

New Mexico Land Grant Council (NMLGC)
September 14, 2018 – 10:00am
Science and Technology Park
851 University Blvd. SE, Suite 202
Albuquerque, NM 87106

Minutes – Final
Regular Council Meeting

1. Call to Order - Roll Call

Chairman Juan Sánchez called the meeting to order at 10:07 am. Roll call of the Council members: Leonard Martínez, Rita Padilla-Gutiérrez, Macario Griego and Juan Sánchez were present.

2. Introduction of Guests

Juan Sánchez (NMLGC); Leonard Martínez (NMLGC); Rita Padilla-Gutiérrez (NMLGC); Macario Griego (NMLGC); Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Cheyenne Trujillo (NMLGC/LGSP); LM García y Griego (LGSP); Mariana Padilla (Office of Rep. Michelle Luján-Grisham); Michele Jácquez Ortiz (Office of Sen. Tom Udall); Steve Hattenbach (Cibola NF); Crystal Powell (Cibola NF, Sandia Ranger District); Lisa Morrison (BLM); Anna Jaramillo (USFS Southwest Regional Office); Manuel Trujillo (Santa Bárbara LG); Al Duran (Santa Cruz, NM).

3. Approval of Agenda

Councilor Leonard Martínez made a motion to move item 14 to 10; Councilor Martínez made a motion to approve the agenda; Councilor Rita Padilla Gutiérrez seconded the motion. The motion was approved unanimously.

4. Approval of Meeting Minutes from Regular Council Meeting of August 17, 2018

Councilor Rita Padilla-Gutiérrez made a motion to approve the meeting minutes of the August 17, 2018 Council meeting; Councilor Macario Griego seconded the motion. The motion was approved unanimously.

5. Discussion and Possible Action on Federal and State Legislation

Mr. Arturo Archuleta reported that he presented to U.S. House of Representative Subcommittee on Federal Lands on September 6, 2018. His written 12-page testimony is included in the packet and his oral testimony can be viewed on Youtube (<https://www.youtube.com/watch?v=sN4rwNleQTK>). H.R. 6365 (Treaty of Guadalupe Hidalgo Land Grant-Merced Claims Commission) was discussed for about 30 minutes. Congressman Ben Ray Luján attended the hearing (he is not on the House Committee of Natural Resources) and promoted his legislation (H.R. 6487 – Land Grant and Acequia Traditional Use Recognition and Consultation Act) as a companion bill to H.R. 6365. The full House Natural Resources Committee wants to do markup of the bill. Mr. Archuleta received additional questions from Representative Colleen Hanabusa (included

in meeting packet), which included questions regarding private lands and whether they were for community or private benefit. Mr. Archuleta, Andrea Padilla (Town of Tomé LG) and Councilor Leonard Martínez also visited congressional offices and met with all of the members of the New Mexico congressional delegation or their staff. The staff and delegates were very happy with the progress on the bills. Senator Tom Udall reiterated his support for carrying H.R. 6487 in the Senate and his staff commented that Sen. Udall was asked by Representative Pearce to carry H.R. 6365. Stephanie Harding of Sen. Udall's office said they would examine Rep. Pearce's bill more closely before committing.

There are several options regarding Rep. Pearce's bill (H.R. 6365). If there are no issues with the bill, it can be placed on it on suspense (consent) and placed in a packet of bills, but both parties need to agree. The House can also opt to include the bill in an omnibus lands package. Mr. Archuleta, Ms. Padilla and Mr. Martínez had a very positive meeting with Rep. Michelle Luján Grisham, who agreed to cosponsor 6487. With Sen. Udall, she is pushing to get land grants into the Farm Bill and she will be on conference committee that addresses both the House and Senate version of the bill. The amendment that she and Sen. Udall proposed will make land grants eligible for conservation funds. Councilor Martínez reported that Senator Heinrich reiterated his commitment to sponsor cemetery legislation and was awaiting response from the USFS on their FOIA request. He also stated his support for the Piedra Lumbre Visitor Center but did not say too much about the bills. Councilor Martínez stated that the delegation was pleased with the conversation and that land grants were in Washington informing the public about their cause.

