

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

**September 3-4, 2009
SERF Building, UNM Sevilleta Field Station
Sevilleta National Wildlife Refuge
La Joya**

The third meeting of the Land Grant Committee (LGC) was called to order at 10:15 a.m. on Thursday, September 3, 2009, by Representative Miguel P. Garcia, chair, at the SERF Building, University of New Mexico (UNM) Sevilleta Field Station, Sevilleta National Wildlife Refuge in La Joya.

Present

Rep. Miguel P. Garcia, Chair
Sen. Richard C. Martinez, Vice Chair
Sen. Rod Adair
Rep. Paul C. Bandy
Rep. Andrew J. Barreras (9/3)
Rep. Eleanor Chavez
Rep. Jimmie C. Hall
Sen. Gerald Ortiz y Pino
Rep. Debbie A. Rodella
Sen. Sander Rue
Sen. Bernadette M. Sanchez

Absent

Rep. Thomas A. Garcia

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros

Sen. Dianna J. Duran
Rep. Brian F. Egolf, Jr.
Sen. Eric G. Griego
Rep. Ben Lujan
Rep. Richard D. Vigil

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

Staff

Jon Boller
Tamar Stieber

Handouts

Handouts and written testimony are in the meeting files.

Thursday, September 3

Welcoming Remarks and Introductions

Representative Miguel Garcia asked Marcel Abeyta of the Sevilleta de la Joya Land Grant to open the meeting with a prayer. He then asked members of the committee, staff and audience to introduce themselves.

William T. Pockman, associate chair, Department of Biology, UNM, welcomed the committee and gave a brief history and description of the 230,000-acre wildlife refuge and the type of research scientists do there. He said the Campbell Family Foundation donated the land in 1973 to the Nature Conservancy, which conveyed the land to the United States Fish and Wildlife Service that same year. UNM took over stewardship of the wildlife refuge in the late 1980s. Since then, the university built the UNM Sevilleta Field Station, which is a research laboratory and meeting facility, and 10 residential buildings, including two brand new ones, to house people doing research at the refuge or who are attending meetings. Currently, UNM is renovating other facilities to provide additional housing, he said. In a pinch, he said, the facilities can house up to 100 people and are filled to capacity during the summer, when UNM students and researchers from around the world descend on the refuge.

The wildlife refuge is one of 26 such sites around the world — ranging from Alaska to Antarctica, going from north to south, and from the Caribbean to French Polynesia, going east to west — participating in a Long-Term Ecological Research (LTER) program funded by the National Science Foundation (NSF). The LTER network is a collaborative effort involving more than 1,800 scientists and students investigating ecological processes over long periods of time and over broad physical areas. The Sevilleta National Wildlife Refuge is 20 miles by 30 miles in area and is the locus of four major ecosystems. It touches two mountain ranges and is traversed by the Rio Grande.

The Sevilleta LTER program costs \$2 million to \$2.5 million a year to operate, Mr. Pockman said. Of that amount, \$800,000 comes from the NSF for infrastructure and research projects.

Jennifer Johnson, a UNM research scientist, said she runs the undergraduate program at the Sevilleta Field Station. Her research is primarily related to global warming, she said. Senator Cisneros asked about the ethnic makeup of the students. Ms. Johnson said that of 11 students currently at the research center, nine are from minority groups. Mr. Pockman added that the research center employs a tremendous number of students who are New Mexico natives.

LGC History and Accomplishments

Representative Miguel Garcia said the LGC has worked with land grant communities since its inception in 2003. He listed some of the committee's accomplishments, including:

- getting political subdivision status for land grants;
- paving the way for land grants to create their own zoning by working with the Local Government Division of the Department of Finance and Administration;
- ensuring that land grant boards of trustees adhere to the Open Meetings Act;

- eliminating provisions in New Mexico's statutes that forbid women from serving on land grant boards;
- forbidding adverse possession lawsuits against land grants;
- giving land grants the right of first refusal on state property put up for sale within land grant boundaries;
- getting the Department of Game and Fish to return approximately 35 acres of valuable riverside land to the Abiquiú Land Grant; and
- restoring to land grants the prestige of being among the first local governments in New Mexico's history, thus helping to revive old cultural traditions and family values.

