

**MINUTES
of the
FIFTH MEETING
of the
LAND GRANT COMMITTEE
November 30, 2004
Santa Fe**

The fifth meeting of the Land Grant Committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:20 a.m. in room 311 of the State Capitol.

PRESENT

Sen. Bernadette M. Sanchez, chair
Rep. Miguel P. Garcia, vice chair
Sen. Rod Adair
Sen. Richard C. Martinez
Rep. Debbie A. Rodella

ABSENT

Rep. Don Tripp

Advisory Members

Rep. Ben Lujan

Sen. Joseph J. Carraro
Rep. Bengie Regensberg
Rep. Eric A. Youngberg

Staff

Jon Boller
Sheila Manzagol

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

Tuesday, November 30

DEPARTMENT OF TRANSPORTATION ISSUES

Rey Romero and William Moyers, Department of Transportation (DOT) counsel and Andres-Aragon Viamonte, DOT deputy secretary, briefed the committee on various DOT issues related to land grants. Mr. Romero said that the department has been working closely with the Carnue and the Truchas Land Grants. The department is trying to identify surplus lands within the Carnue Land Grant and is also working on drainage problems and alignments for wildlife crossings along Interstate 40, according to Mr. Romero and Moises Gonzales, who represented the Carnue Land Grant at the meeting. Mr. Moyers updated the committee on property issues concerning realignment of the highway through the Truchas Grant and explained that Section 42A-4-1 NMSA 1978 provides for condemnation of Spanish or Mexican land grants by eminent domain, and that there was no exception to condemnation procedures for political subdivisions of the state. Rather, he noted, only state-owned land was subject to a different condemnation procedure. In effect, land grant property is treated the same as property owned by cities or

counties. He cautioned, however, that over than 95 percent of the time, landowners negotiate an amenable settlement and therefore condemnation is not used to obtain needed rights of way. David Benavides added that there is case law that holds that the condemnation of land held by a public entity must be for a higher use, though this may not apply in the case of land grants. The committee asked Mr. Benevides and Mr. Romero to work together to determine whether or not legislation is needed to clarify condemnation procedures with respect to land grants and report back to committee staff. Committee members requested Mr. Romero to supply the committee with any documentation related to the establishment and realignment of State Road 76 through Truchas in the 1950s and 1970s. Mr. Romero agreed to do so. Committee members also asked that DOT look into problems with the highway that runs through Cebolleta, where flooding occurs during every heavy rainfall. The committee thanked DOT for working with Truchas and the other land grants.

LEGISLATION

The committee adopted without objection the following bills:

- changes to Chapter 49, Article I (.152680);
- illegal dumping appropriation (.152677);
- authorize official land grant registry (.152679 with modifications);
- tax sale procedures for former grant lands (.152678 with modifications);
- local economic development district appropriation for planning assistance to Article I land grants (.152676.2); and
- memorial urging support of federal land grant legislation (in concept).

COMMITTEE BUSINESS

The committee adopted without objection the minutes from the July, September and October meetings, and also endorsed a letter encouraging the attorney general to inform land grants of changes in law affecting their governance and to meet with land grant representatives who have questions concerning the changes in law.

The committee discussed whether or not it needed to submit another memorial to request that the legislative council recreate the land grant committee for the 2005 interim. Staff was requested to find out if a simple request to leadership would suffice in lieu of a memorial. The committee also requested that staff find out if the attorney general was planning to continue to fund a position dedicated to land grant issues, and if the attorney general not, to draft an appropriation specifying that the attorney general re-establish that position. Committee members requested that a letter be drafted to the Department of Game and Fish asking for a more detailed report on the total costs of changing the access route to the Marquez wildlife area from the route's former location, including the costs for fence repair and construction, road maintenance and repair and any other costs associated with the change, since the last response only dealt with expenses associated with the road and fence on Jack Diltz's property. Finally, the committee asked that the attorney general notify the Department of Finance and Administration of the need to change its rules concerning the eligibility of land grants to receive economic development funds from the state and from federal sources.

PUBLIC COMMENT

David Benavides reported that the New Mexico Court of Appeals recently overturned a district court holding that had allowed adverse possession of common lands in the Tecolote Land Grant. Juan Sanchez thanked the committee for its work over the interim, as did Jerry Fuentes. Carmen Quintana expressed concerns about the committee not dealing with private land grants, and urged the committee to expand its scope into this arena. Anthony Giron asked about the mistaken classification of his land grant in the GAO report released last summer.

The committee, having completed its business, adjourned at 12:30 p.m.