

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

**September 2-3, 2015
Student Union Ballroom, New Mexico Highlands University
Las Vegas**

The third meeting of the Land Grant Committee (LGC) for the 2015 interim was called to order by Representative Sarah Maestas Barnes, chair, at 10:00 a.m. on September 2, 2015 in the Student Union Ballroom at New Mexico Highlands University (NMHU) in Las Vegas.

Present

Rep. Sarah Maestas Barnes, Chair
Sen. Jacob R. Candelaria, Vice Chair (9/2)
Sen. Lee S. Cotter
Rep. Miguel P. Garcia
Rep. Jimmie C. Hall
Sen. Linda M. Lopez (9/2)
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Rep. Tomás E. Salazar
Rep. Bob Wooley

Absent

Sen. Ted Barela
Rep. David M. Gallegos
Sen. Sander Rue

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Randal S. Crowder
Rep. Matthew McQueen

Rep. Paul C. Bandy
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom
Rep. Christine Trujillo

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

Staff

Mark Edwards, Legislative Council Service (LCS)
Michelle Jaschke, LCS
Peter Kovnat, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Wednesday, September 2

Representative Maestas Barnes welcomed committee and audience members and asked all of those present to introduce themselves, which they did.

Welcome to NMHU

NMHU President Sam Minner welcomed the LGC. New to the job, Dr. Minner said that the United States higher education sector needs to reach out to those individuals who have not had success in higher education or have not gone to college in the first place. The problem is more pronounced with poor students, and that is why recruitment is so critical in getting people to college and then to have them graduate. Dr. Minner said that NMHU has implemented a program called the "Highlands Guarantee". The Highlands Guarantee rewards students with \$1,000 if they graduate on time.

A committee member asked that Dr. Minner do everything in his power to maintain the student services grant program, which is important because it serves nontraditional students, who often have different realities in terms of stability in the family unit. The member said that the program is key to ensuring future graduates from poorer families.

Proposed Legislation Regarding Partitioned Land Grants, House Bill (HB) 46 from the 2015 Regular Session

Representative Salazar discussed HB 46, which would have secured state political subdivision status for qualifying partitions of land grants. These partitions are sometimes referred to as subgrants. He went over how the legislation was developed. He stated that the LGC had been concerned with building the capacity of subgrants to protect their lands from encroachment, to interact with governmental agencies and to receive state funding awards such as forest-thinning grants. He said an important concern was to draft legislation that would not destabilize existing land grants-mercedes.

The discussion turned to how HB 46 fared during the 2015 regular session. It went to two standing committees in the house and two in the senate. An amendment was added in the House Judiciary Committee to ensure that political subdivision status would only be authorized for currently existing subgrants that have been functioning as community land grants and not as individual land holdings. According to Juan Sanchez, chair, Land Grant Council, the day before session ended, there was a movement to add an amendment that was directed toward the interests of the Atrisco Land Grant-Merced. He said the council had raised a concern with the amendment's sponsor about the timing of the amendment. He also said that the senate majority floor leader had determined at that time that there was insufficient remaining time in the session to debate bill amendments, so the bill was not considered by the full senate.

The amendment's sponsor stated the belief that the amendment had been pulled back in time to allow the bill to be heard on the senate floor. However, HB 46 would have amended the land grant-merced statute without modifying, or removing, language limiting the Atrisco Land

Grant-Merced. The amendment's sponsor does not support that limitation and believes it should be examined during the interim. Committee members noted that bipartisan support, and that of the Land Grant Council and the Land Grant Consejo, is critical to the successful passage of any future legislation akin to HB 46.

Noting that access to state funds is valuable, a committee member asked whether there are also downsides to political subdivision status. The following conversation covered the various benefits and challenges that are associated with such status. Benefits include access to appropriations, protection against adverse possession and right of first refusal for the purchase of property within the original grant boundary. Challenges include compliance with the Audit Act, doing a budget, quarterly reports to the Department of Finance and Administration, transparency, maintaining an organization, holding regular meetings, any reporting required under the capital outlay process or any requirements that the governor has. There are also some reporting requirements if a land grant-merced seeks federal grants.

Other questions raised regarding the bill were related to specific language in the bill, how land grants manage to fund themselves and the interplay among political subdivisions (municipalities, counties and land grants-mercedes) when their jurisdictions overlap.

