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April 2020

Subdividing the Public Lands: The Apportionment and Settlement of Northeast New Mexico

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SUBDIVIDING THE PUBLIC LANDS:
THE APPORTIONMENT AND SETTLEMENT OF NORTHEAST
NEW MEXICO

The land of northeastern New Mexico, outside of the recognized title rights of the former Mexican citizens, became the public domain of the United States by the treaty of Guadalupe Hidalgo in 1848. This immediately allowed for ^{US control} over 10,000 square miles of land ^{with} in the area east of the 105° meridian and north of a line roughly defined by Interstate 40 in Quay County and the boundary between San Miguel and Guadalupe counties. Portions of the northeast ^{which were} excluded from this public domain by the action of the Court of Private Land Claims between 1891 and 1904, were the few large area Mexican land grants mentioned previously in a separate section of this report. These grant lands straddled the ~~perennial~~ ^{perennial} surface water systems of the Canadian, the Gallinas, the Mora, and the Vermejo-Cimarron rivers. The survey of New Mexico, initiated in 1854, was designed to establish areas of the territory which could be occupied by settlers, to reserve land as a revenue source for public institutions, and to evaluate the land granted to communities, families, and to individuals prior to 1848.

The Survey

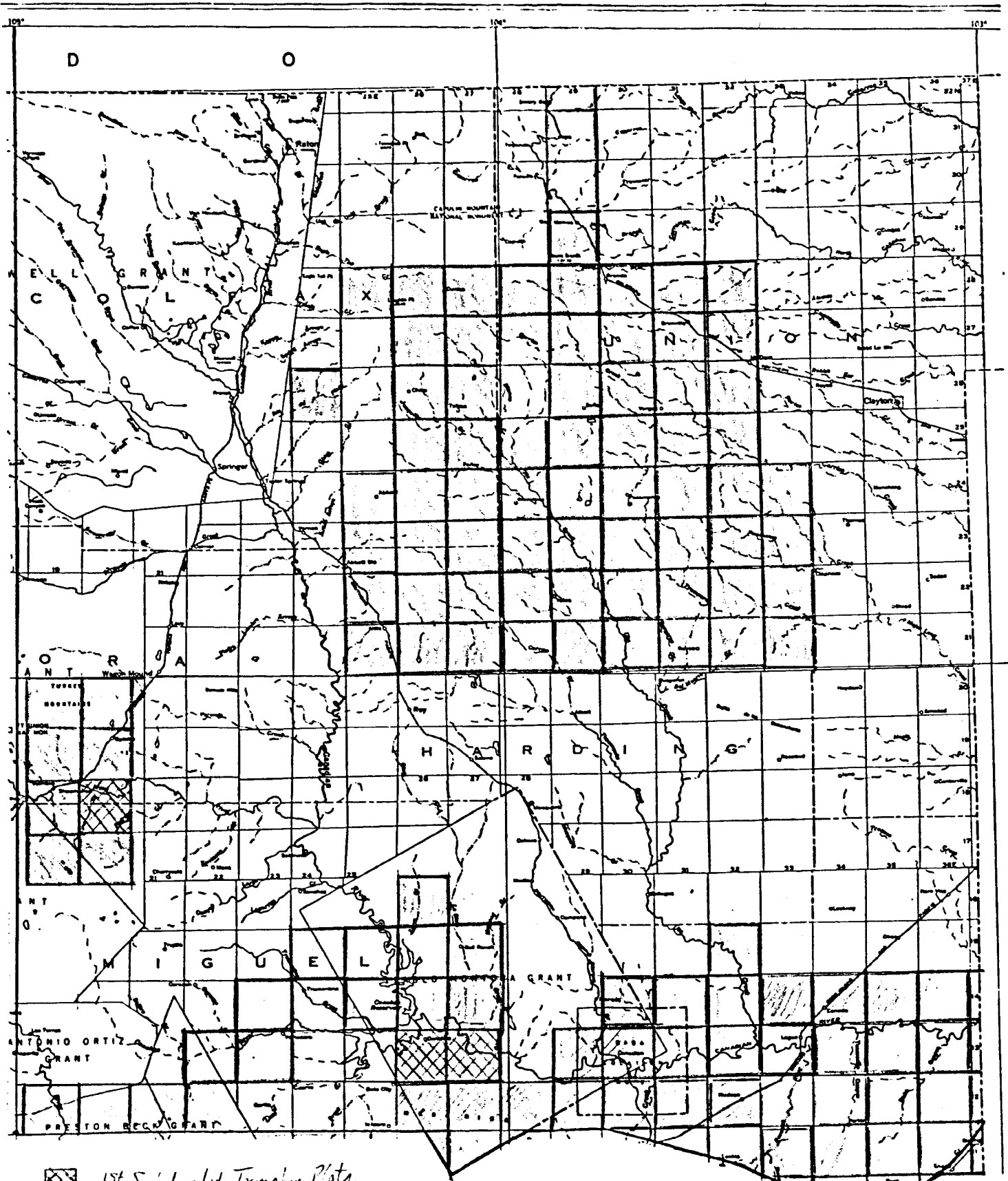
To process the subdivision of New Mexico, a central intersection point of a principle survey meridian and a base line ~~was~~ established at the crest of a basalt-capped hill along the Rio Grande, six miles south of its' confluence with the Rio Puerco. From this point the entire territory of New Mexico, outside of the land occupied by proper land grants, was platted into a massive grid of Townships and Ranges, a system of public land survey which began in Ohio in 1785. This national survey was designed to encourage settlement of all of the land, rather than to allow the distribution of only the choice parcels, and to provide an orderly method of recording titles which would avoid duplication.¹



