - 4/20/13 - Northern NM College

ICIP workshop - 8/24/13 - UNM

Issues and Concerns

As mentioned earlier the Council has experience several issues relating to it's administration. The precise requirements and authority of both the Council and DFA as administratively attached entities is not clear and may need a legislative fix to better define the roles and responsibilities of both the Council and DFA.

As a direct result of this lack of clarity the Council missed a crucial opportunity to establish a mechanism for community land grant to effectively participation in forest restoration projects as a means to accessing former common lands for traditional use purposes. As well, it is unclear if DFA has the authority to refuse to administer funds acquired by the Council for sources outside of legislative appropriations. Also it is unclear if DFA has the authority refuse to provide the council with staff support as requested or with housing of documents such as those found in the land grant registry.

In order to begin addressing the problem the Council has requested that the staff attorney provided by the Attorney General's office draft a legal memo clearly defining the statutory authorities of the Council that can be provided to the Department of Finance and Administration for their review and response.

The Council's FY 2013 Budget was \$50,000.00 appropriated by the legislature from the general fund. The Council was able to successfully expend \$35,000.00 of that money

and unfortunately reverted \$15,000.00 at the close of the fiscal year. Funds expended by the Council when to a service contract for staff to provide technical assistance to the Council and to individual land grants, mileage and per diem expenses for meetings of the Council, financial assistance to community land grants, and the purchase of a fire proof cabinet to house land grant registry records.

The reasons for the Council's inability to utilize all of its appropriated dollars was the direct result of issues outside of the Council's control. The Council budgeted for use of all its funding however due to delays in DFA issuing grant agreements for support fund awards to individual land grants and the absence of an approval or denial of out-of-state travel from the Governor's office the Council was unable to expend portions of those budgeted line items prior to the end of the fiscal year.

In order to attempt to prevent the repeat of such a reversion in the current fiscal year the Council is revising how it provides direct financial assistance to community land grants and will also be requesting advanced approval from the Governor's office for out-of-state travel prior to including that as a line item in the current budget.

Lastly the Council still believes it is currently under budgeted to provide the full support necessary to assist community land grants throughout the State. However in order to properly utilize any increase in funding for the Council's administrative attachment issues related to DFA most first be worked out.

Potential legislative fixes to current issues:

- denial or approval of out of state travel within 30 days from date submitted.
- Make clear the Council's final authority and autonomy for all decisions fiscal and programatic to the Council. (receipt, expenditure, allocation of funding and development of budget)
- Define roles and responsibilities of Administrative attachment.