

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

**August 29-30, 2017
San Miguel del Bado Senior Center
Ribera**

The third meeting of the Land Grant Committee (LGC) for the 2017 interim was called to order by Representative Miguel P. Garcia, chair, on August 29, 2017 at 10:24 a.m. at the San Miguel del Bado Senior Center in Ribera.

Present

Rep. Miguel P. Garcia, Chair
Sen. Elizabeth "Liz" Stefanics, Vice Chair
Sen. Gregory A. Baca (8/29)
Rep. Jimmie C. Hall (8/29)
Rep. Sarah Maestas Barnes (8/29)
Sen. Richard C. Martinez
Sen. Sander Rue (8/29)
Rep. Tomás E. Salazar (8/29)
Rep. Christine Trujillo (8/29)

Absent

Rep. David M. Gallegos
Sen. Linda M. Lopez
Sen. Bill B. O'Neill
Sen. Cliff R. Pirtle
Rep. Debbie A. Rodella

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Alonzo Baldonado (8/29)
Sen. Carlos R. Cisneros (8/29)
Rep. Harry Garcia (8/29)
Rep. Matthew McQueen (8/29)
Sen. James P. White

Sen. Stuart Ingle
Rep. D. Wonda Johnson
Sen. Gay G. Kernan
Rep. Derrick J. Lente
Rep. Patricia A. Lundstrom
Rep. Jim R. Trujillo

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

Staff

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

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Tuesday, August 29

Introductions and Announcements

Representative Miguel P. Garcia welcomed committee and audience members and asked members and guests to introduce themselves. He observed that the San Miguel del Bado Land Grant-Merced (San Miguel del Bado) is the wellspring for several other land grants in the state. He said that San Miguel del Bado had fostered four other land grants-mercedes established in the early 1800s in the nearby communities of Los Trigos, Anton Chico, Tecolote and Las Vegas.

Minutes

On a motion duly made and seconded, the minutes of the second meeting of the LGC for the 2017 interim were approved without objection.

San Miguel del Bado Status Update

Joe Chavez, president, San Miguel del Bado, oriented members to the meeting site. The San Miguel del Bado Senior Center is owned by San Miguel del Bado and has recently been renovated and restored in anticipation of restoring services for seniors and the community through the center. Mr. Chavez provided an overview of the history of San Miguel del Bado and presented the committee with a copy of the original request to the Spanish crown for a land grant made by Lorenzo Marquez and other petitioners.

San Miguel del Bado was established in 1794 and originally encompassed 315,300 acres. Mr. Chavez stated that as a result of the *Sandoval Seven* lawsuit (initiated by Julián Sandoval of San Miguel del Bado) and the U.S. Supreme Court decision in that case, San Miguel del Bado and six other New Mexico land grants-mercedes lost access to millions of acres of land, leaving San Miguel del Bado now with roughly 5,000 acres. While the lawsuit is infamous within land grant communities, Mr. Chavez observed that few outsiders understand the breadth and impact of the U.S. Supreme Court decision in that case. Mr. Chavez provided maps of the original and current boundaries of San Miguel del Bado as well as a map showing the many small communities that now exist in the Pecos River Valley (El Valle) from Ribera south to Villanueva.

Compliance with the Open Meetings Act, the Procurement Code, the Audit Act and election laws established for land grant boards continues to challenge land grant communities, according to Mr. Chavez. He described San Miguel del Bado as the "poster child" for what can go wrong with land grant elections because of some ambiguity in the current law. San Miguel del Bado sought relief through the district court to settle a dispute regarding the election process in 2012. The resulting litigation and court orders continued for five years, during which time the business of the land grant came to a halt. In addition to the considerable expense of attorney fees and election supervision, San Miguel del Bado had to discontinue the services that were provided to seniors through the senior center until the land grant was able to successfully reorganize the board of directors. The center is currently uninsured and requires additional maintenance that San Miguel del Bado cannot fund at present. Mr. Chavez counted among the losses to the land

grant during the lengthy litigation process opportunities to apply for and secure capital project funding.

San Miguel del Bado has three cemeteries on, or partly on, U.S. Bureau of Land Management (BLM) land that are managed by the Archdiocese of Santa Fe. Mr. Chavez reported that the archdiocese has tentatively agreed to have San Miguel del Bado take the lead in applying to the BLM to transfer the cemetery lands back to the land grant. Committee members discussed the opportunities available to land grant boards for training and guidance from the Land Grant Council and issues surrounding the use of quit claim deeds and quiet title action to establish ownership of lands.

