

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

**June 15, 2011
Room 307, State Capitol
Santa Fe**

The first meeting of the interim Land Grant Committee was called to order at 10:23 a.m. on June 15, 2011 by Representative Miguel P. Garcia, chair, in Room 307 of the State Capitol.

Present

Rep. Miguel P. Garcia, Chair
Sen. Richard C. Martinez, Vice Chair
Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Sen. Rod Adair
Rep. Paul C. Bandy
Rep. Eleanor Chavez
Rep. Debbie A. Rodella

Advisory Members

Sen. Kent L. Cravens
Rep. Patricia A. Lundstrom
Sen. David Ulibarri
Rep. Richard D. Vigil

Sen. Carlos R. Cisneros
Rep. Joni Marie Gutierrez
Rep. Ben Lujan

Staff

Peter Kovnat, Staff Attorney, Legislative Council Service (LCS)
Douglas Carver, Staff Attorney, LCS
Andrew Pierce, Legal Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file.

Wednesday, June 15

Welcoming Remarks and Introductions

Representative Garcia extended a welcome to the committee, staff and members of the public. He then briefly reviewed the agenda, noting that anyone wishing to make a public comment could address the proposed work plan. Representative Garcia acknowledged the new

members of the committee and asked all committee members and staff to introduce themselves. He then invited members of the audience to introduce themselves as well.

Review of Accomplishments

Representative Garcia briefly discussed the past accomplishments of the committee, the most significant of which included work on adverse possession claims against land grants, matching the highest bid in a public auction of lands within the confines of an original deeded grant, giving the board of trustees of a land grant the right of first refusal on the sale of state property within an original deeded grant, application of the Open Meetings Act and election reform to land grant boards of trustees, creating land grants as political subdivisions and clarifying that common lands of land grants are not state lands.

Interim Committee Protocols

Mr. Kovnat presented protocols for all 2011 interim committees on behalf of LCS Director Raúl E. Burciaga. He stated that a quorum for the committee is seven of the 12 voting members. He also noted that the New Mexico Legislative Council wants all committees to examine cost-saving measures, and to that end, meetings requiring travel after August will require approval by the legislative council at its June 29, 2011 meeting. An additional cost-saving measure is that legislators would now only be allowed to attend two or three meetings in addition to those to which they have been assigned.

2011 Legislation Summary

Mr. Kovnat also presented a summary of the disposition of legislative initiatives endorsed by the committee or related to the committee's work from the 2011 legislative session. Committee members commented on the various bills as follows.

The committee endorsed five pieces of legislation. Senate Bill 176, which would have authorized the Land Grant Council to use private and federal funds to assist community land grants that are not eligible for state funds, was passed by both chambers but pocket-vetoed by Governor Martinez. Committee members noted that the bill would have opened up to all land grants the ability to access benefits from the Land Grant Council and that the issue should be addressed again this year. House Bill 82, which would have amended Chapter 49, Article 1 NMSA 1978 to include the Tecolote Land Grant-Merced as a political subdivision of the state and would have repealed Tecolote's current governing statutes, passed the house of representatives unanimously but died on the senate floor after receiving a "do pass" by the Senate Conservation and Judiciary committees. Committee members discussed the failure of the bill, given that it was nearly identical to similar bills that had passed in past sessions. It was noted that a filibuster on the last day of the session prevented the bill from being called in the senate and that members of the Tecolote Land Grant-Merced had not been able to meet with senators due to illness among the leadership of the land grant. Senate Bill 154, which would have transferred the land grant registry from the Office of the Secretary of State to the Land Grant Council and would have provided for the storage of historical records in the state archives, was passed by both chambers but pocket-vetoed by the governor. Committee members expressed a desire to revisit this issue as well and to have someone from the Secretary of State's

Office make a presentation to the committee regarding the transfer of the registry. Committee members also discussed, in relation to the two pocket vetoes, inviting the governor or her staff to the November committee meeting when bills are endorsed. House Bill 170 (Laws 2011, Chapter 112) allows board members of land grants to be elected for staggered terms and allows for those candidates who receive the most votes to be elected to the open seats on the board in each election. House Bill 81 (Laws 2011, Chapter 96) clarifies the status of common lands of land grants-mercedes that are political subdivisions of the state by stating that the common lands are not state lands. Committee members noted that this bill provides clarification to a 2004 law regarding the rights of land grants as political subdivisions.

