

LAS TRAMPAS LAND GRANT ASSOCIATION

TALKING POINTS (BRIEF FORMAT)

Hand delivered to New Mexico Congressman Ben Lujan

Saturday, 18 April 2009 - University of New Mexico.

(This presentation was also delivered, as follows, to the New Mexico Legislative Committee reviewing Chapter 49: Land Grants, NMSA 1978) in Mora, New Mexico, on Wednesday, 7 September 2005. Chair: Rep Miguel Garcia)

Introduction:

1 minute -19

I am Bert Lucero, one of the Trustees of the Board of Trustees of the Santo Tomas Apostol del Rio de Las Trampas Community Land Grant Association, LTLGA (Chapter 49 Article I, NMSA 1984 – SB 142 June 2004). Villages within the Trampas Land Grant boundaries are El Valle, Las Trampas, Llano de San Juan, Ojito, Ojo Sarco, and Rodarte. Other members of this Association are:

Filimon Sanchez, Primary Trustee, and President

Arnoldo Lopez, Trustee

Eddie Lucero, Public Safety

Christopher Gonzalez, Judicial System

Bert Lucero, Trustee

We thank you for the opportunity, to provide you with an UPDATE - a progress report of our actions and initiatives. Today, I wish to address the following talking points; after which we are willing to answer questions:

History

Needs Assessment – Where are we...

Accomplishments & Initiatives

Troublesome Laws affecting our interests

Suggestions for the Legislative Committee

I. History

1 Minutes - 18

- On 17 July 1751, a "tax free" Grant and Royal Possession was given to our ancestors by the kingdom of Spain for approximately 58,000 acres
- The Tramperos, heirs of the Santo Tomas Apostol Del Rio De Las Trampas Land Grant submitted their petition (1859). U.S. Patent #114066 was confirmed in June of 1860 and approved March 1869 for 28,000 acres.

- The Patent (U.S. Patent #114066), is a “quick claim deed” from the United States of America; it was not signed until 1913; after the Santa Fe Ring had sequestered the common lands
- Approximately 21,000 acres are now in the possession of the Kit Carson National Park.
- We have not yet been able to inventory and assess ownership of the remaining 7,000 acres. We know only that year after year, outsiders are filing Quiet Title Suits and claiming much of these properties.

II. Needs Assessment – Where we are...
Minutes - 15

2

A. Statistical Data – US Census

- In the 2000 Census, New Mexico ranked 49th just slightly above Mississippi in per capita income at \$21,164. Those estimated to be below the poverty level in New Mexico were reported at 19.3% of the population. At almost 20%, one person out of every five is barely scraping a living as identified by the US Census. Rio Arriba and Taos Counties were reported at 22.5% and 24.6%, respectively.

Per Capita Income / Poverty Indicators

2000 Census	Income/Capita	%Nat'l Ave	Population	Below Poverty	UnEmp Rate	Hispanic
United States	\$27,203	100.0%	281,421,906	13.3%	4.0%	12.5%
New Mexico	\$21,164	77.8%	1,819,046	19.3%	4.9%	42.1%
Taos County	\$17,905	65.8	29,979	24.6%	10.5%	57.9%
Rio Arriba	\$14,340	62.8%	41,190	22.5%	6.9%	72.9%

Statistical Abstract of the United States, 2003, 123 Edition, US Census Bureau, County and City Data Book, 2000

- Census data combined all people from Las Trampas, Picuris, and Santa Barbara Land Grants. Of nearly 1500 inhabitants, 1/3 are under age 16, 1/3 are in the labor market and remaining 1/3 were not.
- The reported 545 wage earners had a total combined income of \$15,933,249.00. Weighted average income for this group is \$10,701 per capita. 69.7% or 380 of reported wage earners (545) are below poverty level.
- Our best guess is that more than 50% of that data represents the people residing within the boundaries of the Las Trampas Land Grant. These are all subjective, but if correct, these people earned a weighted average of \$8,142.00 per year to support them selves and their families.

2000 Census	Income/Capita	Population	Hispanic	Below Poverty	Estimated Trampas Population*
Rio Lucio	\$11,827	379	93.4%	21.7%	0
Penasco	\$11,564	572	91.3%	21.0%	343
Vadito	\$ 9,481	242	100.0%	35.8%	181
Chamisal	\$ 8,641	301	92.0%	30.2%	256
Weighted Average	\$10,701	1,494		69.7% (380)	780

Statistical Abstract of the United States, 2003, 123 Ed., US Census Bureau, County& City Data Book, 2000 – * Subjective Best Guess

B. SWOT Situational Analysis

- We determined that the heirs of the “Las Trampas Community Land Grant” needed to be organized into a governing board that is acceptable to the United States Government, if we desired the redemption of the common lands. Many issues need to be considered and resolved in the near future, if we desire to meet our objective.

