

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

**August 25-26, 2011
Cebolleta Land Grant
Cebolleta Community Center**

The third meeting of the interim Land Grant Committee was called to order at 10:06 a.m. on August 25, 2011 by Representative Miguel P. Garcia, chair, in the Cebolleta Community Center.

Present

Rep. Miguel P. Garcia, Chair
Sen. Richard C. Martinez, Vice Chair
Sen. Rod Adair (8/26)
Rep. Eliseo Lee Alcon (8/25)
Rep. Alonzo Baldonado
Rep. Paul C. Bandy
Rep. Eleanor Chavez
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Rep. Jimmie C. Hall

Advisory Members

Sen. David Ulibarri
Rep. Richard D. Vigil (8/26)

Sen. Carlos R. Cisneros
Sen. Kent L. Cravens
Rep. Joni Marie Gutierrez
Rep. Jim W. Hall
Rep. Ben Lujan
Rep. Patricia A. Lundstrom

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

Guest Legislator

Rep. W. Ken Martinez

Staff

Peter Kovnat, Lead Staff Attorney, Legislative Council Service (LCS)
Douglas Carver, Staff Attorney, LCS
Abenicio Baldonado, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file.

Thursday, August 25**Opening Remarks and Introductions**

Representative Garcia opened the meeting by extending a welcome to the committee, staff and members of the public present. He thanked the Cebolleta Land Grant for hosting the committee and providing food and other refreshments. He asked all committee members and staff to introduce themselves and then invited members of the audience to introduce themselves as well.

Welcoming Remarks: Cebolleta Land Grant

William Hocker of the Cebolleta Land Grant Board and Representative W. Ken Martinez welcomed the committee to the land grant. Mr. Hocker noted that Cebolleta was the first land grant that was made a political subdivision of the state and thus understands many of the challenges that land grants face. Representative Martinez welcomed the committee to the area, noting that the communities around Mount Taylor were the first European and Spanish settlements off of the Rio Grande corridor. He told the committee that this part of the state has some of the most welcoming people in New Mexico.

History of the Cebolleta Land Grant

Mr. Hocker reviewed the history of the land grant, noting that records extend back to the 1760s, when Franciscans came to Christianize the indigenous inhabitants. He noted the role played by the original settlers of the land grant, who had come from the Atrisco Land Grant, as a buffer between the Atrisco Land Grant and the Navajo Nation. He told the committee that in 1872, 199,000 acres had been patented to the Cebolleta Land Grant, but he noted how through court rulings, the majority of the land grant's land had been alienated from the grant, not least because Anglo courts did not make an attempt to understand Spanish land law. Mr. Hocker stated that in its heyday, the land grant had supported 1,000 families, was self-sufficient, and had good relations with the neighboring members of the Pueblo of Laguna, whom they considered brothers and sisters. He briefly discussed the role members of the land grant had as "Cold War patriots", with the uranium mines bordering the land grant used to build nuclear bombs to use against the U.S.S.R. He stated that the land grant needs what everyone else needs: affordable health care, good education and clean, affordable and dependable drinking water. He said that Cebolleta is glad to be a political subdivision but noted that such status brought with it

challenges, including remaining in compliance with all of the necessary rules and regulations. He concluded by thanking the committee for its attention to, and support of, the land grant's needs.

Representative W. Ken Martinez discussed the important role of faith, and particularly the role of the *penitentes*, in the life of the land grant, and he noted how past legislators had honored that tradition. Mr. Hocker discussed how the land grant wishes to manage all of its lands and noted the help that legislators have given in the past, particularly Senator Ulibarri, Representative Alcon and Representative Martinez. Mr. Hocker and Representative Martinez both peppered their comments with personal stories of life in the land grant.

Members of the committee asked Mr. Hocker about the health impact that uranium mining had on members of the land grant community and whether federal Radiation Exposure Compensation Act (RECA) payments were adequate to cover losses. Mr. Hocker said that health problems in the community because of uranium mining were well-documented and that the RECA payments had not been adequate, for, on the one hand, payments can never be adequate enough to replace the loss of a life, and on the other, payments were especially inadequate for post-1971 miners. He also discussed the challenges of reclaiming the land after a uranium mine had closed.

In response to questions from members of the committee, Mr. Hocker gave more detail on how the Cebolleta Land Grant had gone from 199,000 acres to the present holding of 35,000 acres. He said that the land grant is negotiating with private landowners to get some of its land back.

