

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

**September 16-17, 2019
Talpa Community Center
Cristobal de la Serna**

The third meeting of the Land Grant Committee for the 2019 interim was called to order by Representative Miguel P. Garcia, chair, on September 16, 2019 at 10:11 a.m. in the Talpa Community Center in Cristobal de la Serna.

Present

Rep. Miguel P. Garcia, Chair
Sen. Elizabeth "Liz" Stefanics, Vice Chair
(9/16)
Sen. Gregory A. Baca (9/16)
Rep. Susan K. Herrera
Rep. Matthew McQueen (9/16)
Rep. Tomás E. Salazar
Rep. Christine Trujillo (9/16)

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Christine Chandler (9/16)
Sen. Carlos R. Cisneros (9/16)
Rep. Harry Garcia (9/16)
Sen. James P. White

Guest Legislators

Rep. Alonzo Baldonado (9/16)
Rep. Kelly K. Fajardo (9/16)
Rep. Roberto "Bobby" J. Gonzales
Rep. Linda M. Trujillo (9/16)

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

Staff

Mark Edwards, Bill Drafter, Legislative Council Service (LCS)
Michelle Jaschke, Researcher, LCS
Anthony Montoya, Staff Attorney, LCS

Absent

Rep. Rachel A. Black
Rep. David M. Gallegos
Sen. Linda M. Lopez
Sen. Richard C. Martinez
Sen. Bill B. O'Neill
Sen. Cliff R. Pirtle
Sen. Sander Rue

Sen. Stuart Ingle
Rep. D. Wonda Johnson
Sen. Gay G. Kernan
Rep. Patricia A. Lundstrom
Rep. Debra M. Sariñana

Guests

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file and are posted on the legislature's website.

Monday, September 16**Welcome and Introductions**

Representative Miguel P. Garcia welcomed committee and audience members and asked members and guests to introduce themselves.

Cristobal de la Serna Status Update and Resource Management Challenges

Beverly Armijo, president, Cristobal de la Serna, introduced Cristobal de la Serna board members present at the meeting and updated committee members on the challenges the land grant faces with respect to property tax and survey issues for the heavily subdivided land in the area. Ms. Armijo stated that Cristobal de la Serna has sought assistance from the county assessor and the Office of the Attorney General (OAG) to protect the remaining land owned by land grant heirs and to sort out ownership issues arising from the 1940s replatting of land in the area. She reported that since 1997, numerous mobile homes have been placed on former common lands, drawing water from individual wells and using individual septic systems. Ms. Armijo expressed concern over water quality and the continued health of the land and the water table as a result of the mobile home installations, and she noted Cristobal de la Serna's continuing objection to the transfer of 7,000 acres of land through area land trusts from one landowner to the United States Forest Service (USFS).

Ms. Armijo reported that fencing that once encompassed the common lands was removed some time ago at the direction of the courts, allowing tree thieves easy access to resources and giving rise to grazing issues. She urged the committee to pass legislation granting Cristobal de la Serna status as a political subdivision of the state eligible to receive capital outlay funding and to establish a moratorium on the sale of properties with disputed ownership in the area. She further requested that the committee consider ways to exercise the state's power of eminent domain to recover Cristobal de la Serna's former common lands. Ms. Armijo expressed Cristobal de la Serna's support for legislation that would provide a revenue stream for land grants to conduct surveys and research to enable the recovery or buyback of common lands.

Francisco Gonzales, spokesperson, Cristobal de la Serna, reported that illegal dumping in the area is a significant problem for the community and the USFS. He asserted that squatters on Picuris Mountain have filed quitclaim deeds to secure warranty deeds for area lands. Mr. Gonzales also said that the lineas, which are strips of land that vary in width from as little as five feet to 15 feet across but may extend for miles that were established for assessment of the properties in the 1940s, have been further divided over time as claims were made on parts of the lineas. David Romero, vice president, Cristobal de la Serna, raised questions regarding the lineas

and how the 7,000-acre tract was transferred. Ricardo Romero, secretary, Cristobal de la Serna, stated that he wants to donate his lineas to the Cristobal de la Serna common lands, but it is not clear where his lineas are located.

