

Briefing on Land Grant-Merced History and Current Legislation

New Mexico Land Grant Council – July 2018

Issue: Spanish and Mexican Land Grant-Merced communities in the Southwest have, for more than a century, suffered social and economic hardships as a direct result of the failure of the United States to adequately and justly adjudicate communal land claims required under the Treaty of Guadalupe Hidalgo.

History: From the late 1600s through the 1820s, the Spanish crown granted more than one hundred land grants to communities and individuals to promote the settlement of their northern frontier, the modern day southwest (including New Mexico). These grants included both private tracts that belonged to the grant's settlers and large areas of communal lands that belonged to the community at large. This included pasturelands for grazing of livestock and forested lands to extract fuelwood, building materials and harvest other natural resources vital to the survival of these communities. Upon independence in 1821, the Mexican Republic continued the practice, granting dozens more land grants until the Mexican American War broke out in 1846. In 1848 the United States and Mexico signed the Treaty of Guadalupe Hidalgo to end the Mexican American War. The Treaty transferred more than half of Mexico's territory to the United States. This change in sovereignty affected approximately 80,000 Mexican citizens, including approximately 60,000 in the New Mexico Territory. Provisions for the protection of property titles recognized by Mexico, including Spanish and Mexican land grants-mercedes, were included in the Treaty and affirmed by the Protocol of Querétaro. Under the Treaty, the United States was obligated to establish a process for adjudicating/ recognizing land titles in the newly ceded territory.

The adjudication of land claims in the New Mexico Territory spanned 50 years, from 1854 to 1904, and was subject to two different processes. The first process was administered by the Office of the Surveyor General of New Mexico from 1854 to 1891 and the second process by the Court of Private Land Claims from 1891 to 1904. Neither process achieved positive results for the majority of the land grant-mercedes in New Mexico. The Surveyor General process was riddled with corruption and collusion between federal officials and land speculators. The Court of Private Land Claims was inherently adversarial to land grant-merced claims. When established, the Court's enabling act called for both a narrow interpretation of Spanish and Mexican law and for the appointment of a U.S. Attorney tasked with extinguishing title to as many Spanish and Mexican land claims as possible. As a direct result of the adjudication process land grant-merced communities in New Mexico lost millions of acres of communal lands that were critical to sustaining their agrarian way of life.

For those land grants-mercedes whose claims were confirmed by the United States, a great number of them suffered the loss of their common land almost immediately. This was due to several factors. First, some confirmations resulted in the United States significantly reducing the amount of lands that were originally granted by Spain or Mexico. This was due to erroneous surveys, mistranslation of boundaries from original documents written in Spanish, and misinterpretations of Spanish and Mexican laws and customs for granting lands for community settlement. Second, as a result of the direct actions of corrupt government officials and unscrupulous attorneys, many land grants were incorrectly confirmed to either the wrong party

(i.e. an individual or third party such as a land and cattle company) or as a tenancy-in-common (a legal property concept that did not exist under Spanish and Mexican law), which allowed for partition suits that forced the sale of the common lands. Third, land grants-mercedes that gained confirmation of even a portion of their lands were susceptible to delinquent tax seizures by state and county governments and sometimes resorted to selling off lands to pay inflated tax assessments. Finally, land grants-mercedes were vulnerable to encroachments and adverse possession, resulting in additional post-confirmation losses.

Decades after the end of the adjudication process, the federal domain continued to grow via land grants. The U.S. Forest Service established forest reserves on former land grant-merced common lands and by the 1920s acquired many of these lands from the same speculators and attorneys that stole these lands from land grants-mercedes during adjudication. When New Deal programs came in the 1930s, field workers found communities starved from the lack of access to resources surrounding their communities. Numerous federal agencies purchased land grants and instituted relief programs that partially restored access to former common lands. As the New Deal ended, relief programs were cut and land grant-merced lands were transferred to the U.S. Forest Service, which gradually reduced stock grazing, wood cutting, and other uses, renegeing on the intent of federal purchases and creating the seedbed for radicalism.