Members of the committee also asked Mr. Hocker for an update on the cultural properties designation of part of the land grant. Mr. Hocker noted that Mount Taylor is important to everyone in the area, and he stated that recently there had been a ruling from a district court judge that recommended that the decision be returned to the Cultural Properties Review Committee. He then deferred his answer to Sarah Maestas Barnes, heir to the Cebolleta Land Grant. Ms. Maestas Barnes added that the judge had recommended that the Cultural Properties Review Committee reverse its decision, but the Pueblo of Acoma had lodged an appeal with the court of appeals; most of the briefing has been completed, oral arguments need to be scheduled and a decision is expected next year. She stated that the land grant still holds that Cebolleta should not be included in the cultural properties designation as it is not state land. There was extensive discussion among members of the committee and Ms. Maestas Barnes concerning whether there should be a letter from the committee to the court of appeals and to the Cultural Properties Review Committee concerning this matter, focusing on the fact that the legislature intended that land grant lands that were granted political subdivision status not be considered state-owned property. It was noted that some members of the committee were part of an amicus brief that had been filed as part of the lawsuit.

Motion 1

The committee entertained a motion from Representative Rodella, seconded by

Representative Alcon, calling for a letter to be drafted to the court of appeals and to the Cultural Properties Review Committee stating that the legislative intent in granting land grants political subdivision status was that the land would not be considered state-owned property. The motion passed with all voting members present voting in favor, with the exception of Senator Ortiz y Pino, who voted in the negative.

Members of the committee asked Mr. Hocker if there is more uranium mining in the future of the land grant. Mr. Hocker replied that the land grant is pursuing mining and has leased mining rights to a uranium mining company, and the company is getting the necessary permits. He said that the president of Neutron Energy, Inc., the company in question, would provide more information during the following day's tour of the land grant.

Members of the committee asked whether any of the lost patented land grant property is now in federal hands. Mr. Hocker explained that most of the land had been lost to adverse possession claims, but some former property is now state or federal land. There was further discussion among members of the committee and Ms. Maestas Barnes about the impact the traditional cultural property (TCP) designation had on Cebolleta's ability to manage its lands. Ms. Maestas Barnes noted that the TCP designation covered 19,000 of the 34,000 acres of the land grant, and while the TCP designation had an impact on the land grant's ability to manage its land, the mining would not occur in the TCP area. There was further discussion of the slow progress (over 30 years) in cleaning up the tailings from the uranium mining that had occurred on the neighboring Pueblo of Laguna and whether there had been contamination of the area's ground water. Mr. Hocker indicated that the Energy, Minerals and Natural Resources Department and the Department of Environment would probably best be able to answer the ground water question. Representative Martinez noted that Congressman Ben Ray Lujan, former Congressman Harry Teague and Senator Tom Udall had proposed amendments to the RECA to increase the amounts available and the time span covered by the act and to appropriate funding for family members of uranium miners.

Mr. Hocker also stressed that the land grant wants to "do it all" for economic development and is not relying solely on mining. He informed the committee that the land grant is examining a wind farm project on land grant lands similar to the one that had been built on land neighboring the present land grant (on lands that once belonged to Cebolleta), a project involving solar panels on a former uranium mining tailings pile and community agricultural projects. He noted that mineral leases had provided seed money so that matching funds could be made available from local, state and federal grants. There was further discussion between Mr. Hocker and members of the committee on the wind farm neighboring Cebolleta.

Motion 2

The committee entertained a motion from Representative Chavez, seconded by Representative Rodella, calling for a letter to be drafted to the New Mexico congressional delegation supporting an extension of the RECA. The motion passed with all voting members present voting in favor.

Report on the Importance of an Appropriation Bill for a Symposium Addressing Issues Common to Land Grants and Native American Lands

Ms. Maestas Barnes made a short presentation to the committee concerning the symposium. She stated that the passage of HB 81 had experienced some difficulties and revealed some misunderstandings. She hoped for an appropriation for a symposium or a workshop, but she said that, first, input is needed from the Native American community. Representative Garcia noted that Regis Pecos, chief of staff, Office of the Speaker of the House, and part of the leadership team of the Pueblo of Cochiti, had hoped to be at the committee's meeting to present with Ms. Maestas Barnes, but he was called away to help manage the flooding crisis on the pueblo.

