

NM Land Grant Consejo | NM Land Grant Council | UNM Land Grant Studies Program

## Land Grant-*Merced* Leadership Conference

Institute of American Indian Arts, Santa Fe, NM

10 December 2016

### Agenda

9:00 Continental breakfast

9:30 Welcome, invocation, introductions and overview

10:00 Write one or more post-it comments for the “**Land grants are. . .**” posters on the wall: *What is one thing that you want people to know about land grants?*

10:15 **Breakout sessions**, 40 mins each with five minute break between each session (facilitators will rotate)

**Session A: Federal issues** .....2

1. Traditional uses (legislation and administrative)
2. Addressing past injustices
3. Financial resources for land grants
4. Addressing wilderness expansion efforts on former common lands
5. Land recovery
6. Congressional repeal of *U.S. v Sandoval* (1897)
7. Other issue to be defined by group

**Session B. State issues** .....4

1. Assuring a revenue stream for community land grants.
2. Amending the taxation of common lands
3. Accessing capital outlay dollars
4. Traditional uses (state owned former common lands)
5. Relationships with state agencies
6. Other issue to be defined by group

**Session C. Individual land grant issues**.....6

1. Capacity building and management issues
2. Education of youth and renewing leadership
3. Relationships with other land grants and local governments
4. Land management
5. The modern role of the land grant
6. Recovery of privately owned lands within former common lands
7. Other issue to be defined by group

**12:30 Lunch**

**1:30 Reports by facilitators on highlights discussed in break-out sessions**

**1:45 Discussion of roles of the following entities in addressing above issues**  
*Background on entities*.....7

1. Staff of the New Mexico congressional delegation
2. Land grant Interim Committee of the New Mexico Legislature

3. New Mexico Land Grant Council
4. Attorney General's Office - Treaty of Guadalupe Hidalgo Division

**15-minute Break about here**

5. UNM Land Grant Studies Program
6. New Mexico Land Grant Consejo / Merced Land Education & Conservation Trust (MLECT)
7. Individual land grant boards of trustees and heirs

**3:45 Coordination of entity action**

4:00 SUMMARY AND FINAL REFLECTIONS

4:30 Adjournment

## **Summary of issues and questions for discussion**

### **Session A: Federal issues**

1. TRADITIONAL USES (LEGISLATION AND ADMINISTRATIVE)

Summary: Promoting access to former common lands owned and managed by federal agencies such as the U.S. Forest Service or the Bureau of Land Management has been the primary on-going effort for federal policy change by land grant organizations since 2011. On the **legislative** front, we have worked with the congressional delegation staff to draft a bill, not yet introduced, to address such access. On the **administrative** front, we have worked with the U.S. Forest Service to incorporate such access into the Cíbola, Carson, and Santa Fe National Forest Plans now undergoing revision and with BLM on federal land disposal.

Questions:

1. How important is traditional use access for land grant heirs and their boards of trustees in the short and long run?
2. Is it worthwhile to continue to invest political capital and energy in these efforts?

2. ADDRESSING PAST INJUSTICES DUE TO ACTIONS BY FEDERAL GOVERNMENT

Summary: Land grant heirs have felt, since the late 1800s, that the land grant adjudication process violated their property rights. The loss of common lands, to the federal government, to unscrupulous lawyers and government officials, led to rural poverty and emigration from New Mexico's land grant communities. We have been unsuccessful in getting the federal government to establish a commission to review these circumstances in order to provide relief. At the request of the congressional delegation land grants established an organization ten years ago (the Consejo) to represent statewide land grant interests. Also in response to the delegation land grants have temporarily set aside comprehensive proposals (a commission, a "trust fund") and focused on piecemeal administrative and legislative proposals (forest plan revisions, traditional uses bill, EQUIP funding).

Question:

1. List what you think should be the federal remedies to address these injustices and identify their importance.

3. FINANCIAL RESOURCES FOR LAND GRANTS

Summary: Although earmarks are no longer an option in congressional action, there are a variety of federal programs that can provide important resources for community land grants. One example, the EQUIP program, which provides funding for land conservation and restoration projects, would be appropriate for those land grants that manage common lands. However, units of government are not eligible for the program under current legislation. The New Mexico congressional delegation will continue to make efforts to amend the Farm Bill so that land grant units of government become eligible. **On a separate front**, land grants have sought to get the delegation to support a funding mechanism to compensate community land grants for past injustices, sometimes referred to as a “trust fund.”