The survey east from the central point subdivided the New Mexico Base Line into $36\frac{1}{2}$ six-mile wide Ranges from the Rio Grande valley to the Texas border. There were $31\frac{1}{2}$ six-mile wide Townships subdivided along the New Mexico Principle Meridian from the central point to the Colorado border. From these two axes rectangles and squares, along with correction lines, were platted over northeastern New Mexico. Each of these "Townships" containing 36 square miles could be subdivided into square mile sections (containing approximately 640 acres), with each section surveyed into quarter sections of about 160 acres each. Each quarter section could be further subdivided into four square parcels of forty acres each, and, if necessary, each of these could be split into smaller grids. The Surveyor General of the Territory of New Mexico was charged with subdividing only the Townships that he deemed arable and suitable for settlement. Areas that were judged as unsuitable would only have their exterior boundaries surveyed. Title to land was unavailable to claimants under the Preemption Act, Donation Law, or Homestead Act, until a Township had been properly surveyed into subdivisions.² The significance of this is that only a handful of surveyors and land commissioners between 1854 and 1890 were involved in determining where settlement could occur on the public domain of New Mexico. Ironically, the first subdivided Township and Range areas surveyed in the northeastern section in 1856 and 1857 were in the Pablo Montoya and Mora land grants along the Canadian and Mora rivers respectively.³ Both of these grants were later recognized as legitimate claims by the Court of Private Land Claims and were not available for settlement as public land.



During the first twenty years of the survey, an interesting pattern emerged in the northeast. The subdivided townships available for settlement prior to 1876 were either in grant lands, and thus unavailable for distribution, or they were along the headwaters of the Chico, Ute, and Dry Cimarron drainages: locations which eventually became headquarters for large sheep and cattle companies. The only

other major survey subdivisions which could be allocated to settlers were in the broad Canadian canyon area near the confluence of Ute Creek and from Trementina to Garita (see Map 1), both rainshadow regions that are poorly suited for dryland farming.⁴ The surveyors during the 1850's through 1870's complained that harassment by Commanche and Kiowa Indians forced them to confine their survey areas of the northeast. Many of the first surveyor-generals were also convinced that settlement could only occur in areas with sufficient surface water for irrigation. As late as 1897 a report to Congress on "The Land of the Arid Region of the United States" by Major J W Powell recommended that the USGS survey classify the arid and semiarid areas into irrigable lands along benches and banks of perennial waterbodies, forested lands along windward slopes, and areas for pasturage in between. His report, which did not receive a receptive vote in Congress, also recommended that the pasturage farms contain a minimum of four sections (2,560 acres) with small tracts of irrigable land to supplement natural grass grazing.⁵ Surveyors of northeastern New Mexico appeared to follow this philosophy as the land that was subdivided was more suited for grazing and for consolidation into livestock companies. Little of the subdivided land could have been appraised as falling within an ecosystem suited for dryland agriculture. A vast portion of the northeast that was surveyed prior to 1876 was left unsubdivided (refer to Map 1) as it was considered unsuited for cultivation by the surveyors. Generally this did contain the large area of stabilized sand hills between the Canadian River and I-40 in Quay County, but it also included the high plains of southeastern Colfax County, western Union County, and northern Harding County. Based upon current knowledge of land conditions in the area surveyed for settlement and the probable existence of residents in the subdivided areas prior to distribution under the Homestead Act, it is not surprising that there were few homestead entries in northeastern New Mexico between the 1862 passage of the act until 1884 when most of the remaining land in