Members discussed options for addressing the issues raised by Cristobal de la Serna board members. Arturo Archuleta, program manager, Land Grant Council (LGC), explained that the LGC has received capital project funding to address survey issues for land grants statewide and that a \$50,000 capital appropriation was made in 2019 to Cristobal de la Serna for the buyback of common lands. The status of Cristobal de la Serna as a political subdivision is in dispute, however, and it is not clear if that appropriation will become available. Mr. Archuleta indicated that while the LGC recognizes Cristobal de la Serna as an eligible land grant by virtue of compliance with its bylaws and meeting and recording requirements since 2000, a series of decisions in court cases seem to dispute that status. Those court cases have been listed and referred to the OAG for further interpretation, Mr. Archuleta said.

Discussion ensued regarding House Bill 88 (2018), which was passed and signed into law, and intended, in part, to give land grants the right of first refusal to buy back former common lands when those lands went up for sale. The provisions of that legislation, however, only apply to subdivisions of 5,000 lots or more. One member complained that the Taxation and Revenue Department (TRD) has turned its back on executing some of the provisions of that legislation and stated that the committee should return to the TRD for resolution of those issues. Another member noted continuing objections to the limitations of House Bill 88 as a solution to the problems that land grants, particularly heavily subdivided and inconsistently surveyed land grants such as Cristobal de la Serna, face in recovering common lands.

Mr. Archuleta said that a major challenge in developing comprehensive legislation in this arena is that current law requires that any challenge to a particular survey must be made within 10 years of survey completion. He noted that Cristobal de la Serna was not aware of this provision and that the LGC intends to eventually bring a surveyor on staff to help inform land grants with regard to survey challenges. A member raised a color of title question regarding whether an inaccurate or unverifiable survey can be used to describe a piece of land and establish ownership. Mr. Archuleta observed that surveys are used in these instances to erode title to the land.

In response to a member's question, Mr. Gonzales stated that the best resolution to the issue of the lineas is to exercise the power of eminent domain, noting that a variety of other methods have failed to resolve the issues. He asserted that one of the people accused of siphoning land from the land grant was a store owner and state senator from the area. Further, Mr. Gonzales stated that as a result of a courthouse fire, the book containing records of the history of ownership of the Cristobal de la Serna land was lost and that continuing corruption in Taos leaves resolution of these issues at risk. A member noted that any comprehensive legislation developed to address the Cristobal de la Serna land issues will require a message from the governor to be considered in the upcoming budget session.

Taos County Assessor's Office: Challenges to and Options for Obtaining Validly Surveyed Land Titles in the Cristobal de la Serna Area

Maria Dimas, assessor, Taos County, reported that she was in attendance primarily to hear concerns from area residents. She introduced Anthony Martinez, GIS coordinator, Taos County Assessor's Office, and noted that the assessor's office is short-staffed but is willing to help steer Cristobal de la Serna members to resources that might help them research issues related to the lineas. Ms. Dimas noted that New Mexico is a self-rendering state and that the assessor's office relies on the information that the office has as the best deed of record. She pointed out that to move deeds to Cristobal de la Serna, there should be a decision on how to name the common lands and establish a grantee name for the land grant. In response to members' questions, Ms. Dimas reported that to transfer title, the office needs a solid description of the property. The issues of the Cristobal de la Serna land and lineas are extremely complicated as a result of prior transfers and legal decisions, she said.

Ms. Armijo reported that the issue is further complicated by questions regarding Cristobal de la Serna's status as a private land grant and that the status needs to be changed to make Cristobal de la Serna a communal land grant so that squatters can be bought out and the land deeded to Cristobal de la Serna's common lands. In answer to a member's question, Ms. Dimas indicated that the state needs to establish what is necessary for Cristobal de la Serna to establish its claim to area lands. A member pointed out that the OAG needs to resolve the issues in court, as statutory changes will not provide sufficient clarification. One member suggested that a formal court proceeding with the appointment of a special master may be necessary to decide what is required for clear title.