There were four additional pieces of legislation in 2011 related to land grants but not formally endorsed by the committee. House Bill 278 (Laws 2011, Chapter 68) includes the Atrisco Land Grant-Merced as a political subdivision of the state. It was asked whether this bill achieves the same goal that was attempted by House Bill 82. Committee members stated that it achieves the same goal, but they noted that the Atrisco Land Grant-Merced shepherded the bill through both houses, which was important for its ultimate success. House Bill 653, which would have created liability for knowingly filing or recording a fraudulent title to real property, passed both chambers but was vetoed by the governor. Committee members noted that this is an important issue in northern New Mexico and that the governor's veto message stated that there are laws already in place that accomplish the aims of this legislation. Senate Bill 153, which would have made an appropriation to the Land Grant Council to provide for a boundary survey and mapping of the Liñas area within the Cristobal de la Serna Land Grant in Taos County, did not make it to the floor. Senate Joint Memorial 27, which would have requested that the federal government negotiate with New Mexico and representatives of displaced land grant heirs for the return of land grants, was passed unanimously by the senate but was not acted upon by the house. House Joint Resolution 1, Senate Joint Resolution 10 and Senate Joint Resolution 17, all of which were included on the handout distributed to the committee, were not discussed as they did not pertain to the committee's work.

2011 Interim Work Plan and Meeting Schedule Development

Committee members reviewed the proposed interim work plan. Representative Garcia informed those awaiting the public comment period that the committee would not vote on the proposed work plan or the proposed meeting schedule until after the public comments were concluded.

Arturo Archuleta, who through the University of New Mexico Land Grant Studies Program provides assistance to the Land Grant Council, and Gilbert Ferran, president of the New Mexico Land Grant Consejo and president of the Merced del Pueblo Abiquiu, were invited to comment upon the work plan items as the committee addressed each item. The individual work plan items and comments from the committee members follow.

Work Plan Item 1. Legislation not passed in 2011: House Bill 82, Senate Bill 154 and Senate Bill 176.

As discussed above, the committee would like someone from the Secretary of State's Office to discuss Senate Bill 154 with the committee.

Work Plan Item 2. The camposanto and return of common lands in the San Joaquin del Rio Chama Land Grant.

Mr. Archuleta noted that the San Joaquin del Rio Chama Land Grant wants to make a presentation to the committee and receive a letter of support. The New Mexico congressional delegation is looking at the return of the camposanto, but this would require an act of Congress as the camposanto is on United States Forest Service land. Mr. Archuleta stated that a letter of support from the committee would assist the congressional delegation. There was also a discussion of materials that might be given to new members of the committee that would provide an overview of land grants in New Mexico.

Work Plan Item 3. Requesting that the New Mexico federal delegation give political subdivision status to non-patent land grants, including San Antonio del Rio Colorado (Questa grant).

Mr. Archuleta stated that this is an ongoing issue of concern with members of the state's congressional delegation, who have said that if these land grants could be regulated under state law first, it would assist their efforts at the federal level. Staff members of the congressional delegation have agreed to make a presentation on this issue to the committee. Mr. Archuleta cited the example of the San Antonio land grant as one that seeks to become a political subdivision, but under current statutes, it must be a patented land grant. Committee members noted that many of these land grants, such as Questa, are ones that went through the required process with the Surveyor General of New Mexico in the 1870s, but then dropped into limbo and were not approved.

Work Plan Item 4. The relationship between state parks and land grants, including San Miguel del Bado, Manzano and Tierra Amarilla; revenue sharing; and phaseout of ownership.

Mr. Archuleta stated that the land grants are still working on their relationships with the state parks, but that there have been good conversations with the director of the State Parks Division of the Energy, Minerals and Natural Resources Department. He also said that it would be helpful to have the director of the State Parks Division come before the committee. Committee members noted that some of the state parks are on common lands and that they would like to see some revenue sharing. Committee members also discussed the desire to have the Department of Game and Fish address the committee on similar issues.

