

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

**November 21, 2016
Room 309, State Capitol
Santa Fe**

The fifth meeting of the Land Grant Committee for the 2016 interim was called to order by Senator Jacob R. Candelaria, chair, on November 21, 2016 at 10:07 a.m. in Room 309 of the State Capitol in Santa Fe.

Present

Sen. Jacob R. Candelaria, Chair
Rep. Sarah Maestas Barnes, Vice Chair
Sen. Ted Barela
Sen. Lee S. Cotter
Rep. David M. Gallegos
Rep. Miguel P. Garcia
Rep. Jimmie C. Hall
Sen. Linda M. Lopez
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Sen. Sander Rue
Rep. Tomás E. Salazar
Rep. Bob Wooley

Absent

Rep. Debbie A. Rodella

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Paul C. Bandy
Sen. Carlos R. Cisneros
Rep. Patricia A. Lundstrom
Rep. Matthew McQueen
Rep. Christine Trujillo

Rep. Randal S. Crowder
Rep. D. Wonda Johnson

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

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.

Monday, November 21**Introductions and Announcements**

Senator Candelaria welcomed committee and audience members and asked members to introduce themselves. On a motion duly made and seconded, the minutes of the fourth meeting of the Land Grant Committee for the 2016 interim were approved without objection. Mr. Edwards drew the committee's attention to a letter from the state auditor providing an update on the status of land grants-mercedes with respect to audit compliance issues.

Acequia Commission Legislative Update

Ralph Vigil, chair, New Mexico Acequia Commission (NMAC) joined Paula Garcia, executive director, New Mexico Acequia Association (NMAA) to update the committee on the status of the NMAC and the NMAA and to discuss a proposed legislative initiative. Mr. Vigil provided background information on the NMAC, an eleven-member commission appointed by the governor. The NMAC was created in 1987 to advise the governor, the Interstate Stream Commission (ISC) and the U.S. Army Corps of Engineers on what criteria should be used to determine priorities for rehabilitating acequias under a federal funding program. The commission was established in New Mexico statute in 1993 and is charged with reviewing plans or legislation that affect acequias and is also charged with presenting the NMAC's findings to the governor and the ISC.

Mr. Vigil reported that the NMAC received a \$94,000 capital outlay appropriation during the 2016 regular legislative session to plan, design and construct improvements to acequias statewide. The NMAC lacks authority, however, to administer grants awarded directly to acequias, and it is proposing legislation that would, among other things, enable the NMAC to serve as the fiscal agent and administrator for federal and state grants-in-aid and other funding for acequias.

Ms. Garcia told the committee that the ISC has a long history of administering grants to acequias and community water and wastewater programs, and the ISC also provides an important oversight function informed by the ISC's specialized engineering capabilities and historical understanding of acequia construction and rehabilitation issues. The ISC also inspects improvements made to the acequia systems to ensure that the detailed and unique design specifications that exist for acequias are met. Ms. Garcia asked that the committee be mindful of

the critical role that the ISC plays in construction and maintenance of acequia systems when considering potential legislation.

Representative Salazar asked for an update from Mr. Vigil regarding a water rights transfer issue that came to light during the Land Grant Committee meeting in Anton Chico in October 2016. One of the parciantes is seeking to transfer water rights downstream to the former Val Kilmer ranch to irrigate forage for elk. Mr. Vigil said that this would threaten the continued flow of the upper Pecos system to other parciantes in Anton Chico. Legal measures are being pursued to prevent this particular transfer; however, it was reported that the ranch manager is actively seeking other water rights transfers from Anton Chico parciantes. Ms. Garcia and Mr. Vigil reported on the measures that may be used by acequia and land grant boards to prevent water rights transfers that will negatively affect other parciantes, but they acknowledged that this issue continues to threaten agricultural lands and the critically important green belts they provide and the community systems that exist for water and land management in rural areas.

Ms. Garcia reported that the NMAA provides a wide range of technical assistance to acequia associations throughout the state, including assistance with bylaws development, infrastructure planning and governance issues. The NMAA serves as a liaison for elected officials and other organizations. Ms. Garcia discussed some of the difficulties acequias and other smaller entities encounter in meeting the requirements of the tiered reporting system developed to assist these entities in complying with the Audit Act.

Under the tiered system, entities with less than \$10,000 in annual revenue are required to meet certain reporting requirements without having to assume the expense of a full audit. The next tier of the system spans annual revenue ranging from \$10,000 to \$50,000. An entity with \$12,000 in annual revenue is, thus, subject to the same audit requirements as an entity with \$50,000 in revenue, Ms. Garcia said. This results in a disproportionate and frequently unmanageable expense for the smaller entity.

Further, Ms. Garcia noted that smaller entities are subject to the same reporting requirements as those that counties and municipalities must meet for the Department of Finance and Administration (DFA), and she suggested that a simplified reporting mechanism for smaller entities would improve the process. Ms. Garcia presented information in support of changing in the definition of "local public body" to allow political subdivisions with an annual revenue of less than \$50,000 to manage their finances more informally.