Sevilleta de la Joya Land Grant History

Ben Rivera, past president, La Joya Education and Charitable Assistance Organization, Inc., and his daughter, Teresa Rosales, vice president of La Joya Association, offered a historical and family perspective of the Sevilleta de la Joya Land Grant.

Mr. Rivera passed around the original Sevilleta de la Joya Land Grant patent, which he said was signed in 1907 by President Theodore Roosevelt and given to his grandfather's family. He said the land on which the wildlife refuge sits belongs to the land grant heirs. He asked where the heirs' land, cattle and culture are and even where the corpse of his father is if the United States truly had good intentions in signing the Treaty of Guadalupe Hidalgo. He said he used to visit his father's grave six times a year in the private cemetery where his father is buried on the land grant, but, since the wildlife refuge "stole" the land, he has had to obtain a permit to visit his father's grave. "To this day, I have not obtained a permit," he said. "Nobody is going to refuse me to see my family." He said La Joya was once a happy and exciting place for his family and other heirs and that "all of this hurts".

Mr. Rivera said that in 1934, retired U.S. Army General Thomas D. Campbell took possession of the Sevilleta de la Joya Land Grant, which he bought from Socorro County. The county obtained the land at a public auction after the heirs were unable to pay back taxes assessed on the land when New Mexico achieved statehood. Mr. Rivera said he was nine years old the day General Campbell rode into La Joya and took over the land grant. Weeping, he excused himself and passed his notes to his daughter to read.

Ms. Rosales said that La Joya residents were shocked to learn that the land grant now belonged to General Campbell and that they could no longer pasture their animals. She said her grandfather translated the information into Spanish for those heirs who spoke no English, but that he was unable to translate everything. Ms. Rosales questioned how the land grant could be lost to back taxes when the Treaty of Guadalupe Hidalgo forbade taxing land grants. She also questioned how a retired army general could afford taxes on more than 200,000 acres of land.

Ms. Rosales said that General Campbell moved to La Joya in 1938 to plant wheat, but his crop was a total loss. Despite his never growing a pound of wheat, she said, General Campbell became a millionaire, and several people working in local public offices ended up with very large parcels of what had been land grant property. She said the small amount of acreage the

Campbell foundation gave to the land grant heirs remains contentious because non-heirs continually try to claim it through quitclaim lawsuits. One family claims ownership of more than 300 acres, while another family of non-heirs is trying to sell a portion of land grant property for more than \$1.5 million. She asked the committee for assistance on helping the heirs keep what was returned to them.

Ms. Rosales said her father has a personal request: that he get back the right to visit his father's grave whenever he wants. She said tearfully that it would mean a lot to her elderly father, and she asked that the committee "at least start there" in terms of helping the land grant. She added that her father has no animosity toward anyone; he is simply venting his feelings of discontent.

"It will be a beautiful day when the people of La Joya give us back what is rightfully ours," she said. "Money and greed do not profit anyone."

Mr. Rivera provided the following information to the committee:

- General Campbell acquired 219,000 acres of land grant property.
- The *merced* was founded in 1819.
- The Indians that used to live across the river were called the Piros. Their pueblo was once called Acomillo.

Senator Rue said Mr. Rivera's comments about his father's grave site touched him a great deal, and he asked if Mr. Rivera's father is buried in a community cemetery. Mr. Rivera said it is a family cemetery, though other people are buried there, including World War II veterans. He said the cemetery was part of the sale to General Campbell, despite Mr. Rivera's family having a deed for it. Ms. Rosales said the U.S. Fish and Wildlife Service put a locked gate around the cemetery, and the agency requires that her father have a permit to enter. She said her father wrote to then-Congressman Steve Pearce about the issue, "but nothing ever came of it".

