

New Mexico Land Grant Council (NMLGC)
August 11, 2021 – 10:00am
In Person and Virtual Meeting (Hybrid)
UNM Science and Technology Park
851 University Blvd SE, Suite 202
Albuquerque, NM 87106
Zoom ID: 955 8913 9774

Final

Regular Council Meeting

1. Call to Order - Roll Call

Chairman Juan Sánchez called the meeting to order at 10:00am MDT. Roll call of the Council members: Steve Polaco, Juan Sánchez, Rebecca Correa-Skartwed and Andrea Padilla were present. Leonard T. Martínez joined virtually.

2. Introduction of Guests

Juan Sánchez (NMLGC); Andrea Padilla (NMLGC); Steve Polaco (NMLGC); Rebecca Correa Skartwed (NMLGC); Leonard T. Martínez (NMLGC); Arturo Archuleta (NMLGC/LGSP); Jacobo Baca (NMLGC/LGSP); Venessa Chávez (NMLGC/LGSP); Camilla Romero (NM State Land Office); Ashley Wright (USFS); LM García y Griego (LGSP); A.J. Pacheco (Office of Congresswoman Teresa Leger Fernández); Ricardo Dow y Anaya (NM Attorney General’s Office); Eric Chávez (Office of Sen. Ben Ray Luján); Tim Hagaman (NM EDD); Lisa Morrison (BLM); Patricia Domínguez (Office of Sen. Martin Heinrich).

3. Approval of Agenda

Councilor Steve Polaco made a motion to approve the agenda; Councilor Rebecca Correa Skartwed seconded the motion.

Roll call vote:

- Councilor Correa Skartwed - aye
- Councilor Padilla - aye
- Councilor Polaco - aye
- Councilor Martínez - aye
- Chairman Sánchez – aye

The motion was passed.

4. Approval of Meeting Minutes from July 12, 2021 Council meeting

Councilor Polaco asked that the minutes be amended to properly reflect Moises Morales’ position as County Commissioner, not County Clerk.

Councilor Correa Skartwed made a motion to approve the meeting minutes of the July 12, 2021 Council meeting, as amended; Councilor Polaco seconded the motion.

Roll call vote:

- Councilor Padilla - aye
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Councilor Martínez - aye

Chairman Sánchez – aye
The motion was passed.

5. Discussion and Possible Action on U.S. Forest Service Update

Ashley Wright (USFS) reported that the northern New Mexico Forests (Cíbola, Carson, Santa Fe) signed a Record of Decision on riparian restoration. Ricardo Dow y Anaya (office of NM Attorney General) asked if the Forest Service can still allow people to thin the riparian area like they used to under this plan. Ms. Wright responded that she would check and report back. Councilor Leonard Martínez commented that the upcoming Coyote project sale will go to larger operators. Some of the smaller scale sales are for 100 – 200 acre treatments; will these be implemented? People cannot afford the \$58,000 to start up a large project. Councilor Polaco added that locals in Tierra Amarilla, Canjilón, and Cebolla are complaining about wood being hauled out by destructive people, like wood poachers that are cutting without a permit in areas not designated for fuelwood harvesting. Is there law enforcement to stop this practice? Ms. Wright stated that she will reach out to special agent in charge of the area. Councilor Martínez stated that poaching is common because contractors are not leaving any wood behind and people are going more than 30 feet off of roads to get wood. There is very little dead and down and people are making roads to access. Councilor Polaco added that much of the destructive practices are happening in the Mesa de las Viejas area, which Councilor Martínez stated is within the former common lands of the San Joaquín del Río de Chama Land Grant and added that these actions speak to desperation. Councilor Andrea Padilla commented that the USFS should work with land grants to manage their former common lands and stated that firewood was mentioned at the most recent Consejo executive board meeting.

