

105TH CONGRESS  
2D SESSION

# H. R. 2538

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 14, 1998

Received; read twice and referred to the Committee on Energy and Natural  
Resources

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## AN ACT

To establish a Presidential commission to determine the validity of certain land claims arising out of the Treaty of Guadalupe-Hidalgo of 1848 involving the descendants of persons who were Mexican citizens at the time of the Treaty.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
 5       “Guadalupe-Hidalgo Treaty Land Claims Act of 1998”.

6       (b) **TABLE OF CONTENTS.**—The table of contents of  
 7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions and findings.
- Sec. 3. Establishment and membership of Commission.
- Sec. 4. Examination of land claims.
- Sec. 5. Community Land Grant Study Center.
- Sec. 6. Miscellaneous powers of Commission.
- Sec. 7. Report.
- Sec. 8. Termination.
- Sec. 9. Authorization of appropriations.

8       **SEC. 2. DEFINITIONS AND FINDINGS.**

9       (a) **DEFINITIONS.**—For purposes of this Act:

10       (1) **COMMISSION.**—The term “Commission”  
 11       means the Guadalupe-Hidalgo Treaty Land Claims  
 12       Commission established under section 3.

13       (2) **TREATY OF GUADALUPE-HIDALGO.**—The  
 14       term “Treaty of Guadalupe-Hidalgo” means the  
 15       Treaty of Peace, Friendship, Limits, and Settlement  
 16       (Treaty of Guadalupe Hidalgo), between the United  
 17       States and the Republic of Mexico, signed February  
 18       2, 1848 (TS 207; 9 Bevans 791).

19       (3) **ELIGIBLE DESCENDANT.**—The term “eligi-  
 20       ble descendant” means a descendant of a person  
 21       who—

1 (A) was a Mexican citizen before the Trea-  
2 ty of Guadalupe-Hidalgo;

3 (B) was a member of a community land  
4 grant; and

5 (C) became a United States citizen within  
6 ten years after the effective date of the Treaty  
7 of Guadalupe-Hidalgo, May 30, 1848, pursuant  
8 to the terms of the Treaty.

9 (4) COMMUNITY LAND GRANT.—The term  
10 “community land grant” means a village, town, set-  
11 tlement, or pueblo consisting of land held in common  
12 (accompanied by lesser private allotments) by three  
13 or more families under a grant from the King of  
14 Spain (or his representative) before the effective  
15 date of the Treaty of Cordova, August 24, 1821, or  
16 from the authorities of the Republic of Mexico before  
17 May 30, 1848, in what became the State of New  
18 Mexico, regardless of the original character of the  
19 grant.

20 (5) RECONSTITUTED.—The term “reconsti-  
21 tuted”, with regard to a valid community land grant,  
22 means restoration to full status as a municipality  
23 with rights properly belonging to a municipality  
24 under State law and the right of local self-govern-  
25 ment.

1 (b) FINDINGS.—Congress finds the following:

2 (1) New Mexico has a unique history regarding  
3 the acquisition of ownership of land as a result of  
4 the substantial number of Spanish and Mexican land  
5 grants that were an integral part of the colonization  
6 and growth of New Mexico before the United States  
7 acquired the area in the Treaty of Guadalupe-Hi-  
8 dalgo.

9 (2) Various provisions of the Treaty of Guada-  
10 lupe-Hidalgo have not yet been fully implemented in  
11 the spirit of Article VI, section 2, of the Constitution  
12 of the United States.

13 (3) Serious questions regarding the prior own-  
14 ership of lands in the State of New Mexico, particu-  
15 larly certain public lands, still exist.

16 (4) Congressionally established land claim com-  
17 missions have been used in the past to successfully  
18 examine disputed land possession questions.

19 **SEC. 3. ESTABLISHMENT AND MEMBERSHIP OF COMMIS-**  
20 **SION.**

21 (a) ESTABLISHMENT.—There is established a com-  
22 mission to be known as the “Guadalupe-Hidalgo Treaty  
23 Land Claims Commission”.