Mr. Chavez stated that he would like to give the committee a "sense of place" regarding El Valle. He provided an overview of the geographic features of the area and talked about the insular nature of rural communities and the pride these communities take in their self-sufficiency. However, he related that one of the biggest challenges currently in El Valle is a substance abuse problem. He said the problem frequently leaves grandparents caring for grandchildren and may result in incarceration for the young people involved, and it contributes to an exodus of young people from the area. In Mr. Chavez's view, incarceration does not address the basis of the problem of addiction and only serves to intensify its effect on the community. Committee members agreed that the issue is a community-wide problem and suggested that the sense of place that Mr. Chavez provided regarding community ties to the church, acequias and agricultural traditions is key to addressing the problem. Members discussed ways to provide opportunities for young people to engage in local agricultural and cultural traditions.

Opportunities Presented by the Federal Recreation and Public Purposes Act (RPPA)

Sarah Schlanger, manager, Taos Field Office, BLM, provided an overview of the RPPA. The RPPA authorizes the sale or lease of public lands for recreational or public purposes to state and local governments and to qualified nonprofit organizations. Typical uses under the RPPA include historic monument sites, campgrounds, schools, firehouses, law enforcement and municipal facilities, hospitals, parks and fairgrounds. Certain restrictions apply with respect to the amount of land that may be purchased, and the RPPA only applies to certain categories of BLM lands.

Ms. Schlanger noted that for the purposes of the cemetery lands in question, the BLM would transfer, rather than lease, the lands to San Miguel del Bado. She stated that the BLM feels that cemetery lands are generally better managed by counties or land grants. A nominal cost of \$10.00 per acre, a valuation not tied to the actual appraised value of the land, is required for the transfer. Ms. Schlanger further noted that the costs for conveyance are mostly due to public accountability requirements. A survey and an appraisal are required so that the BLM can document the value of the conveyance. This process also requires that an environmental site assessment and a minerals report be completed. Some of the appraisal and survey costs fall to the applicant.

In response to members' questions, Ms. Schlanger reported that the process for conveyance of the cemeteries in question could require a year to complete. She stated that the BLM is always willing to consult with land grant communities, but to receive lands, a land grant must hold political subdivision status. With respect to a question regarding mission churches under the auspices of the archdiocese that are falling into disrepair on BLM or land grant lands, she asserted that the BLM would be available to discuss options regarding those properties. Further, she stated that the BLM has an obligation and a responsibility to reach out in a direct way to stakeholders when considering conveyance or a change in public use for certain lands. Requirements for identification as a cemetery are not written in stone, she reported, and the BLM is still identifying cemetery sites on BLM lands, some of which are in extensive disrepair. Representative Miguel P. Garcia thanked Ms. Schlanger for her informative presentation and invited her and Lisa Morrison, land grant liaison, BLM, to attend future LGC meetings on a regular basis.

United States Forest Service (USFS) Follow-Up to Questions Raised at the July Committee Meeting

Ericka Luna, New Mexico state liaison, Southwestern Region, USFS, and Jim Upchurch, deputy regional forester, Region 3, USFS, reported on issues raised by representatives of the Juan Jose Lobato Grant at the committee's July 12, 2017 meeting regarding forest management in the El Rito area. Mr. Upchurch reported that the issues identified in that area relate more to water and wastewater facilities needs than to forest planning. The district ranger in that area is the only official contact for residents because the area lacks any incorporated local entity. Mr. Upchurch reported that the USFS is willing to look at opportunities to place facilities on USFS land if appropriate. A major impediment to any such effort is the lack of an existing organization that could manage the facilities. Permitting, fees and the difficult federal requirements for any transfer of forest lands all raise questions of feasibility. Ms. Luna reported that she will be organizing a meeting of concerned parties in that area to discuss options for moving forward.

In response to committee members' questions, Mr. Upchurch stated that the USFS is looking for an entity that is sustainable over time, as demonstrated by taxing capacity, state support or other funding assurance, to proceed with any development. Ms. Luna observed that, in essence, El Rito and the Juan Jose Lobato Grant are one and the same and that the capacity of the mutual domestic water association in that area is limited by an aging local population and the inherent limitations of any organization run by volunteers. The Juan Jose Lobato Grant itself does not have the requisite political subdivision status.

In an ensuing general discussion, committee members and USFS staff discussed forest management in wilderness areas, fuelwood parcels, grazing allotments, aspects of the federal Small Tract Act of 1938 and incorporating traditional use guidelines in the forest plan. James Melonas, forest supervisor, Santa Fe National Forest, USFS, also briefly addressed the committee regarding the forest planning process and noted that the forest plan is posted on the Santa Fe National Forest website for review and comment.