Los Vigiles Partitioned Land Grant — Status Update

Larry J. Montaña, partner, Holland & Hart LLP, said Los Vigiles has operated as a separate community land grant for a long time, but it is at risk without statutory recognition. He detailed a legal case regarding an attempt by neighboring landowners to close off an access road on Los Vigiles community lands. Los Vigiles won the case. On appeal, the defendant questioned whether Los Vigiles had standing to bring suit as an entity. The appellate court found in favor of Los Vigiles on the merits, but Mr. Montaña said the standing issue remains a source of concern in any potential future litigation. He said that concern was a large part of why Los Vigiles brought the partitioned grant issue before the LGC in the 2014 interim.

Lalo Lovato, board president, Los Vigiles, said Los Vigiles has 50 members. The subgrant consists of Montezuma, Hot Springs and Los Vigiles. Rudy Romero, board member, Los Vigiles, noted that Los Vigiles was active in seeking federal and state funding for forest-thinning projects. He said the thinning projects for which Los Vigiles seeks money are to improve the Gallinas River watershed. He said that while Los Vigiles is in the heart of the watershed, watershed improvements also benefit Las Vegas.

Arroyo Hondo Arriba Partitioned Land Grant — Status Update

Note: The agenda incorrectly listed the Arroyo Hondo Arriba partitioned land grant as the "Rio Hondo" partitioned land grant.

David Arguello, Ph.D., Arroyo Hondo Arriba partitioned land grant board president, discussed the history of his subgrant. He indicated that the United States had originally treated Arroyo Hondo Arriba as part of the larger Arroyo Hondo (AH) land grant. However, a sale of

the common lands by the AH land grant to the United States Forest Service (USFS) instigated litigation that resulted in Arroyo Hondo Arriba being recognized as a separate community land grant. The court case started in the mid-1890s in the territorial district court in Clayton. After New Mexico attained statehood and reorganized its counties and courts, the case was moved to Taos. The district court recognized Arroyo Hondo Arriba as a separate community land grant in August 1914. Arroyo Hondo Arriba retains the board minutes of its first meeting held later that month. However, the court ruling was many years after the conclusion of the processes the United States government used to approve land grant claims. While Arroyo Hondo Arriba is recognized within the state court system as a separate community land holding, it does not have either congressional or federal court affirmation as required by state statute.

The Arroyo Hondo Arriba subgrant lies seven miles west of Taos Ski Valley. It originally consisted of 23,000 acres, but much of the land was either sold during the depression of the 1930s or lost to pay for property taxes. It now consists of approximately 730 acres of common land. The main source of revenue for the subgrant comes from elk permits it receives from the Department of Game and Fish. Dr. Arguello also mentioned that the land grant has a hard time preventing the sale of land where some of its ancestors are buried, and perhaps real estate licensure laws are a good place to attend to this issue, which affects many land grants.

San Augustin Partitioned Grant — Introduction

Rosendo "Ross" Gonzales, Jr., trustee, San Augustin partitioned grant, said the subgrant contains the village of San Augustin, which is located 14 miles southeast of Las Vegas on the Gallinas River and the now uninhabited villages of Los Fuertes and Concepcion. There are 80 members, and they have 2,700 acres of land. However, some of the new board officers re-registered some of the land, and now the members are being doubly taxed. He said they are being taxed for 3,600 acres despite having less than that.

Lower Gallinas Partitioned Grant — Introduction

Ron Ortega, Lower Gallinas partitioned grant board president, said the subgrant is northwest of Las Vegas on State Road 65. Lower Gallinas has 66 members and operates based on the one-member, one-vote philosophy. At one point, he said, the subgrant had 8,000 acres, but currently, it has about 3,000 acres. Twenty-four years ago, the subgrant faced a challenge on its northern border regarding 37 acres. The challenger offered to settle for half of the acreage, but the subgrant refused, believing that all of the contested land belonged to it. At that point, it became apparent how little power the subgrant had and continues to have. Lower Gallinas is a subgrant of the larger, court-administered Las Vegas grant. Mr. Ortega remarked that, at various times in its history, the subgrant has seen its common lands sold away either at the discretion of the court or the board of trustees for the larger grant.

