

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

**November 13, 2014  
Room 317, State Capitol  
Santa Fe**

The fifth meeting of the Land Grant Committee was called to order by Senator Jacob R. Candelaria, chair, on November 13, 2014 at 10:10 a.m. in Room 317 of the State Capitol in Santa Fe.

**Present**

Sen. Jacob R. Candelaria, Chair  
Rep. Miguel P. Garcia, Vice Chair  
Rep. Eliseo Lee Alcon  
Rep. David M. Gallegos  
Rep. Jimmie C. Hall  
Sen. Richard C. Martinez  
Sen. Gerald Ortiz y Pino  
Rep. Tomás E. Salazar

**Absent**

Rep. Alonzo Baldonado  
Sen. Daniel A. Ivey-Soto  
Rep. Debbie A. Rodella  
Sen. Sander Rue

**Advisory Members**

Rep. Vickie Perea  
Rep. Christine Trujillo

Rep. Phillip M. Archuleta  
Sen. Carlos R. Cisneros  
Sen. Timothy M. Keller  
Rep. Patricia A. Lundstrom  
Rep. W. Ken Martinez

**Staff**

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

**Guests**

The guest list is in the meeting file.

**Handouts**

Copies of all handouts are in the meeting file.

**Thursday, November 13**

**Welcome and Introductions**

Senator Candelaria welcomed committee members and members of the audience and asked committee members to introduce themselves.

Representative Perea thanked the committee members and the audience for the opportunity to serve the land grant community in her time in the legislature.

Representative Garcia thanked the committee and said this would be his last meeting as vice chair. He then said that Representative Don L. Tripp was one the founding Land Grant Committee members, and he urged those interested in land grant issues to meet with Representative Tripp.

Representative-Elect Sarah Maestas Barnes introduced herself to committee members and the audience, and it was noted by a committee member that Representative-Elect Barnes is an heir to the Cebolleta Land Grant.

**Prospects for Cultural Properties Designations: Ramifications of the Mount Taylor Decision for Rural Communities**

Brett J. Olsen, attorney, Cebolleta Land Grant-Merced, and Ann Berkley Rodgers, attorney, Pueblo of Acoma, discussed the *Rayellen Resources, Inc. v. New Mexico Cultural Properties Review Committee* (CPRC) court case.

On February 6, 2014, the New Mexico Supreme Court, in a unanimous decision, affirmed the authority of the CPRC to designate the Mount Taylor area as a traditional cultural property. This is important for all of the traditional communities in New Mexico, not just Indian tribes. The values that other cultures imbue in buildings and structures, the people of New Mexico have found in the mountains and mesas that have framed their lives for centuries. Now there is no question as to whether these features can be given the respect under law that the people give to them as a matter of course.

The Indian tribes that nominated Mount Taylor for listing on the State Register of Cultural Properties explicitly excluded all private property from inclusion in the designation. The New Mexico Supreme Court decision confirmed that the common lands of certain land grants should be considered private property and therefore excluded from the listing.

While the case was on appeal, a statute was enacted clarifying that "[t]he designation of land grants-mercedes as political subdivisions of the state shall not alter the property rights of the heirs in the common lands. The common lands owned or controlled by a land grant-merced shall not be considered to be, designated or treated as state land." The New Mexico Supreme Court clearly heard the legislature's concern on this issue.

It is important to remember, however, that land grant boards of trustees for political subdivision land grants still need to comply with the Cultural Properties Act as other

governmental entities do. Also, the statute does allow communities to "enter into memoranda of understanding, contracts and other agreements with a government of a federally recognized Indian nation, tribe or pueblo, including but not limited to agreements concerning the protection and maintenance of cultural resources". This is critical as it provides a means for the communities to come together to protect what is important, including the rights of both tribes and political subdivision land grants.

Committee members thanked the presenters and applauded them on a job well done. One member asked about situations that might occur when an entity wants to take an action that affects other entities. The proposed Mount Taylor uranium mine plan to "de-water" millions of acre-feet of water was offered as an example. The member said that there should be consultation with the pueblos and land grants on the potential impacts, not necessarily a veto, but some input on where the discharge of this polluted water will go. Another member asked what the role of the state historical projects officer is.

Ms. Rodgers said that in regard to a consultation about the mine on the cultural property-designated land, one of the recommendations from the Pueblo of Acoma regarding keeping the water in the valley that was not originally followed is now being followed.

Another committee member was interested in learning about the relationship between the state and federal governments in terms of designation of land as cultural property.

### **Approval of Minutes**

Upon a motion by Representative Garcia, seconded by Representative Hall, and without opposition, the committee approved the minutes of the October 23-24, 2014 Land Grant Committee meeting.