Department of Game and Fish (DGF) Update

Alexa Sandoval, director, DGF, provided background information on Laguna del Campo, formerly Burns Lake, established in 1934 as a brood pond associated with Los Ojos Fish Hatchery. Ms. Sandoval reported that the State Game Commission (SGC) owns 11 dams across the state and that, in accordance with a requirement that the dams be evaluated for safety, has worked with the Office of the State Engineer (OSE) over the past 10 years to classify the dams and develop mandated plans for mitigating any dam hazards. Laguna del Campo has been classified as a high-hazard dam, meaning that downstream communities could be at risk of dam failure. The cost to repair the dam is estimated at \$8 million, and the cost to breach the dam and restore the lands is estimated at \$1.8 million. Due to the high costs associated with required repairs to other higher-risk facilities, including particularly Eagle Nest Lake and Lake Roberts, the SGC opted to breach the dam at Laguna del Campo.

In response to protests regarding the proposed closure of Laguna del Campo from the Tierra Amarilla Land Grant-Merced (Tierra Amarilla) and community members, the DGF has determined that it is possible to transfer the lake to Tierra Amarilla, as no federal ties to the lake exist. If Tierra Amarilla continues to operate the lake as a publicly available site, the DGF could continue to stock the lake, but any transfer of the property would not bind Tierra Amarilla to a particular use. A current water use agreement with the DGF is in place and would not be affected by any transfer.

Ms. Sandoval updated the committee on a number of other issues as well, including the potential transfer of the "checkerboard" Marquez town lots, elk hunting permits and providing access to wildlife management areas for traditional uses. She noted that some DGF lands were acquired with federal funding through a program that requires the state to pay for transfers out of wildlife uses. She noted that repayments are based on current land valuations, which can be complex when the land ownership pattern is mixed between government agencies and private owners — a circumstance commonly referred to as checkerboard ownership. Regarding elk hunt permitting, Ms. Sandoval noted that existing statutory requirements have been the result of intense legislative debate over the years.

Ms. Sandoval stated that the DGF is committed to eventually allowing a wide range of traditional uses within wildlife management areas. However, she said that as the DGF has started an on-the-ground analysis of the lands it manages, it has found a great variety of cultural and historic sites that it is legally required to protect. She relayed that the department has been strenuously working to develop both an accurate inventory of, and protection plans for, these sites. In response to committee members' questions regarding jurisdictional issues for dams and other facilities, Ms. Sandoval spoke to the complexity of aligning federal interests with those of multiple state agencies in trying to transfer or reassign such facilities. She further reported on how determinations are made to allow or disallow all-terrain-vehicle access to state and federal lands.

Laguna del Campo Update

Steve Polaco, president, Tierra Amarilla, thanked LGC members and the DGF for their work on the potential transfer of Laguna del Campo. He stated that Tierra Amarilla is cognizant of the liability issues that would accompany such a transfer and that the land grant will work with the OSE to sort out these issues. Members discussed the liability issues involved in the proposed transfer and what costs might fall to the state in other ways to remediate the dam issues.

Requested Governance Changes for Land Grants-Mercedes with a Focus on the Election Code

Arturo Archuleta, program manager, Land Grant Council, presented an analysis of the problems that land grants-mercedes have encountered with the Election Code as it exists now as well as suggested solutions to those problems. He requested that the committee consider developing legislation to address those issues, noting that the courts lack good direction under the law to address land grant elections. Members discussed the Election Code, the possibility of having county clerks assist in the election process and the pros and cons of establishing political subdivision status for any given land grant-merced. Mr. Archuleta reported that the council proposes to continue to work with the committee to develop legislation to strengthen land grant election processes, with a likely target for introduction during the next 60-day session.

Public Comment

Community members requested assistance from the committee in litigating a perceived failure to enforce the provisions of the Treaty of Guadalupe Hidalgo, in repairing a portion of El Camino Real that extends through the community of Villanueva and in renovating El Valle Community Center to provide access for area youth and others to educational opportunities. Committee members and visiting San Miguel County Commissioner Janice Varela discussed needed road repairs in the area and the types of road maintenance that fall under the purview of the county.

Adjournment

There being nothing further on the day's agenda, the committee adjourned at 5:35 p.m.

Wednesday, August 30

Committee members toured El Valle from Ribera south to Villanueva, including a visit to Villanueva State Park, the site of an early and lengthy encampment by members of Francisco Vásquez de Coronado's expedition. Staff and members viewed a completed acequia restoration and capital improvement renovation project on the Acequia de los Trigos and visited an organic farm near the community of Coruco. In addition, members viewed two of the cemeteries under discussion for conveyance from the BLM to San Miguel del Bado and inspected that portion of El Camino Real in Villanueva that has been blocked off by a resident and abandoned by county road crews. Committee members also visited El Valle Community Center, where a branch library, a computer learning lab and facilities for community meetings and events have been established in an old school building. The center requires extensive repairs and maintenance, including a new roof, improved access and kitchen equipment.