The result was a period of militant land grant activism that spanned from the 1960s to the 1970s. Since the 1990s, land grants-mercedes began a new period of grassroots organizing that resulted in the creation of Land Grant Interim Committee of the New Mexico State Legislature and the Treaty Division in the New Mexico Attorney General's office in 2003, recognition as political subdivisions in 2004, the organization of the grassroots New Mexico Land Grant Consejo in 2006, and the creation of the New Mexico Land Grant Council, a state agency, in 2009.

Since 2006 land grant communities and advocates through the support of the New Mexico Land Grant Consejo and later the New Mexico Land Grant Council have been working to develop federal policies aimed at preserving socio-economic and cultural integrity of land grant-merced communities in New Mexico. This work has included: partnering with federal land management agencies on mutually beneficial projects to improve watershed health and reduce the risk of catastrophic wildfire; engaging federal management agencies on the development of land management plans such as the Forest Plan Revisions for the Cibola, Santa Fe, and Carson National Forests and the BLM's Rio Grande del Norte National Monument Management Plan to ensure that land grant-merced interests are being properly represented in those documents; working with the New Mexico Congressional Delegation to develop legislation that will address longstanding injustices, protect land grant-merced cultural practices and provide resources and opportunities for advancing land grant-merced communities. This work has included the introduction of legislation by Senator Tom Udall and Congresswomen Michelle Lujan Grisham to amend the Farm Bill in order to make land grants-mercedes eligible for Conversation Program funding and most recently the introduction of H.R. 6365 by Congressman Steve Pearce and H.R. 6487 by Congressman Ben Ray Lujan.

Background on H.R. 6365 – Treaty of Guadalupe Hidalgo Land Claims Act of 2018 – This Act aims to create a presidentially appointed commission to evaluate longstanding injustice claims stemming from the incomplete application of the Treaty of Guadalupe Hidalgo, including the social and economic impacts that the failed land adjudication process had on land grant-merced communities in the Southwest. Under the Act the Commission would hold hearings to provide land grant-merced governing boards an opportunity to give testimony and submit supporting documentation relating to land claims and use rights claims on former land grant-merced communal (common) lands now under the management of the federal government. Upon completion of its hearings the Commission would be required to issue a report to Congress on its findings, including recommendations for restitution to land grant-merced communities. Restitution recommendations could include: Land returns, stewardship rights, and priority access and use rights on former common lands now managed by the federal government. The bill is not intended to impact any privately held lands located within the historical boundaries of a land grant-merced.

115TH CONGRESS
2D SESSION

H. R. 6365

To establish the Treaty of Guadalupe Hidalgo Land Grant-Merced Claims Commission and other Federal policies for the restoration of land for hardships resulting from the incomplete and inequitable implementation of the Treaty of Guadalupe Hidalgo, to affirm Land Grant-Merced property rights protected by the Treaty of Guadalupe Hidalgo, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2018

Mr. PEARCE introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To establish the Treaty of Guadalupe Hidalgo Land Grant-Merced Claims Commission and other Federal policies for the restoration of land for hardships resulting from the incomplete and inequitable implementation of the Treaty of Guadalupe Hidalgo, to affirm Land Grant-Merced property rights protected by the Treaty of Guadalupe Hidalgo, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Treaty of Guadalupe-Hidalgo Land Claims Act of 2018”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Treaty of Guadalupe Hidalgo Land Grant-Merced Claims Commission.
Sec. 5. Hearings on qualifying petitions.
Sec. 6. Reports.
Sec. 7. Federal land disposal authority.
Sec. 8. Authorization of appropriation.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Western and Southwestern United
9 States have a unique history regarding land acquisi-
10 tion and ownership consequent to the substantial
11 number of Spanish and Mexican land grants-mer-
12 cedes. These land grants-mercedes were an integral
13 part of the colonization and growth of the region be-
14 fore the United States acquisition under the Treaty
15 of Guadalupe Hidalgo.

