

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

**July 5-6, 2016
Penasco Community Center
Penasco**

The second meeting of the Land Grant Committee for the 2016 interim was called to order by Senator Jacob R. Candelaria, chair, at 10:10 a.m. on July 5, 2016 at the Penasco Community Center in Penasco.

Present

Sen. Jacob R. Candelaria, Chair
Rep. Sarah Maestas Barnes, Vice Chair
Sen. Ted Barela (7/5/16)
Sen. Lee S. Cotter
Rep. David M. Gallegos
Rep. Miguel P. Garcia (7/5/16)
Sen. Linda M. Lopez (7/5/16)
Sen. Gerald Ortiz y Pino (7/5/16)
Rep. Debbie A. Rodella
Sen. Sander Rue (7/5/16)
Rep. Tomás E. Salazar
Rep. Bob Wooley (7/5/16)

Absent

Rep. Jimmie C. Hall
Sen. Richard C. Martinez

Advisory Members

Rep. Eliseo Lee Alcon
Sen. Carlos R. Cisneros
Rep. Randal S. Crowder
Rep. Matthew McQueen (7/5/16)
Rep. Christine Trujillo (7/5/16)

Rep. Paul C. Bandy
Rep. D. Wonda Johnson
Rep. Patricia A. Lundstrom

(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
Peter Kovnat, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Tuesday, July 5

Senator Candelaria asked committee members to introduce themselves, which they did.

Welcome and Status Updates: La Merced de Santa Barbara (Santa Barbara) and Santo Tomas Apostol del Rio de las Trampas Land Grant-Merced (Las Trampas)

Alex Lopez, president, Las Trampas, read a condensed history of Las Trampas covering the period from 1751 to today and provided the committee with a map showing lands of Las Trampas and Santa Barbara and the surrounding area (see handout: "Santo Tomas Condensed History"). He also provided the committee with a larger exposition by Bert Lucero of the history of the land grant and its struggles to maintain control of its common lands (see handout: "Merced de Santo Tomas History and Land Challenges"). He noted that the original settlers of the land grant had been a mixture of Spanish soldiers and Tlaxcalan Indian *genizaros*.

Henry Trujillo, secretary, board of trustees, Santa Barbara, walked the committee through a package, including a map showing the boundaries of Santa Barbara, its associated towns and neighboring land grants; a time line of the grant's first 60 years; and a short exposition regarding the loss of land by land grants (see handout: "Santa Barbara History"). Noting that he can trace his family to the original settlers, Mr. Trujillo said that Santa Barbara first applied for land grant status in 1739, but the land was periodically abandoned because of raids by groups of Apaches and Comanches.

Bonifacio Vasquez, president, Santa Barbara, read from a prepared statement (see handout: "Santa Barbara Briefing"). He said that he remembered Penasco and its surrounding 20 communities as small, but thriving. However, he said that the area has seen a general loss of businesses and employment opportunities. He said that the local U.S. Forest Service (USFS) ranger district used to provide summer youth employment and have its own "hot shot" crew. He said those programs are now gone, and the ability to use the national forests for raising cattle and for timber operations has been sharply reduced.

Mr. Vasquez also talked about how the local communities depend on the forest watershed to provide water for their acequia systems and for firewood for cooking and heating. He also noted that land grants have seen a loss of their lands through squatters and legal shenanigans. He stated specific frustrations regarding difficulties in getting adequate permits for woodcutting and grazing permits within the national forest for land grant members. He also talked about how challenging it has been to get permitting from the USFS to rehabilitate the stream diversion that feeds the acequias for Santa Barbara and Las Trampas.

Mr. Vasquez then spoke about the forest plan revision process for the Carson National Forest and a proposal by the New Mexico Wilderness Alliance and others to expand the Pecos

Wilderness into the upper Santa Barbara watershed. He said that the upper watershed was part of the original boundaries of the Santa Barbara and Las Trampas grants and that the proposal raised three general concerns: 1) expanding the wilderness would create additional obstacles for traditional, and needed, uses of the land, such as firewood and timber supplies, grazing and water collection; 2) removing active land use and management heightens the risk of forest fires and creates obstacles to fighting them; and 3) land grants will continue to press the issue that these original grant lands were taken in unjustified court decisions and that they should be returned.

Mr. Vasquez expressed frustration both with how the land grants found out about the Pecos Wilderness proposal and the USFS's separate process for reviewing lands with wilderness characteristics. He said that Santa Barbara and Las Trampas had not heard of the proposal to expand the Pecos Wilderness until a resolution to endorse the proposal was brought before the Taos County Commission. He also said that maps were not provided at the first meeting held by the Carson National Forest regarding its forest plan revision, including lands with "wilderness characteristics". He indicated that the lack of notice on the proposal, combined with a lack of maps by forest planners, gave the appearance of trying to exclude the local communities from any meaningful voice in the decision.

In conclusion, Mr. Vasquez said that the continuing loss of land by land grants and the continued restricted use of national forest lands is bad for the Penasco area. He asked for legal assistance from the state regarding squatters on private land and the rights of land grants. He also requested that the state provide cost-share funding to leverage a federal acequia repair and improvement program.

