

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

**July 15-16
San Miguel Senior Citizens Center
San Miguel**

The second meeting of the interim Land Grant Committee was called to order at 9:20 a.m. on Thursday, July 15, 2010, by Senator Richard C. Martinez, chair, at the San Miguel Senior Citizens Center in San Miguel.

Present

Sen. Richard C. Martinez, Chair
Rep. Miguel P. Garcia, Vice Chair
Rep. Paul C. Bandy
Rep. Andrew J. Barreras (7/15)
Rep. Eleanor Chavez
Rep. Thomas A. Garcia (7/15)
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue (7/16)
Sen. Bernadette M. Sanchez

Absent

Sen. Rod Adair
Rep. Jimmie C. Hall

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Ben Lujan (7/15)
Rep. Richard D. Vigil

Sen. Dianna J. Duran
Rep. Brian F. Egolf, Jr.

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

Staff

Jon Boller
Peter Kovnat
Marisela Chavez

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, July 15

Welcoming Remarks and Introductions

Senator Martinez extended a welcome to all of the members, staff and audience present at the meeting. In addition, Senator Martinez introduced the legislators and staff to the audience. Representatives from the offices of Senators Jeff Bingaman and Tom Udall and Congressman Ben Ray Lujan attended the meeting.

San Miguel del Vado Land Grant

Oliver Perea, president of the San Miguel del Vado Land Grant, reviewed the history and current issues of the land grant. Mr. Perea explained that the grant was made to 51 families in 1794, and though the list of those original 51 families is lost, a list of the 58 families that were formally allotted individual tracts within the grant in 1803 still exists. The original grant contained approximately 315,000 acres, he noted, but the United States Supreme Court, in *U.S. v. Sandoval*, 167 US 278 (1897), ruled that only title to the 5,147 acres of allocated lands would be confirmed, and title to the unallocated common lands would pass to the United States. The U.S. Bureau of Land Management (BLM) now controls several thousand acres of the common lands, he said, and though the land grant has been negotiating with the BLM for return of some of that land, the necessary environmental and archaeological studies are cost-prohibitive.

Mr. Perea said that he supports a bill in Congress authorizing the return of some public lands to community land grants in New Mexico, and he mentioned that the Land Grant Consejo is proposing restitution on the order of \$2.7 billion for lands lost in the confirmation process.

Mr. Perea went on to list several projects that the land grant is working on, including:

- exploring ways to lease lands to heirs instead of deeding out lands in fee simple;
- the creation of a finance committee;
- the application for an \$8,000 grant by the genealogy committee to help determine current heirs of the grant;
- acquisition of the senior citizens center in San Miguel;
- archiving of records with the University of New Mexico and New Mexico Highlands University; and
- negotiations with the BLM over ownership of the San Isidro Norte cemetery.

Annabelle Quintana, an attorney who is working with the land grant, said that the board of trustees has revamped all of the bylaws and has drafted policies for land regulation. Ms. Quintana also said that the land grant is in the process of acquiring the senior citizens center, owned by Recursos de Santa Fe, a nonprofit that is selling the center to the land grant for \$2,500, which she said is "basically a donation". Ms. Quintana explained that the board of trustees also hopes to obtain approximately seven to nine acres of former land grant land currently held by the State Parks Division of the Energy, Minerals and Natural Resources Department (EMNRD) and are not usable as park lands due to their location. Asked if the board has a commitment from the State Parks Division on return of those lands, Mr. Perea replied that he is not planning to start the process until next April because of other projects that need the board's attention before then. The committee approved without objection a motion to request the State Parks Division to attend the committee's October meeting and report on the land in question. The committee also

approved without objection a motion to send a letter to the BLM supporting the land grant's efforts to have the BLM return control of the cemetery to the San Miguel del Vado Land Grant.