Work Plan Item 5. Private property claims tied to land grant patents, including: A) case histories; B) consequences; and C) team law.

Mr. Archuleta indicated that this item is related to House Bill 653, which was vetoed, and

that the Land Grant Council would be like the committee to examine this issue again.

Work Plan Item 6. Land grant benefits from the film industry.

Committee members commented that they had been contacted by people who want to talk about revenue generators from the film industry to bring information to the committee and to share experiences. Mr. Archuleta indicated that the land grants are beginning to realize that the film industry can be a source of revenue, a topic that will be discussed in an upcoming economic development workshop.

Work Plan Item 7. Federal and state processes for getting tax credits for money contributions and land donations to land grants.

Mr. Archuleta indicated that it is not clear whether a land grant can receive land donations and what the tax implications might be. He said that the Department of Game and Fish has a program allowing tax write-offs for donations. He suggested that the committee might wish to have someone from the Taxation and Revenue Department come to discuss the matter. In response to questions from committee members, Mr. Archuleta stated that at this point, donations of land that were contiguous to present land grants had been discussed, not ones outside of the boundaries of a grant.

Work Plan Item 8. Arbitration processes in moderating land grant disputes, including: A) tribunals; or B) arbitration boards.

Mr. Archuleta told the committee that as land grants are spread throughout the state, any legal disputes end up in various district courts, which has led to an array of sometimes differing case law. He wondered whether it would be possible to set a legal process such as an arbitration board that is specific to land grants, and he feels that one could be developed at little or no cost. He would like someone to discuss this possibility with the committee.

Work Plan Item 9. An amicus brief regarding the Cebolleta Land Grant/Mt. Taylor case.

Committee members decided to strike this item from the work plan.

Work Plan Item 10. The risk management process for land grants, including due diligence.

The Land Grant Council would like an update from the Risk Management Division of the General Services Department to see how many land grants have gone through this process. Committee members noted that the Risk Management Division had addressed the committee in the past but not for some time.

Work Plan Item 11. The interest of subgrants/partitioned grants in achieving political subdivision status.

Mr. Archuleta introduced this topic by noting that some grants are subsets of patented land grants. The land grant boards of a "mother grant" would at times give allotments to communities and give these communities the authority to govern themselves. Committee members invited Mr. Lujan, a member of the audience from the Las Vegas land grant, to speak. Mr. Lujan noted that the subgrants were awarded to give cohesion to communities and that the subgrants could allow grazing, collecting wood or using the land in other ways as long as the subgrants did not violate any covenants. He noted that the Las Vegas grant is unique in its division of subgrants. He also stressed the importance of the fact that most subgrants do not elect a board of directors. Committee members noted that these subgrants provide a unique situation and can be a divisive issue. Committee members stated that they would be glad to discuss this issue further in order to move forward to benefit both the partition and the mother grant.

Work Plan Item 12. An appropriation bill for a symposium addressing issues common to Native American/Spanish land grants.

Committee members indicated that they are in favor of continuing the dialogue between land grants and Native American tribal entities, with the possibility of a symposium exploring the overlap of issues for the two communities if funds could be found. The possibility of obtaining funds through the New Mexico Legislative Council was raised. Committee members expressed strong support for the dialogue between the two communities that had occurred of late and noted that while there is a long history of close relationships between land grants and Native American communities in the state, in recent years the two communities have become estranged. The dialogue that occurred concerning House Bill 81 provided a good basis for further and continuing discussion.

Work Plan Item 13. Updates by the Land Grant Council on: A) loss of funding; B) outreach; C) federal updates; D) the land grant studies program; and E) the American Bar Association update.

Mr. Archuleta stated that the Land Grant Council would like to give an update on its progress on the five issues in this item and that the council is seeking additional funds. The Land Grant Council also would like to have a hearing before the Legislative Finance Committee. Committee members noted that they also would like to look at the loss of funding for the Land Grant Council.

Work Plan Item 14. An update on United States Forest Service encroachment and boundary resolutions at Abiquiu and Truchas.

Committee members noted that this item was discussed earlier.