The committee then entered into a general discussion. In response to how agricultural land use had been allocated in the original grants, audience members said that each family had traditionally been given a number of *varas* (strips of land about 32 inches wide) to work for themselves. Those land allocations varied from grant to grant. David Arguello said the allocation at Arroyo Hondo Arriba was about 2.5 acres per family, and Francisco "El Comanche" Gonzales said that the allocation was five acres at Cristóbal de la Serna. Mr. Trujillo said that the Santa Barbara common lands were partitioned in 1903, and many lots were subsequently sold off. However, he said, many of those land sales were not above-board. A committee member said that common land in Las Trampas was sold to Frank Bond, who then sold it to Las Trampas Lumber Company in Albuquerque. Next, it was sold to a company in Grants, and it eventually ended up in the hands of the USFS.

The rest of the discussion focused on issues of local access and use of the national forest lands. Issues raised include:

(1) the number of permits for green wood and dead and downed fuel is insufficient to meet the needs of the area residents, the vast majority of whom use wood to heat their homes and many of whom also cook with wood;

(2) the number of elk permits could be increased to meet local family needs and could be used by the land grants as a viable way to promote economic activity via hunting tourism;

(3) the wilderness designation of USFS land that makes up part of the two land grants' original tracts;

(4) that a key concern is access to water and maintenance of the watershed so it does not become overgrown; and

(5) how closing forest roads prevents access for forest thinning, cattle grazing and firefighting crews.

In response to a question about the involvement of the Pueblo of Picuris in the forest plan revision process, Mr. Vasquez said there has been no official involvement of which he is aware.

Carson National Forest: Forest Plan Revision Progress and Camino Real Update

Kevin Naranjo, forest planner, Carson National Forest, began his presentation on the forest plan revision process by saying that only Congress can designate new wilderness areas. The USFS, however, is required to evaluate forest lands for wilderness characteristics and make land use recommendations as part of its forest plan process. Mr. Naranjo said that the forest planning process includes meeting with the public. At every step, he said, local residents have a voice.

In January 2016, the USFS did an inventory of the Carson National Forest and found that there are 1.45 million acres in its land inventory. Currently, 8% of the Carson National Forest is designated as wilderness. The inventory found nine additional areas, one being land adjacent to the Pecos Wilderness that could potentially be designated as wilderness.

An evaluation for wilderness characteristics includes the following requirements:

(1) the area must be 5,000 or more acres of roadless land or roadless land adjacent to an existing wilderness area; and

(2) the area must not have significant human-made structures.

These areas are then assessed for apparent naturalness; opportunities for isolation or primitive recreation; geographic character; uniqueness on the landscape, such as a mesa; and manageability.

Mr. Naranjo said that the forest plan revision process requires public engagement, and he acknowledged the frustration of having initial meetings without maps outlining areas that were initially evaluated for wilderness characteristics. He indicated that starting the public engagement without maps was required, but it created difficulties. He said that although the

process has started, it will not be finished until mid-2018, and public comment is encouraged throughout the process. The USFS plans to start working with cooperating agencies in November 2016, and it will have an environmental impact statement (EIS) prepared by May 2017. He noted that the EIS is required to include an analysis of the social and economic, as well as environmental, effects of the plan, including the effects of any wilderness designations.

Mr. Naranjo said that once the Carson National Forest has developed a proposed plan, it then must be approved by the chief of the USFS and the U.S. secretary of agriculture before any agency recommendations regarding wilderness can be submitted to Congress.

In response to a question from a committee member, Tammy Malone, district ranger, Camino Real District, Carson National Forest, said that grazing is allowed in wilderness areas, that existing permits are respected and that fences can be fixed. However, motorized access is not allowed in a wilderness area except in an emergency situation. She also said that fewer grazing permits are being issued in the Camino Real District because of conditions based on the carrying capacity of the forest. There is denser tree growth, which leads to less grass and, thus, less grazing.

In a general discussion regarding grazing, committee members talked about increasing the carrying capacity of the land and whether land grants could be given preference for permits. Responding to a question about comparing the access available to enrolled members of Indian tribes to land grant heirs, Ms. Malone said that the federal "farm bill" specifically requires the USFS to work with tribes to satisfy ceremonial requests, but there is no statutory provision for traditional uses by land grant heirs.

A committee member questioned whether the USFS is committed to public input, stating that two public meetings to discuss the wilderness designation got shut down because they were contentious. The committee member said that stopping those meetings was leading some local residents to believe that they would not have an opportunity to express their opinion. Another legislator noted that the Carson National Forest, and the USFS in general, is losing funding, or, at best, has a flat budget. The legislator said that without steady funding, it is hard for the USFS to do long-term planning and meet the public's expectations.

The committee concluded the discussion by requesting that Cibola National Forest personnel be invited to discuss its forest plan revision process and the Dog Head fire at the committee's meeting in August.