Questions:

1. Do community land grants have the capacity to take advantage of federal programs that provide financial support? If not, why not?
2. Assuming we pursue establishing a federal restitution program for land grants, do we want compensation for individual heirs or a fund to establish programs and services for land grant communities?

4. ADDRESSING WILDERNESS EXPANSION EFFORTS ON FORMER COMMON LANDS

Summary: Environmental organizations have promoted expansion of wilderness areas in recent years and the current National Forest Plan revision process explicitly incorporates identifying areas for wilderness character and management as mandated by federal rule. Several years ago the Consejo adopted a resolution opposing wilderness expansion into areas that are former common lands because such designations would enormously complicate access for traditional use purposes, federal land disposal, and land recovery. We face both opportunities and challenges in working with environmental organizations regarding wilderness expansion and traditional use access.

Questions:

1. Is opposition to wilderness expansion for all areas that were former common lands of active community land grants a desirable position for land grants? Why or why not?
2. Environmental groups can be expected to be allies and adversaries, depending upon the issue in the years ahead. How should land grants minimize avoidable conflict and manage disagreement where values diverge?

5. LAND RECOVERY

Summary: Much of land grant former common lands is owned by the federal government. To some extent federal land recovery can be pursued in specific areas rather than comprehensively using the existing federal land disposal processes such as the Town Site Act. BLM has expressed a willingness to transfer cemeteries

that previously were owned and used by community land grants and the Forest Service and land grants are currently exploring the possibility of the transfer of the Piedra Lumbre Visitors Center to four land grants.

Questions:

1. What actions can land grants take now to strengthen their position to acquire federal lands in the future?
  3. How should we prioritize land recovery efforts?
6. CONGRESSIONAL REPEAL OF *U.S. v SANDOVAL* (1897)  
Summary: In 1897 the U.S. Supreme Court interpreted the Court of Private Land Claims enabling act to allow the federal government to take common lands without compensation under the theory that they belonged to the sovereign (the Mexican government) before the Treaty of Guadalupe Hidalgo. This legal theory has been challenged and the GAO report indicated that Congress could legislatively repeal the *U.S. v. Sandoval* decision, which would have the effect of requiring the federal government to either return approximately 3.4 million acres to land grants or to compensate the land grants for this taking. Getting a congressional resolution to this effect would require significant legal research and pushing for legislation against substantial opposition.

Question:

1. How do we address this land grant injustice?

## **Session B: State issues**

1. ASSURING A REVENUE STREAM FOR COMMUNITY LAND GRANTS  
Summary: Community land grants, unlike other units of government, do not have a revenue stream from taxes, public fees, or state revenue sharing. All rely on a combination of income derived from common land leases, land grant-owned businesses, membership dues, fees and donations. All have to pay property taxes and so just to maintain ownership of common lands they must generate income. Various proposals for providing land grants with a revenue stream have been considered.  
Question:
  1. If your land grant had a guaranteed revenue stream how would it be utilized?
2. REDUCING OR EXEMPTING PROPERTY TAXES FOR COMMON LANDS  
Summary: Community land grants, unlike other units of government, pay taxes on the common lands they own. Property taxes tend to be high relative to the annual income available to *mercedes*, and this is one of the major sources of the loss of common lands. The total amount paid by all land grants combined, however, is minuscule relative to the property taxes received by counties. Eliminating or reducing land grant property taxes would hardly be noticeable to counties, though changing the tax rates for land grounds may generate opposition.

Questions:

1. How many land grants do not pay taxes, and if so, why not?
2. What is impact of the common lands property tax bill on your land grant's annual budget?

3. OBTAINING CAPITAL OUTLAY FUNDS FOR UNITS OF GOVERNMENT

Summary: Community land grants can benefit from capital outlay monies but the process is complicated, especially because land grants do not have bank balances high enough to advance capital costs on a reimbursement basis. This has resulted in many land grants reverting capital outlay dollars back to the State before they can be spent.

Questions:

1. What changes would need to be made in the administration of capital outlay dollars at the state level in order for funds to be expended on their intended projects successfully?
2. What ideas do we have for legislative fixes for this problem?