MAP 1
LAND SURVEY: 1853-1876



 - 1st Subdivided Township Plate.
 Surveyed by John Hariston: 1856-57.
 - Subdivided Township Plate: 1856-61

 - Subdivided Township Plate:
 1872-76*
 - Townships Surveyed - Eastern Boundary only

*No subdivided plate 1861-1872

The decision to people the land west of the 100 degree meridian was under the direction of people in Congress who assumed that the process should follow the successful manner of settlement throughout the Ohio and Mississippi basins. The small farm would assure a high enough rural density to stimulate commerce and provide the plains with an agricultural enterprise. In 1860, the Rocky Mountain Southwest must have appeared as a space to be populated. From 1850 to 1860 the population of New Mexico Territory (including Arizona until 1864) increased from 61,547 to 83,009 and the number of farms from 3,750 to 5,086.^{6A} Farming was less significant to the rural population than sheepherding along with some cattle ranching. Out of a population of 175,000 in New Mexico (with Arizona), Utah, and Colorado, only about 10,000 gave their occupations as farmers on a total of about 8812 farms.^{6B}

^{6A} Gilbert Fite, The Farmers' Frontier 1865-1900, New York: 1966, p.176.

^{6B} Fite. op.cit., p. 183.

the region was subdivided for settlement. Practically all of the land was either in land grant locations or along water courses which afforded a farming method largely unfamiliar to potential immigrants from the Midwest.

Henry Atkinson was the surveyor general who was responsible for the rapid survey of nearly four -fifths of the northeast between 1876 and 1884.(Refer to Map 2) Although his stated purpose was to survey those land s adapted to agriculture without artificial irrigation, much of his motive was to open title to grazing lands for large cattle corporations (in many of which he was a partner or investor). Much of this contradiction of purpose and motive was well suited for his coalition with Santa Fe politicians in the creation of huge statewide land holding companies for livestock corporations. Atkinson even confessed that of the eastern plains land areas he surveyed, only a small portion was suited for agriculture. He said that the region is well adapted for grazing purposes and that stockmen were anxious to have title to water holes in order to control vast areas of stock range.⁶ Unbeknownst to Atkinson, his survey, which did open up the plains for the creation of large livestock companies, also opened the northeastern territory as a frontier for farmers.

Claimants to the Land

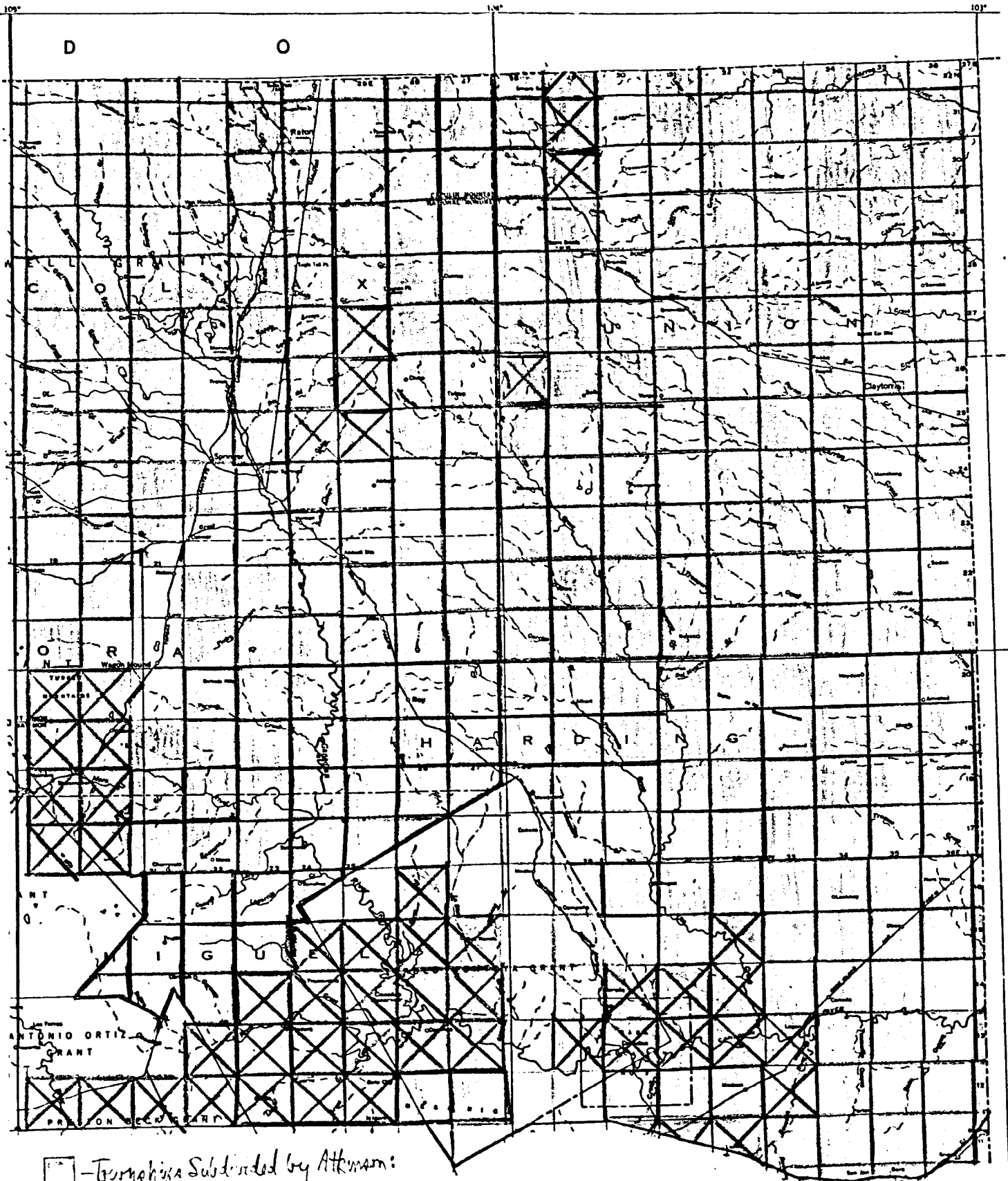
(A)