16 (2) Under the laws of Spain and Mexico, land
17 grant-mercedes included thousands of acres of land
18 that was owned and used by the communities, within
19 the land grant-merced boundaries, in common. This
20 included guaranteed right to the use of water, forest,
21 pasture, minerals and other natural resources lo-
22 cated on the common lands.

1 (3) The Treaty of Guadalupe Hidalgo as af-
2 firmed by the Protocol of Querétaro protects prop-
3 erty rights of land grants-mercedes in the territory
4 ceded by Mexico to the United States of America.

5 (4) Property rights include land, land title,
6 water rights, natural resource rights, mineral rights,
7 and rights to physical access.

8 (5) Congress has enacted several major public
9 land laws subject to valid existing rights including
10 the Organic Administration Act of 1897 (16 U.S.C.
11 473 et seq.), the Taylor Grazing Act (43 U.S.C. 315
12 et seq.), the Multiple Use and Sustained Yield Act
13 of 1960 (16 U.S.C. 528 et seq.), and the Federal
14 Land Policy and Management Act of 1976 (43
15 U.S.C. 1701 et seq.).

16 (6) Various provisions of the Treaty of Guada-
17 lupe Hidalgo have not yet been fully implemented in
18 the spirit of the United States Constitution, article
19 VI, section 2.

20 (7) Serious questions remain regarding the
21 rightful ownership of lands in several western and
22 southwestern States. Certain public lands are the
23 focus of such questions.

1 (8) The Gadsden Purchase incorporated by ref-
2 erence the property protection provisions of the
3 Treaty of Guadalupe Hidalgo.

4 (9) Land claim commissions, appointed by Con-
5 gress, have successfully examined disputed land pos-
6 session claims.

7 (10) The United States Government has recog-
8 nized and upheld usufruct rights for other indige-
9 nous groups.

10 (11) Between 1968 and 1981, the Forest Serv-
11 ice recognized the uniqueness of the land tenure his-
12 tory in New Mexico and instituted what became
13 known as the Northern New Mexico Policy for the
14 Southwest Region to address the socioeconomic and
15 cultural needs of the forest-dependent land grant-
16 merced communities in New Mexico.

17 (12) The United States General Accounting Of-
18 fice Report to Congressional Requesters, dated June
19 2004, numbered GAO-04-59, and entitled the
20 “Treaty of Guadalupe Hidalgo: Findings and Pos-
21 sible Options Regarding Longstanding Community
22 Land Grant Claims in New Mexico”, found the New
23 Mexico land claims confirmation process was ineffi-
24 cient and caused hardships to claimants. Such re-
25 port provided the following options for congressional

1 consideration in addressing land grant-merced
2 claims:

3 (A) Consider establishing a commission or
4 other body to reexamine specific Land Grant-
5 Merced claims that were rejected or not con-
6 firmed for the full acreage claimed.

7 (B) Consider transferring Federal land to
8 communities that did not receive all of the acre-
9 age originally claimed for their community land
10 grants.

11 (C) Consider making financial payments to
12 claimants' heirs or other entities for the non-
13 use of land originally claimed but not awarded.

14 (13) The General Accounting Office also noted
15 that "Congress may disagree with the U.S. Supreme
16 Court's Sandoval 1897 decision and decide that it
17 should be 'legislatively overruled', by addressing the
18 affected land grants in some way or taking other ac-
19 tion".

20 (14) The State of New Mexico's response to
21 such report, dated August 14, 2008, and entitled
22 "Report to the New Mexico Attorney General—A
23 Response to the GAO's 2004 Report 'Treaty of Gua-
24 dalupe Hidalgo: Findings and Possible Options Re-

1 garding Longstanding Community Land Grant
2 Claims in New Mexico’ ”, found the following:

3 (A) The Federal Government had a duty
4 to correctly confirm land grants-mercedes in
5 New Mexico and that duty was understated by
6 the analysis of the General Accounting Office.