4. TRADITIONAL USE ACCESS OR RECOVERING FORMER COMMON LANDS FROM STATE AGENCIES

Summary: Some areas of former common lands are currently owned and managed by state agencies. Members of the Interim Committee on Land Grants have expressed an interest in returning all such land to land grants. One such transfer took place in 2008 when Game and Fish returned 33 acres to Town of Abiquiú; another was the transfer of a community center and four acres by Valencia County to the Town of Tomé. Though the federal government owns most of the former common lands, the state share is not small; for example, in some land grants the State owns a larger portion of former common lands than the federal government. Leadership by the state in this area could influence federal policy responses.

Questions:

1. Should we push for traditional use access in former common lands owned by the State of New Mexico and its agencies, both on the legislative and administrative fronts?
2. Does your land grant have former common land owned or managed by state agencies? Which ones?

5. DEVELOPING WORKING RELATIONSHIPS WITH STATE AGENCIES

Summary: Community land grants as units of government mostly interact with the Department of Finance and Administration (budget reports) and the Office of the State Auditor (annual financial reporting). There is a need to develop more direct relationships with state agencies that manage former common lands such as the Department of Game and Fish, the State Parks Division, and the State Land Office, as well as those that provide technical assistance such as State Forestry and the State Department of Agriculture.

Questions:

1. What have those relationships been like? How can they be improved?
2. Is it important to establish relationships with other state agencies? Which ones?

### **Session C: Individual land grants issues**

1. CAPACITY BUILDING: IMPROVING THE SKILLS OF LAND GRANT BOARDS AND HEIRS

Summary: Community land grants face a set of daunting challenges to be addressed by volunteer boards and only one or two land grants have had the resources in the past to hire, even temporarily, support staff. Part of the issue is time, but a more critical issue is personnel with skills, especially on boards of trustees.

Questions:

1. In what areas do land grants need more capacity?
2. What types of support from state agencies should be obtained to build capacity?

2. EDUCATION OF YOUTH AND DEVELOPING THE NEXT GENERATION OF LEADERS

Summary: Although there is an encouraging number of young adults (under 50) who are active on boards of trustees and in the land grant movement, there are relatively few people engaged in land grants under 30 years of age.

Questions:

1. How do we tap the knowledge and experiences of older leaders before they pass on?
2. How should land grants engage a broader segment of the younger community?

3. IMPROVING RELATIONSHIPS WITH OTHER LAND GRANTS AND LOCAL GOVERNMENTS

Summary: Community land grants interact to varying degrees with counties, soil and water conservation districts and other local governments.

Questions:

1. Where do land grants share common interests with local government entities?  
Where do interests tend to diverge?

4. DEVELOPING LAND MANAGEMENT POLICIES

Summary: One of the major functions of a community land grant is the management of their common lands. Land management by land grants has, in the past, largely been improvised and based on individual experiences, mainly as a result of having been engaged in agriculture. The state requires that land grants, as is the case with other entities, to develop and maintain a comprehensive master plan if they will use their zoning authority. Land grants, however, do not have resources to hire a land management specialist for their common lands or for watershed improvements.

Questions:

1. What types of support do land grants need to better manage their common lands?
2. What mechanisms may be set up to facilitate the exchange of experiences by land grant boards of trustees and others with land management expertise?

5. THE MODERN ROLE OF THE LAND GRANT

Summary: Many land grants no longer have common lands; many others that do have small acreages and little or no agricultural or pastoral use. The purpose of common lands remains to be used for the benefit of heirs. Many land grants have moved to become service land grants.

Questions:

1. What should be the service (and other) roles of the modern land grant?

6. LAND RECOVERY OF PRIVATELY OWNED LANDS WITHIN FORMER COMMON LANDS

Summary: Lands owned by heirs and others within patented boundaries are transferred or sold to nonheirs all the time. This constitutes a threat to the integrity of our communities.

Questions:

1. What options do land grants have to recover lands?
2. What options do land grants have to protect the integrity of their communities?

---

## Background on entities

**New Mexico Congressional Delegation** - The NM Congressional Delegation offices in both New Mexico and Washington D.C. have played an important role in advancing policy initiatives relating to community land grants. These include advocating and supporting U.S. Forest Service and Bureau of Land Management administrative efforts to respond to community land grant needs; working on the development of traditional use access legislation for former land grant common lands that are now managed by federal agencies; and advancing administrative and legislative initiatives to provide federal resources to community land grants and their heirs.