One committee member commented that the amount of paperwork required by the DFA to access funds is obstructive and places an undue burden on smaller organizations as they seek to complete local projects. Members discussed the key features of the proposed legislation to expand the powers of the NMAC, noting that little to no funding is projected to be available for the commission's purposes in the foreseeable future. Some members questioned why funding for acequias should not continue to be steered through the ISC, particularly given the need for ISC oversight with respect to acequia construction and maintenance. Mr. Vigil reported that the

NMAC has experienced difficulty in accessing all of the information and support it needs to complete its duties. On a motion duly made and seconded, the committee voted without objection to endorse the proposed legislation to broaden the authority of the NMAC. Representative Gallegos volunteered to serve as the primary sponsor of the bill, and Senator Cisneros agreed to sponsor the legislation in the senate.

Proposed Legislation

Mr. Edwards reported that in response to a request from the chair, he has solicited input from land grants-mercedes regarding any capital outlay requests, particularly requests to meet statewide needs, planned for the upcoming legislative session. A summary of the responses is as follows:

- the Anton Chico Land Grant-Merced will request \$35,000 for an energy audit and solar remodeling for the development center in Anton Chico;
- the Chilili Land Grant-Merced will request \$91,000 to purchase a 40 foot by 70 foot metal building for phase 3 of the fire department complex;
- the Town of Tajiue Land Grant-Merced (Tajiue) will request the restoration of \$70,000 in capital outlay funding deauthorized during the 2016 special session to continue development of a community park and playground; and
- the Land Grant Council will coordinate a request for \$350,000 to purchase the Piedra Lumbre Education and Visitor Center near Ghost Ranch in Abiquiu in cooperation with four land grants-mercedes and the United States Forest Service (USFS).

Mr. Edwards presented information on other legislation offered for consideration by the Land Grant Committee, and the committee took action as follows:

- On a motion duly made and seconded, the committee voted without objection to endorse a bill to provide a one-year waiver of law school expenses in exchange for a student's commitment to provide two years of legal services for acequias, land grants-mercedes and low-income residents of colonias. The legislation will be sponsored in the senate by Senator Ortiz y Pino. Representative Maestas Barnes will introduce the legislation in the house.
- On a motion duly made and seconded, the committee voted without objection to endorse legislation to establish qualified partitioned land grants-mercedes as autonomous political subdivisions under Chapter 49, Article 1 NMSA 1978. The legislation will be sponsored by Representative Salazar in the house, and Senator Candelaria will introduce the legislation in the senate.
- On a motion duly made and seconded, the committee voted without objection to endorse a bill authorizing comprehensive land-use planning by land grants-mercedes for their common lands. The legislation will be sponsored by Senator Candelaria, and Representative Hall will introduce the legislation in the house.
- On a motion duly made and seconded, the committee voted without objection to endorse a bill to remove restrictions on the Town of Atrisco Land Grant-Merced

regarding land regulation. The legislation, which will be sponsored by Representative Garcia in the house, will be introduced in the senate by Senator Lopez.

- The committee discussed a joint memorial supporting consultation with land grants-mercedes and other forest-dependent communities regarding potential designations of wilderness areas in national forests in New Mexico. Representative Maestas Barnes will serve as the sponsor for the joint memorial, and Senator Cisneros will introduce the memorial in the senate.

Department of Game and Fish: Update on Land Access and Use Policies

Alexa Sandoval, director, Department of Game and Fish (DGF) presented information on the department's ongoing plans and programs for managing access to Wildlife Management Areas (WMAs). Ms. Sandoval reported on Gaining Access Into Nature, a program that opens many WMAs to additional wildlife-associated activities beyond that of hunting and fishing. She noted that natural resource collection is among these activities. In response to member questions, Ms. Sandoval reported that approximately \$25 million collected from gun and ammunition sales under the federal Pittman-Robertson Wildlife Restoration Act is dedicated to habitat restoration. Some of that federal funding also flows to state parks and to the *New Mexico True* tourism campaign.

Steve Polaco, president, Tierra Amarilla Land Grant-Merced (Tierra Amarilla), objected strenuously to the lack of notice provided to the community regarding a meeting that the DGF held at Heron Lake concerning contentious land- and water-use and wildlife issues. He presented a letter that Tierra Amarilla sent to the DGF reminding the DGF of its ongoing commitment to provide adequate notice to the land grant-merced regarding any issues that affect land use and wildlife management within the boundaries of Tierra Amarilla. Ms. Sandoval acknowledged that the meeting had been controversial and divisive. She addressed other member questions regarding land use issues, noting that the DGF is looking for processes that may be appropriately employed for wood harvesting on WMAs. Ms. Sandoval also observed that the DGF has no authority to reallocate elk harvesting permits at this time.

