

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

**August 16-17, 2004
Grants**

The second meeting of the land grant committee was called to order by Senator Bernadette M. Sanchez, chair, at 10:25 a.m. on August 16, 2004 in the Cibola county convention room in Grants, New Mexico.

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

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

Staff

Jon Boller
Sheila Manzagol

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

Monday, August 16

Senator Sanchez called the meeting to order at 10:25 a.m. and welcomed the public to the meeting. Committee members introduced themselves, as did members of the public.

JUAN TAFOYA LAND CORPORATION ISSUES

Ruth Armijo and James Martinez of the Juan Tafoya land corporation (JTLC) updated the committee on their negotiations with the department of game and fish over access to the Marquez wildlife area (MWA). Mr. Martinez explained that the department constructed a road through the Jack Diltz ranch to obtain public access to the wildlife area instead of coming to an agreement on access through JTLC land. Consequently, JTLC's contract to graze cattle in the

wildlife area expired, and Mr. Martinez complained that the department has blocked access to the springs in a manner that does not allow entry of the heavy machinery needed to maintain the springs, and access has been moved to a point five miles from the original access point, which was two blocks from the town of Marquez. He also noted that the department requires members of JTLC to ask permission to enter the wildlife area with heavy machinery due to fire restrictions, which he thinks is not practical. Mr. Martinez said he wants to know what the terms were for the deal for access between the department and Jack Diltz, and that if the game commission wanted to sell the land, JTLC would like to buy it since the members of the Juan Tafoya land grant have always used the area.

Mr. Martinez was asked about the history of the Juan Tafoya land grant, if it had originally been part of the Cebolleta land grant, and if the Marquez wildlife area was actually part of the original Cebolleta land grant rather than the Juan Tafoya land grant. A discussion followed concerning the history of the area and of the use of water by members of the land grant and ownership of the land in the area. The wildlife area was purchased from the Williams family in 1967, according to one observer, in part with \$290,000 of federal funds.

James Karp, general counsel for the department of game and fish, explained that in 1951, when Simon Sachs quieted title to the area now encompassing the MWA, the settlement included language granting Marquez access to and use of the water in Marquez canyon. According to Mr. Karp, the department closed the road near Marquez to vehicular traffic while it repaired fences to keep cattle out of the MWA, but still maintained walk-in access to the area on that road. He said that land grant members could still access their springs with heavy equipment by way of the new entrance to the MWA, which is only a mile, rather than five miles, from the old entrance in Marquez. The department has requested that members notify the department when they are going to use machinery in the MWA due to concerns about the fire hazard, and, he added, the department has offered to visit the site with Raymond Sanchez, Chuck Dumars and grant members to discuss access issues. Mr. Karp noted that the department will be allowing access via the old road and putting the gate back in at that location. He stressed to the committee that the game commission is not going to sell the MWA. According to Mr. Karp, the agreement with Jack Diltz allows access to the MWA, but the department is responsible for fixing fences and maintaining the road in return.

Members of the committee suggested that Mr. Martinez address a letter to the game and fish department about his access issues, and that Mr. Karp inform the committee about the details of the deal with Jack Diltz concerning access across Diltz's land and how much it will cost the department to fix the fences and improve the road. It was also suggested that state agencies should have a better working relationship with land grant communities.

Alfredo Montoya, a member of the state game commission, explained that the commission is trying to make game more profitable for both the state and private landowners. Unfortunately, he said, this has not always worked out so well, especially when a landowner does not want wildlife on his land. He went on to explain that because federal funds were used to purchase the MWA, certain conditions apply that are outside the game commission's control;

namely, that grazing cattle is not part of the purpose of the MWA and that this was a sticking point in the negotiations with JTLC. Consequently, other arrangements for access were made. He said that the game commission is working in the public interest and dealing government-to-government with land grants.