Representative Miguel Garcia said that land grant heirs along the Rio Chama have had similar problems. He suggested getting different federal agencies to the table to negotiate an access easement or other legal instrument, and he invited a motion to send a letter to the appropriate agency requesting legal access to the cemetery for Mr. Rivera and his family. Representative Hall noted that the heirs on the Rio Chama have been "stonewalled" on similar efforts. He suggested sending the same letter on their behalf.

Senator Ortiz y Pino asked Mr. Pockman if he knows the location of the cemetery and if there would be a "dilemma" in allowing land grant heirs free access to it. Mr. Pockman said he knows nothing of the cemetery, and he finds Mr. Rivera's situation "appalling". He stressed that there is "no dilemma whatsoever" in allowing land grant heirs free access to the cemetery.

Mr. Rivera said the cemetery is on the Alameda, across from San Acacio, which Mr. Pockman said is the southern end of the U.S. Fish and Wildlife Service portion of the refuge.

Representative Bandy suggested a letter requesting that the appropriate federal agency draft a memorandum of understanding (MOU) allowing access to the cemetery.

Senator Rue said he wants to make sure that Mr. Rivera and his family have free access to the cemetery at all times and that the land eventually be returned to the family. He asked if Mr. Rivera would be satisfied with a letter in the meantime. Mr. Rivera, holding up the patent, said, "We have died for that land."

On a motion by Representative Bandy, seconded by Senator Rue, the committee agreed to send letters requesting that the Land Grant Council and the appropriate federal agencies managing the cemeteries in La Sevilleta and Chama agree to MOUs to allow heirs free access to the cemeteries.

Representative Miguel Garcia said that when developers take over a religious site, they often desecrate it. In Spanish, he assured Mr. Rivera and other heirs at the meeting that the committee would work on getting permanent access to their *camposantos* so that they may inter family members there in the future.

Ms. Rosales asked that the committee stay in touch with her father on the cemetery issue. Representative Miguel Garcia assured her that it would, and he insisted that Mr. Rivera, who was about to turn 83, live to see the day where he can have unfettered access to his father's grave site.

La Joya Community Current Affairs and Acequia Improvements

La Joya residents and land grant heirs Mr. Abeyta and John Carangelo briefed the committee on current issues facing their community, including an update on recent and future renovations to its acequia system. Mr. Abeyta said the acequia was abandoned for many years. In the 1970s, Emilio Esquivel organized La Joya Community Development Association, which eventually got seed money to buy a backhoe and received funds from the now-defunct federal Comprehensive Employment and Training Act Program to make improvements to the acequia. Then the association declared the ditch a disaster area and got one-half million dollars from the state emergency department to put in new culverts across the arroyos, said Mr. Abeyta. The ditch association also got matching funds from the U.S. Army Corps of Engineers as well as some capital outlay funds from the state. Today, much of the nine miles of acequia is lined with cement and fitted with state-of-the-art electronic head gates. The acequia loses no water due to drainage, compared to 50 percent water loss before the improvements, he said. As a result, he added, much of La Joya's farmland is back in production after lying fallow for decades.

Mr. Abeyta said the acequia association got funds this year to reinforce and redo completely one of the largest arroyos crossing the acequia. During heavy rains, the arroyo can wipe out culverts and cause flooding, he said.

Mr. Carangelo said La Joya has three associations, each with its own purpose:

1. La Joya Community Development Association, which helps maintain the history, culture and ecology of the area; helps keep the land, and the land grant, viable; and benefits the people in the community of La Joya;

2. La Joya Educational and Charitable Assistance Organization, which provides "bridge" scholarship to help college-bound La Joya graduates pay for tuition, books, gas and other necessities; and

3. La Joya Acequia Association, of which Mr. Abeyta and Mr. Carangelo are commissioners.

Among the accomplishments of the community association are:

- the founding of a state-accredited library;
- roads that are as good as any in the state;
- beginning renovation of the old high school gymnasium to use as a community hall; and
- donations to charities, including St. Vincent de Paul.