Cristobal de la Serna Land Grant Status

Francisco "El Comanche" Gonzales, Cristobal de la Serna Land Grant (La Serna), gave a presentation concerning the history and current status of La Serna. First, Mr. Gonzales informed the committee that the land grant recently elected a new board, which is now complying with the Open Meetings Act. He then related how lands in the land grant have been lost over time, noting that in the 1940s, the State of New Mexico was in need of extra funds and taxed the lands of La Serna, which forced many heirs to sell their land in order to pay the taxes. Also, he explained, in the early 1980s, a district judge ruled that La Serna was a private land grant, and in the process, the judge awarded the Weimer family 5,000 acres. Though the Weimers tried to build a subdivision with 175 units in the area, he said, the county did not approve the development, in part because the increased traffic would have damaged the village of Llano Quemado. Mr. Gonzales noted that even if the county had allowed the subdivision, he did not think there was enough water for the development. According to Mr. Gonzales, the family is now negotiating with the U.S. Forest Service to take over the property.

Mr. Gonzales said that a major problem facing La Serna is how the land has been parceled out to individual heirs in the form of *lineas*, long strips of land just a few feet wide. The board would like the *parciantes* to turn over their *lineas* to La Serna in order to consolidate the land so it can better serve the community, but so far, it has been difficult to get people to turn over their *lineas*. In part, he said, *parciantes* cannot turn over their land because they do not know where it is; it is a complete mystery where one *linea* exists versus another, and the county is still assessing taxes from various families for the same *lineas*.

Elden Torres, La Serna board secretary, agreed with Mr. Gonzales and said that his family has 120 acres, but it does not know where they are. His family wants to preserve its property rights to the land, but it wants to have the land in a community-based format.

Paul Martinez added that it is difficult for every family to get its share of the land. Mr. Martinez said that the problem is when *parciantes* start claiming their *lineas* in squares; the individual with just a few *lineas* will become the easement for the other's property. In addition, he said, the challenge is to create a common space in La Serna. Mr. Martinez concluded the presentation by asking the committee for monetary and technical assistance.

Asked what it would take to survey the *lineas* in the La Serna area, Mr. Gonzales replied that he is not sure, but that \$100,000 could be used to study how much it would cost, and the rest could be used to conduct the survey. There are 497 *lineas* claimed by 398 owners, he said, which was a problem created by the tax commission back in the 1940s, when it surveyed the area. Asked how many acres of common lands the board holds, Mr. Gonzales replied that he considers all 17,000 acres of La Serna to be common lands because he does not recognize private titles to the land. He added that he thinks the parking lot around the Rancho de Taos church is not held by a private warranty deed and, therefore, is La Serna property. Committee members

expressed concern that it might be an antidonation problem to give money to survey 17,000 acres of privately held land, and they also pointed out that there will not be any extra money next year for new projects because of the budget crisis.

Town of Tecolote Land Grant Request for Political Subdivision Status

Joe and Angela Herrera of the Tecolote Land Grant presented a request to acquire political subdivision status for the land grant. Ms. Herrera began the presentation by providing some background information about the land grant and introduced Russell Pacheco, the new chair of the board of trustees of the grant.

Ms. Herrera explained that Tecolote was involved in an adverse possession lawsuit for the past 10 years, even though Congress had confirmed the grant in 1854, a patent had been issued to the grant in 1903 and the U.S. Supreme Court in its *Tameling* decision held that courts could not overturn congressional affirmations of land grants. Now that the challenge to the land grant's status has been resolved in favor of Tecolote, Mr. Herrera and Mr. Pacheco explained that the board voted to ask for legislation recognizing Tecolote as a political subdivision of the state. The committee adopted a motion without objection to draft legislation incorporating Tecolote into the provisions of Chapter 49, Article 1 NMSA 1978.

Transfer of Land Grant Registry to the Land Grant Council and Election Procedure Clarification (Proposed Legislation)

Juan Sanchez, chair, Land Grant Council, asked the committee to consider legislation transferring the land grant registry to the Land Grant Council. Mr. Boller explained that, currently, land grants that are political subdivisions of the state are required to register their bylaws and the names of their board members with the Office of the Secretary of State, and they may also submit copies of historical documents to that office to be stored in the state archives. One of the responsibilities of the Land Grant Council, according to Mr. Sanchez, is to act as liaison between land grants and other state and federal agencies, along with evaluating the status of land grants and acting as their fiscal agent, if necessary. Unfortunately, Mr. Sanchez noted, the Office of the Secretary of State does not have the authority, staff or expertise to do anything other than store the information and records it keeps on behalf of the land grants. Therefore, it is difficult for state and federal agencies to get information on a particular land grant from that office, and it is not possible to get an opinion from that office on the status of a particular land grant. Asked if the Land Grant Council has a place to store information, Mr. Sanchez answered yes; the Department of Finance and Administration, to which the council is administratively attached, would provide space to do so. As to whether he talked to the secretary of state about the transfer of duties, Mr. Sanchez said he has not yet done so, but will do so before the committee's final meeting.