CEBOLLETA LAND GRANT

Sarah Maestas, member of the Cebolleta land grant, and Claudio Romero, president of the grant's governing board, shared with the committee a brief history of the grant. Ms. Maestas explained that the Cebolleta land grant was created in 1807 by Spanish grant and that President Chester Arthur issued a patent for 199,957 acres to the grant in 1882, but that 24,000 acres were given to Laguna Pueblo in 1884 through what is known as the Paguate Purchase. In 1907, a partition suit resulted in much of the land being transferred to attorneys in lieu of cash for payment, and 15,000 acres of that land was purchased in the 1960s by the New Mexico department of game and fish to create the Marquez wildlife area, according to Ms. Maestas. Also during the partitioning of the grant, 4,039 acres of the grant was transferred to people living in the town of Marquez and surrounding area, which is now organized as the Juan Tafoya land corporation. In the 1940s, Lee Evans claimed and was awarded approximately 117,000 acres of the Cebolleta grant by adverse possession. Today, approximately 24,000 acres of the original grant remains. Ms. Maestas said that if the state ever decides to sell the Marquez wildlife area, Cebolleta would like to purchase it since it was part of the original grant. She also noted several areas of concern to the grant, including its need to: make improvements in its sewer system; maintain its irrigation system to prevent the loss of farmland; update the bylaws to reflect changes in the statutes; and receive information on the status of the united nuclear reclamation project from the department of the environment.

GOVERNOR'S CONCERNS REGARDING SENATE BILL 142

Hilary Tompkins, deputy counsel, office of the governor, and Ned Farquhar, environmental advisor, office of the governor, reviewed a list of concerns that the governor had regarding Senate Bill 142 from the 2004 legislative session. Those concerns included the following: whether the state or county had an obligation to represent land grants in litigation; the need for a clear definition of common lands and protection of existing rights of access through common lands; the effect of designating land grants as political subdivisions of the state; the establishment of some sort of registry to verify or validate land grants; and clarification of language regarding ejectment actions by land grants. Ms. Tompkins indicated that after further research following the session, she was comfortable with the political subdivision designation as expressed in SB 142, since political subdivisions only possess powers granted to them by the legislature or as otherwise are necessarily implied. She proposed that her office work with a representative from the land grants, the attorney general's office and committee staff to draft a definition for common lands, address the possibility of a land grant registry and determine if there is any need to make changes to the law regarding legal representation of land grants. Finally, Ms. Tompkins submitted proposed language that would clarify land grant ejectment procedures, which the committee members agreed should be considered for adoption at the next

meeting after review by the land grant community.

BATTLE OF EMBUDO SITE PROTECTION

Jose Alberto Baros, Rio Arriba county planning and zoning department, presented a history of the battle of Embudo and expressed concern that the battle site is vulnerable to damage by vandals and by its proximity to a nearby gravel mine. He said that he thinks the site is under federal bureau of land management jurisdiction, but that adjoining areas are state lands, and both the state and federal agencies managing the lands should be asked to not allow any new mining there until it is determined whether the site should be protected. Commissioner Montoya suggested the county be asked to recognize the site for historic preservation and then come back to the committee to request a memorial asking the state or federal government to give the site historic preservation status.

PUBLIC COMMENT

John Chavez, Santa Cruz land grant, said that since the GAO has acknowledged that the grant still has 1,000 acres of common land remaining, the grant should be recognized officially as a community land grant.

Moises Gonzalez, Cañón de Carnue land grant, urged the committee to focus on issues rather than promote bills without adequate consideration. Things are often more complex than at first glance, he said, and bills may end up being controversial within the land grant community or beneficial to one at the expense of another. Senator Martinez said he agreed that the committee should not act on issues before it has heard the background in order to avoid helping one grant at the expense of another. Mr. Gonzales also suggested that many grants need assistance with rewriting their bylaws, in particular with regard to compliance with the Open Meetings Act. In response, Juan Sanchez, Chilili land grant, said that the attorney general is planning workshops on the Opening Meetings Act for the land grants.

Upon motion to approve the minutes of the first meeting, the minutes were adopted without objection. The committee recessed for the day.

Tuesday, August 17

The committee reconvened in Cebolleta beginning at 9:00 a.m. on Tuesday, August 17. Claudio Romero, current president of the Cebolleta land grant, and Danny Gonzales, past president of the grant, welcomed the committee to the Cebolleta land grant and gave a brief history of the grant, noting that it is the oldest non-Indian grant west of the Rio Grande and currently has about 450 members. Mr. Romero informed the committee that the grant recently received approximately \$300,000 to make improvements to its irrigation system and \$500,000 to install a drinking water system for Bibo and Cebolleta. He noted that the sewer and wastewater system is still in need of repair, however. The committee was then given a tour of the grant. The committee adjourned at 12:15 p.m.