24 (b) NUMBER AND APPOINTMENT OF MEMBERS.—  
25 The Commission shall be composed of five members ap-

1 pointed by the President by and with the advice and con-  
2 sent of the Senate. At least two of the members of the  
3 Commission shall be selected from among persons who are  
4 eligible descendants.

5 (c) TERMS.—Each member shall be appointed for the  
6 life of the Commission. A vacancy in the Commission shall  
7 be filled in the manner in which the original appointment  
8 was made.

9 (d) COMPENSATION.—Members shall each be entitled  
10 to receive the daily equivalent of level V of the Executive  
11 Schedule for each day (including travel time) during which  
12 they are engaged in the actual performance of duties vest-  
13 ed in the Commission.

14 **SEC. 4. EXAMINATION OF LAND CLAIMS.**

15 (a) SUBMISSION OF LAND CLAIMS PETITIONS.—Any  
16 three (or more) eligible descendants who are also descend-  
17 ants of the same community land grant may file with the  
18 Commission a petition on behalf of themselves and all  
19 other descendants of that community land grant seeking  
20 a determination of the validity of the land claim that is  
21 the basis for the petition.

22 (b) DEADLINE FOR SUBMISSION.—To be considered  
23 by the Commission, a petition under subsection (a) must  
24 be received by the Commission not later than five years  
25 after the date of the enactment of this Act.

1       (c) ELEMENTS OF PETITION.—A petition under sub-  
2 section (a) shall be made under oath and shall contain  
3 the following:

4           (1) The names and addresses of the eligible de-  
5 scendants who are petitioners.

6           (2) The fact that the land involved in the peti-  
7 tion was a community land grant at the time of the  
8 effective date of the Guadalupe-Hidalgo Treaty.

9           (3) The extent of the community land grant, to  
10 the best of the knowledge of the petitioners, accom-  
11 panied with a survey or, if a survey is not feasible  
12 to them, a sketch map thereof.

13           (4) The fact that the petitioners reside, or in-  
14 tend to settle upon, the community land grant.

15           (5) All facts known to petitioners concerning  
16 the community land grant, together with copies of  
17 all papers in regard thereto available to petitioners.

18       (d) PETITION HEARING.—At one or more designated  
19 locations in the State of New Mexico, the Commission  
20 shall hold a hearing upon each petition timely submitted  
21 under subsection (a), at which hearing all persons having  
22 an interest in the land involved in the petition shall have  
23 the right, upon notice, to appear as a party.

24       (e) SUBPOENA POWER.—

1           (1) IN GENERAL.—The Commission may issue  
2       subpoenas requiring the attendance and testimony of  
3       witnesses and the production of any evidence relat-  
4       ing to any petition submitted under subsection (a).  
5       The attendance of witnesses and the production of  
6       evidence may be required from any place within the  
7       United States at any designated place of hearing  
8       within the State of New Mexico.

9           (2) FAILURE TO OBEY A SUBPOENA.—If a per-  
10      son refuses to obey a subpoena issued under para-  
11      graph (1), the Commission may apply to a United  
12      States district court for an order requiring that per-  
13      son to appear before the Commission to give testi-  
14      mony, produce evidence, or both, relating to the  
15      matter under investigation. The application may be  
16      made within the judicial district where the hearing  
17      is conducted or where that person is found, resides,  
18      or transacts business. Any failure to obey the order  
19      of the court may be punished by the court as civil  
20      contempt.

21          (3) SERVICE OF SUBPOENAS.—The subpoenas  
22      of the Commission shall be served in the manner  
23      provided for subpoenas issued by a United States  
24      district court under the Federal Rules of Civil Pro-  
25      cedure for the United States district courts.

1           (4) SERVICE OF PROCESS.—All process of any  
2       court to which application is to be made under para-  
3       graph (2) may be served in the judicial district in  
4       which the person required to be served resides or  
5       may be found.