<p>Strengths</p> <p>Political Designation</p> <p>Charter/By-Laws</p> <p>Hope of Redemption of Common Lands</p> <p>Strong Commitment of Trustees</p> <p>Skills of Leadership</p> <p>Supportive Legislative entities</p> <p>Clear, Identifiable Deed - Patent</p>	<p>Weaknesses</p> <p>Limited Financial Reserves</p> <p>All Services are donated</p> <p>Limited Infrastructure</p> <p>Weak Communal Cohesiveness</p> <p>Poor Population</p> <p>No viable government exists, until now</p> <p>Very few business entities</p>
<p>Opportunities</p> <p>May Unite Community</p> <p>Non-partisan Congressional Support</p> <p>Much NM Legislative Support</p> <p>Redemption of Common Lands</p> <p>Eliminate poverty through Economic Development</p> <p>Cure a Century Old Injustice</p>	<p>Threats</p> <p>Open to Lawsuits</p> <p>Imprisonment if Dishonest</p> <p>Volunteers Burnout & Withdraw</p> <p>Greedy People Seeking Power</p> <p>Economic Development - Urbanization</p> <p>Improper Land Use</p>

- On 30 March 2002, we initiated the process to create a local town government. We revitalized the Las Trampas Land Grant Association (LTLGA) and created a Charter and By-Laws, which were adopted 12 July 2003. Our structure is similar to that of the United states of America:

Judicial Branch

Board of Trustees of LTLGA – includes Chief – Judicial System and
Chief – Public Safety (Law Enforcement)

Legislative Branch (Senate)

Select Council – Legislate Laws

Legislative Branch (Congress)

1st Common Council - Regulate Land & Resources

2nd Common Council – Regulate Civil Rights & Genealogical Issues

Executive Branch (President)

Town Executive Management Team (Mayor, Town Manager, Town Clerk)

Town employees

- We are in the process of staffing this government. Thus far, we have been able to locate and recruit many heirs from throughout the country (California, Colorado, New Mexico, Utah, Virginia, Wyoming) and have obtained commitments from them to share their talents and skills for the efficiency of the Community AND to travel to our quarterly meetings at their own expense:

- 1) Business Owners, Managers, Computer Programmers, Information Technology Instructors, Marketing Specialists, Genealogists, Web Masters, Construction Contractors –

- Heavy Equipment Operators
- 2) Attorney, Accountants, Computer Specialists, Purchasing Agents, Inventory Management Control Specialists, Nurses, Policemen, Firefighters,
 - 3) Governmental Leaders including high level managers: City Councilman, former County Manager
 - 4) Current and Former Federal, State, County City employees
 - 5) Educators, Teachers, Bi-Lingual Specialists, Principals, Historians

III. Goals & Objectives

3 minutes -13

- The mission of the LTLGA is to expand our sphere of control by organizing the Heirs into a viable organization, which will emerge as an influential entity in local, state, and national levels.
 1. Our main objective is to regain the common lands, which were lost through the legal system before we received a patent from the United States.
 2. Our immediate goal is to organize and coordinate our efforts for researching, developing and compiling documentation, in a presentable manner, to address the U.S. Congress, the Federal Courts and, and if need be, even the United Nations.
 3. When successful, we will need a standing government to administer & manage the affairs of Land Grant; for this purpose, we have created a Town Council.
 4. Concurrently, we desire to build a centralized community center, wherein the LTLGA may coordinate efforts to bring economic development into the valley.
- Goals
 1. Create viable Town Council
 2. Expand Historical and Legal Research
 3. Increase Community Involvement thru Economic Development
 4. Obtain Redemption of Common Lands from US Congress
 5. Have viable organization ready and capable of Managing Common Lands
 6. Emerge as a Self-Sustainable community