History of the Juan Tafoya Land Corporation

Flora Padilla, reverend, Mending Broken Hearts Ministries, and shareholder, Juan Tafoya Land Corporation, discussed the history of the Juan Tafoya Land Corporation and issues surrounding a dispute among the shareholders to the land corporation. She initially read from a long prepared statement and then took questions from the committee. Reverend Padilla discussed the land corporation's connection with the village of Marquez and gave a history of the partition of the lands and of the recent legal disputes surrounding the Juan Tafoya Land Corporation. She also had lengthy comments concerning problems with a particular attorney retained by the land corporation's board and various disputes that she and other shareholders had with the board.

Representative Garcia spoke for the committee by informing Reverend Padilla that, given the fact that the Juan Tafoya Land Corporation does not fall under Chapter 49 NMSA 1978 of the land grant statutes, the committee has no authority to intervene in the corporation's dispute, although the committee could offer suggestions. He also noted that some of the issues seem to fall into areas governed by the Public Regulation Commission. James Martinez, heir to the Juan Tafoya Land Corporation, gave the members of the committee some additional history of how shares in the corporation had been allocated and passed on to descendants. Members of the committee had questions about the conduct of the meetings of the Juan Tafoya Land Corporation Board and whether the meetings followed the requirements of the Open Meetings Act. Reverend Padilla indicated that the meetings did not meet those requirements. Members of the committee also asked Reverend Padilla about the annual payments to the board from Neutron Energy, Inc. Mr. Martinez indicated that the funds from Neutron Energy, Inc., had not been properly distributed to the heirs.

Possibility and Procedure for Sub-Grants and Partitioned Grants to Achieve Political Subdivision Status

Ernesto Lujan, vice president of the Las Vegas Land Grant, gave a presentation to the committee on the Las Vegas Land Grant and the dynamics of partition grants. Mr. Lujan gave a history of the Las Vegas Land Grant and detailed how, after the United States annexed New Mexico, the land grant's board came under the control of wealthy attorneys, who sold much of the land to people from the eastern United States. He also discussed the armed rebellion against this alienation of land by local residents, and the impact of the coming of the railroad, which led

to more alienation of lands and loss of water rights. In the 1930s, after the old board had "sucked all of the good from the land grant", a new board came to control the grant, which turned over common lands to local communities. While the Las Vegas Land Grant was the mother grant to these allotments, it did not tell them how to manage their affairs and left it to the allotments to manage their lands for the benefit of their communities. Mr. Lujan discussed problems with illegal dumping and the cost of a mandated cleanup. He added that the Las Vegas Land Grant had done a great deal for the allotments, that it had turned over land for schools for the City of Las Vegas and that it is not interested at this point in becoming a political subdivision of the state.

Members of the committee asked Mr. Lujan for more details on the land grant land that have been turned over for educational purposes. Mr. Lujan indicated that some of the transfers had no reverter clause, but others do. Members of the subcommittee urged Mr. Lujan to ensure there are reverter clauses in future transfers in order to stop more land transfers to the state.

There was some discussion between the members of the committee and Mr. Lujan regarding the legal status of the Las Vegas Land Grant and the allotments, which included details of the land grant's unique status.

Update on United States Forest Service Boundary Resolutions at Abiquiu and Truchas Land Grants

James Melonas, New Mexico state liaison, United States Forest Service (USFS), Southwest Region, gave a presentation to the committee on the USFS's efforts to resolve boundary disputes between land grants and USFS land. Mr. Melonas noted that his position is a new one and that he has been working with the Land Grant Council on this issue. He noted that the USFS had signed a memorandum of understanding with the Land Grant Council that sets a framework to manage land, reduce fire risk and allow traditional products to be taken from the forest. He said that next steps include looking into stewardship agreements, which would allow communities adjacent to USFS lands to exchange goods for services.

Referring specifically to the Abiquiu and Truchas land grants, Mr. Melonas noted that representatives of the Santa Fe National Forest had met with representatives of those grants last year and that a follow-up in the field is planned to identify old markers. He noted that there are two issues with boundaries. First, if there are genuine issues with where a fence is, the USFS will go out with representatives and clarify the boundary. Second, there is the question of which lands are whose, which is a question that is out of the USFS's authority. If a land grant feels it has a claim to USFS land, the USFS has no administrative authority to remedy the issue. He added that if the Land Grant Council or members of the committee would like to meet with the representatives from Santa Fe National Forest, the administrators of the forest would be willing to hold that meeting. He also noted that his position is to help facilitate communication between the USFS and state government and legislators.