Business Creation: Threshold Questions for Land Grants-Mercedes

Russell Wyrick, state director, New Mexico Small Business Development Center (SBDC), Santa Fe Community College, said that the center is funded by a grant through the United States Small Business Administration and with state matching funds, which appear as a line item in the Higher Education Department budget. The SBDC serves all 33 counties in New Mexico.

Mr. Wyrick provided an outline of initial questions that a land grant should answer before it develops a business plan (see handout: "Initial Questions in Developing a Business Plan"). He focused on legal business structures, risk assessment and how best to limit liability. He suggested that land grants search for opportunities to provide "economic-base jobs". Economic-base jobs are in businesses that provide a product or service sold outside of the state, or in other parts of the state, so that new money starts flowing through the local economy. This provides the most potential for businesses to grow, which will, hopefully, lead to more job creation.

Mr. Wyrick raised three additional questions that land grants should look into when they are developing a business plan.

- (1) Who will fill the entrepreneurial role in building the business?
- (2) How will the land grant define success for the business (the number of jobs created, the amount of revenues to the grant, etc.)?
- (3) Should the grant create a stockholding company to limit its liability?

Currently, the SBDC and the Economic Development Department are working with rural communities, such as land grants, to provide technical assistance. Anyone that wants to start a business in New Mexico can contact the local SBDC and receive help to assess the viability of a business plan and the feasibility of using a bank loan for its start-up costs.

At this time, there are 19 SBDC offices and nine satellite offices, which are not staffed year-round. There is no office or satellite in Penasco, Mr. Wyrick noted, but travel to rural locations does happen. He said that future funding would need to grow if SBDCs are to expand.

In the ensuing discussion, the committee focused on how the SBDCs can build outreach programs for small, rural communities. The committee also asked for a presentation later in the interim on the overall tax liabilities of land grants.

Governance Issues and Training Needs for Acequias

Paula Garcia, executive director, New Mexico Acequia Association (NMAA), said that acequias and land grants have many similarities and that many land grants have a number of acequias within their boundaries. However, unlike land grants, acequias have been in statute since territorial times. She said that the territorial government codified the basic principles of acequia governance, including the democratic election of a *mayordomo* (ditch manager) and the practice of sharing water (*repartimiento*). She said that there are 533 active acequias in the state; however, the number varies depending on how many active members each one has. Many acequia associations were created as a response to general stream adjudications.

Ms. Garcia said that the NMAA's main activities are to provide technical assistance and overcome bureaucratic hurdles. She said much of the NMAA's work involves helping acequias

meet the state's infrastructure capital improvement plan requirements for funding assistance. She said that the NMAA also regularly assists acequias that need to work through permitting requirements to repair ditches and diversions that are on state or federal lands. Ms. Garcia said that 300 of the 533 acequias in the state pay dues to the association. The dues are \$40.00 a year.

Senator Candelaria asked that the NMAA and the New Mexico Acequia Commission be invited to the committee's meeting at the end of the interim to provide information on what they would be seeking during the next legislative session.

Public Comment

Candyce O'Donnell, Taos County commissioner, District V, said that Santa Barbara and Las Trampas are included in the county's regional plan. Now that they are recognized as political subdivisions of the state, she hopes the USFS will be more open to their involvement in this assessment process. Speaking of the proposal to expand the Pecos Wilderness, she said that the wilderness proponents lobby aggressively. Finally, she said, the Santa Barbara watershed has the most water of any watershed in Taos County.

Justin Wright, heir, Las Trampas, said the USFS evaluation is just to decide how much more land will be taken from land grants. He said nothing is being done to address past wrongs. Mr. Wright said that while the USFS claims not to have favorites, when certain individuals and entities have access to information before others, that amounts to having favorites.

Mr. Gonzales said this is an ongoing fight and that there is a lack of outreach to land grants or acequias about issues that affect them.

Carmen Quintana, heir, Santa Fe Land Grant, asked who owns the Land Grant Permanent Fund and asked why the legislature does not distribute that to New Mexicans.

Motions

1. Upon a motion, seconded without objection, the committee asked staff to pen a letter to the USFS asking about the changing land use designations in the Pecos Wilderness area and asking for a map showing those changes since the 1980s.

2. Upon a motion, seconded without objection, the committee asked staff to request the USFS to provide a legal analysis of whether, because of their status as political subdivisions or through their historical ownership of the land, land grants-mercedes or their members could be given use and permit preferences on forest lands.

3. Upon a motion, seconded with one objection, the committee asked staff to pen a letter to the New Mexico congressional delegation expressing the committee's opposition to the wilderness designation as recommended by the New Mexico Wilderness Alliance and others.

4. Upon a motion, seconded with one objection, the committee asked staff to pen a letter to the USFS expressing the committee's opposition to any expansion of wilderness areas in the Carson and Santa Fe national forests.

There being no further business before the committee, the meeting recessed at 6:18 p.m.

Wednesday, July 6

Tour of Santa Barbara and Las Trampas

Committee members and staff toured the two land grants.

At 1:38 p.m. the tour ended and the committee adjourned.