6. Discussion and Possible Action on Bureau of Land Management Update

Lisa Morrison (BLM) reported that she shared a few recent news releases with the Council. This includes the Taos Field Office's sale of permits for a wood harvest at the Gorham Scout Ranch near Cundiyo on September 10-12 and September 17-19. Alyssa Durán is the contact for this sale. There is also a lottery for wood permits near the Cerro River in the Wild Rivers Recreation Area on September 8. Scoping from the public runs through August 20 for the sale of forest products in Sandoval County. The virtual meeting will be on from 11:00am to 6:00pm. Jack River is the contact and the news release that was shared has the link for the meeting. The Northern New Mexico Resource Advisory Council virtual meeting will take place on August 19. The Malpais, Joe Skeen Campground and Tent Rocks plans will be updated from the Farmington, Taos and Rio Puerco Field offices. Mrs. Morrison also reported that she checked with Alison Sandoval and has no updates on RAC positions.

7. Discussion and Possible Action on State Land Office Projects

Camila Romero reported that the State Land Office visited project sites with local land grants and NMLGC staff in Villanueva for the San Miguel del Bado Land Grant and at a project site near the east mountains for area land grants. These land grants may look to the Edgewood SWCD and Council may support the project with youth conservation corps funding. Cords are sold at \$15 per cord. A fee is assessed because state trust land monies go to schools. The project will seek a party to cut and haul wood. Ms. Romero reported that she is working with Brenda Smythe from the ESWCD. Councilor Polaco commented that he visited the site near Nutrias and walked most of area. It was very rugged, sparse fuelwood remains, and was hard to access. The Tierra Amarilla got permits and will meet Sunday to discuss plans as people are hesitant to risk vehicles for what

seems to be 5 cords on 40 acres. Councilor Martínez added that the Cebolla project is ongoing and may need assistance from the YCC to use a tree mulcher. The project has been successful but has been a heavy lift, working with the contractor, obtaining liability insurance, which GSD paid late and the insurance was cancelled, but later reinstated.

8. Discussion and Possible Action on Federal and State Legislative Update

Federal

Mr. Archuleta reported that he has a conversation with Levi Patterson of Senator Ben R. Luján's Washington DC office. The Traditional Use Rights legislation will be filed and dropped very soon. Senator Luján's office examined splitting the bill into two separate bills, one for acequias and one for land grants. Acequias have had some success with agencies, for instance, getting the USFS R3 to release a guidance document for districts working with acequias. The idea was to introduce the bills separately so that they don't hold each other up. The Senator Luján's office decided to introduce the bill as it was passed in the House. Congresswoman Teresa Leger Fernández is interested in making some changes but may be challenged by House Natural Resources Committee Chair Raul Grijalva (D – AZ), who would prefer the bill stay the same. Sponsors may introduce the bill as is in House and make changes in Senate version and other changes will be made in conference after the bill passes both chambers. Progress is delayed because of August recess was delayed because of infrastructure package. There may be a virtual event for the bill's introduction. Eric Chávez (Office of Senator Ben R. Luján) commented that the bill is a priority for Senator Luján and the Senator wants to keep momentum from all that accomplished in the House last Congress. The Senator's office will be issuing press releases and is looking into ways to highlight the bill. In the past as a member of the House, Senator Luján toured land grant and acequia communities in the CD 1. The Senator hopes a tour and event might be possible this time as well. The infrastructure bill was passed and budget framework passed (on party lines) 50-49.

Councilor Polaco asked if the legislation would be applicable to former common lands. He offered the example of the Jicarilla Apache Reservation, which includes portions of the Tierra Amarilla Land Grant that were lost and privately owned because of the chicanery of Thomas B. Catron. In 1995, the Jicarilla filed lawsuit for 60,000 acre-feet of water on former Tierra Amarilla Land Grant commons. The suit claimed that acequias did not have authority on lands that the Jicarilla bought within former Tierra Amarilla Land Grant. A 1996 decision held that since land grant was assigned in 1832 and Jicarilla did not arrive until 1880s, the water rights were valid. The Jicarilla now recognize the jurisdiction of mayordomos to manage acequias and work to ensure private owners and the Jicarilla do not block their access to streams and riparian areas. Mr. Chávez replied that he wasn't sure if these lands would be eligible as it seems that there is some nuance to the situation. Mr. Archuleta added that they are not BLM lands but as reservation lands, they do fall under the Department of Interior lands. We will have to have additional conversations and are not sure that this bill can deal with this level of specificity. It is important to note that direct U.S. action caused these conflicting claims when the U.S. federal government relocated the Jicarilla from their traditional homeland in northeastern New Mexico (including the Maxwell land grant) to the former Tierra Amarilla Land Grant commons.

