

MINUTES
of the
THIRD MEETING
of the
LAND GRANT COMMITTEE
August 23
Fiesta Room, Student Union Building
University of New Mexico, Albuquerque

The third meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:25 a.m. on August 23, 2006 in the Fiesta room of the university of New Mexico (UNM) student union building.

Present

Sen. Bernadette M. Sanchez, Chair
Rep. Miguel P. Garcia, Vice Chair
Sen. Rod Adair
Sen. Joseph J. Carraro
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella

Absent

Rep. Justine Fox-Young

Advisory Members

Rep. Hector H. Balderas
Sen. Leonard Tsosie
Rep. Eric A. Youngberg

Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. William E. Sharer

Staff

Jon Boller
Sheila Manzagol

Guests

The guest list is in the meeting file.

Wednesday, August 23

Reed Dasenbach, provost and executive vice president for academic affairs for UNM, welcomed the committee to the campus and briefly outlined the university's programs and resources.

State Land Office Property in El Palacio Fun Valley

Jim Jackson, state land office (SLO), reported that there are three sections of land managed by the SLO that are located inside the federal bureau of land management's (BLM) "Fun Valley" special management area near Chimayo. The SLO has grazing leases on all three of the parcels and a right of way to the BLM on one of the parcels. When asked if the SLO had entered into any agreements with the BLM on the lands in question, Mr. Jackson replied that there are no official agreements, but that if BLM owns all the land around a state parcel of land, then how it manages its lands affects how the SLO can manage its lands. In reference to the Taos resource management plan revision that BLM is conducting, and which may affect land use in the Chimayo area, he said that the SLO usually would have comments for the plan's revision, but that it has not yet been contacted to offer its comments. When asked if the SLO could trade these lands for other land, Mr. Jackson said that there had been such discussions with Ohkay Owingeh in the past and that the SLO does have a working relationship with the BLM on exchanges in general. Mr. Jackson said he thought that the SLO should have some formal process in commenting on the Taos resource management plan revision, and that he would pass along the committee's concerns to the state land commissioner.

John Chavez, Santa Cruz, reported that the Fun Valley area consists of the former lands of three neighboring land grants: the Santa Cruz de la Canada grant, the Nuestra Senora del Rosario San Fernando y Santiago grant and the Sebastian Martin grant.

Representative Garcia questioned whether the SLO is making sure that any former land grant lands held by the SLO and that are being considered for sale would first be offered to the land grant in question. A discussion ensued on whether only surveyed lands are exempt from the statutory mandate to give land grants the right of first refusal on sales of SLO lands.

Taos Resource Management Plan Comments

John Chavez and Jerry Fuentes, Santa Cruz de la Canada and Nuestra Senora del Rosario San Fernando y Santiago land grants, reported that the BLM is in the process of revising the Taos resource management plan, and expressed concern that the BLM may dispose of 7,600 acres of land in one area and 6,600 acres in another area near the land grants and that as much as 88,000 acres of BLM land may be disposed of in the Taos resource management area. Mr. Chavez added that the 1,200 acres slated for disposal near Chimayo, if acquired by the state for the Santa Cruz de la Canada land grant, would address many of the problems facing the land grant. He noted that the Santa Cruz grant had lost most of its common lands due to the *Sandoval* decision, and thus is particularly hard pressed to provide land for public projects such as water and wastewater systems, public buildings or to preserve farmland by providing lands outside the irrigated valley for housing.

Mr. Chavez also stressed the need to preserve the area's riparian zone, stating that erosion from the BLM's special management area known as El Palacio Fun Valley threatens the Santa Cruz irrigation district's 4,800 acres. Mr. Fuentes also questioned the BLM's ability to manage El Palacio Fun Valley area, citing a recent newspaper article that documented all-terrain vehicle (ATV) tracks crisscrossing pre-Columbian archaeological sites in the area and evidence of the looting of artifacts from those sites. When asked if there are plans to expand use of the

area, Mr. Fuentes replied that only one part of the area, a racetrack near Alcalde, is currently approved for ATV use, but that the area may be opened up for expansion in the future.

Mr. Fuentes and Mr. Chavez asked the committee to send a letter to the Taos field office to be included in the official comments on the Taos resource management plan revision, since the comment period has been extended to August 31, 2006. He and Mr. Chavez submitted comments to the committee summarizing their concerns. The committee voted unanimously to adopt a motion to send comments to the BLM and send copies to the New Mexico congressional delegation. The committee also asked that a representative from the BLM be invited to the next meeting.

When asked if there is anything else the committee could do, Mr. Chavez suggested that the state could acquire lands that the BLM is planning to dispose of and that even if the state holds those lands in trust for the appropriate land grant, that option would be better than having these former grant lands fall into private hands. This option would at least help preserve cultural integrity, he explained. Representative Garcia said that a Spanish-Mexican land grant fund needs to be established to finance this option.

The committee also asked Mr. Jackson if the SLO owns any land that was formerly part of a community land grant. He said he did not know, but it would help if he could get a map of where the land grants are located.

