



**New Mexico Land Grant Council
Fiscal Year 2013
Annual Report**

Council Members:
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The New Mexico Land Grant Council was established in 2009 by the Legislature. Its enabling legislation can be found in the Land Grant Support Act, §49-11-1 NMSA 1978. The Council is comprised of five members appointed by the Governor and is administratively attached to the Department of Finance and Administration. The general purposes of the council are to establish a land grant support program, to provide advice and assistance to land grants, and to serve as a liaison between land grants and federal, state and local governments (§49-11-3 NMSA 1978).

Council Budget

In fiscal year 2013 the New Mexico Land Grant Council received a \$50,000 general fund appropriation from the New Mexico Legislature. The \$50,000 appropriation comprised the entire operating budget for the Council for FY 2013. The Council utilized the budget to: contract services for Technical Assistance for the Council and eligible community land grants; advertise meetings; cover mileage and per diem costs for Council members; provide support funding to community land grants for small capital purchases.

In total the Council was able to effectively utilize approximately \$35,000 of its budget in FY 2013. Regrettably the Council reverted approximately \$15,000 in unspent funding. The reversion of funds by the Council was the result of two major issues.

First, the Council intended to utilize a portion of its funding for out of state travel to Washington D.C. The purpose of the travel was to continue the Council's efforts to develop and promote federal legislation for an appropriate congressional response to longstanding community land grant claims in New Mexico as authorized in §49-11-4-(C)-(8). Although the Council submitted required paperwork in advance of the trip as well as extensive justification and supporting documentation for the trip no official approval nor denial was ever granted. Two Council members made the trip in order to attend meetings with the NM Congressional Delegation and White House staff. Neither Council member was reimbursed for their expenses. Funding set aside to cover this trip was reverted since the Council's attempted to gain approval of the trip and reimbursement of expenditures up until the end of the fiscal year was never approved nor denied.

Second, the Council approved funding awards to community land grants for small capital expenditures under the Land Grant Support Fund. Funds were awarded in December of 2012, however the issuance of grant agreements necessary for expenditure of the awards were not issued by The Department of Finance and Administration Local Government Division until the end of April 2013. The reason for the delay was the length of time it took for the Department's legal staff to review and approve the grant agreement template utilized by the Local Government Division. As a result, award recipients could not utilize original awards as intended or had difficulty spending all of the funding prior the June 30 fiscal year end. This caused a large portion of the funds allocated to the support fund to be reverted.

In order to attempt to prevent the repeat of such a reversion in the current fiscal year the Council is revising how it provides direct financial assistance to community land grants and will also be requesting advanced approval from the Governor's office for out-of-state travel prior to including that as a line item in the current budget.

Despite the issues related to the reversion of a portion of their budget the Land Grant Council was still able to provide the following support for community land grants throughout the state.

Liaison Work - §49-11-4-(C)-(2) NMSA 1978 - serve as a liaison between land grants and federal, state and local agencies.

The Council served as a liaison between the U.S. Forest Service and the two community land grants of La Merced del Pueblo Abiquiu and the Nuestra Senora del Rosario, San Fernando y Santiago Land Grant. The Council help to facilitate the discussion between the land grants and the Forest Service regarding shared boarder boundary disputes. In both cases the Council requested that a representative from each land grant as well as a representative from the U.S. Forest Service attend a Council meeting were the boundary dispute issue appeared on the Council's agenda. The Council engaged the U.S. Forest Service on behalf of both Land Grant's and requested that the UNM Land Grant Studies Program provide some GIS mapping assistance to each land grant to determine if existing fencing and/or boundary markers are correctly located. The land grants in conjunction with the UNM Land Grant Studies Program and the U.S. Forest Service have since made several field trips to GPS the fences and survey points and are currently still continuing that process in order to properly address these concerns.

The Council also served as a liaison between the U.S. Forest Service and the San Joaquin del Rio de Chama land grant regarding a historic land grant cemetery that lies within the boundaries of the Santa Fe National Forest. The cemetery was for decades believed to be located within a wilderness designation which cause numerous issues relating to the heirs of the land grant being able to access and maintain the cemetery. The board of trustees of the San Joaquin del Rio de Chama land grant has spent the past 8 years working towards clearing up the issue and getting permanent access and permitted use of the cemetery. In FY 2013 the Council assisted the San Joaquin del Rio Chama Land Grant with negotiating access and improvements to the cemetery including getting it officially removed from the within the wilderness designated area.