7 (B) Most land grants-mercedes were not
8 confirmed by the Federal Government in the
9 correct type of land ownership pattern, as
10 granted by Spain or Mexico to be held in com-
11 mon by the entire community, but rather the
12 vast majority were confirmed as privately owned
13 by the family of a single petitioner or as ten-
14 ancy-in-common. The tenancy-in-common des-
15 ignation was foreign to Spanish and Mexican
16 jurisprudence and left land grants-mercedes
17 subject to partition suits that resulted in the
18 significant loss of common land. These facts
19 were omitted by the General Accounting Office
20 report.

21 (C) Most postconfirmation land losses were
22 the direct result of the improper nature of the
23 Federal confirmation, and erroneous Federal
24 confirmations could not be remedied in the

1 court system, contrary to the analysis of the
2 General Accounting Office.

3 (D) Many land grants-mercedes or their
4 common lands were improperly rejected in their
5 entirety, others lost substantial amounts of
6 acreage by improper application of boundary
7 descriptions, and others were foreclosed from
8 being confirmed by earlier adverse rulings.

9 (E) The Federal Government in a great
10 many cases did not provide constitutionally suf-
11 ficient notice of its confirmation activities,
12 which contributed directly to many land grants-
13 mercedes being erroneously misconfirmed.

14 (F) The Federal Government and various
15 Federal agents and officials involved in the con-
16 firmation process helped create a climate in
17 which land speculators were able to undermine
18 the adjudication process to dispossess land
19 grants-mercedes of their common lands.

20 (15) Compared to their original claims, land
21 grants-mercedes suffered enormous loss of land to
22 the Federal Government and others. This loss nega-
23 tively impacted the economic, environmental, and so-
24 cial well-being of these communities.

(16) The following land grant-merced priority rights were protected by the Treaty of Guadalupe Hidalgo:

(A) Water rights, including all surface, ground, and runoff water within the former common lands that are now under the management of the Federal Government.

(B) Natural resource rights, including gathering of fuelwood, timber, vegetation, vegetation products, rocks, soils, and grazing and watering of livestock that are now under the management of the Federal Government.

(C) Mineral rights, including any and all surface and subsurface minerals located within the existing and former common lands as well as rights to compensation for minerals extracted from former common lands now under management of the Federal Government.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADJUDICATION PROCESS.—The term “adjudication process”—

(A) means the processes required by treaty by which the United States recognized land

1 claims between 1854 and 1904 in the territories
2 ceded under—

3 (i) the Treaty of Guadalupe Hidalgo;
4 and

5 (ii) the Gadsden Purchase; and

6 (B) includes the processes provided for in
7 the 1854 Act establishing the Office of Sur-
8 veyor-General of New Mexico (10 Stat. 308)
9 and the 1891 Act establishing the Court of Pri-
10 vate Land Claims (26 Stat. 854).

11 (2) CLAIM.—The term “claim” means the dec-
12 laration of property rights protected by the Treaty
13 of Guadalupe Hidalgo vested in a land grant-merced,
14 including—

15 (A) land, land title, mineral, and natural
16 resource claims; and

17 (B) water rights.

18 (3) CLAIMANT.—The term “claimant” means a
19 land grant-merced as represented by its governing
20 body or an agent thereof.

21 (4) GADSDEN PURCHASE.—The term “Gadsden
22 Purchase” means the Treaty of Boundary, Cession
23 of Territory, Transit of Isthmus of Tehuantepec.

1 (5) GOVERNING BODY.—The term “Governing
2 body” means the governing body, as recognized by
3 State law, of a land grant-merced.

4 (6) LAND GRANT-MERCED.—The term “land
5 grant-merced” means—

6 (A) a community land grant identified in
7 tables 1 and 2 of the General Accounting Office
8 Report #GAO-01-951; or

9 (B) a community, village, town, or settle-
10 ment, the land of which was granted by the
11 Government of Spain or by the Government of
12 Mexico, in accordance with the laws, usages,
13 and customs of Spain or Mexico between 1689
14 and 1854, within the boundaries of the Terri-
15 tory of New Mexico, which now includes the
16 States of New Mexico, Colorado and Arizona,
17 to—

18 (i) the community, village, town, or
19 pueblo; or

20 (ii) a person for the purpose of found-
21 ing or establishing a community, village,
22 town, or settlement.

