

1 A JOINT MEMORIAL

2 REQUESTING THAT NEW MEXICO'S CONGRESSIONAL DELEGATION
3 INTRODUCE LEGISLATION TO ADDRESS THE NEW MEXICO ATTORNEY
4 GENERAL'S REPORT ON HISTORICAL INEQUITIES ARISING FROM THE
5 LAND GRANT CONFIRMATION PROCESS FOLLOWING THE SIGNING OF THE
6 TREATY OF GUADALUPE HIDALGO.

7
8 WHEREAS, from the end of the seventeenth century to the
9 mid-nineteenth century, the sovereigns of Spain and Mexico
10 made land grants to individuals, groups and towns in New
11 Mexico; and

12 WHEREAS, the Treaty of Guadalupe Hidalgo was signed on
13 February 2, 1848 between the United States and Mexico, and
14 Article VIII of the treaty guaranteed that the private
15 property rights of the inhabitants in the ceded territories
16 as well as the rights of their heirs would be respected; and

17 WHEREAS, Article VI of the United States constitution
18 affirms that treaties are the supreme law of the land; and

19 WHEREAS, Article 2, Section 5 of the New Mexico
20 constitution states that the rights guaranteed to the people
21 of New Mexico under the Treaty of Guadalupe Hidalgo shall be
22 preserved inviolate; and

23 WHEREAS, in 2001, United States Representative Tom Udall
24 introduced H.R. 1823, which would establish a presidential
25 commission to determine and evaluate the validity of certain

1 land claims arising out of the Treaty of Guadalupe Hidalgo;
2 and

3 WHEREAS, New Mexico Senators Pete V. Domenici and Jeff
4 Bingaman and Representative Tom Udall requested that the
5 United States general accounting office study how the United
6 States has implemented the provisions of the Treaty of
7 Guadalupe Hidalgo that pertain to the protection of community
8 land grant claims in New Mexico; and

9 WHEREAS, in 2001, the general accounting office
10 identified lands in New Mexico that it considered to be
11 community land grants, and in 2004, it issued a final report
12 concluding that the treaty was "implemented in compliance
13 with all applicable U.S. legal requirements"; and

14 WHEREAS, the report identified options the United States
15 congress could consider in response to concerns regarding New
16 Mexico community land grants, including: (1) taking no
17 additional action; (2) acknowledging difficulties in
18 evaluating the original claims; (3) establishing a commission
19 or other entity to evaluate and resolve concerns about
20 individual claims or categories of claims; (4) considering
21 transferring federal land to communities; and (5) considering
22 making financial payments to claimants' heirs or other
23 entities for the nonuse of land originally claimed but not
24 awarded; and

25 WHEREAS, following the issuance of the 2004 general

1 accounting office report, the New Mexico legislature in House
2 Joint Memorial 41 requested that the United States congress
3 support legislation to implement the options suggested by the
4 general accounting office report; and

5 WHEREAS, in 2003, the New Mexico legislature created a
6 Guadalupe Hidalgo treaty division in the state attorney
7 general's office; and

8 WHEREAS, the division commissioned an independent
9 response to the 2004 general accounting office report, which
10 was prepared by New Mexico legal aid; and

11 WHEREAS, having received the report from the attorney
12 general, the legislature believes it to be an excellent and
13 well-researched piece of historical and legal scholarship
14 that raises serious questions and concerns about the general
15 accounting office's legal conclusions, the basis for its
16 reasoning and inequities affecting the historical treatment
17 of land grants in New Mexico; and

18 WHEREAS, the evidence presented by the attorney
19 general's report raises serious doubts about the historical
20 fairness of the land grant confirmation process as well as
21 the lack of due process and a misunderstanding by the general
22 accounting office of Spanish and Mexican law;

23 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
24 STATE OF NEW MEXICO that the attorney general's report be
25 entered into the United States Congressional Record by New

1 Mexico's congressional delegation; and

2 BE IT FURTHER RESOLVED that, since the ability of the
3 judicial branch of government to address land grant claims
4 has been severely limited by United States supreme court
5 jurisprudence, as made very clear in both the general
6 accounting office report and the attorney general's report,
7 the United States congress should consider all its
8 legislative options to address this important matter; and

9 BE IT FURTHER RESOLVED that the New Mexico legislature
10 call on New Mexico's congressional delegation to take a
11 leadership role in addressing concerns raised in the attorney
12 general's report and to consider fully all appropriate
13 remedies to address the historical treatment of land grant
14 claims in New Mexico; and

15 BE IT FURTHER RESOLVED that copies of this memorial be
16 transmitted to the members of New Mexico's congressional
17 delegation.