A. J. Pacheco (Office of Congresswoman Teresa Leger Fernández) stated that main goal of Congresswoman Teresa Leger Fernández is to get feedback from local land grants on the legislation. She has discussed land transfer and purchase options. Mr. Archuleta commented that these are great concepts but the House Natural Resources Committee's approach to the bill will

require us to be strategic. Changes may be introduced in the Senate version to keep momentum for passage in the House. If the legislation passes and is signed into law, the land grants and the Council will have to be diligent and in conversation with federal agencies to implementation and shape enforcement. Land grants have laid ground through participation in USFS and BLM plan revision processes. The NRCS took some time to get guidance on funding for land grants under 2018 farm bill, but we've found that land grants need to work with local land management offices and the same will likely go to the implementation of the bill. The NMLGC has role at the larger level. This bill is not the end all be all bill and is not the comprehensive bill land grants wanted and are still working toward.

Chairman Sánchez commented that this is part of the growth process and working with Congress. The New Mexico Congressional Delegation recommended creating the Consejo, land grants achieving recognition as subdivisions of the State and advised us to get the rest of Congress to understand what land grants are. From the 1998 Redmond Bill to the now with Ben Ray Luján traditional use bill, land grants have grown. Patricia Domínguez (Office of Senator Martin Heinrich) stated that she would like to see the updated Senate version of the bill. She recommended doing the delegation call in late September or October. Congresswoman Herrell's office has not replied whether or not they will participate. Regarding cemetery legislation, Ms. Domínguez reached out to James Durán of the Carson National Forest and Debbie Cross of the Santa Fe National Forest who she will meet with jointly at the ends of the month. Mr. Archuleta commented that the Council needs to schedule a time to meet with Senator Heinrich to discuss cemeteries and the traditional use bill. The Council has yet to see the latest Senate version of the bill. It might be identical with House version – perhaps we can begin conversation there and we can discuss land transfers. Land grants need an equitable process. In the case of the PLVC it was a one sided transaction; there was no wiggle room in the law.

State

In the packet is the meeting agenda from the Interim Land Grant Committee meeting in Española. The Bartolomé Sánchez Land Grant is organized as a private land holding association and have done very community minded work. The want to discuss with NMLGC staff the pros and cons of becoming a unit of government and was unaware of the work of interim committee. The next ILGC hearing will be on September 23-24 in Anton Chico and will focus on natural resources and youth development and leadership programs. It is important to continue to engage legislators, especially the new House majority floor leader, Rep. Javier Martínez of Albuquerque.

9. Discussion and Action on Natural Resources Issues & Concerns – Local, State and Federal

Mr. Archuleta reported that the Healthy Soils Program met and reviewed applications. There was funding available than requested: \$350,000 in available funding, \$340,000 requested, and \$320,000 was ultimately funded. The Town of Tomé Land Grant project was approved. There are two types of applicants: individuals and entities (LGs, acequias, SWCDs). Land grants can do various projects, including soil sample testing for heirs and helping plan and implement treatments on common lands. All projects have to be centered on soil health and include some of the 5 principles: keeping the soil covered; minimizing soil disturbance on cropland and minimizing external inputs; maximizing biodiversity; maintaining a living root; and integrating animals into land management, including grazing animals, birds, beneficial insects or keystone species, such as earthworms. No till and minimal till are encouraged as deep till releases carbon into the atmosphere. SWCDs are considered eligible entities but don't always have good working

relationships with land grant communities. They have in the past sold wood meant to go to local communities and it remains questionable to sell products from projects on state land. Projects are often on former common land that is state land, but land grants are purchase the wood at \$80 per cord because the SWCD wants to gain operating costs.

