

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

**August 23-24, 2012
Anton Chico Community Center
Anton Chico, New Mexico**

The third meeting of the Land Grant Committee was called to order at 10:19 a.m. on August 23, 2012 by Senator Richard C. Martinez, chair, in the Anton Chico Community Center.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Eleanor Chavez (8/23)
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue

Absent

Sen. Rod Adair
Rep. Paul C. Bandy
Rep. Jimmie C. Hall
Sen. Bernadette M. Sanchez

Advisory Members

Sen. David Ulibarri

Sen. Carlos R. Cisneros
Rep. Joni Marie Gutierrez
Rep. Jim W. Hall
Rep. Ben Lujan
Rep. Patricia A. Lundstrom
Rep. Richard D. Vigil

Guest Legislators

Rep. Sandra D. Jeff (8/23)
Rep. George Dodge, Jr. (8/23)

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

Staff

Douglas Carver, Staff Attorney, Legislative Council Service (LCS)
Peter Kovnat, Staff Attorney, LCS
Theresa Rogers, Legislative Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, August 23

Welcoming Remarks and Introductions

Senator Martinez welcomed committee members, staff and the public to the meeting and asked that everyone introduce themselves, and he thanked the Anton Chico Land Grant for hosting the meeting.

Welcoming Remarks and History: Anton Chico Land Grant

Cristobal Marquez, president, Anton Chico Land Grant, welcomed the committee members and introduced the members of the land grant's board of trustees. He noted that the land grant has between 1,200 and 1,500 registered members.

Anton Chico Land Grant: History and Contemporary Issues

Mr. Marquez and Roberto Mondragon, treasurer, Anton Chico Land Grant, described the history of Anton Chico. They noted that Anton Chico has been responsible for helping to reorganize the land grants, starting in 1995. The history of the mercedes dates to Spain and Juan de Oñate. The first application for a land grant was made in 1817. The locals have struggled to maintain their grants, particularly when battling litigation in the judicial system from settlers after 1848.

Mr. Marquez and Mr. Mondragon provided a map showing the historical boundaries of the Anton Chico Land Grant. Mr. Marquez explained that land grant borders have changed over time as land was sold to pay lawyers' fees and taxes; a portion of the land sold became part of the Santa Fe National Forest. Anton Chico is trying to regain some of this land through litigation. Members of the Anton Chico Land Grant listed five requests for the consideration of the committee:

1. that the land grant be given preference in land rights, such as grazing, after the current lease maintained by the United States Forest Service (USFS) concludes. The USFS currently leases the land for grazing, but not to members of Anton Chico;
2. that there be established a fair grazing rate tax for all nonresidential or commercial land;
3. that the land grant receive help from the Natural Resources Conservation Service and the Office of the State Engineer to build and maintain unused wells and stock ponds for cattle. These stock ponds are invaluable in times of drought;
4. that the land grant receive funds to build a regional wastewater system. A regional mutual domestic water system is currently in place, the Sangre de Cristo Domestic Water

Consumers Association; and

5. that the legislature take action to stabilize the composition of county commissions. The needs of the land grant are not represented fairly because of the current representation structure. Commissioners are elected in each district, but they are overpowered once in office by the higher population of commissioners of the rest of the county.

Anton Chico has met with numerous corporations in hopes of increasing economic development on the land grant, particularly with renewable energy. Harry Barnes, consultant, Tierra Merced, LLC, addressed the committee regarding various renewable energy projects being pursued by Anton Chico. Mr. Barnes founded Tierra Merced in 2005 to assist in administering capital projects on the land grants. Anton Chico is rich in potential natural resources, such as solar, wind and natural gas.

Anton Chico contracted with Tierra Merced in 2005 to assist in negotiations with Eurus Energy and to research other renewable energy development potential. Eurus' Project Granada had proposed a 300-megawatt facility to be located on the Anton Chico Land Grant, including compensation provisions based on dollars per acre. The project was terminated by Eurus when complications regarding transmission capacity ownership, transmission systems upgrades and Public Service Company of New Mexico regulatory issues surfaced. The complications caused Eurus to rescind its offer without negotiation, highlighting the complications of exploiting renewable energy resources on land grants.

Mr. Barnes noted three potential action items for the committee: (1) support for a resource study; (2) priority access to state-supported projects, such as those funded by the New Mexico Renewable Energy Transmission Authority; and (3) the promotion of land grant resources for future projects. Infrastructure upgrades and legislative support would enhance Anton Chico's economic capacity.

Anton Chico is also addressing illegal dumping on the land grant by establishing dumpster sites across the land grant. In addition, the land grant is discussing plans concerning the community library and cemetery and a new school.

Anton Chico consists of 105,000 acres of land, five acequias, a school, churches, cemeteries, a senior center, a health clinic, a fire station, a legion hall, a rodeo, a horse training track, community centers and a library. Anton Chico has good working relationships with the county commissions of the two counties it straddles and the Natural Resources Conservation Service.