Responding to questions and comments from committee members, Mr. Abeyta and Mr. Carangelo provided the following information:

- La Joya's acequia is one of the oldest in the state, dating back to the 1700s.
- The acequia is incorporated into the Middle Rio Grande Conservancy District (MRGCD), but it maintains its own autonomy as a political subdivision of the state. The only connection to the MRGCD is at the point of diversion, which is less than a mile from the MRGCD canal.
- When the conservancy district was founded in 1926, La Joya was part of its jurisdiction and paid taxes to the district. But residents sued to sever itself from the conservancy district because the organization was not maintaining the ditches. By mutual agreement, the conservancy reimbursed residents for the back taxes and the "people took the ditch back".
- La Joya pays a conveyance fee for diverting water via the MRGCD and must renegotiate that fee every year, as per a perpetual contract.
- The relationship between the La Joya Acequia Association and the MRGCD is harmonious.

Senator Rue complimented Mr. Abeyta and Mr. Carangelo on what they and their organizations have accomplished. He asked whether communities like La Joya can get specialized legal help for land and water issues, such as those described in the morning's testimony. Representative Miguel Garcia said none exists at present, but one of the goals of the LGC is to create a land grant clinic at UNM to do pro bono legal work for just such issues.

Representative Barreras suggested that Mr. Abeyta and Mr. Carangelo document their work and put a copy, including all relevant documents, in the State Library. He said his family lost many of his grandfather's old documents, "and it was a tragedy for us". Mr. Carangelo said they are in the process of doing just that.

Representative Miguel Garcia requested a motion to send a letter from the committee to Dr. Manuel Garcia y Griego, director of UNM's Southwest Hispanic Research Institute, requesting him to work with the La Joya Educational and Charitable Assistance Organization to compile land grant and acequia documentation and history for La Joya's library and UNM's Southwest Studies program. Representative Hall so moved, Representative Barreras seconded the motion, and the committee passed it unanimously.

Representative Miguel Garcia requested another motion for a letter to the Department of Game and Fish, requesting that it attend the committee's November meeting in Santa Fe and explain how it came in possession of property in the village of La Joya, how it uses the land, what its future plans for the property are and what it would entail to transfer it back to the land grant. Representative Garcia said it is his intent to transfer 2,000 acres back to La Joya Educational and Charitable Assistance Organization. Representative Hall made the motion; Senator Cisneros seconded it. It passed unanimously.

Representative Miguel Garcia requested a motion to draft capital outlay requests for La Joya's gymnasium to "bring that center back to the life and viability and vigor it once had". Senator Cisneros said he felt compelled to remind the committee and the audience that the state budget has a \$300 million to \$500 million shortfall that not only will preclude new capital outlay requests, but will probably require a reduction in existing capital projects. He said that while it is fine to come up with motions and initiate funding requests, it is equally important to recognize that it will be an "uphill battle" to get any money. Representative Garcia said he recognizes that the state is in a dire fiscal state, but it is important to address the needs of the community. "We may not be able to come up with one cent, but it's leverage," he said. The committee approved the motion without objection.

The committee recessed for lunch at 12:42 p.m. and reconvened at 1:54 p.m.

Town of Tomé Land Grant Update

Lawrence Sanchez, president of the board of trustees, Town of Tomé Land Grant, gave a brief history of the land grant, explaining that the king of Spain issued the 260,000-acre land grant in 1739 to 26 families. All the paperwork was in Spanish, he said, noting that every time someone translated the deed into English, "you lose a few acres. . . but that's just the way it goes". For example, he said, the U.S. survey of the land grant fixed its eastern border at the foot of the Manzano Mountains instead of at the crest, as was in the original grant, and permanently lost that land in 1906, when President Theodore Roosevelt gave the western slope of the Manzano Mountains to the U.S. Forest Service.