Mr. Archuleta reported that they also met with Rep. Colleen Hanabusa (D. – Hawaii), who saw parallels between Hawaiian and lands grant histories. She suggested that land grants seek to obtain a federal definition of land grants via a CFR. They provided information to Rep. Hanabusa, who stated that they are working on a constitution for native Hawaiians, who were a kingdom but became part of US through treaty. Michele Jácquez-Ortiz (Office of Senator Tom Udall) expressed concern about the timeline related to the Senate introduction of the recently introduced legislation. She explained that Stephanie is analyzing the bill but resolving concerns may take time and the NMLGC may want to consider casting a wider net in approaching all members of the delegation to support bills. She suggested that asking approach all delegation and Sen. Heinrich to co-sponsor Pearce bill (6365) as well.

Councilor Griego asked if the Forest Service could still take action if the bill does not pass. Mr. Archuleta replied that the USFS has limited authority. Anna Jaramillo (USFS) stated that she has updates but agreed. Councilors Padilla-Gutierrez and Griego thanked Mr. Archuleta for his hard work and told him he did a great job. Mr. Archuleta reported that Sen. Heinrich's office has hired a gentleman also named Juan Sánchez as a grant writer to help New Mexico communities apply for federal grants. Councilor Martínez knows that Juan Ayala of the Economic Development Administration.

State:

The Interim Committee held its meeting in Tecolote on August 28th and 29th. Chair Senator Liz Stefanics and Vice Chair Miguel García stated that they would like the NMLGC to work

with land grants to collect all capital outlay requests and help land grants complete them. They want the process to be streamlined. Chairman Sánchez attended on August 28th and Mr. Archuleta attended on August 29th. The next Interim Land Grant Committee hearing will be in October 29th and 30th in Chililí. Vice-Chair García wants the Council to organize an interim meeting next year in Colorado. He also asked that we assist the Tecolote Land Grant with a dam that is not functioning properly as no community water is flowing in their ditches. Chairman Sánchez commented that Tecolote received capital outlay funds but had problems with Army Corps of Engineers. It was an atarque for livestock but they diverted other waters into it. Councilor Martínez commented that he did not want the Council to have a say in capital outlay requests and asked if the Council would prioritize requests that serve multiple land grants, like Piedra Lumbre Visitor Center. Mr. Archuleta responded that it is up to land grants to prioritize their own requests. He also mentioned that Moises Gonzales (Cañón de Carnué LG / UNM School of Architecture and Planning) was interested in providing technical support for the Piedra Lumbre Visitors Center. Councilor Martínez stated that with all of their duties Council staff are stretched thin and that the Council needs more funding. Chairman Sánchez added that he had a conversation Senator Carlos Cisneros about the need for increased funding and that Senator Cisneros committed to get a meeting with David Abbey and the Legislative Finance Council. Mr. Archuleta added that the NMLGC does help land grants with their capital outlay requests when asked, will even testify on their behalf if requested, and will help them to ensure they spend their capital outlay monies.

LM García y Griego asked if the Interim Land Grant Committee will have a specific request regarding the NMLGC budget at their November meeting. Chairman Sánchez responded that they will endorse their priorities at the November meeting. Mr. Archuleta commented that the Council did present regarding the budget at the June meeting but he can touch base with Mark Edwards to ensure it is on the November agenda. Manuel Trujillo (Santa Bárbara LG) inquired about a letter that Representative Debbie Rodella asked the Interim Land Grant Committee to generate opposing the Wild and Scenic River of the Rio Santa Bárbara and something similar requested by Senator Carlos Cisneros. He asked what the grant should do to follow up. Mr. Archuleta suggested that they follow up with Mark Edwards to see that the letter was sent and that the Santa Bárbara Land Grant is carbon copied on the letter.