In response to a committee member's questions regarding high school education in the land grant, Mr. Mondragon explained that high school students attend high schools in either Las Vegas or Santa Rosa.

A member of the committee asked what concerns corporations have that turn them away from doing business on the land grant. Mr. Mondragon responded that it is generally a lack of

familiarity with land grant history and law that are the biggest barriers. Outreach and education on land grant business opportunities would be beneficial.

A member of the committee asked a question regarding the taxation of grazing land and herds. In some regions of the land grant, taxation occurs per head of animal grazing on the land while in other regions, members of the land grant are taxed based on the area of land upon which the herd grazes. Some heirs are taxed both per head and per acre.

The Tres Amigas SuperStation project has regional implications that could benefit Anton Chico if implemented, but Mr. Barnes believes the objectives of Tres Amigas are ambitious. The load of the superstation would be 5,000 megawatts, potentially up to 10,000 megawatts. Infrastructure upgrades, among other improvements, need to be made before the superstation becomes reality.

A committee member asked who owns the land lost by the land grant in the past. Mr. Mondragon stated that 23,000 acres of forest were lost through tax delinquency; part of the land lost is now a state forest and the rest belongs to San Miguel County. The committee believes that if the land cannot be returned to the land grant, then traditional uses should be a priority. Members from Anton Chico stated that if no reversion is possible, they will ask New Mexico Highlands University, a land grant university, to use the land to build a satellite campus.

A committee member asked if unused land reverts back to the land grant after the lease on the land ends, such as lands used for a school or library. Mr. Mondragon answered that the lands do revert back, and they are sold in some cases.

A committee member stated that the legislature will assist with the vacant library if capital outlay is available. Land grants are able to create their own zoning areas to accommodate a developer, with approval of the Department of Finance and Administration's Local Government Division.

A committee member asked how many heirs to the land are alive today. There is no clear answer, but Anton Chico formed a genealogy committee that will begin to generate this number, including those who have sold the land to pay taxes.

Committee members also discussed the library volunteer staff, possible tourism opportunities, self-imposed taxation to spur economic development and historic preservation.

Other Anton Chico Land Grant-Related Concerns

John Marquez, the husband of an Anton Chico Land Grant heir, discussed certain concerns some of the heirs of the Anton Chico Land Grant have. He asked for guidance in navigating the corruption among those in power on the land grant. Heirs are unsure of whom to approach in asking for guidance through complicated issues. The most common response from the governing board is litigation. The governing board was elected to help solve the questions, not recommend litigation.

Mr. Marquez stated that the Open Meetings Act is not followed and proper meeting protocol is neglected, which obstructs the ability of the heirs to participate in the meetings. The board does not take action on areas of concern brought forth by heirs, such as illegal dumping and fence cutting. He also stated that heirs have concerns regarding corruption surrounding voting, deeds on land, the federal Freedom of Information Act, finances of the land grant and communication. He gave an example of members of a family that have been trying to build a fence on their property for 40 years because they have not been given a deed; they cannot receive their deed, however, because they do not have a fence. Problems such as these have not been addressed by the governing board. Mr. Marquez asked that the legislature help the land grant solve these problems.

Members of the committee noted that many land grants have similar internal issues and that although the legislature cannot intervene in the affairs of the land grants, members can give guidance.

New Mexico Forest and Watershed Restoration Institute and Land Grants

Dr. Andrew Egan, New Mexico Highlands University, New Mexico Forest and Watershed Restoration Institute (the Institute), discussed the background of the Institute. He stated that the Institute's enabling legislation may be found in the federal Southwest Forest Health and Wildfire Prevention Act of 2004. The Institute has sister programs at Colorado State University and Northern Arizona University. The Institute addresses numerous watershed issues throughout the state, the mitigation of catastrophes and progress toward a restoration-based economy and guides interest and discussion regarding restoration development. The Institute facilitates the Estancia Basin Watershed and Forest Health Experimental Monitoring Project, the Greater Rio Grande Watershed Alliance and the Gallinas Partnership. The Institute implements projects and meets tangible goals rather than discussing and setting agendas. The Institute works with local tribes and partners with Santa Fe Community College to help northern tribes. The tribes provide monetary resources, and the Institute provides training and help with catastrophe-related cleanup.

A member of the committee asked if there have been studies on the impact that traditional land use has had upon fire mitigation in forested lands. Dr. Egan responded that he is not aware of any such study but that such a study would be beneficial. Dr. Egan also stated that the Institute is researching potential markets for byproducts of forest clearing. The Institute is considering a proposal from the federal government regarding wood chip conversion to fuel and gasification.

Biomass As an Economic Resource

Dr. John Elling, chief executive officer, Incitor, and Jake Berman, vice president, business development, Incitor, explained to the committee that Incitor is "commercializing chemical processing breakthroughs to inexpensively convert cellulosic biomass into high-value chemicals and fuels". Incitor is headquartered in Albuquerque, employs 15 New Mexicans and has strong venture capitalist backing. Incitor's process is focused on forest products such as wood pellets. The proprietary piece of Incitor is the process of creating the fuel. Incitor dissolves biomass in hydrochloric acid to create an intermediate product that digests in acid; multiple types of waste

can be used to create biofuels with Incitor's process.