23 (7) QUALIFYING PETITION.—The term “quali-
24 fying petition” means a petition submitted under
25 section 5.

1 (8) SECRETARY CONCERNED.—The term “Sec-
2 retary concerned” means the Secretary that admin-
3 isters the relevant Federal land.

4 (9) TREATY OF GUADALUPE HIDALGO.—The
5 term “Treaty of Guadalupe Hidalgo” means the
6 Treaty of Peace, Friendship, Limits, and Settlement
7 between the United States and the Republic of Mex-
8 ico, effective February 2, 1848.

9 **SEC. 4. TREATY OF GUADALUPE HIDALGO LAND GRANT-**
10 **MERCED CLAIMS COMMISSION.**

11 (a) ESTABLISHMENT.—There is hereby established a
12 commission to be known as the Treaty of Guadalupe Hi-
13 dalgo Land Grant-Merced Claims Commission (in this Act
14 referred to as the “Commission”).

15 (b) DUTIES.—The duties of the Commission shall be
16 to—

17 (1) conduct a hearing on each qualifying peti-
18 tion and formulate a recommendation on restitution,
19 as described in section 5(c); and

20 (2) submit to Congress the reports required
21 under section 6.

22 (c) MEMBERSHIP.—

23 (1) NUMBER AND APPOINTMENT.—The Com-
24 mission shall be composed of 9 members, appointed
25 by the President of the United States, of which—

1 (A) 1 member shall be appointed in con-
2 sultation with the Secretary of the Interior;

3 (B) 1 member shall be appointed in con-
4 sultation with the Secretary of Agriculture;

5 (C) 1 member shall be appointed who has
6 a background in Spanish colonial and Mexican
7 legal history as it applies to the Southwestern
8 United States;

9 (D) 1 member shall be appointed who has
10 a background in Spanish colonial, Mexican, and
11 United States history of the Southwestern
12 United States;

13 (E) 1 member shall be appointed who has
14 a background in international laws pertaining
15 to succession of States and treaties as they re-
16 late to property rights, land tenure, and usu-
17 fruct rights;

18 (F) 1 member shall be appointed who has
19 a background in past and present socioeconomic
20 conditions of the Southwestern United States;

21 (G) 1 member shall be appointed who has
22 a background in cultural geography; and

23 (H) 2 members shall be members of the
24 governing body of a land grant-merced.

1 (2) TERMS.—Each member shall be appointed
2 for the life of the Commission.

3 (3) VACANCIES.—A vacancy in the Commission
4 shall be filled in the manner in which the original
5 appointment was made.

6 (4) RATE OF PAY.—To the extent or in the
7 amounts provided in advance in appropriation Acts,
8 Members shall each be entitled to receive daily com-
9 pensation not to exceed the rate of basic pay for
10 level V of the Executive Schedule for each day, in-
11 cluding travel days, during which they are engaged
12 in the performance of duties vested in the Commis-
13 sion.

14 (5) PREPARATION BEFORE HEARINGS.—Before
15 the start of the first hearing under section 5, each
16 member of the Commission shall prepare for such
17 hearing by becoming familiar with the history of
18 land grant-merced claims in the United States
19 Southwest. This preparation may include—

20 (A) the purchase, by the Commission, of
21 pertinent literature on the subject for each
22 Commission member to review; and

23 (B) requests by the Commission for train-
24 ing and presentations on the subject from ap-

1 appropriate Federal or State agencies, institutions
2 of higher education, and private organizations.