6. Discussion and Possible Action on BLM Update

Lisa Morrison replied that Mark Coca of the BLM will be at the Canjilón Ranger District on Oct. 15, 16, 24 from 10am-2pm to distribute wood permits. A press release will be sent in next two weeks and she will send it to Mr. Archuleta to distribute. She announced that the BLM is completing its biggest ever lease sale in New Mexico, valued at over \$972.8 million, of which New Mexico will get 48%. The Carlsbad Resource Management Plan amendment draft was released and public meeting will be held in September 2018 (more info on the BLM website). The BLM plans to release the Farmington RMP in September. Ms. Morrison reported that Allison Sandoval of the BLM stated that Leonard Martínez is not on the public list for RAC membership.

7. Discussion and Possible Action on Forest Service Update

Anna Jaramillo provided the Forest Service update on behalf of Ericka Luna. Ms. Jaramillo reported that the Piedra Lumbre Visitor Center appraisal is complete and the Council and interested land grants will receive a letter in the next two weeks. An environmental hazmat assessment will be completed after the appraisal. Mr. Archuleta asked if it will affect the appraisal value, considering the condition of soils, possible asbestos and wide mouse and rat infestation in the old garage and trailer. Steve Hattenbach (Cibola NF) replied that it did not because the federal government typically need to clear contamination before transferring property. Mr. Archuleta replied that in conversations with the Carson NF, they spoke of sale and valuation "as is." Ms. Jácquez-Ortiz commented that this is a fundamental issue and that the seller (federal government) needs to include the devaluation that contamination might have. Before this letter goes to land grants, the congressional offices want assurance that the cost of cleaning property is considered in the appraisal. Mr. Hattenbach said that he would communicate this to James Durán of the Carson NF.

Ms. Jaramillo stated that the NEPA process will begin at the PLVC via categorical exclusion. She announced that Alicia Gallegos will be leaving Canjilón Ranger District with the Tres Piedras Ranger serving as the interim Canjilón District head. Sandy Hurlocker is on leave but will follow up regarding the Abiquiú land grant when he returns. The report from the Spanish speaking population workshop is in process; Mr. Archuleta responded that he understands that this might be report from the contractors (metropolitan group) that the Forest Service will augment. Ms. Jaramillo also reported that Ericka Luna is working on the MOU between the Council and the USFS, which may be an agreement instead because an MOU does not allow the transfer of funds. Regarding Senator Martin Heinrich's request for information regarding cemeteries within former land grant common land, James Melonas of the Santa Fe NF and James Durán of the Carson NF are working to get this request completed soon. The Forest Service is also trying to respond to Councilor Martínez's FOIA request and hope to respond by October 31st. Councilor Martínez expressed his frustration at the slowness of the response as it was submitted in November of 2017. Ms. Jaramillo reported that Kevin Naranjo has left the Carson NF and that the Carson is look forward to the next Land Grant quarterly meeting and will request a Land Grant 101 soon.

Steve Hattenbach introduced himself as the new forest supervisor for the Cibola National Forest. He has lived in NM since 1997 and has worked as a practicing attorney both for the New Mexico Environment Department and for the USFS. He stated that is he gets a copy of the request then he can address the issue for the Cibola National Forest. Regarding the Forest plan for the Cibola, the planning team has worked on draft EIS (Environmental Impact Statement) internally and plan internally and have made the draft plan and draft EIS public. A letter was sent to cooperating agencies that have an MOU with the Cibola requesting comments by October 5th. This is not a general public comment period, only coop agencies. The Cibola NF has four district collaboratives with NGOs, government agencies, and non-profits and it wants their input. It hopes to have public draft out in January 2019 for public comment (90 days). The EIS is approximately 500 page and the draft plan 250 pages.

Mr. Archuleta expressed concern that after 18 months, we have 30 days to comment on a plan that might not change before it is released to public in January 2019. Is October 5th a hard deadline or best by date? Mr. Hattenbach replied that it is best by date. The regional office is reviewing the plan and there will be changes to this draft and the January 2019 public draft. The October 5th date coincides with comments from regional office and the Cibola does not want them past mid-October. He stated that the Cibola seeks comments not about small language changes, but fatal flaws and big picture stuff. We should see a lot of similarity between Carson, Santa Fe and Cibola plans. The plan components should mirror each other, which will ease review. Mr. Archuleta replied that Council staff will prioritize areas most important to land grants, including the traditional use section. The Cibola plan initially included separate sections for acequias and land grants, like tribes. The tribal section remained, but land grant and acequia sections went away and are now lumped with traditional communities, even though other historic communities do not have property interests protected by a treaty. This demonstrates need for H.R. 6487 or federal recognition of some sort because the Forest Service cannot make the leap without direction or something in the federal code, which allows them to differentiate land grants from the greater public.