Land Grant Studies Discussion

Dr. Manuel Garcia y Griego, director, southwest Hispanic research institute, explained that the southwest Hispanic research institute encompasses 44 affiliated faculty from a wide range of departments at the UNM. He said that the institute has promoted the study of Spanish and Mexican land grants and that the timing is right to establish a land grant studies program at UNM, noting that as a top 100 research institute, it is the only one with a majority Hispanic student population and the only one with greater than five percent Native American student population. Given the complexity of the subject, he offered that the best way to approach a land grant studies program is probably multidisciplinary, adding that it could draw on the experience of the southwest Hispanic research institute and the university's water resources program. As to how to build such a program, he suggested that an inventory of existing programs, resources, faculty and institutions be conducted, and opined that he would be much more interested in helping to establish a stable, long-term small program than a large, short-term type of program.

Dr. Laura Gomez, professor of law and of American studies at UNM, said there is a shortage of adequately trained lawyers in land grant law, along with a lack of knowledge of the history of land grants on the part of judges and lawmakers. She suggested that in the short term this might be addressed by: 1) funding the development of new law school courses and paying for adjunct professors to develop or teach those courses; 2) creating a certificate program like the natural resources certificate program; or 3) creating a summer intern program in the field to show that there is a market for such a program. Other options, she offered, might include the creation of a land grant institute to serve as a repository for information. Currently, she

observed, the university does not even have money to translate and index existing documents on Spanish and Mexican land grants. Continuing legal education courses could also be developed for practicing attorneys, though there also needs to be training beyond the law; perhaps, she said, some type of joint degree program could be established with funding for new faculty.

Adverse Possession Statutes Affecting Land Grants

Narciso Garcia, Jr., a member of the Carnuel land grant and an attorney, informed the committee that adverse possession litigation is probably one of the biggest drains on the resources of land grants and that it is probably time to revisit the statutes on adverse possession as they relate to land grants. He explained that since some land grants are now political subdivisions of the state, there is a problem with Section 37-1-21 NMSA 1978, which provides for adverse possession against a land grant, even though one cannot adversely possess government property. Accordingly, he said, the statute should be repealed or amended to reflect the status of those land grants that are political subdivisions of the state. Otherwise, he warned, the courts will be called on to decide the issue, which will again cost the land grants great expense. When asked how many such cases there are in New Mexico currently, Mr. Garcia replied that he was only familiar with Chilili, which was currently involved in three cases, and has been involved in 30 or so cases over time.

The committee adopted a motion without objection to draft legislation to repeal or amend Section 37-1-21 NMSA 1978 to clarify that one may not adversely possess the property of land grants that are political subdivisions of the state.

The committee adopted the minutes of the May 31, 2006 meeting without objection.

Public Comment

Mr. Chavez and Mr. Fuentes asked the committee to look into why counties accept money for property taxes from more than one person on the same piece of property, especially in the case of a county accepting 17 years of back taxes from a person when the taxes on that property were already paid by someone else for all of those years. The committee asked staff to invite someone to address the problem of double assessment of property at the next meeting.

Lawrence Sanchez, Tome land grant, reported that it has come to the attention of the board of trustees of the Tome land grant that approximately \$25,000 in undistributed money remains from the sale of the Tome land grant. He said that numerous attempts to confirm with the court the existence of this money, and its disposition, have not been successful. Mr. Sanchez said that he hopes that the money could be returned to the Tome land grant, and asked that the committee inquire as to the existence of the money and any plans for its disbursement. The committee asked staff to send a letter to the seventh judicial district court asking the court to confirm the existence of any undistributed funds.

Purchase of Liability Insurance from the Risk Management Division by Land Grants

Liz Stefanics, director, risk management division (RMD), general services department, explained that the RMD is authorized, but not required, to provide insurance coverage to local public bodies. She emphasized that the services offered by RMD are not free, and that premiums

for insurance range from a minimum of \$2,000 annually up to several million dollars annually, depending on the coverage. Ms. Stefanics gave a brief history of the Tort Claims Act and how RMD operates, noting that 98 percent of its operations deal with negligence claims. Though all local public bodies used to be covered by RMD, she said, now most are not. When asked if and how a land grant could obtain coverage through the RMD, Ms. Stefanics replied that Section 41-4-25 NMSA 1978 allows all local public bodies to apply, and that if a land grant is a political subdivision of the state, it could set up a meeting with RMD to purchase insurance. When asked how many civil rights claims the RMD handles each year, Ms. Stefanics answered that she did not know off-hand, but could supply the committee with that information.

Center for Southwest Research Tour

The committee toured the center for southwest research, located in Zimmerman library. The center has an extensive collection of primary and secondary sources on the land grants of central and northern New Mexico and southern Colorado. Committee members expressed interest in funding the indexing and translation of the collection and making the collection accessible on the internet.

There being no further business, the committee adjourned at 4:30 p.m.