**Land Grant Interim Committee of the New Mexico State Legislature** - The Land Grant Interim Committee was established in 2003 by the New Mexico Legislature. The purpose of the Committee is to hear testimony relating to issues faced community land grants across the state and, where appropriate, to develop legislative policy solutions to those issues. The committee is comprised Democratic and Republican legislators from both the House and Senate Chambers. The Committee convenes its meetings between the months of June through November and has adopted a policy of holding its meetings in land grant communities. At the end of every interim session the Committee endorses official legislation to be introduced during the subsequent regular legislation session. The committee has been instrumental in passing important land grant-*merced*

legislation including but not limited to: recognizing most community land grants as political sub-divisions of the state; abolishing adverse possession claims on land grant common lands; returning 32 acres of state owned land to the Merced del Pueblo de Abiquiú; and establishing the UNM Land Grant Studies Program, the New Mexico Land Grant Council and the Treaty of Guadalupe Hidalgo Division of the New Mexico Attorney General's Office.

**New Mexico Land Grant Council** - The Council was created in 2009 by the New Mexico Legislature (NMSA 1978, §49-11-1). Its five councilors are appointed by the Governor. The general purposes of the Council are to provide advice and assistance to land grants, serve as a liaison between land grants and federal, state and local governments, and administers a land grant support program as well as the Land Grant Registry. By statute the Council can only provide support and assistance to community land grants that are political sub-divisions of the state or that are seeking that status. The Council is administratively attached to the Department of Finance and Administration but has a service contract with the University of New Mexico to provide staffing and administrative support to the Council. Council staff provides direct technical assistance to community land grants in a variety of areas including governmental capacity building. The Council also funds a contract with New Mexico Legal Aid to provide free legal advice and assistance to eligible community land grants. In addition, the Council administers the Land Grant Support Fund which provides direct funding support to eligible community land grants for small capital purchases and the Land Grant Registry, at which all land grants are required to register election results, the names and contact information of board members, and serve as repository for individual land grant information.

**Treaty of Guadalupe Hidalgo Division - New Mexico Attorney General Office** - The Treaty Division was created by the New Mexico Legislature in 2003 to “review, oversee and address concerns relating to the provisions of the Treaty of Guadalupe Hidalgo that have not been implemented or observed in the spirit of Article 2, Section 5 of the constitution of New Mexico” (NMSA 1978, §8-5-18). In 2008, through a contract with New Mexico Legal Aid the Treaty Division developed a response to the 2004 General Accounting Office Report GAO-04-59 *Treaty of Guadalupe Hidalgo Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico*. The response provided legal analysis that underscored shortcomings of the GAO's analysis and conclusions. The Treaty Division, however, was not formally staffed until the fall of 2016. It has begun to develop a work plan for addressing its statutory mission in order to support New Mexico's community land grants and *acequias*.

**UNM Land Grant Studies Program (LGSP)** - The LGSP was established in 2008 at the University of New Mexico through funding appropriated by the New Mexico Legislature. The mission of the LGSP is to provide research, analysis, and dissemination of information relating to community land grants through public outreach to *mercedes* and the broader community as a whole. Activities include the research of historical documents at local, national, and international archives relating to land grants claims, adjudication, and government policies. It has developed maps of patented, historical and traditional use land grant boundaries. The LGSP also engages in oral history research, organizes workshops, provides targeted technical assistance, and



background briefings for elected officials and agency staff. It hires student interns with an eye toward developing their skills and engaging them in New Mexico's rural communities.

**New Mexico Land Grant Consejo** - The Consejo was established in 2006 as a consortium of community land grants from throughout New Mexico. It is a grassroots advocacy organization whose membership is comprised of representatives that are appointed by various community land grant boards of trustees. The Consejo focuses on the review, development, and endorsement of state and federal policies relating to improving the lives of community land grants heirs and advancing the overall status of community land grants. Policy initiatives include establishing the UNM Land Grant Studies Program and the New Mexico Land Grant Council, and promoting traditional use access to former common lands now managed by government agencies. The executive committee of the New Mexico Land Grant Consejo is also the governing board of directors for the Merced Land Education and Conservation Trust (MLECT) a 501(c)3 nonprofit organization whose mission is to provide support to community land grants. In the past the MLECT has served as a fiscal agent for federal and private foundation grants aimed at assisting community land grants.