

**Concept paper: Community Land Grants and Acequia Traditional Use Legislation**  
**Short Title: "Traditional Use Consultation Act of 2011"**

**Findings:**

**Community Land Grants** and the communities associated with them have a history of land loss due to a range of manipulations and un-kept commitments by the United States government, and as a result are in need of increased economic opportunities.

**Land Grant-Mercedes** are part of a unique and important history in the southwest dating back to the treaty of Guadalupe-Hidalgo. The years following the treaty have resulted in a significant loss of land originally belonging to the Land Grant-Mercedes. Those Land Grant-Mercedes currently recognized as political subdivisions are in need of increased economic opportunities.

**Acequias and Community Ditches** in New Mexico are historical community ditches that carry snow runoff, spring flows, or river water to fields for irrigation. Most acequia irrigation systems transmit irrigation water through earthen ditches, concrete lined ditches, pipes, or aqueducts. Some are of modern fabrication and others are decades or centuries old. The local acequia organization is administered by a governing board that includes ditch riders, a majordomo and/or ditch commissioners who regulate the water right holders and release water on a rotational or demand basis.

**Definitions:**

Land Grant-Merced – means a grant of land made by the government of Spain or by the government of Mexico to a community, town, colony or pueblo or to a person for the purpose of founding or establishing a community, town, colony or pueblo.

Acequias and Community Ditches – means a community ditch that is recognized under New Mexico law as political subdivisions of the state.

**Qualifications:**

All land grants-mercedes that qualify as political subdivisions of the state of as described in New Mexico State Code, section 49-1-2 NMSA 1978.

All acequia or community ditches that qualify as political subdivisions of the state as described in New Mexico State Code, section 73-2-28 NMSA 1978.

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**Content:**

1. Land Grant Sign Up
  - a. All land grants (as defined above) have 18 months from the date of enactment, or 18 months from the date of reconstitution in the case of a newly reorganized land grant, to request Forest Service/BLM consultation and priority in stewardship contracts in traditional use areas. Requests will go to the Regional Forest Chief and/or State BLM Director.
  - b. The land grant will be responsible for providing a map and back-up documentation outlining the original boundaries of their common lands.
  - c. The Forest Service/BLM will have 60 days to respond or approve of the map.

2. Consultation -
  - a. FS/BLM is required to consult with Land Grants when preparing Resource Management Plans for any lands in the mapped traditional boundaries or adjacent to such land grant boundaries;
  - b. FS /BLM Resource Management Plan consultation must include land grant and/or acequia associations that have easements on federal lands or within lands within 25 miles of acequia easements.
  - c. Traditional uses of Land Grants and Acequias and related economic impact on these communities shall be considered in every management decision for areas within the traditional use boundaries.
  
3. Land Grant and Acequia Forest Protection
  - a. (Basically the same as the Tribal Forest Protection act.) Land Grants and Acequias can request the BLM/FS to enter into an agreement or contract to carry out a project to protect traditional Acequia easements; or Land Grant forest land or rangeland for any lands in the mapped traditional boundaries or adjacent to such boundaries. (But the Tribal Forest Protection Act of 2004, Public Law No: 108-278 takes precedent in any case of crossed boundaries.)
  
4. Traditional Uses
  - a. Acequia Traditional Uses – Within Acequia easements, the secretary is directed to waive fees on any necessary permits to local acequia associations for the follow traditional use activities:
    - i. Cleaning of Community Ditches and Water ways
    - ii. Maintaining existing structures necessary for the delivery of water into the acequia system
    - iii. Constructing new structures necessary for the delivery of water into the acequia system
    - iv. Water Usage
    - v. Herb gathering
    - vi. Religious and Cultural Use
  
  - b. Land Grant Traditional uses - Within approved traditional boundaries, the secretary is directed to waive fees on any necessary permits to heirs of the specific land grants for the follow traditional use activities:
    - i. Water Usage
    - ii. Cleaning of Community Ditches and Water ways
    - iii. Timber harvesting
    - iv. Herb gathering
    - v. Hunting and Fishing
    - vi. Religious and Cultural Use
    - vii. Recreation
    - viii. Grazing