Mr. Sanchez said the land grant originally included Casa Colorado to the south, but in 1813, Casa Colorado residents asked to be a separate land grant so they would not have to make the long trip to Tomé to "deal with issues". In 1823, the king of Spain divided the land grant, giving Casa Colorado 132,000 acres while Tomé received 121,000 acres, he said. Eighty-four years later, the Town of Tomé Land Grant lost another 75,000 acres to back taxes, and, in 1968, a new board of trustees converted the land grant into a corporation, which, according to a

subsequent state supreme court ruling, it was not authorized to do. Mr. Sanchez noted that the court did not void the sale of the remaining 37,000 acres of the land grant acreage to Horizon Corporation by the "nonexistent" land grant corporation. Original Land Grant heirs saw very little of the money from that sale, according to Mr. Sanchez. The Town of Tomé Land Grant retains approximately one-half acre of common land, is now a political subdivision of the state and is trying to get back some of its traditional lands, he said.

Mr. Sanchez introduced Rita Padilla-Gutierrez, a Town of Tomé Land Grant board member who recently was appointed to the Land Grant Council. Ms. Padilla-Gutierrez said the board learned in 2006 about \$20,000 in undistributed funds from the 1968 land sale to Horizon Corporation and took action to try get that money returned to the land grant. She said the issue remains in limbo because of continued delays. She said the board hired a new lawyer in 2008 who promised to expedite the case. He did, and the result is a two-page court order that has yet to be signed, in part because one of the lawyers in the case now lives out of state and has not signed the order. Ms. Padilla-Gutierrez called it "a little unacceptable" for the process to take three years. She said that the land grant will use the money to create a fellowship program or to buy back former land grant lands as they go up for sale, as per its legal right of first refusal.

The committee discussed its options regarding the lack of progress in getting the court order signed , and it agreed to wait until its November meeting to decide on the proper course of action.

Representative Miguel Garcia asked whether Cerro de Tomé was owned by the Tomé Neighborhood Association. Ms. Padilla-Gutierrez replied that the Valley Improvement Association (VIA) is the successor to Horizon Corporation. She said the land grant has been trying to work with the VIA board to have Cerro de Tomé returned to the land grant. However, she said, it has been difficult to determine who sits on the VIA board and, thus, to organize a meeting and talk constructively about getting the hill returned to the land grant, but that with the help of Representative Barreras, who represents that area, perhaps they can do it.

In response to a question from the committee, Mr. Sanchez said that the VIA sustains itself with annual fees from homeowners. He also noted that the county had forgiven \$1.6 million in tax liability the VIA owed at one point.

In response to questions from the committee, Mr. Sanchez responded as follows:

- Tomé learns of former land grant property that goes up for sale by checking the newspapers because attempts to get a list from the county assessor's office have been unsuccessful.
- The land grant is not having problems with livestock being fenced.
- Federal grazing allotments on the west slope are still active, with attendant problems such as fences and water tanks being cut, cattle being shot and windmills being shot at, as well as having one of his brothers shot in the back with an arrow.
- The Department of Game and Fish and the U.S. Forest Service are aware of the problems, but they have not done their job in stopping these problems.

- Although the land grant had only 206 heirs, when Horizon bought it, more than 10,000 people claimed to be heirs. The court approved 6,600 heirs.

Manzano Land Grant Update

Daniel Herrera, vice president, Manzano Land Grant board of trustees, said his land grant was established in 1823 by people from La Joya and Tomé, and, like many settlers on the eastern slope of the Manzano Mountains, they spent much of their energy guarding against raids by Comanche and Apache Indians.

Mr. Herrera said the land grant was originally 48,000 acres, according to an 1879 map — the earliest one on record. Today, the land grant has about 17,000 acres left after the "American government split us apart", he said.