IV. Accomplishments and Initiatives

2 Minutes - 11

- Organizing a Town Municipality: We determined our best course of action was to create a municipality. In our opinion, this action will help us to regain redemption of the Common Lands of Las Trampas Land Grant. In March 2002, we initiated the task holding 12 community meetings and created a 59-page Charter & By-Laws document. It was approved by the vote of the people 12 July 2004.
- Identification Process – Genealogy Research: With the renewed hope of redemption of our common lands by the United States Congress, we realized that many of the current residents were not Heirs to the Trampas Land Grant. We organized a team, to research the descendents of the original twelve (12) families. Much progress has been made, but we are only beginning. Last count has revealed almost 10,000 names (1540 AD – 2005 AD). We are asking everyone, who believes they may be an heir, to share their genealogical information with us.
- GAO Study Report – Response and Hopes: We offered testimony to the U. S. Senate in 2001 and again in 2002, regarding our Land Grant. When the G.A.O. released its Study on the Treaty of Guadalupe Hidalgo, Mr. Chris Gonzales, our Chief - Judicial System, prepared a 12-page document responding to its findings. The G.A.O. forwarded copies of our written response to the New Mexico delegation.
- SB 142: Political Status: Our primary role in the past, has been Community Cohesion and to listen to and seek solutions for the concerns of the people. One initiative we worked closely with the NM Land Grant Forum, NM Senator Bernadette Sanchez, and NM Representative Miguel Garcia. We thank them for allowing us to have a small role in the creation of and passage of SB 142, which gave all Land Grant Trustees a “legal political status” in the State of New Mexico.

IV. Troublesome Laws affecting our Interests

6 Minutes - 5

A. Partitioning – Adverse Possession and quiet title suits.

- Under Spanish Law, common lands were held in common by the heirs of a land grant (somewhat similar concept of “Joint Tenancy”) each owning the whole and an equal undivided share – ownership transferring to the last survivor (ref: 47-1-35 & 47-1-36 NMSA 1978).
- However, it also had features of “Tenancy in Common”. It is a form of ownership, whereby each tenant (i.e., owner or heir) holds an undivided interest in property. Unlike a joint tenancy or a tenancy by the entirety, the interest of a tenant in common does not terminate upon his or her prior death (i.e., there is no right of survivorship). Upon death, interest in the property passes to the estate or heirs. (Blacks Law Dictionary)
- Partition not an absolute right (42-5-6 NMSA 1978). Partitioning “

can be denied where the partition would be against public policy, legal principles or equitable principles...”

- In regards to the Las Trampas Land Grant, only the common lands were partitioned (illegally)..., the remaining grant lands, wherein the people resided, were not partitioned – the towns, settlement and segregations were left intact (see cause 840: Trampas Lumber Company Vs Juan B Ortega, et al, 1903):

1) Court Order by Judge McFie, 19 Sept 1901 – order to sell... “...less 650 acres...” (later determined to be 7,000 acres)

2) Quit Claim Deed by Court, 26 Nov 1913 – conveyed common lands..., “...except towns, settlements and segregations...”

3) Final Decree, 16 April 1914 – “...fee simple estate in Las Trampas Grant...”

B. Taxes – Should land grants pay taxes or receive tax revenue

- WE feel that our particular land grant ought not be required to pay taxes because our Land Grant was given “...to colonize...” and “...to protect the lower Rio Grande settlements from Comanche raids”, as a buffer community.
- In this grant, the King of Spain provided for a “Tax Free” status “Quote: “...to the aforesaid citizens all the royal and personal title he (the king) had to the said lands, granting the same to them (the twelve families) free of all tax, tribute, mortgage, or other encumbrance, for which neither himself, his children, heirs, or successors will enter suit, dispute, or complaint against them...” (Las Trampas Grant: Twitchell Translation -- Archive 975).
- The Territory of New Mexico Legislative Act of 1897, Chapter LIV, adopted 18 March 1897, conveyed/confirmed “tax free” status of “corporate municipality” to all community land grants (thus reinforcing Article VI of the U.S. Constitution and Amendment XIV). Because our land grant patent was not signed until 1913, we were denied this option in the past.
- The NM State Tax Law of 1934, Chap 27, pages 94-114, Section 24 seems to imply that property taxes are exempt “...if deed from the United States”. Our Quit Claim Deed/Patent was signed by the United States President – does that not constitute this requirement?
- Lastly, the Constitution of New Mexico, Article VIII – Taxation and Revenue, Section 3 exempts towns and other municipal corporations from taxation, 1971.
- And thus, our motivation to create a Town municipality IAW Chapter 3, NMSA 1978. We now have a New Mexico Tax ID # 03-031770-00-3 and a Federal Tax ID # 84-1666619.