In addition the Land Grant Council served as a liaison between the Bureau of Land Management and the San Antonio de Las Huertas Land grant. The San Antonio de Las Huertas land grant is interested in acquiring BLM property adjacent to the the community of Placitas, which was part of their historic common lands. The land grant had been attempting to meet with the BLM regional office to discuss options for acquiring the property however were unsuccessful in their attempts. The Land Grant Council requested that the BLM State Director attend one of their meetings and at that meeting they requested that BLM meet with San Antonio de Las Huertas land grant to discuss the BLM land disposal process. The regional office promptly set up a

meeting with the San Antonio de Las Huertas land grant and the Council. The BLM Regional staff was able to provide information about their current planning process, the status of the land in question, and there process for disposal of land.

Served as a liaison between DFA-LGD and the Cristobal de la Serna Land Grant in order to assist the land grant with the expenditure of a 2011 capital outlay appropriation. Worked with DFA analyst to locate capital outlay appropriation and determine its status. Informed the land grant that the grant agreement with DFA-LGD had be nullified by DFA-LGD due to determination that the grant agreement was not signed by the appropriate land grant official. Ensured that new grant agreement was executed so that land grant would be able to access appropriation. Requested third party payment from DFA on behalf of the land grant in order to utilize capital outlay appropriation since the land grant's budget was not sufficient enough for them expend money in anticipation of a reimbursement. When third party payment by DFA was not approved the Council worked with the land grant to try and identify other means of utilizing their capital outlay including a government to government transfer purchase of a prefab building being sold by the San Antonio de Las Huertas land grant.

Federal Legislation Work - §49-11-4-(C)-(8) NMSA 1978 - develop and promote federal legislation for an appropriate congressional response to longstanding community land grant claims in New Mexico.

In FY 2013 the Council continued to work with the New Mexico Congressional delegation on the development of the Traditional Use Consultation Act legislation. This included: providing comments and suggested changes to draft versions of the proposed legislation; telephone and in person conferences with NM Congressional delegation staffers and Acequia leadership to discuss draft legislation. In addition, the Council worked with members of the NM congressional delegation on the introduction of amendments to the Farm Bill aimed at carving out a set aside for land grants within the United States Department of Agriculture Rural Development suite of funding as well as an amendment that would make land grants eligibe for Equip funding. Neither amendment made it through final drafting process.

Policy Work at the State and Federal Level §49-11-4-(C)-(9) NMSA 1978 - review state and federal policies, plans, and legislation affecting land grants in New Mexico.

State Level

The Council worked with the Secretary of State, Attorney General's Office, State of New Mexico Records and Archives Center and the University of New Mexico to establish the Community Land Grant Registry under the Land Grant Council and to transfer the existing registry documents from the Secretary of State's Office. The Department of Finance and Administration was not willing to house the registry filing cabinet nor be the custodian of any existing or future documents of the Community Land Grant Registry and therefore the Council was required to seek alternate placement for the records. The Council through their A.G. appointed staff attorney requested that the records be held temporary at state archives while the Council explored the possibility of having UNM

Land Grant Studies Program be the custodian of the registry records. State archives approved to hold the records provided they be submitted under DFA's retention schedule since the Land Grant Council does not have a retention schedule and is administratively attached to DFA. DFA did not allow the Council to use their retention schedule and so the A.G.'s staff attorney requested that the State Records and Archives Center waive the retention schedule requirement due to DFA's unwillingness to allow the Council to use theirs. The State Records and Archives Center agreed to house the records while the Council and the University of New Mexico negotiated a Memorandum of Agreement regarding the housing of registry records. The Council purchased a fireproof filing cabinet and had it shipped to the UNM Land Grant Studies Program office in anticipation of the MOA between the Council and UNM being executed. The agreement was still be worked on at the close of fiscal year 2013 and was fully executed in FY 2014.