3 (d) POWERS OF COMMISSION.—

4 (1) HEARINGS AND SESSIONS.—The Commis-
5 sion shall, for the purpose of carrying out this Act,
6 hold hearings, sit, and act at times and at a location
7 in the State where the petitioning land grant-merced
8 is located, take testimony, and receive evidence as
9 the Commission considers appropriate. The Commis-
10 sion may administer oaths or affirmations to wit-
11 nesses appearing before it.

12 (2) POWERS OF MEMBERS AND AGENTS.—Any
13 member or agent of the Commission may, if author-
14 ized by the Commission, take any action that the
15 Commission is authorized to take by this Act.

16 (3) GIFTS, BEQUESTS, AND DEVISES.—The
17 Commission may accept, use, and dispose of gifts,
18 bequests, or devises of services or property, both real
19 and personal, for the purpose of aiding or facili-
20 tating the work of the Commission.

21 (4) MAIL.—The Commission may use the
22 United States mail in the same manner and under
23 the same conditions as other departments and agen-
24 cies of the United States.

1 (5) AUTHORITY TO HIRE STAFF.—The Commis-
2 sion may hire or contract staff necessary for the
3 Commission to carry out its responsibilities under
4 this Act.

5 (6) ADMINISTRATIVE SUPPORT SERVICES.—
6 Upon the request of the Commission, the Adminis-
7 trator of General Services, Secretary of the Interior,
8 and Secretary of Agriculture shall provide to the
9 Commission, on a reimbursable basis, the adminis-
10 trative support services necessary for the Commis-
11 sion to carry out its responsibilities under this Act.

12 (7) IMMUNITY.—The Commission is an agency
13 of the United States for the purposes of part V of
14 title 18, United States Code.

15 (8) SUBPOENA POWER.—

16 (A) IN GENERAL.—The Commission may
17 issue subpoenas requiring the attendance and
18 testimony of witnesses and the production of
19 any evidence relating to any qualifying petition.

20 (B) FAILURE TO OBEY A SUBPOENA.—If a
21 person refuses to obey a subpoena issued under
22 subparagraph (A), the Commission may apply
23 to a United States district court for an order
24 requiring that person to appear before the Com-
25 mission to give testimony, produce evidence, or

1 both, relating to any qualifying petition. The
2 application may be made within the judicial dis-
3 trict where the hearing is conducted or where
4 that person is found, resides, or transacts busi-
5 ness. Any failure to obey the order of the court
6 may be punished by the court as civil contempt.

7 (C) SERVICE OF SUBPOENAS.—The sub-
8 poenas of the Commission shall be served in the
9 manner provided for subpoenas issued by a
10 United States district court under the Federal
11 Rules of Civil Procedure for the United States
12 district courts.

13 (D) SERVICE OF PROCESS.—All process of
14 any court to which application is made under
15 subparagraph (B) may be served in the judicial
16 district in which the person required to be
17 served resides or may be found.

18 (e) TERMINATION.—The Commission shall terminate
19 not later than 180 days after the Commission submits the
20 report required under section 6(b).

21 (f) ASSISTANCE FOR COMMISSION.—

22 (1) FEDERAL AGENCY ASSISTANCE TO COMMIS-
23 SION.—At the request of the Commission, relevant
24 Federal agencies shall make available personnel,

1 equipment, and facilities to assist the Commission in
2 performing its activities under this Act.

3 (2) STATE AGENCY ASSISTANCE TO COMMIS-
4 SION.—The Commission may accept assistance from
5 relevant State agencies and institutions of higher
6 education in performing its activities under this Act.

7 **SEC. 5. HEARINGS ON QUALIFYING PETITIONS.**

8 (a) QUALIFYING PETITION HEARING.—

9 (1) IN GENERAL.—The Commission shall con-
10 duct a hearing on each qualifying petition, as de-
11 scribed in subsection (b), to formulate a rec-
12 ommendation on restitution to the claimant, of the
13 possible restitutions described in subsection (c).

14 (2) DESIGNATION OF LOCATION.—The Commis-
15 sion shall designate one or more locations in the
16 claimant's State in which to hold such hearing.