10. Discussion and Possible Action on Cannabis Control Regulations

Jacobo Baca (NMLGC) reported that the New Mexico Acequia Association contacted the Council regarding the Regulation and Licensing Department’s Cannabis Control Division creation of rules, including the opportunity for public comment and a hearing on August 6, 2021. Dr. Baca drafted a comments in the form of a letter (in packet) and delivered oral comments at the hearing. The issues identified in the letter and provided in the oral comments are the following. First, the Cannabis Control Division has proceeded with rulemaking without the Cannabis Regulation Advisory Committee, which, at the time of the hearing had yet to be named. Second, the proposed rules fall short of furthering the participation growers from economically disadvantaged communities, particularly those that have been disproportionately affected by the overzealous enforcement of cannabis prohibitions in the past. Finally, the Cannabis Regulation Act contains water protection and social equity mandates and plant count limits that will help ensure the participation of small, local producers can compete. The Cannabis Control Division has included a variance rule in its proposed revised rules which circumvents these protective provisions of the Cannabis Regulation Act by allowing applicants to evade statutory and/or regulatory requirements of the Act, including water protection provisions. The letter states that the Council agrees with the New Mexico Acequia Association’s assessment that if the Legislature had intended for the creation of a variance mechanism, it would have explicitly done so in the Act.

Councilors discussed the letter and the threats to water by the growing cannabis industry. Big timers selling their water rights and continue to use it and communities are running out of water to drink. The OSE doesn’t care about running wells day and night all week. Communities were told during adjudication of water rights that they could not use well water for adjudication. Under Sections 3,5 and 7 of the Acequia Act, acequias commissions can stop water transfers from out of the area.

Councilor Polaco made a motion to approve NMLGC comments to the Cannabis Control Division and Regulation and Licensing Department; Councilor Padilla seconded the motion.

Roll call vote:

- Councilor Padilla - aye
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Chairman Sánchez - aye

The motion was passed.

11. Discussion and Possible Action on Office of the Attorney General Equity Advisory Committee & Treaty Division

Ricardo Dow y Anaya commented that Attorney General Balderas is busy with big cases. He suggested forwarding the cannabis letter to the NMAG’s office as water is a constant issue that he hears about. He reported that the Office of the Natural Resource Trustee has \$10 million from the Gold King Mine Spill. The NMAG’s office was awarded \$5 million. The NMAG’s office and the ALGE project can work together. The Office of the Natural Resource Trustee has a more

environmentalist view and the NMAG's office might be able to work with traditional communities, including Native American tribes and pueblos, land grants and acequias.

12. Discussion and Possible Action in Council FY 2021 & FY 2022 Budgets

FY 2021 - none

FY 2022

Mr. Archuleta reported that no contract in place. There remains \$14,154 unbudgeted (see packet). The Council previously discussed using monies for a *US. v. Sandoval* report. We consulted with David Benavides of New Mexico Legal Aid, who stated that there are not many people who could do this. Malcolm Ebright is one of the few and though he is not a practicing attorney and semi-retired, but could do additional analysis work on precedence setting cases that predate *US. v. Sandoval* (1897). Dr. Baca and Mr. Archuleta also discussed possibly considering retired UNM law professor Em Hall. David Benavides can help set parameters. Another option is purchasing laptops or computers for Council members, especially if we go virtual again. Two councilors, Martínez and Correa Skartwed, are seated on expired terms, which ended in August 2020. They are seated until they are replaced. The three other terms (those of Correa-Skartwed, Sanchez and Polaco) will go through August 2022. The last option is a student intern or two interns starting in Spring 2022. Dr. Baca opined that investing in Mr. Ebright's and Professor Hall's expertise would be a worthy investment. Councilor Polaco commented that he has worked with J. Richard Salazar and Malcolm Ebright and both were very good. Councilor Padilla added that the Town of Tomé Land Grant in research on Isleta and made inroads with pueblo brothers. Councilor Correa Skartwed suggested that Chairman Sánchez may need a wifi booster to allow stronger connections. Verizon sells a tower with a service for \$250-300. Councilor Padilla needs a laptop and does virtual meetings on her phone.