During the past legislative session the Council endorsed and supported all of the land grant related bills adopted by the Land Grant Interim Committee. As well the Council tracked all bills impacting land grants introduced during the session. Members of the Council provided testimony to legislative standing committees on land grant related bills when necessary.

Federal Level

The Council engaged the US Forest Service Southwest Regional Office, the Santa Fe, Carson and Cibola National Forests in policy discussions relating to traditional uses of former common lands. This conversation was the catalyst for the Council to begin work on a Master Stewardship Agreement with the US Forest Service. The Master Stewardship Agreement would allow the Council to facilitate forest restoration and watershed health projects with local community land grants on former common lands within the Cibola, Carson and Santa Fe National Forests. The Council worked diligently with the Regional office staff from November of 2013 into the first quarter of Fiscal Year 2014 on developing a draft agreement for consideration and approval by both the Land Grant Council and the US Forest Service. There was urgency to get the agreement executed by September 30 of 2013 due to the US Forest Service's authority to enter into such agreements expiring at the end of that federal fiscal year. The Council informed DFA of its intent to pursue the agreement and requested that DFA provide input and assistance into the formulation of the agreement. DFA was unresponsive to the request as such the Council then requested that staff attorney provided by the Attorney General's office review and comment on the agreement to ensure that the both the Council's and the State's interests were protected in order to proceed with execution of the agreement. By the close of FY 2013 the A.G. staff attorney to the Council had reviewed and commented on the agreement and giving the Council the okay to proceed with its execution.

When the Council was set to formally approve the agreement in the FY 2014 August meeting they were informed that DFA and the US Forest Service had met independently and without the Council's knowledge to discuss the agreement. As a result of that meeting, in which no representative of the Council was in attendance, DFA determined that they did not believe they had the technical expertise to administer the fiscal

requirements under the agreement and would therefore not sign off on the agreement as the fiscal agent of the Council. This determination essentially barred the Council from entering into the agreement and the authority for the US Forest Service to do so expired without the issue being resolved. Had the agreement been put in place it would have lasted 10 years and could have resulted in hundreds of thousands of dollars to millions of dollars being granted to land grant community for the purposes of forest restoration on former common lands. It would have also provided a mechanism for community land grant to access fuelwood resource as is consistent with traditional use. Entering into the agreement would have fulfilled the Council's statutory authority to "facilitate or enter into agreements with state and federal agencies on behalf of land grants" as prescribed in §49-11-4-(B)-(5) NMSA 1978. This raises the question as to whether or not DFA has the authority to prevent the Council from entering into agreements by refusing to administer any funds received by the Council that are not part of a legislative appropriation. The Council hopes to address these issues in the 2014 Fiscal Year.

Direct Financial Support to Individual Land Grants - §49-11-4-(B)-(7) NMSA 1978 - provide other assistance to land grants.

The Land Grant Council provided financial support to individual community land grants through the Land Grant Support Fund. The Council approved funding for direct financial assistance to 4 community land grants in fiscal year 2013. However, the support fund was not as successful as in years past due largely to inefficiencies related to getting grant agreements out to land grants in a timely manner. Projects were awarded funding December of 2012 but due to delays in the legal review of grant agreement documents the agreements were not sent out by DFA until the end of April 2013. All project monies had to be spent by June 30, 2013. This delay resulted in three land grants having difficulty expending some or all of the funds awarded prior to the end of the fiscal year and also in one land grant declining to execute the grant agreement since their project was time sensitive and the planting season was near its end when the grant agreement was provided by DFA for execution. Specific details about each support fund project are listed below.

Town of Tome Land Grant - The Town of Tome Land Grant was awarded \$1,500 originally for purchase of portable toilets, however because of the delay in the grant agreement their purchase window nearly expired and they were therefore forced to make that purchase without use of Support Fund monies. They then requested a change in their scope of work to be accomplished with the Support Fund monies in order to purchase tools and equipment for use in the upkeep and maintenance of their land grant community center. Once the change was approved by the Council their grant agreement had to be amended which resulted in them having less than a month to expend the funds. As a result they were only able to successfully utilize \$960 of the original \$1,500 award.

