

MINUTES
of the
THIRD MEETING
of the
LAND GRANT COMMITTEE
August 4-5, 2005
Tierra Amarilla

The third meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. on August 4, 2005 in the Rio Arriba county commission chambers in Tierra Amarilla.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Senator Rod Adair
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Rep. Debbie A. Rodella

Advisory Members

Rep. Hector H. Balderas
Rep. Ben Lujan

Absent

Sen. Joseph J. Carraro
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Sen. Carlos R. Cisneros
Rep. Justine Fox-Young
Sen. Phil A. Griego
Sen. Gerald Ortiz y Pino
Sen. William E. Sharer

Staff

Jon Boller
Sheila Manzagol

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

Thursday, August 4

Archie Vigil, mayor of Chama, welcomed the committee to Rio Arriba county and said that the village was there to help all of the area, that the village and valley must work together and that it was time to get the land grant back.

Felipe Martinez, Rio Arriba county commissioner, stated that the land grant struggle is still very much alive and that, in the words of Zapata, "respect for another's property is peace". He noted that the Tierra Amarilla land grant is a particularly sad case, with 500,000 acres lost, giving rise to a continuing argument over whether the land should be returned or substitute land

be provided or whether compensation should be accepted instead. And while economic development is important to the area, he noted, many of the ills that it is supposed to address are traceable to land loss.

Moises Morales, former Rio Arriba county commissioner, said that though the Treaty of Guadalupe Hidalgo was supposed to protect the land grants, it did not, so that when land was taken away, the ability to develop economically was also taken. He said that the United States government and the forest service in particular are the land grants' worst enemies. He asked the committee to continue to support the land grant community.

Asked if he thought there would be much more economic activity in Tierra Amarilla if more of the county offices were located there, and more of the county's business was conducted there, since it was still the official county seat of Rio Arriba county, Mr. Morales said that he thought so. The chairman asked that the Rio Arriba county manager provide the committee with a detailed explanation of how the county could legally conduct so much of its official business in Espanola when the county seat is actually Tierra Amarilla.

Land Grant Histories and Issues

David Correia, Ph.D. candidate, University of Kentucky, described how the lands of the Tierra Amarilla land grant were in effect stolen through the legal chicanery of T.B. Catron and others, and how the methods developed by Catron were used elsewhere, such as in the Town of Vallecito de Lovato land grant, to essentially privatize or partition what were in reality community land grants. (See meeting file for outline.) In response to the continuing legal questions surrounding how community land grants lost their land and the current status of surviving land grants, the committee voted to promote the establishment of an institute of land grant studies at the University of New Mexico school of law.

John Chavez, Santa Cruz de la Canada land grant, explained how the U.S. supreme court decision in the *Sandoval* case resulted in the Santa Cruz land grant losing all but 4,000 acres of its original 48,000 acres and how the land grant was now attempting to reorganize itself around the 1,000 acres of common lands that remain. He said that one problem facing the land grant is how to determine who qualifies as an heir to the grant. Since the land grant was formed in 1695, he explained, there could be more than 20,000 heirs today by some definitions of "heir". However, he noted, under Spanish law, if a person left a land grant for more than five years, that person would no longer be considered an heir to the land grant. Mr. Chavez asked if the attorney general, or if necessary the legislature, could give some guidance to the land grants on the meaning of "heir" as it relates to community land grants.

Bertha Rodriguez, secretary and former president of the board of trustees of the Santo Domingo de Cundiyo land grant, reported that Cundiyo had governed itself under the bylaws of the land grant for 100 years, but that recently there have been disagreements on the direction of the land grant that have been complicated by legal proceedings. She explained that there had been a 3-2 split on the board of trustees, with the majority claiming that it had the absolute

authority to make decisions on how the land grant operated. She suggested that the statutes governing land grants should be amended to include recall election provisions and to distinguish between heirs of the land grant and actual land grant members. (See meeting file for written comments.)

Tina Lopez, former vice president of the board of trustees of the Santo Domingo de Cundiyo land grant, explained that there had been disagreements about the duties of the board concerning a quiet title suit filed against the land grant when she was in office, and that the majority had decided to defend the land grant in that suit over the objection of the minority. She said that she and other younger members of the land grant disagreed with some of the decisions and policies of the previous boards over the past thirty years, including the capping of membership in the land grant at 44 voting members. Consequently, she agreed with Ms. Rodriguez that there needed to be some clarification of the term "heir" in the statutes, though otherwise she thought the committee had done a wonderful job in revising the statutes. (See meeting file for written comments.)

Committee members encouraged the land grant members to compromise and work to resolve their differences out of court rather than have a judge or the legislature tell both sides what to do, which would be a losing proposition for both sides.

Lorenzo Valdez, president of the Juan Batista Valdez land grant, gave the committee a brief history of the land grant, which he said was confirmed by Spain in 1809. He stated that the borders of the land grant as described in the original land grant documents, which he estimated would have included approximately 200,000 acres. However, the court of private land claims ended up confirming very little of the land grant, confusing Mesita Blanca for Mesa Blanca, which resulted in the grant getting some 1,500 acres of rock instead. He said that the land grant was in a painful period of its history, but hoped that it could resolve its issues soon. Mr. Valdez commented that land grants should be careful what they ask for, since they might get it, which could mean having to follow other laws such as the Open Meetings Act and Open Records Act. He also warned that there is no simple definition of "heir".