Members of the committee asked Gilbert Ferran of the Land Grant Consejo, who was in attendance in the audience, about what kinds of boundary information land grant leaders have

that could be made available to the USFS. Mr. Ferran noted that for Abiquiu, a final report is due by the end of September, but the land grant realizes already that some surveys will have to be done and that they will be working with the USFS. Members of the committee noted the historic encroachment on land grant lands by the USFS and the importance of collaboration between the land grants and the USFS to rectify past errors. Members of the committee also expressed the importance of traditional use of the land by members of land grants, especially grazing and cutting of wood, and how it is important that the USFS work with members of the land grants to ensure these traditional uses could still occur. Mr. Melonas repeated that the USFS is willing to work with the Abiquiu and Truchas land grants to help to determine the proper boundaries.

Motion 3

The committee entertained a motion from Representative Rodella, seconded by Senator Sanchez, calling for a joint resolution to be drafted asking the New Mexico congressional delegation to direct the USFS to return those lands encroached upon by the USFS that were part of the Abiquiu Land Grant and recommending that a new survey be done, with the land grant community showing the USFS where the original markers are. The motion passed with all voting members present voting in favor.

Members of the committee also noted that a patent was granted to the Abiquiu Land Grant before the creation of the USFS, which gives the survey for the land grant precedence.

Risk Management Process for Land Grants

Porfirio "Bear" Perez, deputy director, Risk Management Division (RMD), General Services Department, gave a presentation to the committee about the risk management process as it relates to land grants. He presented packets to the members of the committee that contained a legal memorandum on RMD coverage for land grants; a copy of the "State of New Mexico Liability Certificate of Coverage", which discusses the use of funds from the Public Liability Fund; copies of the relevant statutes; copies of the relevant administrative rules; a copy of the "Community Land Grant Questionnaire" that must be completed to gain coverage; and a land grant membership roster. He discussed in brief detail the three lines of coverage available — general, civil rights and automobile — and discussed premiums. Juan Sanchez of the Land Grant Council asked whether boards of the land grants would be covered. Mr. Perez noted that they would be covered under the general coverage. Mr. Perez also noted that errors and omissions are covered by the liability certificate, but surety bonds are not covered under the general liability coverage, though the land grants could perhaps get together and negotiate a quote with insurance adjusters. Mr. Perez stated that the RMD would continue to work with the land grants on these issues.

Information for Tour of Cebolleta Land Grant

Ms. Maestas Barnes gave the members of the committee details on Friday's tour of the land grant.

Public Comment

Leane Hocker thanked the committee for coming to the Cebolleta Land Grant.

Mr. Hocker addressed the committee again and noted the service of members of the Cebolleta Land Grant community in the armed forces.

Walter Baca, president of the Juan Tafoya Land Corporation, stated that he is perplexed at the presentation given earlier in the day regarding the land corporation and that many unjust accusations had been presented to the committee. He stated that many of the points that had been made are inaccurate and offered different figures. He also stated that he welcomes a review of the land corporation's files by the Public Regulation Commission if one is requested. He also requested that if the committee wishes to hear a presentation on the land corporation that the board be invited. Representative Garcia thanked Mr. Baca for addressing the committee and stressed that as the committee is a public body, anyone could ask to be on the agenda.

Richard Jaramillo, an heir to the Cebolleta Land Grant, encouraged the members of the committee to visit the community's church and especially to take note of the stained glass windows that had been made by his sister-in-law.

Mr. Martinez thanked the committee for coming to Cebolleta, noting wryly that although "we all don't get along, some day we will".

The committee recessed for the day at 4:03 p.m.

Friday, August 26

The committee reconvened at 9:00 a.m. for a tour of the Cebolleta Land Grant and the Red Mesa Wind Farm of NextEra Energy Resources, LLC. The wind farm tour was led by John Dailey, business manager for NextEra. During the tour, the members of the committee also heard a presentation from Neutron Energy, Inc., about the potential uranium mine on the land grant. This presentation was conducted by Rick Karlson, manager, project development, Neutron Energy, Inc..

The tour ended, and the committee adjourned at 1:30 p.m.