Update from the Guadalupe Hidalgo Treaty Division (GHTD) of the OAG

Tania Maestas, chief deputy attorney general for civil affairs and operations, OAG, reported that the staff position for the GHTD is now permanent for the OAG and that funding for the position is being built into the OAG base budget. She reported that Alexandria Novela Salazar, law clerk, OAG, is continuing the education and outreach functions of the GHTD, and the office is now investigating more aggressive legal action on behalf of land grants.

Ms. Salazar provided an update on current litigation related to the effort to recoup the "Tierra o Muerte" site for the Tierra Amarilla Land Grant-Merced. She also reported that the GHTD is working with Cristobal de la Serna on property title issues. Ms. Salazar noted that she has been working with the members and staff of the LGC to assist land grants that are on the Office of the State Auditor's at-risk list. Committee members discussed the ramifications of the tiered system of reporting for smaller entities such as land grants and noted that slow reporting on the part of smaller entities can place those entities on the at-risk list.

Motions

Senator Stefanics made a motion for the committee to request additional funding for the Office of the State Auditor to provide assistance to smaller entities in meeting reporting

requirements. Representative Herrera seconded the motion, and the motion passed without objection.

Representative Christine Trujillo made a motion to approve the minutes of the July 1-2, 2019 meeting. The motion was seconded by Representative Alcon and approved without objection.

La Merced de Santa Barbara Status Update

Bonifacio Vasquez, president, La Merced de Santa Barbara, updated the committee on Santa Barbara's efforts to identify and regain common lands within the historical boundaries of the land grant. He stated that Santa Barbara is active in the area watershed coalition and continues to participate in USFS meetings. Mr. Vasquez reported that Santa Barbara has secured warranty deeds for abandoned county roads within the land grant's historical boundaries and is working on several other issues, including gravel mining that is taking place on the wrong tract of land, the transfer of properties to increase the land grant's acreage and the hiring of a resource specialist for the watershed coalition.

Mr. Vasquez reported on developments regarding the USFS forest plan revision and objected to provisions in the plan that will require residents to secure permits for pinon picking and that will allow for expansion of the Sipapu Ski and Summer Resort area. Members discussed the proposed Sipapu expansion, and Mr. Vasquez reported that no one appears to be monitoring the existing leach fields at Sipapu and that full environmental assessments have not been completed for the expansion, which has been proposed as a categorical exclusion in the forest plan. Mr. Vasquez expressed other concerns about water quality in the area, noting that the community of Vadito has dumped raw sewage into the Rio Pueblo. A member suggested that Santa Barbara bring the issue to the attention of the Department of Environment.

Mr. Vasquez also discussed the issue of Santa Barbara's opposition to the designation of parts of the Santa Barbara River as a wild and scenic river under the USFS forest plan. He asked why the committee had not followed through in providing a letter opposing the wild and scenic river designation that Santa Barbara had requested during the last interim.

Motion

Following discussion, a member moved to send a letter to the USFS in opposition to the wild and scenic river designation for parts of the Santa Barbara River. The motion was duly seconded and passed without objection.

Sangre de Cristo Land Grant: Background on Lawsuit Regarding Access to Historical Lands

Shirley Romero Otero, president, San Luis Valley Land Rights Council, provided historical information regarding the Sangre de Cristo Land Grant and the San Luis Valley Land Rights Council. Ms. Romero Otero traced her involvement in land rights activism to the 1967 Tierra o Muerte movement led by Reies Lopez Tijerina and the Alianza Federal de las Mercedes

at Tierra Amarilla. She outlined the history of land grant struggles in the San Luis Valley bordering New Mexico and recounted how the land was taken over by outside interests by quiet title, including by descendants of President Zachary Taylor.