Mr. Herrera passed around photographs of the old Manzano Land Grant, including pictures of churches, *torreones*, an old schoolhouse, etc. He said he grew up speaking Spanish, and the main objective of his schooling was to learn English. This was all part of what he called a "consolidation movement", which he said resulted in the loss of the land grant's culture, traditions and language.

Mr. Herrera said his great-grandfather went to Catholic school in St. Louis to learn English and to learn the law so he could protect his society and the land grant. He said many land grant heirs do not trust the government because "any time you go to the government, you wind up losing land". However, he said, thanks to the work of the LGC, the government is "treating us like human beings". Mr. Herrera also thanked the committee for its help in dealing with the U.S. Forest Service after last year's fires. He said the land grant is currently working on a forest-thinning project.

Property Tax Classification and Valuation of Agricultural and Common Lands

Rick Silva and Michael O'Melia, director and deputy director, respectively, of the Property Tax Division of the Taxation and Revenue Department (TRD), explained to the committee how the TRD classifies agricultural land, which they said generally falls into three categories: 1) irrigated farm land; 2) dry farming land; and 3) grazing land. The determination is usually made by assessors, and the complaints usually involve grazing allocations.

Mr. O'Melia said it is common to give assessors latitude in assessing rural land because they tend to be familiar with topography and climate in their own counties. Determining that an animal unit has to be 609 acres, for example, does not take into account the difference between property that is mountainous rock and property that has a stream running through a valley, he said. But an assessor can speak to such things with authority, and the TRD does not have to commission an expensive study.

Juan Sanchez, president of the Land Grant *Consejo*, approached the speaker's table. He told the committee that land grant heirs understand the grazing laws and how to work with them. But they have concerns about how common lands are assessed and taxed. For example, he said,

his own land grant, Chililí, pays \$4,000 a year in taxes for 8,000 acres of common land while Cañon de Carnuel pays \$12,000 a year for 500 acres, and both land grants use their common lands for the same purpose. Mr. Sanchez suggested drafting legislation that would level the tax rates.

Representative Miguel Garcia asked Mr. Silva and Mr. O'Melia about a special designation within the tax structure for common lands. Mr. Silva said he sees no other way to classify that type of land except as agricultural, and the tax rate is set based on the value of the property.

Mr. O'Melia said the Property Tax Division can address assessment issues, but it does not set tax rates. He advised people in the agriculture realm to be careful about how they are being taxed and to declare livestock and request an agricultural classification. He said he knows of land grants that have agricultural and grazing exemptions but do not declare livestock, including one land grant with close to 98,000 acres that has declared 80 cows. "Those are lonesome cows, wandering around for bovine companionship," he said. He added, "We saw a lot more cows than that." He further advised that if a land grant is dryland farming, be sure to call the assessor to make sure it is not being charged for irrigation.

Representative Miguel Garcia explained that Mr. Sanchez was asking about standardizing common lands for assessment purposes only and not about changing the mill rate. Mr. Sanchez said the rate for common land that does nothing but hold rocks should have a different tax rate than land with a \$2 million home.

Senator Rue said it sounds like Mr. Sanchez was asking about creating a special assessment district within the common areas of land grants, which would involve assessing those properties in some kind of separate classification.

Mr. O'Melia said that land should be taxed on the basis of its value. But the situation Mr. Sanchez described, whereby one acre is divided between four people, for example, could render the land unbuildable, which lowers its value and, therefore, its tax rate. He suggested that the owners file a protest and point out that the land is a "fractional interest that precludes building", and the market value is less.

Mr. Sanchez said he has gone the protest route before, and he has also tried changing the description of the common lands — all to no avail. "I think it's important to expand the law to make the common lands of land grants a special district," he said.

Representative Bandy said he sees a problem in making a special classification for common lands; people do not like it when their neighbors pay a special rate. He asked if it is possible for the TRD to issue some kind of guidelines and have a special directive to assessors for special drylands. Mr. Silva said assessors must go by what is on the books. Representative Bandy commented that the valuation of property is based largely on its development potential. If that potential is not there or if it is less, then the assessed valuation should be less, he said.