Councilor Correa-Skartwed made a motion that staff investigate options for *US v. Sandoval* research and tech purchases for Council members; Councilor Polaco seconded the motion.

Roll call vote:

- Councilor Padilla - aye
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Chairman Sánchez - aye

The motion was passed.

The NMLGC also needs to set a deadline for the Land Grant Support Fund, which has \$30,000 for FY 2022. While there is still no contact in place with UNM, the LGSP is managed by DFA and can go forward.

Councilor Polaco made a motion to set FY 2022 Land Grant Support Fund deadline for Oct. 8, 2021; Councilor Padilla seconded the motion.

Roll call vote:

- Councilor Padilla - aye
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Chairman Sánchez - aye

The motion was passed.

13. Discussion and Possible Action on UNM Intergovernmental Agreement – FY 21 & 22 – Including Ancestral Land Conservation Corps Partnership Approval

FY 2021 - None.

FY 2022

The UNM Office for Sponsored Projects flagged the contract with Ancestral Lands as a subcontract and need a letter of commitment from Ancestral Lands and approval by the Council. Ancestral Lands Conservation Corps is the only YCC working with indigenous and Hispano communities. The cost is \$5,000 per week for a five person crew. There is a small window as the crew doesn't start until summer and continues through June 30th. ALCC also has a partnership with Americorps and students can get college credit. Youth are those 16-20 years old; older students are needed for crew chiefs. Five students will be a crew of five and if NMLGC partners on future applications with ALCC or land grants, they can use their admin work as a match. NMLGC staff will work with ALCC's Chas Robles on Friday and can then identify projects, get letters of support and go after grant monies. Partners work helps to match in kind contributions. YCC funding is \$3 million through the State of New Mexico, funded with gross receipts taxes.

Councilor Correa Skartwed made a motion to approve the subaward contract with Ancestral Lands Conservation Corps; Councilor Padilla seconded the motion.

Roll call vote:

- Councilor Padilla
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Chairman Sánchez – aye

The motion was passed.

15. Discussion and Possible Action on Legal Services for Land Grants – Update and Requests

There is no contract in place, but the NMLGC has received a request, with maps, from the Cañón de Carnué Land Grant regarding an encroachment. NMLGC will propose the issue to the UNM Law Clinic, but they do not always take these cases.

Councilor Padilla made a motion to approve the request from the Cañón de Carnué Land Grant's request for legal assistance; Councilor Correa Skartwed seconded the motion.

Roll call vote:

- Councilor Padilla
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Chairman Sánchez – aye

The motion was passed.

16. Discussion and Possible Action on Professional Surveyor Services Contract - Update and Requests

None. Surveyor will be hired as UNM staff under the FY 2022 IGSA. Working to identify hire, but no contract in place and no index. Councilor Polaco requested the surveyor survey to recognize the boundary of Frente de Lucha property (aka colonia), especially the southern border to build fence. The Chair and Vice Chair asked that the request be made in writing.

17. Discussion & Action on Piedra Lumbre Visitors Center Update

The PLVC received a NM EDD frontier communities award, which will provide technical assistance to the PLVC. Rhea Serna is the staff member assigned to the PLVC and an architect can tour on September 23 to assist with design. NM EDD can also get economic data and socioeconomic data on surrounding and participating communities, which could be helpful for future applications.

18. Discussion and Possible Action on Laguna del Campo Update

Councilor Polaco reported that the Tierra Amarilla Land Grant has submitted a request to Governor's office requesting a meeting to discuss the Laguna del Campo.

19. Discussion and Possible Action on Land Grant Registry Update

Dr. Baca reported that the Town of Tomé Land Grant submitted its FY 2021 Annual Report. The Chililí Land Grant submitted the results of its 2021 election. Chairman Sánchez asked that a registry requirement be added to the Land Grant Support Fund solicitation.

20. Discussion and Possible Action on Land Grant Institute / Land Grant Studies Program Update

The LGSP will be hiring a student to primarily work with Venessa Chávez on the youth program. There is nothing to report regarding the Land Grant Institute; the OVPR is still reviewing. Dr. Baca reported that the ALGE project continues and that LGSP continues to participate in the project. The group met with Deputy Secretary of Public Education Gwen Perea Warniment to discuss the project and present the white paper. The Land Grants and Acequias CLE is tentatively set for October 15 & 16 at the Cañón de Carnué Land Grant Hall, in person if the public health and COVID situation allows.