### **Documentary Proposal: History of the Community Land Grant Movement**

Federico A. Reade, Ph.D., University of New Mexico, discussed his proposal to create a video record of the history of the Spanish and Mexican land grants-mercedes in New Mexico. In addition, Dr. Reade hopes to document the current state of land grants in New Mexico and the great gains that have been made by working with state government. Dr. Reade asked for an appropriation of \$204,400, and he said that he hoped that the University of New Mexico would be the fiscal agent.

Upon a motion by Representative Hall, seconded by Representative Garcia, and without opposition, the committee requested a letter be sent by the Land Grant Committee to the Legislative Finance Committee supporting the budget recommendation of \$204,400 to fund this project.

## **Nuestra Señora del Rosario San Fernando y Santiago (Nuestra Señora) Land Grant: Decision to Seek Land Grant-Merced Status Pursuant to Chapter 49, Article 1 NMSA 1978**

Roberto A. Romero, president, Nuestra Señora Land Grant, Danny Córdova, treasurer, Nuestra Señora Land Grant, and John Chávez, member, Nuestra Señora Land Grant, discussed the attempt by Nuestra Señora Land Grant to become a political subdivision of the state.

A major issue facing Nuestra Señora is the fact that 100 individuals from Chimayo helped the community pay its tax bill, and some now believe they are part of the community. However, those individuals do not satisfy the definition of "heir" under Chapter 49, Article 1 NMSA 1978. The committee then discussed creating an exception to the definition of "heir" in Chapter 49, Article 1 NMSA 1978, and whether that would be advisable.

Upon a motion by Representative Garcia, seconded by Senator Ortiz y Pino, and without opposition, the committee requested staff work with the Nuestra Señora board and the drafting of a bill that would not create unintended precedents for other land grants.

### **Review of Proposed Legislation**

The first of five bills considered by the committee for endorsement, .197426.1, would incorporate land grants-mercedes into the Colonias Infrastructure Act, renaming it the Colonias and Land Grants-Mercedes Infrastructure Act, and would allocate severance tax bonding capacity and authorize the issuance of severance tax bonds for land grants-mercedes infrastructure projects. Some committee members cited concerns about limited funds for colonias and said that they could not support the proposed legislation, and they asked if the sponsor would consider a stand-alone bill that did not merge the land grants with colonias. The committee noted that the bill could be amended after it was introduced and not lose the committee endorsement. Upon a proper motion and second, with opposition by Representatives Hall and Perea, the committee voted to endorse the bill, which Senator Cisneros will carry.

The second of five bills considered by the committee for endorsement, .197428.1, would allow Chapter 49 NMSA 1978 land grants to determine zoning of the common lands of the land grant pursuant to a comprehensive plan approved by the land grant's board of trustees rather than the Department of Finance and Administration (DFA). The DFA would also be removed as the arbitrator for zoning conflicts between land grants and neighboring municipalities and counties. Abby Lewis, assistant attorney general, noted that the DFA welcomes the idea of not being the arbitrator, but the bill should clarify a replacement. Upon a proper motion and second, and without opposition, the committee voted to endorse the bill, which Senator Candelaria will carry. Ms. Lewis cited some concerns, including that because the bill requires action taken by three land grant board members, the land grant would need to hold a meeting, which would then require compliance with the Open Meetings Act, which would slow down the process. Arturo Archuleta, Land Grant Council, said that if the bill included a threshold amount that would trigger the requirement that three land grant board members act, it might work.

The third of five bills considered by the committee for endorsement, 197447.1, would amend existing law to allow land grants-mercedes to deposit their funds into credit unions as

well as banks. Upon a proper motion and second, and without opposition, the committee voted to endorse the bill, which Representative Christine Trujillo will carry.

The fourth of five bills considered by the committee for endorsement, .197922.1, came from the committee's Capital Outlay Working Group. The bill would establish a fund administered by the New Mexico Finance Authority that would work as a temporary loan fund to assist in getting capital outlay projects for land grant communities started and completed. The current capital outlay system requires recipients to initially pay vendors and then submit a voucher to the DFA. The reimbursement process from the DFA can take a few weeks to a few months. Many land grants-mercedes do not have the finances to pay these upfront costs, or to wait for reimbursement. Mr. Archuleta noted that to be most effective, the bill should be amended to specify that the loans would be zero interest loans. Upon a proper motion and second, with opposition by Representatives Hall, Gallegos and Perea, the committee voted to endorse the bill, which Senator Ortiz y Pino will carry.

The last of five bills considered by the committee for endorsement, .197991.1, would establish qualified partitions of certain land grants-mercedes as autonomous land grants-mercedes. Some concerns about the language in the bill were raised, and again, members noted that the bill could be amended once introduced and would retain the committee endorsement. Upon a proper motion and second and without opposition, the committee voted to endorse the bill, which Representative Salazar will carry.

### **Adjournment**

There being no further business before the committee, the fifth and final meeting of the Land Grant Committee for the 2014 interim adjourned at 1:31 p.m.