C. Authority and jurisdictional issues

- In our opinion, "Quiet Title" suits are intuitively adverse to land grants in violation to Article VI and Amendment XIV of the US Constitution, the Organic Law, and the Treaty of Guadalupe-Hidalgo (see 47-1-25 NMSA 1978) (See also David Benavidez Lawyer-Induced Partitioning of New Mexico Land Grants: An Ethical Travesty & David Benavidez:

- The Homestead Act of 1864 was not meant to apply to Lands located within Land Grants. Many people over the years have "homesteaded" on our lands then, filed "Quiet Title Suits" under Adverse Possession.
- In addition, we feel that proper jurisdiction does not lie within the county nor state governments, but rather in Federal or in Internal Land Grant courts. Does not the US Constitution state that treaties by the US Congress are "Supreme Law"? (see United States Vs Joseph, 94 USC 614,1876)
- According to 49-1-15 land grants are authorized to eject; remove from their grant, any person or persons in "...which in the opinion of such board he has no right or title..."; but to do so land grant Boards of Trustees must have unlimited funding to pay attorney fees, legal costs and court expenses.
- "No Sale, mortgage or other alienation of the common lands shall take effect unless authorized by a resolution duly adopted by the Board of Trustees..." (49-1-11, NMSA 1978)

V. Suggestions for the Legislative Committee

3 Minutes - 2

1. Place a moratorium on Quiet Title Suits for property located within land grant boundaries. Divesting of acreage into smaller units is making things more complicated, every year.
2. Restrict sale of private lands, located within land grant borders to Land Grant Boards of Trustees.
3. Require individual landowners, who want to sell their land to seek permission from Land Grant Boards of Trustees to sell their land to others
4. Land Grant Boards of Trustees should have the First Right to purchase land located with the boundaries of their land grant.
5. Land lost, due to non-payment of taxes, or disposition through confiscation should be transferred back to the land grants, automatically, without need for court proceedings or need to purchase by bid.
6. Create a State Land Grant Fund, from which the various land grants may request loans or grants to repurchase lands within their own land grant.

7. How much authority do Land Grant Boards of Trustees actually have to enforce Chapter 49-1-15 wherein land grants "...are authorized to eject; remove from their grant, any person or persons in which in the opinion of such board he has no right or title...?"
8. Land Grant Boards of Trustees ought not need to file suit in State or County Courts and pay unlimited attorney fees, legal costs, and court expenses – perhaps they could be waived or jurisdiction be given back to the Land Grants.
9. Set up a specialized judicial system for all land grants so that they may have legal authority and process wherein Land Grant Boards of Trustees could reverse Quiet Title Suit Judgments made by County and State Courts on the basis of jurisdictional authority.
10. Bar or Restrict County and State Courts from jurisdictional authority to hear and pass judgment on Quiet Title Suits regarding lands located within the exterior boundaries of land grants, when land grants have an organized judicial system.
11. Allow, even encourage, land grants to create municipalities in accordance with Chapter 3, NMSA 1978 without fear of losing lands through speculative venture capitalists or potential of jeopardizing protection under Chapter 49, Article I, NMSA 1978.
12. Obtain ruling from Attorney General regarding right of land grant political entities (Board of Trustees) to form local government IAW Chapter 3, NMSA and or create legislation allowing representation by a municipality without the Land Grant Board of Trustees needing to "Incorporate".
13. May need to amend 49-1-18, NMSA 1978 to allow Chapter 49, Article 2 to be authorized as a supplementary governmental tool and not adverse (either/or) to Board of Trustees as authorized in Chapter 49, Article 1.
14. Expand Land Grant Board of Trustees authority to include water issues if not already adjudicated to state ownership.
15. Petition the United States Congress, on our behalf, to return the common lands so that we may revive our economy and that of the State of New Mexico.

Conclusion: How Are We Going to Accomplish Our Goals? 2 Minute -0

First, our main objective is to regain the common lands. We have a clear deed from the Spanish government granting us a tax-free grant with all water and mineral rights.

Our immediate goal is to organize and coordinate our efforts for researching, developing, and compiling our documentation, to address the U.S. Congress.

Should we succeed in regaining the common lands, we will need a standing government to administer & manage the affairs of the Land Grant; for this purpose,

and a balance of power, we are in the process of creating a Town Council.

With your help and guidance, we hope to create a productive community with a viable and cooperative local government to stimulate a virtual non-existent local economy.

We desire to build a centralized community center, wherein the LTLGA may coordinate efforts to bring economic development into the valley.

In our By-Laws, we have identified many and varied opportunities, needs and initiatives, which we believe, will return this community into a self-sufficient society and eventually contribute back to the State rather than be dependant upon it.

Food Storage/Disaster Preparedness Program
Livestock, Grazing and Farm Cooperative
Small business development center
Retirement (Assisted Living) Community Center
College Prep School/University
Tourist, camping & hiking industry

These initiatives, we can accomplish without the common lands. However, first we need a centralized coordination center. We know that we can do it. We will do it. We will also need your guidance and help along the way.

We are willing to share our knowledge and developmental experience. If we may be of some assistance to you or to other land grants, please let us know what you need from us.