Department of Game and Fish Issues

James Martinez and his son Amadeo, both of the Juan Tafoya land grant, reported that they had been having problems with the department of game and fish, which had impounded several head of their cattle that had been found in the Marquez wildlife area, and with access to water in the Marquez wildlife area, which had been restricted. Bruce Thompson, director of game and fish, and Brian Gleadle, chief of northwest area operations, said that the department and the livestock board had impounded cattle in the Marquez wildlife area only after several trespasses had occurred and that the department can arrange for equipment to be taken into the area, but that it had not been requested. James Karp, general counsel for the department, explained that it was necessary to keep cattle out of the Marquez wildlife area because of federal requirements to that effect and that the state risked losing one-third of its budget for the area if it did not keep cattle out. Asked why his cattle were in that area, Mr. Martinez responded that the

department had not maintained the fence, which had been knocked down, even though he had asked that they keep the fence up. Asked why the department is not maintaining the fence, Mr. Thompson replied that they were attempting to repair it, but that the Juan Tafoya land corporation had requested \$10,000 for the department to go on Juan Tafoya land to repair the fence. Asked about denying access to water, Mr. Gleadle said that there is a gate that gives them access to every spring and water source they own; however, he said that he thought maybe Mr. Marquez was talking about Moises springs, to which he does not have access because it is not in Marquez canyon where all the water rights owned by Juan Tafoya land grant are located. Mr. Martinez disagreed, saying that Juan Tafoya land grant owns all the water rights in the Marquez wildlife area. Mr. Thompson invited the committee to visit the area to fully assess the situation. The committee asked Mr. Karp to supply the committee with more information on the water issue.

Mr. Thompson explained how special hunt drawings are conducted, noting that until last year it was a paper process with 145,000 applications for approximately 65,000 permits. Committee members expressed concern about applicants that have never been granted a permit and asked Mr. Thompson to assess which applicants have applied year after year and have not been granted a permit (as distinguished from those that only think they have applied consistently).

R.J. Kirkpatrick, wildlife management chief, outlined the program whereby landowners with elk habitat are given elk hunting licenses to encourage them to maintain the elk population. He said that the department is currently rewriting the rules on the program and attempting to address problems with the current system. Representative Rodella said that she was concerned about the subjectivity of the process and that people needed another opportunity to comment on the rule changes before they are issued. The committee voted to send a letter to the department, asking it to check on property ownership and to engage in a second round of hearings before it adopts new rules on the elk program.

Guadalupe Hidalgo Treaty Division

Alvin Garcia, office of the attorney general, described the Guadalupe Hidalgo treaty division, noting that it had gotten a one-time appropriation upon its creation and that the attorney general's office had contracted with David Benavides to draft a response to the GAO study with that money. He said that there were not a lot of resources available to continue the work of the division. Asked about additional services that could be provided to land grants, he replied that although his office gets many questions from land grants that are political subdivisions, the attorney general does not provide legal services to most political subdivisions of the state; instead, cities and counties and other subdivisions normally hire their own attorneys. Mr. Garcia offered that his office was considering doing training on the Open Meetings Act and public records laws for land grants. The committee voted to send letters to the attorney general and the governor requesting that the division be fully funded as part of the office's base budget and that the questions on heirship brought up by John Chavez and others be examined.

Promotion of Agricultural Exports to Cuba

Miguel Angel, professor of Latin American studies (retired), New Mexico Highlands university, urged the committee to support efforts to promote export of organic products produced in New Mexico to Cuba. He said that there were many advantages to organic products, for which there is skyrocketing demand, including cleaner water and environment, job creation in depressed areas and increased income and opportunities in rural New Mexico. He explained that 35 states are currently doing business with Cuba on a cash basis, with \$1.2 billion in commodities purchased in the last four years. Mr. Angel noted that he had met with Miley Gonzales, director of agriculture, and that the department had offered to provide technical assistance to help promote the project.

Public Comment

Public comment included the following questions and comments:

- attorney general participation and assistance is important in resolving issues such as the Anton Chico land grant situation, where its capital outlay has yet to be distributed to the land grant due to a misunderstanding of the new status of certain land grants as political subdivisions of the state;
- establishment of a university of New Mexico land grant institute is supported by the land grant forum, as well as by Representative Tom Udall;
- why does Abiquiu land grant get 50 elk licenses a year when other land grants only get three or four?
- the New Mexico organic commodity commission is great — Questa farmers now have their own flour mill, and you can certify an area for \$150 and get \$900 an acre for organic wheat and \$3.50 a bale for straw;
- once established, organic farming can save farming in New Mexico and in the United States, whereas Archer Daniels Midland will only end up destroying agriculture;
- a request by Dennis Wells to have the Tierra Amarilla association put on the next agenda;
- a request that the office of the attorney general finish its response to and report on the GAO study;
- the need for land grants to keep organizing;
- the fact that 70,000 acres of the Tierra Amarilla land grant was taken by the government and no compensation has been paid to the rightful owners; and
- that the testimony today has created hope where none has existed for years.

There being no further comment, the committee recessed at 6:40 p.m.

Friday, August 5

The committee reconvened at 9:00 a.m. at the library in Abiquiu. Delvin Garcia, Abiquiu land grant, gave a brief history of the land grant. Three Abiquiu students gave a detailed history of the land grant and then Mr. Garcia took the committee on a tour of the land grant. The committee adjourned at 3:00 p.m.