6       (f) DECISION.—On the basis of the facts contained  
7       in a petition submitted under subsection (a), and the hear-  
8       ing held with regard to the petition, the Commission shall  
9       determine the validity of the community land grant de-  
10      scribed in the petition. The decision shall include a rec-  
11      ommendation of the Commission regarding whether the  
12      community land grant should be reconstituted and its  
13      lands restored.

14      (g) PROTECTION OF NON-FEDERAL PROPERTY.—  
15      The decision of the Commission regarding the validity of  
16      a petition submitted under subsection (a) shall not affect  
17      the ownership, title, or rights of owners of any non-Fed-  
18      eral lands covered by the petition. Any recommendation  
19      of the Commission under subsection (f) regarding whether  
20      a community land grant should be reconstituted and its  
21      lands restored may not address non-Federal lands. In the  
22      case of a valid petition covering lands held in non-Federal  
23      ownership, the Commission shall modify the recommenda-  
24      tion under subsection (f) to recommend the substitution



1 of comparable Federal lands in the State of New Mexico  
2 for the lands held in non-Federal ownership.

3 **SEC. 5. COMMUNITY LAND GRANT STUDY CENTER.**

4 To assist the Commission in the performance of its  
5 activities under section 4, the Commission shall establish  
6 a Community Land Grant Study Center at the Onate Cen-  
7 ter in Alcalde, New Mexico. The Commission shall be  
8 charged with the responsibility of directing the research,  
9 study, and investigations necessary for the Commission to  
10 perform its duties under this Act.

11 **SEC. 6. MISCELLANEOUS POWERS OF COMMISSION.**

12 (a) HEARINGS AND SESSIONS.—The Commission  
13 may, for the purpose of carrying out this Act, hold hear-  
14 ings, sit and act at times and places, take testimony, and  
15 receive evidence as the Commission considers appropriate.  
16 The Commission may administer oaths or affirmations to  
17 witnesses appearing before it.

18 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
19 ber or agent of the Commission may, if authorized by the  
20 Commission, take any action which the Commission is au-  
21 thorized to take by this section.

22 (c) GIFTS, BEQUESTS, AND DEVISES.—The Commis-  
23 sion may accept, use, and dispose of gifts, bequests, or  
24 devises of services or property, both real and personal, for

1 the purpose of aiding or facilitating the work of the Com-  
2 mission.

3 (d) **MAILS.**—The Commission may use the United  
4 States mails in the same manner and under the same con-  
5 ditions as other departments and agencies of the United  
6 States.

7 (e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon  
8 the request of the Commission, the Administrator of Gen-  
9 eral Services shall provide to the Commission, on a reim-  
10 bursable basis, the administrative support services nec-  
11 essary for the Commission to carry out its responsibilities  
12 under this Act.

13 (f) **IMMUNITY.**—The Commission is an agency of the  
14 United States for the purpose of part V of title 18, United  
15 States Code (relating to immunity of witnesses).

16 **SEC. 7. REPORT.**

17 As soon as practicable after reaching its last decision  
18 under section 4, the Commission shall submit to the Presi-  
19 dent and the Congress a report containing each decision,  
20 including the recommendation of the Commission regard-  
21 ing whether certain community land grants should be re-  
22 constituted, so that the Congress may act upon the rec-  
23 ommendations.

1 **SEC. 8. TERMINATION.**

2       The Commission shall terminate on 180 days after  
3 submitting its final report under section 7.

4 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

5       There is authorized to be appropriated \$1,000,000  
6 for each of the fiscal years 1999 through 2007 for the  
7 purpose of carrying out the activities of the Commission  
8 and to establish and operate the Community Land Grant  
9 Study Center under section 5.

      Passed the House of Representatives September 10,  
1998.

Attest:

ROBIN H. CARLE,  
*Clerk.*