Mr. Hattenbach commented that the plan reflects Alternative C; not alternatives A, B and D, where the EIS discusses and reflects all four alternatives (A, B, C, D). The four collaboratives have 43 cooperating agencies and NGOs wanted to participate as well, were critical of the plan and were added. Two of the collaboratives want to combine the landscape teams and collaboratives and others want to meet separately. We have a longterm preference for collaborative structure and CEs and EAs (NEPA) require a collaborative structure. Mr. Archuleta expressed concerns about the Council's participation. Where Soil and Water Conservation Districts and NGOs have paid staff, Council staff is stretched thin and land grant boards are volunteer. He is concerned that the stewardship collaborative commitment (included in packet) is unclear. The requirement is that the collaborative is balanced and diverse and that members have a forest wide interest, which is a requirement that most land grants won't meet. The committee that constructed the document are all NGOs and had no unit of government interests or representatives. Mr. Archuleta further commented that he is proponent of FACAs (Federal Advisory Committee Act) (by example, RACs are FACA organizations), which the Cibola NF wanted to avoid because of regulation. He is concerned that investment of Forest Service and Cibola NF resources will result in a collaborative that does not represent diverse interests. Mr. Hattenbach replied that the issue of representation is present in FACA and outside of FACA and that collaboratives are not decision making bodies but offer input. We urged that we keep in mind that there are diverse interests not represented in the collaborative but felt that the concerns expressed were valid.

Mr. Hattenbach reported that the acequia in San Antonio de las Huertas did get upgrades that the Cibola NF was not informed of, but the Cibola NF recognizes valid existing rights and the right to repair infrastructure. Crystal Powell (Sandia Ranger District) added that she did some research and that if the acequia did work on diversions, they want to ensure that diversion work was on existing diversions and how on new ones or they might have to issue a permit. Mr. Archuleta commented that the San Antonio de las Huertas Land Grant

is concerned that the acequia is diverting water that is not being returned to the creek. There are also new diversions to private property and this is affecting wells. There was also a diversion on USFS lands of a spring to a subdivision that stopped the flow and the offender received no punishment and reportedly received a Forest Service permit in areas. The creek no longer flows and the Grant believed agency would be concerned if diversions are allowing for return of flow into stream. Chairman Sánchez added the concern that there was an impoundment of water and feels that the question should be asked of the Office of the State Engineer as well, namely, do they have a permit to impound water? Mr. Hattenbach replied that the OSE is the authority is on waters and the FS has authority on what takes place in National Forest lands, but seniority, return flows, purpose of use are all issues for the OSE. Mr. Archuleta commented that communities are frustrated because they are punished for taking similar actions and cannot get permit for legitimate use of funding to fix infrastructure and Councilor Padilla-Gutierrez added that Mr. Hattenbach's opinion is still important in the matter.

Councilor Griego commented that a similar issue took place on the Cañón de Carnué Land Grant when Carlito Springs were dammed. The springs used to feed the acequia in Carnuel and when the highway was created, it stopped flow and contaminated the water that makes it through and the grant could not use it for a planned greenhouse project. The Forest service also gave land to a cement plant that scarred the mountain though some restoration has been completed. Ms. Powell commented that the Rio Grande Gravel Plant is not on FS lands but on 2,200 acres of private land. They do 33 mining claims registered with BLM on Forest Service land that are inactive and would need to submit a plan of operations to Forest Service to issue a permit. They did trespass on Forest Service lands but the land was reclaimed and they are currently not operating on Forest Service lands. The next cement plan meeting is on October 10, 11:30am-12:30pm. Mr. Hattenbach added that the company has mining claims and not a lease and that the New Mexico Energy, Minerals and Natural Resources Department would know about production because it is on private lands.