17 (3) RIGHT TO TESTIFY.—All persons having an
18 interest in the land involved in a qualifying petition
19 shall have the right, upon notice, to be present and
20 testify before the Commission during such hearing.

21 (4) HEARING PROCESS.—As part of such hear-
22 ing, the Commission shall—

23 (A) review each qualifying petition and re-
24 ceive testimony in order examine—

1 (i) the impact to the land grant-
2 merced and its associated communities re-
3 sulting from the failure of the United
4 States to properly recognize, during the
5 adjudication process, a land grant-merced
6 boundary, as it existed in 1854;

7 (ii) the impact to the land grant-
8 merced and its associated communities re-
9 sulting from the failure of the United
10 States to act on a land grant-merced claim
11 made during the adjudication process;

12 (iii) the impact to the land grant-
13 merced and its associated communities re-
14 sulting from the rejection of a land grant-
15 merced claim made during the adjudication
16 process;

17 (iv) the impact to the land grant-
18 merced and its associated communities re-
19 sulting from the incorrect confirmation by
20 the United States of a Land Grant-Merced
21 as a tenancy-in-common;

22 (v) the impact to the land grant-
23 merced and its associated communities re-
24 sulting from the incorrect confirmation by
25 the United States of the Land Grant-

1 Merced as a private land grant to an indi-
2 vidual;

3 (vi) the impact to the land grant-
4 merced and its associated communities re-
5 sulting from the United States incorrectly
6 issuing a patent for the Land Grant-
7 Merced to the wrong party;

8 (vii) the impact of prior adjudication
9 decisions made by the United States on the
10 submittal of subsequent land claim peti-
11 tions with respect to the land grant-
12 merced;

13 (viii) the impact to the land grant-
14 merced and its associated communities re-
15 sulting from the failure of the United
16 States to provide adequate due process to
17 land grant-merced during the adjudication
18 process;

19 (ix) the impact to the land grant-
20 merced and its associated communities re-
21 sulting from the failure of the United
22 States to provide adequate representation
23 during the adjudication process, as re-
24 quired by law, for certain protected popu-

1 lation located on the land grant-merced;
2 and

3 (x) the impact to the land grant-
4 merced and its associated communities re-
5 sulting from the misconduct or direct con-
6 flict of interest of United States officials
7 during the adjudication process;

8 (B) review existing Federal land use poli-
9 cies governing land identified in the qualifying
10 petition;

11 (C) identify and report all private and pub-
12 lic leases on land identified in the qualifying pe-
13 tition, including lease type, term, and owner;

14 (D) determine the value of revenues gen-
15 erated and resources removed from land identi-
16 fied in the qualifying petition, through sale,
17 lease, permit, and all other means granted to
18 any person not associated with the claimant,
19 during the period it was taken out of control of
20 the claimant until the time of such hearing; and

21 (E) review and examine existing laws,
22 memorandums of understanding, agreements,
23 and easements relating to the management and
24 use of land identified in the qualifying petition.

1 (5) LEGAL STANDARDS.—When evaluating
2 qualifying petitions, the Commission shall apply
3 international treaty law and laws pertaining to the
4 succession of States. The Commission shall also
5 evaluate qualifying petitions based on Spanish and
6 Mexican civil and customary law, principles of eq-
7 uity, and customs and usages in effect in what is
8 now the Southwestern United States, from 1692 up
9 to the ratification of the Gadsden Purchase in 1854.

10 (b) ELEMENTS OF QUALIFYING PETITION.—For pur-
11 poses of this Act, a qualifying petition is one that—

12 (1) is received by the Commission not later
13 than the date that is 5 years after the date of the
14 enactment of this Act;

15 (2) is made pursuant to an official resolution
16 adopted by the claimant; and

17 (3) includes the following information:

18 (A) The name and address of the claimant
19 and a name, address, telephone number, and if
20 available, email address of the point of contact
21 for the claimant.