Mr. Sanchez pointed out that the Anton Chico Land Grant is being doubly assessed because there are private holdings within the land grant. The board of trustees pays taxes on all 107,000 acres on the land grant while private individuals who own land within the land grant are also paying property taxes. The reason that the board of trustees continues to pay the taxes on the whole land grant is because it does not want to risk losing its land again for back taxes, Mr. Sanchez said.

Mr. O'Melia said that private land ownership on land grants is "incredibly complex". If the development potential is diminished, the assessor should already be picking up the change in value. If a land grant is holding a valuable piece of land, then the land grant should be charged on that basis. "I always worry about the unintended consequences of good acts," he said. If the regulations are not clear and are liberalized to capture everyone whose ancestors might have had an agricultural use, he continued, "some wisecracks in Santa Fe will get a couple of goats for their million dollar homes and declare themselves agricultural. There are folks taking advantage, but we do our best."

Responding to questions from Representative Bandy, Mr. Silva said that when he was an assessor, he had ongoing communications with the New Mexico Cattlegrowers' Association and the New Mexico Livestock Board to see if their numbers matched his. Those two agencies know who has bought and sold cows, he said. But not all assessors do the same thing, said Representative Hall. Even today, he said, assessors do not apply the code uniformly across the state. Mr. Silva agreed, saying that urban assessors particularly do not recognize agricultural assessments.

Other questions and comments from the committee included the following topics:

- What are classes A and B? (Class A comprises the northern part of the state with sagebrush and rolling hills. Class B is prairie-type land and grassland, more common in the southern part of the state.)
- Do nonprofit entities pay property tax? (Yes. They are exempt only from income tax.)
- Why do cities not pay property tax? (The Constitution of New Mexico exempts cities from paying property tax.)

Mr. Silva said the Property Tax Division understands that land grants are unique and that the issues are complicated. As the statutes are currently written, he said, there is no way to define clearly a special method of taxation for land grants without enacting new laws. He said he would like to visit with Mr. Sanchez to discuss the matter further, especially as it pertains to the Chililí Land Grant.

Mr. Sanchez said that Chililí has no problem with taxes, but other land grants may have problems if they get federal lands returned to them. If they succeed, they will have to pay taxes on those returned lands, even though the federal government never did. For example, he said, the Cañon de Carnuel Land Grant lost 90,000 acres to the U.S. Forest Service. If the forest service returned 30,000 of those acres tomorrow, Carnuel would have to pay taxes on 30,000 acres instead of just on the 500 acres currently in its possession. There is no way the board can

pay that, he said. So the land grant could once again lose that same land to back taxes, and the forest service could buy it at auction. Mr. Sanchez said he would like to work with the TRD to resolve this issue, perhaps by drafting legislation to make a special tax assessment for land grant common lands.

Land Grant *Consejo* Proposal on Land Grant Use Rights on State and Federal Land

Mr. Sanchez acknowledged that land grant heirs may never again own land that used to be theirs. The *consejo* is negotiating with state and federal agencies to grant heirs of land grants access rights, at least, on government land without their having to pay a fee to visit *camposantos*, for example; to gather wood, rocks, herbs, gravel and other natural resources; to graze cattle; etc. The agencies include the U.S. Forest Service and the U.S. Fish and Wildlife Service, the federal Bureau of Land Management and the state Department of Game and Fish.

Other issues on the council's agenda include:

- allowing land grant board members to be present when a government agency sells or trades land that used to belong, or is adjacent, to a land grant;
- compensating land grants for federal grazing leases on former land grant common lands; and
- working with the U.S. Forest Service on watershed restoration to avoid catastrophic fires such as the one in Manzano a few years back.