The representatives from Incitor told the committee that 2% of the \$400 billion energy market is currently sourced from renewable products, but that proportion is expected to grow to 25% by 2025. Large-market opportunities for Incitor are commodity chemicals and liquid fuels. Incitor is working to develop these chemicals as a response to the political mandate to replace traditional fuel with biofuel. Incitor can produce 500,000 gallons of biofuel per year for \$8.5 million, a significantly smaller cost than traditional fuel production. Incitor has the potential to garner United States Department of Agriculture loan guarantees, receive federal new market tax credits, apply for federal grants and take advantage of other numerous economic incentives to build Incitor's first commercial plant in Milan, New Mexico. Currently, Incitor is in the process of fulfilling multiple local memoranda of understanding.

In response to a committee member's question, Dr. Elling and Mr. Berman explained that there are ways to reduce the waste byproduct created by Incitor's product through the use of hydrochloric acid and solvents. There will be some minimal waste, principally ash. Industry has found that burning waste emits as much pollution as burning coal. Producing a liquid transportation fuel is the green alternative to oil fuel, a renewable resource that captures carbon dioxide.

Incitor has requested help from the Economic Development Department to take advantage of all tax credits in the state. The energy market is competitive; all avenues of funding and partnership have been exhausted.

Dr. Elling and Mr. Berman also explained that Incitor's production of biofuel must be regional, as it is not profitable to transport the biofuel over 60 miles. This should be beneficial for local economies, as these plants will create highly skilled, well-paying jobs, as well as secondary jobs gathering and treating agricultural products to supply the plant. Projected revenue of the initial plant will be \$1.7 million after all expenses, including depreciation.

Keeping Young People on Land Grants

Juan Sanchez, chair, Land Grant Council, and president, Merced del Pueblo de Chilili, explained to committee members that each land grant struggles with ways to keep young people in its community. Opportunities for young people to engage with the land grants are the best way to maintain the land grants with the future, as well as to enable the establishment of businesses.

Daniel Antonio Herrera, president, Manzano Land Grant, thanked the committee for listening to land grant members' statements and assisting them in bettering the state of the land grants. In the past, land grant members struggled to be heard, but the process now is much easier.

Elections in San Miguel del Bado Land Grant

Oliver Perea, San Miguel del Bado Land Grant, stated that the committee and those who have been working on land grant issues have made great progress. The lack of knowledge and

understanding from voters and heirs can be fixed by a long campaign season. The botched election at San Miguel del Bado shows that there is ignorance around the laws governing these lands. More education of board members is critical in assuring fair and accurate elections.

Mr. Perea described the mismanaged San Miguel election. The election was scheduled to occur in December, but it was delayed until August. The person coordinating the election was given multiple chances to submit his report detailing those running for office, but he failed to do so. Three days before the election, he notified Mr. Perea that there were two out-of-district candidates running. Despite contacting numerous attorneys and state agencies, Mr. Perea received no assistance. The board of San Miguel del Bado suspended the election so there would be no violation of law; as a result, the election controller is contemplating suing Mr. Perea.

Numerous heirs are not aware of their heirship and the large untapped resources on the land grants. Those who do live on the land grants must be better educated on current events and better trained in land grant procedures. Mr. Perea stated that training should be held in communities such as the San Miguel Land Grant and Anton Chico, not just in Santa Fe or Albuquerque; the training sessions should be a yearly requirement for those in office.

Pete Aguilar, former special master for a San Miguel del Bado Land Grant election, advised the committee that there was also an illegal election in 2004. The district court disqualified the election and named him a special master to oversee the reelection. Mr. Aguilar stated that knowledge of land grant processes and proper coordination with the district and county clerks for resources are necessary. There should be three to four informational meetings with the heirs to update them on current events. Many meetings become violent, a reality that needs to be resolved.

A committee member stated that there are differences between physical residency and intentional residency, noting that the New Mexico Supreme Court issued a ruling on these types of residency. Statutes are largely silent on land grant election codes, classifying land grants as "other electoral special districts". The committee requested that Secretary of State Dianna J. Duran attend a committee meeting this interim to discuss the Election Code and land grants.

A committee member noted that, in the future, contacting a legislator may also help in difficult situations, rather than relying on the judicial system.

Information for Tour of the Anton Chico Land Grant

Mr. Mondragon gave the committee details of the following day's tour of the Anton Chico Land Grant.

Public Comment

Mr. Marquez stated that the land grants need help in running elections and a contact to call upon with questions or problems.

Recess

The committee recessed at 5:00 p.m.

Friday, August 24

Tour of the Anton Chico Land Grant

The committee reconvened at 9:00 a.m. for a tour of the Anton Chico Land Grant. The tour ended, and, there being no further business, the committee adjourned at 1:30 p.m.