21. Discussion and Possible Action on Correspondence

A draft letter to Governor Michelle Luján Grisham, requesting a meeting, with an attached briefing, was presented. Mr. Archuleta asked that Councilors provide input ASAP. The Council will need to figure out who attends or how the NMLGC will give notice. The NMLGC also received a letter regarding wood permit distribution on the Chililí Land Grant. Chairman Sánchez, president of the Chililí Land Grant, provided background to issue, practice and policy. Staff will draft a response from the Council, signed by Vice Chairwoman Correa Skartwed, and attached the standing resolution. Mr. Archuleta reached out to DFA regarding federal funds received by the state through the ARP (American Recovery Plan). Counties and municipalities have received monies. Donnie Quintana from DFA stated that DFA was appropriated \$1.75 billion and asked that land grants put in requests. The monies are to fund infrastructure - buildings, water, electrical, broadband, etc. NMLGC asked for more details and parameters. Sen Liz Stefanics reached out to Debbie Romero at DFA asking the same and stated that Mr. Archuleta would coordinate on behalf of land grants. He has reached out to both Donnie Quintana and Debbie Romero for more information but still hasn't heard back. Councilor Correa Skartwed stated that the Sandoval County Manager has discretionary funds and allotted \$15,000 to the San Antonio de las Huertas Land Grant for water and broadband. Funds need to be spent by 2024. Mr. Archuleta stated that there are some socioeconomic characteristics that applicants must meet, including 60% must be disadvantaged.

22. Discussion and Possible Action on Staff Assignments

NMLGC staff will send out notice regarding the Land Grant Support Fund applications, to include a requirement that applying land grants need to be up to date in the Land Grant Registry.

23. Public Comments – Discussion only

Councilor Correa Skartwed commented that the San Antonio de las Huertas Land Grant successfully completed a conveyance and sold some insignificant properties from the land grant. Documentation suggested in the Land Grant Guidebook was not sufficient and they had to rewrite their resolution. Two properties are deeded and heirs receiving the properties paid for land, one an encroachment and another a landlocked parcel. Councilor Padilla asked for Mr. Archuleta’s help to set up a meeting with the MRGCD. Members discussed responding to IPRA requests. Councilor Polaco reported that NORA is billing for electricity use at the PLVC. He questioned why they are we being billed when nothing works and there is no copper in most of the buildings. NORA said that they would send a crew / electrician, but we are unsure who will be charged.

24. Miscellaneous Announcements

ICIPs are due Sept. 3rd at 5:00pm. Let Council staff know if you need help and we’ll work hard to get them in. Boards need to adopt resolutions approving priorities, including their top priority, which will be forwarded to the legislature for support. Getting these resolutions in is the biggest challenge given the time frame. Carmen Morin at DFA used to allow us to submit resolutions after. Also need permission to access signed and sent from each individual land grant. Chairman Sánchez commented that redistricting is taking place, both state House, state Senate and Congressional. Participants can comment whether you want changes or if you want it to remain the same. The next round of meetings is in late September or early October. CPMS updates on ICIPs and capital outlay projects are always before 25th of each month and audit compliance is due annually.

25. Date and Location for September 2021 Council Meeting

The September 2021 Council meeting will take place on Wednesday, September 15, 2021 at 10:00am in Albuquerque, at UNM STC.

The October 2021 Council meeting will take place on Wednesday, October 20, 2021 at 10:00am in Albuquerque, at UNM STC.

26. Adjournment

Councilor Polaco made a motion to adjourn; Councilor Correa Skartwed seconded the motion.

Roll call vote:

- Councilor Padilla – aye
- Councilor Correa Skartwed - aye
- Councilor Polaco - aye
- Chairman Sánchez – aye

The motion was passed. The meeting adjourned at 2:01pm MDT.

Approved:

 Chair

 Date