22 (B) Documentation showing the claimed
23 boundaries of the relevant land grant-merced,
24 including a legal survey or, if a survey is not

1 readily available, a sketch map or geographic
2 information system rendering thereof.

3 (C) A summary of the claims being made
4 and the requested restitution for each claim.

5 (c) POSSIBLE RESTITUTIONS.—The Commission
6 may, under subsection (a), recommend as restitution that
7 the Secretary concerned—

8 (1) convey Federal land to the claimant;

9 (2) grant the claimant stewardship rights to all
10 or part of Federal land;

11 (3) grant the claimant priority access and use
12 rights to all or part of Federal lands for—

13 (A) harvesting of natural resources, such
14 as fuelwood, timber, minerals, rock, soils, vege-
15 tation, and vegetation products;

16 (B) grazing and watering of livestock; or

17 (C) hunting and fishing;

18 (4) grant the claimant priority rights to leases,
19 special use permits, and easements on Federal land,
20 which may include placement of land grant-merced
21 infrastructure and community cemeteries;

22 (5) grant the claimant priority rights to acquire
23 Federal lands that may become available for dis-
24 posal; and

1 (6) grant the claimant priority rights to obtain
2 new, unused, or unrenewed grazing allotments on
3 Federal lands.

4 (d) PROTECTION OF NON-FEDERAL PROPERTY.—
5 The Commission may not make any recommendation that
6 affects the ownership, title, or rights of owners of any non-
7 Federal lands covered by the qualifying petition.

8 (e) PROTECTION OF EXISTING LEASES.—The Com-
9 mission may not make any recommendation that affects
10 any lease, permit, or right-of-way held by a person on such
11 land as such lease, permit, or right-of-way existed on the
12 day before the date of the transfer.

13 **SEC. 6. REPORTS.**

14 (a) INDIVIDUAL REPORTS.—Not later than 90 days
15 after the date that the Commission concludes a hearing
16 under section 5 for a qualifying petition, the Commission
17 shall submit a report to Secretary concerned and the
18 claimant that includes the Commissions recommendations
19 and findings with respect to that petition.

20 (b) REPORT TO CONGRESS.—Not later than 10 years
21 after the date of the enactment of this Act, the Commis-
22 sion shall submit a report to Congress that details, with
23 respect to each qualifying petition—

24 (1) a summary of the claims in such qualifying
25 petition;

1 (2) the Commission's recommended restitution
2 with respect to each claim and reasons thereof; and
3 (3) the Secretary that administers the land
4 identified in the qualifying petition.

5 **SEC. 7. FEDERAL LAND DISPOSAL AUTHORITY.**

6 (a) IN GENERAL.—The Secretary concerned may
7 transfer land to the claimant or grant the claimant any
8 rights as is recommended by the Commission in the report
9 required to be issued under section 6(a).
10 (b) COST.—The Secretary concerned shall pay any
11 costs associated with a land transfer under subsection (a).

12 **SEC. 8. PROTECTION OF ACEQUIAS.**

13 (a) IN GENERAL.—The rights of any acequia located
14 on Federal land on the date of the enactment of this Act
15 shall not be impaired as a result of the enactment of this
16 Act, including the right to use of water by valid water
17 right owners and access to the acequia for necessary main-
18 tenance and improvements to the acequia easement and
19 infrastructure.

20 (b) MANAGEMENT OF ACEQUIAS.—Each acequia lo-
21 cated on Federal land on the date of the enactment of
22 this Act shall be managed and controlled by the governing
23 body of such acequia in accordance with N.M. Stat. §73–
24 2–12 or C.R.S. §7–42–101.5

1 (c) DEFINITION.—In this section the term “acequia”
2 means a waterway recognized as an acequia or a commu-
3 nity ditch under New Mexico State law, including the di-
4 versions, storage facilities, and easements of such water-
5 way.

6 **SEC. 9. AUTHORIZATION OF APPROPRIATION.**

7 There is authorized \$1,000,000 for each of the fiscal
8 years 2019 to 2028 for the purpose of carrying out the
9 activities of the Commission.

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