We have recently applied for an operating fund grant, which will help with administrative costs. We entered a portion of our five-year plan into the ICIP databank.

Within five years, we seek to be self-sustaining and to be in receipt of our common lands. We hope to revive our culture of self-reliance and no longer need to depend upon external social welfare programs.

Thank you for your time and listening ears. If we may help in any way, we will be happy to share what we have learned over the past 2 – 3 years.

Bert M. Lucero Cell 1-505-850-3351 or Bert_M_Lucero@q.com

Historical Accounts

Malcolm Ebright, Land Grants & Lawsuits in Northern New Mexico
William deBuys, Fractions of Justice, A Legal and Social History of The Las Trampas Land Grant
Land Title Study, White, Koch, Kelly, and McCarthy, New Mexico State Planning Office
David Benavidez, Lawyer-Induced Partitioning of New Mexico Land Grants: An Ethical Travesty
Robert J. Torres, State Historian, Enduring Legacy of Spanish & Mexican Land Grants in N.M.

Bert Lucero, "Every Monkey Found His Swing.... and Stayed There!" Trampas Grant - Time Line

Related Cases

1893, Cause 594: David Martinez Jr., et al, Vs David Rodriguez, et al, (suit to partition Ejido)
1903, Cause 840: Las Trampas Lumber Co, Vs Juan B Ortega, et al (quiet title - Ejido sequestered)
1869, United States of America Vs Jose Juan Lucero, 423 USC 1869 (excellent historical account)
1876, United States Vs Joseph, 94 USC 614 (discusses superior rights)
18__, US v Perchman, 7 Pet 51 (affirms international law of conquest)
1904, Territory ex rel. Curran Vs Gutierrez, 12 NM 254 (Organic Act - Constitution of NM Territory)
1972, United States of America Vs Jose P. Lopez Criminal No: 81-180 and 81-181 (chain of title)

Legal Documents

1776, U.S. Constitution Article VI and Amendment XIV, Sec 1
1948, Treaty of Peace Between United States of America and Mexico Treaty of Guadalupe-Hidalgo
1853, Gadsden Treaty of America
1897, Territory of New Mexico Legislative Act of 1897, Chapter LIV,
1934, Tax Law of 1934, State of New Mexico, 12 Stat 391, Chapter 27,
1971, Constitution of New Mexico, Article VIII - Taxation and Revenue, Sec 3

Evidence of Ownership

1751, Land Grant given to Arguello & 11 other family heads by Sovereign of Spain, in Spanish
1751, Las Trampas Land Grant, English Translation by Twitchell 15 July 1751
1883, Tax Assessment Roll, Llano de San Juan, County of Taos, Territory of New Mexico
1903, US Patent to Town of Las Trampas, "quitclaim deed", #114006, 26 Jan 1903
1907, Water Right et al San Juan Nepomoseno del Llano Acequia, Jun 17, 1907
1907, Declaration of Ownership, Water Rights Acequia del Río Chiquito, SJ Nep. del Llano, 21 Jun
1907, Declaration of Ownership, Water Rights Rio Chiquito Acequias, Jun 22, 1907
1930, Water Rights, Rio Chiquito Community Ditch, efficient use, 160 sq rods/acre, 18 Sept. 1930
1969, Declaration of Ownership of Water Right of Acequia de San Juan Nepomusimo del Llano
1979, Declaration of Election and ownership of common lands of Las Trampas Grant, 12 Sept. 1979
2002, Declaration of Ownership of the Las Trampas Land Grant, 1 April 2002

Evidence of Probable Judicial Misconduct

1881, Territory of New Mexico Tax Assessment records, 1880, 1881, 1882 and 1883, UNM SW Research Center, Bond collection files (should not be there)

1903, Release of original Las Trampas Patent to Franklin Bond, SANM Roll 15, frame 437,
Feb 14, 1914, Taos Valley News, Vol 6, No. 4, Taos New Mexico, Saturday 24 Jan 1914
(Legal notice Las Trampas Lumber Company, a corporation, Plaintiff -- 31 years late!)
1914, Agreements between Las Trampas Lumber Co and Apolino Roybal of Llano: Book
A-24, page 488, Daniel Velarde of Ojo Sarco: Book 124, page 621, Eduardo Gonzales of
Llano: not recorded (Right to graze, take down timber, for fuel, fence posts, rafters and
other domestic use and right of way for ditches), 24 Apr 1914
1927, Communications regarding nonpayment of property and other taxes by Las
Trampas Lumber Company, Bond files, UNM SW Research Center, 1919 - 1927
1941, Communications between Francis Wood and Taos County Clerk, regarding missing
case files (Cause 840) from Taos County Archives, 1916 - 1941.