8. Discussion and Possible Action on Legal Services Contract & Requests

The Council has received no new requests. The NMAG's office is still working on serving all members of Al Frente de la Lucha and a Colorado attorney offered discussion on a possible settlement. Council staff and Mr. David Benavides met with Merced de Pueblo de Abiquiú board of trustees regarding OSE priority date offer.

9. Discussion and Possible Action on Council FY 2019, FY 2020 Budgets

Mr. Archuleta gave updates on travel (\$1,336.59 spent), the UNM contract (\$19,629.47 spent) and the total council budget remaining (\$200,966.06).

14. Discussion and Possible Action on Land Grant Studies Program Update

LM García y Griego (UNM-LGSP) discussed his research as the director of the Land Grant Studies Program. He framed it in goals, strategy, and deliverables. In 11 years of research the LGSP addressed questions over boundaries have existed for 50 years and are still unresolved. There was a need for primary source research beyond secondary literature and the LGSP began research on active land grants. This includes the Spanish Archives of New Mexico (I and II); materials at UNM's Center for Southwest Research; the National

Archives and Records Administration (I and II), particularly correspondence between the General Land Office and the Surveyor General's office and the litigation file of the Court of Private Land Claims, as well as the records of House and Senate Committees on Private Land Claims and actions taken by Congress. At the Library of Congress, Dr. García y Griego report that he have accessed documents via Proquest, Heinonline and paper copies of government docs. National Archives and Records Administration regional offices in Denver (Rocky Mountain), which includes historic records for USFS Region 3 up to 1960 as well as BLM records and BIA records.

Research on beyond he land grant documentation includes the basis for Pueblo claims and land returns and U.S. public land policies, including homesteads, the Dawes Act and other Native American parallels with land grants, as well as the *US. v. Sandoval* case. Research has also been conducted in Spain and Mexico. Deliverables to land grants include the materials and analysis. Councilor Martínez expressed concern that the research has been categorized in an accessible manner so that land grants can use it. Dr. García y Griego replied that he and Dr. Baca need to work on organizing the research and disseminating it and will prioritize which documents to work on before categorizing and distributing. Ms. Morrison suggested speaking with Steve Beyerlein of BLM office for land grant records.

10. Discussion and Possible Action on UNM Contract FY 2019

Mr. Archuleta discussed UNM pay request 1 for \$19,629.47. Councilor Martinez made a motion to approve Pay Request 1; Councilor Griego seconded the motion. The motion was approved unanimously.

11. Discussion and Possible Action on Land Grant Support Fund

Cheyenne Trujillo reported that she sent emails and will place the Land Grant Support Fund application on the website. It was also placed on the Consejo's Facebook account. Applications are due October 15th.

12. Discussion and Possible Action on Land Grant Registry

Dr. Jacobo Baca reported that the San Miguel del Bado Land Grant submitted its by-laws and up to date membership of the board of trustees.

13. Discussion and Possible Action on Correspondence Received by Council

The Council received a letter from the Forest Service regarding the Cibola National Forest plan and shared stewardship collaborative.

15. Discussion and Possible Action on Staff Assignments

None.

16. Public Comments – discussion only

None.

17. Miscellaneous Announcements

The New Mexico Land Grant Consejo will hold its meeting tomorrow at the Cañón de Carnué Land Grant Hall. Councilor Padilla-Gutiérrez announced that Bryson Frazier has

left the New Mexico Taxation and Revenue Department. Chairman Sánchez announced that the New Mexico Auditors Office has funding available for political subdivisions to work on their audits.

18. Date and Location for October Council Meeting

The next meeting will be held on October 19, 2018 at New Mexico Highlands University Student Union Building Room 321.

19. Adjournment

Councilor Martínez made a motion to adjourn; Councilor Padilla-Gutiérrez seconded the motion. The meeting adjourned at 1:08pm.

Approved:

Chair

Date