Work Plan Item 15. A report on the Tierra Amarilla Land Grant mineral rights, the land grant board and Wind River Energy Corporation's Milagro Project.

Committee members asked Mr. Kovnat to fill them in on the details of this item, which had come to the committee's attention just days before the meeting. Mr. Kovnat explained that the *Rio Grande Sun* had recently published an article concerning the purchase of mineral rights from the Tierra Amarilla Land Grant, and there was some question concerning who sold the rights, whether the land grant board had been informed of the sale and whether the sale was proper.

Meeting Schedule

Committee members discussed the proposed meeting schedule. Representative Garcia noted that two-day meetings generally have the structure of a hearing on the first day followed by a tour of the land grant on the second day. Committee members noted that the planned trip to Cañon de Carnué might not be possible due to restrictions on committee travel after August because of the tight state budget. There was also a discussion of the efforts by the Cebolleta Land Grant to correct the misspelling of its name on state highway signs.

Public Comment

Representative Garcia informed the members of the public in attendance at the meeting that the committee members would listen to public comment before making a motion on the committee's work plan and schedule. The committee members invited certain members of the public to address the committee at length.

Dr. Manuel García y Griego of the University of New Mexico and a member of the Board of Trustees of the Cañon de Carnué Land Grant gave an update on the Land Grant Studies Program, the mapping project and an upcoming community development workshop. He noted that the budget for the Land Grant Studies Program had fluctuated between \$117,000 in FY 2009 and \$29,000 in the current fiscal year. He asked for the committee's support for a \$60,000 appropriation for next year and stressed the importance of a consistent amount of funding from year to year to facilitate planning. Regarding the mapping project, he discussed research that had been undertaken at the National Archives as part of an effort to assemble all primary sources related to the history and boundaries of the land grants. He concluded his remarks by discussing the community economic development project that was to be held on June 17 at the university and will share ideas and experiences for economic development in land grants, including the film industry.

Jesus Anzures, a trustee of the Atrisco Land Grant-Merced, presented a draft of a rural economic development plan for the Merced de Atrisco. A copy of the plan was presented to the members of the committee.

Carmen Quintana discussed issues surrounding the status of Santa Fe as a subgrant and her concerns concerning the aforementioned Tierra Amarilla Land Grant sale of mineral rights.

Leanne Hocker of Cebolleta/Cubero thanked the committee for its efforts.

Daniel Herrera, vice president of La Merced de Manzano, thanked the committee for its

support for retrieving wood from the national forests and noted that there were 39 cords of wood collected this past autumn and 34 cords over the winter in the Estancia Valley.

Sarah Maestas Barnes thanked the committee on behalf of the Cebolleta Land Grant for all of its hard work and said that the land grant looks forward to hosting the committee in July.

The final comment was from Catherine Montañño, who raised concerns about radiation contamination from Los Alamos National Laboratory.

Approved Work Plan and Schedule

After the public comment period, the committee voted to approve the following work plan and meeting schedule.

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Work Plan Item 3. Requesting that the New Mexico federal delegation give political subdivision status to non-patent land grants, including San Antonio del Rio Colorado (Questa grant).

Work Plan Item 4. The relationship between state parks and land grants, including San Miguel del Bado, Manzano and Tierra Amarilla; revenue sharing; and phaseout of ownership.

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Work Plan Item 7. Federal and state processes for getting tax credits for money contributions and land donations to land grants.

Work Plan Item 8. Arbitration processes in moderating land grant disputes, including: A) tribunals; or B) arbitration boards.

Work Plan Item 10. The risk management process for land grants, including due diligence.

Work Plan Item 11. The interest of subgrants/partitioned grants in achieving political subdivision status.

Work Plan Item 12. An appropriation bill for a symposium addressing issues common to Native American/Spanish land grants.

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Meeting Schedule

<u>Date</u>	<u>Location</u>
June 15	Santa Fe
July 28-29	Cebolleta
August 25-26	Abiquiu (Cañones, San Joaquin)
October 17-18	Cañon de Carnué
November 21	Santa Fe

The motion to approve the work plan and schedule was made by Representative Hall. The motion was seconded by Senator Sanchez. The motion passed with no objection.

The committee adjourned at 12:45 p.m.