Guadalupe Hidalgo Treaty Division (GHTD) of the Office of the Attorney General (OAG): Introduction of Staff

Tania Maestas, deputy attorney general, Civil Affairs Division, OAG, introduced Marlo Aragon, attorney, GHTD, and Brittney E. Martinez, administrative assistant, GHTD. The two recently hired GHTD staff members provided information on their background and experience and stated that the GHTD plans to focus initially on outreach and education efforts.

Land Grant Council Status and Budget Update

Juan Sanchez, chair, Land Grant Council, presented the council's annual report. He informed the committee that the council meets quarterly with representatives of the state's congressional delegation and that these meetings have been successful in helping to address the council's concerns at the state and federal levels. Mr. Sanchez provided details regarding the council's budget for the past and current fiscal years and the ongoing coordination of council

activities with the University of New Mexico (UNM). The council provides a wide range of support to land grants-mercedes throughout the state with respect to governance, planning and reporting, and the council serves as a liaison between local land grants and the USFS. Council members are leading the master planning and development activities for the Piedra Lumbre Education and Visitors Center in cooperation with the USFS and land grant communities. Mr. Sanchez presented a video that featured interviews with land grant members and USFS staff and highlighted the progress that has been made toward improving the working relationship between land grants-mercedes and the USFS in pursuit of their common goals in New Mexico.

Dr. Manuel Garcia y Griego and Dr. Jacobo D. Baca of the UNM Land Grant Studies Program presented a publication entitled *Researching mercedes: Historical sources for the study of New Mexico community land grants* that offers a wealth of information regarding primary and secondary archival sources available in New Mexico and in numerous other libraries and archives in the United States, Mexico and Spain. The publication includes rare archival images and provides direction to untapped sources of information regarding community land grants in New Mexico. The publication also includes appendices that provide guides to selected personal collections of material related to land grants that are housed at the State Records Center and Archives as well as appendices to the Thomas B. Catron Collection housed at the UNM Center for Southwest Research.

Mr. Sanchez presented the following publications prepared for the Land Grant Council by New Mexico Legal Aid:

- *Land Donations to New Mexico Land Grants: An Outline of the General Principles and Process for Claiming Individual Federal Income Tax Deductions for Donations to New Mexico Land Grants;*
- *Adverse Possession and Land Grants;* and
- *Declarations and Land Grants,* a draft of a publication addressing water rights issues.

Public Comment

Bonifacio Vasquez, president, La Merced de Santa Barbara, requested funding in the amount of \$20,000 to assist with an environmental study that is required as part of the submission of a forest restoration proposal to the Carson National Forest. He also spoke in opposition to the expansion of wilderness areas in New Mexico, and he informed the committee of a designation for forest lands called Special Management Areas (SMAs). Mr. Vasquez requested the committee's assistance in researching the potential impact of SMAs on the common lands of land grant-mercedes.

Mr. Polaco addressed the committee and provided an overview of a unique case of adverse possession of a 200-acre plot of Tierra Amarilla land formerly occupied by El Comite of the Tierra o Muerte movement. Tierra Amarilla allowed a group that was to provide summer camp services at the site access to the land; however, the group has now fully occupied and claimed title to the land as a result of a non-reporting issue on the part of Tierra Amarilla. The

group, El Frente de La Lucha, based originally in Colorado, is reportedly operating a military-style boot camp and providing weapons training to children at this site. Mr. Polaco asked for assistance in restoring access and title to the land to Tierra Amarilla.

Venessa Chavez, Tajique, described the ongoing efforts of the community to establish a community park and playground in Tajique. The community was awarded a \$70,000 capital outlay appropriation in 2014 and has worked diligently to meet compliance and reporting requirements set forth by the DFA to access the funding. Tajique was not informed by the DFA that capital project expenditures had been frozen in September, and despite the fact that the project was in process, the Tajique project was deauthorized during the 2016 special session. One member asserted that the state owes Tajique an apology for the DFA's communication and management failures in this regard. Members discussed options to restore funding for the project in the upcoming legislative session, noting that little severance tax bonding capacity may be available for projects at the district level in 2017.

Daniel Herrera of the La Merced del Manzano Land Grant-Merced spoke in support of restoring funding for the Tajique playground project. He also stated that the Infrastructure Capital Improvement Plan (ICIP) is not a useful tool for small communities. One member suggested that there is a gap between the ICIP and the DFA funding requirements that should be addressed, and the member said that projects should have a full four years to be completed. The member noted that inclusion in the ICIP, a planning document, does not necessarily mean that a project is "shovel ready".

Former lieutenant governor and president of the Anton Chico Land Grant-Merced (Anton Chico) Roberto Mondragon asked that the committee support Anton Chico's request for capital outlay funding in the amount of \$35,000 to conduct an energy audit and solar renovations at the building that was donated to Anton Chico for an economic development center.

Adjournment

There being no further business before the committee, the committee adjourned at 4:30 p.m.