Representative Miguel Garcia proposed drafting an MOU with state and federal agencies to allow land grant heirs unfettered access for traditional uses to those federal lands that used to be common lands. He said this could pave the way for a "real clear-cut, viable, economic development success story". Representative Bandy suggested drafting a model MOU to be tailored for each individual agency because some agencies are harder to deal with than others. He said it would help to consult each agency about its land use plan and then see how the land grant fits into it. Representative Rodella commented that, unless an agency is presented with something tangible to which it agrees, it will not initiate negotiations. Mr. Sanchez said that is why it is important for the Land Grant Council to be involved.

Mr. Sanchez updated the committee on the membership of the Land Grant Council, saying that three appointments are completed, one is in process and a replacement is being sought for a fifth nominee who declined the appointment. He said he expects all members to be in place by the following week. He said the council is already backlogged on issues with which it should be proceeding, but the appointments are taking longer than expected.

Mr. Sanchez said land grants that are political subdivisions of the state are having trouble getting their capital outlay money because they are out of compliance with the Audit Act. The Audit Act requires all state entities to get a full audit — usually at a minimum cost of \$5,000, which is more than many land grants earn in a year. An amendment to the Audit Act that passed in last year's legislative session exempts some small state entities from a full audit, but the amendment does not go into effect until 2010. Until then, many land grants are in limbo in terms of getting their capital outlay money. Mr. Sanchez's own land grant, Chililí, was unable to get its

appropriation to purchase a wood chipper because of this dilemma. He said the council is asking the state auditor to say that the land grants are in compliance with the new law.

Arturo Archuleta, director of planning for the North Central New Mexico Economic Development District, said he is concerned that land grants will lose their capital outlay money in the current sweeps to balance the budget because, until the amendment to the Audit Act takes effect in 2010, they do not have access to the money.

Upon a motion made, seconded and unanimously approved, the committee agreed to write a letter to the Legislative Finance Committee, with copies to the state auditor and the Department of Finance and Administration, requesting that land grant capital outlay money be reserved until land grants are allowed by law to use it.

Public Comment

Leonard Martinez, president of the San Joaquin del Rio de Chama Land Grant, introduced himself as the fourth member of the Land Grant Council board of directors. He said he hosted the LGC in Gallina several years ago. Since then, he said, all the grave markers in the Gallina cemetery have been stolen. The cemetery is located in a national wilderness area and should be pulled out of it, he said, especially because a lot of elderly people want to be buried there. He said the land grant is working with attorneys on the issue, which he said will be settled through the courts.

Representative Miguel Garcia recalled a comment at the committee's previous meeting in Taos about different land grant organizations forming. He referred in particular to the re-establishment of the *Alianza Federal de Mercedes* by Rosita and Noe Tijerina, daughter and son of the late Reies Lopez Tijerina, who was one of the land grant movement's founders. He said that the LGC does not want to "meddle in the internal affairs" of the Land Grant *Consejo*, but he received calls from some members of the *consejo* who are concerned about disunity. He said the *Alianza's* approach is "real different — it's more media-focused, not working with the grass roots, muddying their hands and dirtying their work pants". He added that, until the July meeting in Taos, the Tijerinas have never come to a LGC meeting. He stressed that the committee is not siding with any faction; it is just pursuing all issues to do with land grants.

Mr. Sanchez said the *Alianza* and the Land Grant *Consejo* have different views of what the *consejo* should do. The *Alianza* is more concerned with sovereignty while the *consejo* wants to concentrate on policy issues, he said. "They think there should be nothing else but the treaty [of Guadalupe Hidalgo]," Mr. Sanchez said. "I'm not against it, but there are certain ways of gaining respect and rights. There's a way to move forward positively or yip-yapping and then they go away. But that's just me talking."

The committee recessed at 5:15 p.m.

Friday, September 4

Tour of La Joya and Sevilleta

The committee toured La Joya Land Grant and the Sevilleta Wildlife Refuge.

The committee adjourned at approximately 1:00 p.m.