In reference to proposed legislation on land grant election procedures, Mr. Sanchez explained that current statutes suggest that all five members of the boards of trustees are to be elected at each election rather than allowing for staggered terms. This is not current practice, at least among most, if not all, of the land grants, he noted, and he suggested that having staggered

terms is less disruptive than replacing an entire board all at once. The proposed legislation would make it clear that not all five positions have to be filled at every election. The committee indicated that it would consider endorsing legislation at its final meeting of the interim.

Land Grant Council Activities and Funding

Mr. Sanchez updated the committee on the activities of the Land Grant Council. Mr. Sanchez said that the council has been meeting every month, but it is running out of funds. In terms of funds, Mr. Sanchez said that the council began with an appropriation of \$150,000 in 2009, \$31,000 of which the council has placed a land grant support fund. Mr. Sanchez also said that the council may receive \$200,000 from stimulus funds, and if it does, the council is going to use those funds for reports, mapping and technical assistance to the land grants. He added that the council is considering holding workshops for the land grants with those funds. Other projects mentioned by Mr. Sanchez include a web site that is being managed through the land grant study program at the University of New Mexico, and a mapping project of the "Sandoval Seven" is being conducted with help from the McCune Foundation.

Mr. Sanchez described how the council is going to allocate funds from the land grant support fund. Mr. Sanchez said that in order to receive funding, a land grant must first fill out an application, and if it meets the application requirements, it will be eligible to receive up to 20% of the land grant support fund. Mr. Sanchez said that the purpose of the fund is to help land grants with economic development, to provide matching funds for federal funds and for organizational training. He added that although the application is not yet ready, it will be ready by the August council meeting. In addition to addressing funding issues, Mr. Sanchez said, the council has also been meeting with the U.S. Forest Service and the BLM. He said that the U.S. Forest Service now has a new liaison who has been willing to negotiate on giving land grant heirs access to U.S. Forest Service lands for traditional uses. Mr. Sanchez said that these traditional uses include hunting, cutting timber, grazing and herb gathering.

Land Grant Eligibility for Conservation Easement Tax Credits

Jim Noel, secretary-designate, EMNRD, and Bob Savinsky, conservation manager, State Forestry Division, EMNRD, explained how conservation easements work. Secretary-Designate Noel explained that a conservation easement is a restriction placed on the use of a parcel of property to protect the resources associated with the property. He added that while such an easement will prohibit certain types of development, a landowner may reserve a small area of the land for building purposes. For example, he explained, a landowner may still erect temporary buildings and continue using the property for agricultural use.

Secretary-Designate Noel emphasized that a conservation easement is not a government taking; rather, it is a voluntary contractual agreement. While a conservation easement will not reduce property taxes, the Land Conservation Incentives Act offers tax credits for conservation easements. Currently, certain entities are eligible to receive the tax credits, such as corporations, citizens, limited liability companies and estates/trusts, while others, such as land grants, are not eligible.

Mr. Savinsky then explained how a conservation easement owner would apply for the tax credit. He explained that the Natural Lands Protection Committee and the secretary of energy, minerals and natural resources will determine if a conservation easement is eligible for a tax credit. Both entities must determine that the land is "significant and important to the State of New Mexico" in order to get the tax credit. Mr. Savinsky added that the tax credit is good for 20 years, and the recipient of the credit may transfer the credit to anyone with a tax liability.

Public Comment

The committee took public comment from Tony Lucero, Shirley Otero Romero, Carmen Quintana, Jose Gonzales, Paul Martinez and Luisa Quintana.

The committee recessed at 4:52 p.m.

Friday, July 16

The committee reconvened at 9:00 a.m. for a tour of the San Miguel del Vado Land Grant. Representative Vigil provided a bus for the tour, which included a visit to Villanueva State Park. The committee adjourned at 11:30 a.m.