El Carmel Partitioned Land Grant — Introduction

Jim Coryat, El Carmel partitioned land grant vice president, board of trustees, and Max Garcia, El Carmel partitioned land grant treasurer, spoke on behalf of the subgrant, which lies eight miles southeast of Mora and was partitioned in 1915. Mr. Coryat said that 50 acres remain

of what was once 10,000 acres. Now there is just the village of North Carmen, a church and several cemeteries. Currently, there are 40 members in the subgrant, and all of the subgrant's money is raised from the members. The North Carmen Historic District is part of the National Register of Historic Places.

Mr. Coryat said that he, along with 10 others, was charged with civil violations for standing in front of a bulldozer to prevent the destruction of one of the cemeteries. He said that the subgrant supports HB 46, but it is also requesting legislation to protect graves where deceased grantees are buried. Mr. Garcia said that the grantees do not want money or handouts, they want legal protection.

In response to a question, Mr. Coryat said that the subgrant lost acreage due to adverse possession. He thought HB 46 would remedy that. A committee member clarified that any protection from adverse possession offered by HB 46 would only help out prospectively, not retrospectively.

Santa Gertrudis de lo de Mora Land Grant-Merced

Gilbert Quintana, president, board of trustees, and John Olivas, board member, spoke on behalf of the Mora Land Grant and relayed a brief history of the grant. Mr. Quintana said that the Mora Land Grant was originally a Mexican grant of 827,000 acres made in 1835 to families of the Jicarilla Apache Nation. He stated that later occupation by the U.S. Army forced many of the original residents of the grant to move to Dulce. He said emphatically that the Mora Land Grant has not forgotten any of its heirs, and he thinks HB 46 will be harmful to his land grant. Mr. Quintana said that, today, the Mora Land Grant is a landless land grant, but the heirs still own their land. The Mora Land Grant was given political subdivision status in 2006.

Mr. Olivas said each land grant has its own stories and challenges. He noted that the Mora Land Grant, for example, though it qualifies to receive state money as a political subdivision, has missed out on state appropriations because it could not afford to do an audit. Mr. Olivas then mentioned that he is on the New Mexico Council of Outfitters and Guides board of directors and that the landowner authorization rule for hunters and outfitters may be changed. If land grants want to be involved in selling elk hunting permits and want to affect the way the rule works, they should speak up now. A member asked that this rule change be addressed when the Department of Game and Fish makes a presentation before the LGC later during the interim.

Building Legal Services Capacity for Land Grants-Mercedes

Attorney General Hector Balderas said that he plans to dedicate resources to the Guadalupe Hidalgo Treaty Division, which was created within the Office of the Attorney General but was never funded. He said he wants the division to provide ongoing legal services and support for land grants. Currently, Mr. Balderas said, his office is conducting an assessment of what it needs to do to assist land grants. The funding request for the division will be for two full-time positions and will be included in the Office of the Attorney General's budget request for the upcoming year.

Committee members stated their support and said they were optimistic that the legislature would commit some resources to this endeavor. Of particular interest was whether the Office of the Attorney General has any plans for land grant-related litigation. Mr. Balderas said that he is still waiting for some information, but he is open to reviewing leads and suing if appropriate. However, prior to doing so, he wants to make sure that there is community interest and statewide interest to justify suing on behalf of the state. One committee member asked Mr. Balderas to reopen the "Sandoval 7" lawsuit, which the member described as an overreach by U.S. President Grover Cleveland to acquire the heavily forested land now owned by the USFS and the Bureau of Land Management.

Watershed Restoration — Effects on Land-Dependent Communities

Kent Reid, Ph.D., director, Forest and Watershed Restoration Institute, NMHU, said there are only benefits, and no downsides, to watershed restoration. Dr. Reid highlighted the ecological, economic and social perks of watershed restoration projects, which include fewer harmful fire events, diversification of revenue streams for local inhabitants and richer cultural continuity in land grants.

Carmen Austin, district forester, Forestry Division, Energy, Minerals and Natural Resources Department, said the department is looking for, and hoping to help create, healthy forests. She said that the department gets federal and state funding to do its work, but the Anti-Donation Clause is a barrier to using state funding when working with subgrants.

Public Comment

Gabe Estrada, member of the Tierra y Montes Soil and Water Conservation District, said that the district has saved some \$15 million in restoration using forest thinning and prescribed fires, which, when used well, are the cheapest watershed protection tools.

There being no further business, the committee recessed at 4:20 p.m.

Thursday, September 3

Tour of El Carmel Land Grant-Merced

Committee members toured the grant.