San Joaquin del Rio de Chama - The San Joaquin del Rio de Chama Land Grant was awarded \$2,600 for purchase of storage container and landscaping tools and equipment. Due to their limited budget, the time it takes to process the reimbursement requests and the short length of time between the grant agreement execution and the end of the fiscal year they were only able to successfully utilize \$2,400 of their \$2,600 award.

Cristobal de La Serna Land Grant - The Cristobal de la Serna Land Grant was awarded \$500 for postage to mail out a documentary, about the land grant, to the heirs of the land grant. Because the Cristobal de La Serna Land Grant was focusing all of its energies on attempting to expend its 2011 Capital Outlay appropriation prior to its expiration at the end of FY 2013 they failed to submit a reimbursement request for the \$500 Support Fund award.

Atrisco - The Atrisco Land Grant was awarded \$2,600 for a Farm Demonstration Project which included the purchase of tools, equipment, and materials. Because the land grant did not have any suitable common land to be used for the project they intended to utilize a piece of property owned by a land grant heir. The Council therefore required that the Atrisco Land Grant provide an agreement between the land owner and the land grant prior to finalization of their award. The land grant provided the documentation required and was granted the award. However, the the delivery of the grant agreement to the land grant for execution occurred after the planting season had pasted and therefore the land grant declined to execute the agreement resulting int the entire \$2,600 being reverted since the Council did not have sufficient time to reallocate and spend the money prior to the close of the fiscal year.

Since the Land Grant Council encountered issues with the Support Fund that resulted in the reversion of thousands of dollars back to the general fund from the Council FY 2013 budget they have will revamp how direct financial support to land grant will be executed in FY 2014.

Direct Technical Assistance to Individual Community Land Grants - §49-11-4-(C)-(4) NMSA 1978 - provide board development opportunities and technical assistance to the governing boards of land grants.

In FY 2013 the Land Grant Council was able to provide direct technical assistance to four community land grants, as listed below:

San Antonio de Las Huertas Land Grant - received technical support with meeting facilitation assistance relating to a U.S. Forest Service Collaborative Forest Restoration Program planning grant to address wildfire risk and management within the Sandia Ranger District of the Cibola National Forest. In addition, as mentioned earlier in this report, the Council helped facilitate meetings between the land grant and the Bureau of Land Management regarding the BLM's land transfer and disposal process. Also the Council assisted the land grant with the fulfillment of statutory requirements for disposal of land grant property.

San Miguel del Vado Land Grant Election Issue - The Council has been providing technical expertise relating to land grant elections to the San Miguel del Vado land grant through the District Court as the result of the court's intervention in the election of members to the board of trustees.

Cristobal de La Serna - The council assisted the Cristobal de la Serna land grant with the preparation of their budgetary reporting requirements and provided them with technical assistance related to the attempted expenditure of a legislative capital outlay appropriation they received.

Tajique - The Council provided technical assistance to the Tajique Land Grant in the development of their bylaws, the setting up and conduct of the election of the board of trustees.

Trainings & Workshops - §49-11-4-(C)-(6)(b) NMSA 1978 - conduct training sessions for land grants on topics of interest, such as: state requirements for political subdivisions.

In FY 2013 the Land Grant Council partnered with the University of New Mexico Land Grant Studies Program to provide a total 5 workshops and trainings for community land grant boards of trustees and heirs. The workshops included topics relating to Traditional uses on former common lands now managed by the U.S. Forest Service, Forest Restoration and Master Stewardship Ship Agreements. The trainings provided covered statutory requirements for conduction land grant elections and understanding the Land Grant General Provision Statutes found in §§49-11-1 through 49-1-23 NMSA 1978. Below is a listing of each workshop/training including type, date and location.

- Workshop with Forest Service on Traditional Uses held on November 3, 2012 at the University of New Mexico main campus in Albuquerque.
- Workshop on Master Stewardship Agreements and Forest Restoration held on January 12, 2013 at the University of New Mexico main campus in Albuquerque.
- Land Grant Elections Training held on February 9, 2013 in San Miguel at the San Miguel Land Grant Community/Senior Citizen's Center.
- Land Grant Elections Training held on March 16, 2013 in Canones, at the Rio Arriba County Community Center.
- Understanding the Land Grant General Provision Statutes held on April 20, 2013 at Northern New Mexico Community College in Española.