Ms. Romero Otero spoke at length about land grant members' strong connection to the land and the mountain at its center, La Sierra, in the San Luis Valley, as well as the unique water rights that the San Luis Valley enjoys, which are not encompassed by the Rio Grande Compact. She requested that the land not be referred to as Taylor Ranch because of the long and bitter history of the 37-year legal battle between Taylor family descendants and the Sangre de Cristo Land Grant. Ms. Otero Romero reported that the lawsuit, the longest running civil case in Colorado history, was only settled in recent months and asserted that the Sangre de Cristo Land Grant had won a partial victory in securing continued access to the land for grazing and wood gathering. Some of the land grant's access struggles continue as it works with the current owner of the land to ensure that the gated access that the Sangre de Cristo Land Grant now has remains available. An educator by trade, Ms. Romero Otero also provided information on how the land grant has been successful in providing relevant educational opportunities for rural area youth to keep them engaged in traditional land use activities.

Steady Funding for Land Grant Boards: A Discussion Regarding House Bill 36 (2019)

Mr. Archuleta reviewed the provisions of legislation introduced in 2019 to create and appropriate funding for a land grant-merced assistance fund. The intent of the legislation was to provide a guaranteed revenue stream for development work, management of communal lands and the purchase of common lands. Mr. Archuleta presented alternatives to parts of the legislation that had drawn questions during the last session. He suggested changes to the proposed administering agency and to some of the items that would be included as eligible expenditures. He also suggested changes that would streamline and strengthen accountability for distributions made to land grants-mercedes.

In response to questions from the committee, Mr. Archuleta observed that the LGC is composed of five members appointed by the governor who receive mileage and per diem compensation. He reported that the LGC has a budget this year of \$296,900, which provides for three part-time staff and some direct support grants to land grants. The LGC is requesting \$775,000 in funding for fiscal year 2021. A member noted that the organizational capacity of land grants-mercedes varies widely and asked how the funds would be distributed. Mr. Archuleta stated that the proposed legislation would provide for equal distributions to each qualified land grant-merced and that one of the proposed revisions provides that unexpended funds not revert to the General Fund but remain with the land grant-merced. The member also asked for an estimate of how many people the land grant-merced revenue stream would benefit statewide. Mr. Archuleta estimated that figure to be up to 15 to 20 percent of the population.

Cultural Heritage at Cristobal de la Serna: The Comanche Dancers

The Comanche Dancers performed for the committee, highlighting the Comanche heritage of the Cristobal de la Serna community.

Public Comment

Paul A. Martinez, member, Sangre de Cristo Land Grant; Philip Clark, member, San Antonio de Las Huertas Land Grant-Merced; and Melvin Apodaca, member, Tierra Amarilla, spoke in support of legislation to provide a revenue stream for land grants-mercedes to enable them to plan for and carry through on multiyear projects aimed at generating other revenue for land grants-mercedes. Steve Polaco, president, Tierra Amarilla, and newly appointed LGC board member, reported that the transfer of Laguna del Campo from the state to Tierra Amarilla has not taken place as scheduled but has been delayed by water rights issues that have arisen with the state and other local entities. Leonard T. Martinez, member, San Joaquin del Rio de Chama Land Grant-Merced, spoke in support of providing additional funding to the Office of the State Auditor to assist land grants with reporting, noting that the lack of funding for land grants to meet audit requirements sometimes results in the late reporting that can place a land grant on the at-risk list.

Tuesday, September 17

Members toured the town of San Luis, Colorado, the oldest town in Colorado and the central site of the Sangre de Cristo Land Grant. From La Capilla de Todos Los Santos, the Chapel of All Saints, located on the hillside formally known as La Mesa de la Piedad y de la Misericordia, members enjoyed a sweeping view of the San Luis Valley and the common grazing land and abundant water sources flowing through the valley. Ms. Romero Otero and other members of the Sangre de Cristo Land Grant shared stories of their struggle to retain access to the land on the nearby sierra and took members to the historic gates where the Sangre de Cristo Land Grant members were formerly denied access to their traditional common lands but through which they have now gained access.

Adjournment

There being no further business before the committee, the meeting adjourned at 3:09 p.m.