→ (A) There were two ways that people could acquire title to subdivided Townships in the public domain prior to passage of the Homestead Act.⁷ Congress approved the second Preemption Land Act in 1841^{*} which permitted every white male squatter over age 21 years to claim 160 acres. To do so required that he secure a certificate from the land office as a declaration of intent to "prove up" with a dwelling in place *and evidence of six months residence,* and that he provide the cash payment of \$1.25 per acre *to secure* ⁸ for the title.

Preemption land claims were designed to recognize residential claims to the land for settlers who occupied the territory prior to the occupation by the U S

^{*}The first Preemption Land Act was passed by Congress in 1830.

MAP 2
 LAND SURVEY: 1876-1891



☐ - Townships Subdivided by Atkinson: 1876-74

☐ - Townships Subdivided: 1884-1891

☒ - Townships Surveyed - Exterior Boundaries Only

☒ - Townships Surveyed and/or Subdivided prior to 1876

government. The bill intended to encourage Mexicans to become U S citizens and to remain in the territory, and to stimulate outright purchase of the public lands by American citizens who were moving into the Southwest. The price of the land was generally too high for the many low-income landless Mexicans residing in the territory who existed under the feudal partidario patronage system operated by the ruling families. This rather large population may have found citizenship and registration of land with an occupied dwelling a convenient process to follow in acquiring free land, but there was an extreme shortage of cash (especially American cash) among Mexican peasants at the time of the land surveys in the territory. ⁹ Between 1861 and 1879 only 616 preemption declarations were filed in New Mexico. . Many of these declarations were associated with the acquisition of water holes and favored pasturage through subsidized entries of peons supported by the sheep families in the area of subdivided Townships.

Much of the subdivided area available for preemption claims in the southern part of northeastern New Mexico was settled by descendents of the ricos from western San Miguel and Mora counties and from Taos County who were acquiring grazing land and water rights in the Canadian River valley and its' tributaries.¹⁰

"Don Lopez was one of the first settlers (prior to 1878) in El Cerro Del Coragon. From this direction...he claimed all of the land as far west as the eye could see." ¹¹

During the 1880's the preemption process of land acquisition blossomed as cattle companies and sheep ranchers enticed hired hands and extended family members to move onto selected parcels which could be purchased at the low government asking price. Many of these subsidized settlers would also file for a homestead concurrent with the preemption land. Between 1880 and 1891, over 7,000 preemption claims were filed in New Mexico (nearly 700 per year), mostly in areas peripheral to huge ranch headquarters. Some of the titles to land, such as the vast area acquired by the Prairie Cattle Company in Union County, were fraudulent preemption

claims that frequently were conveyed without even the exchange of money.¹²

The preemption land act was so unsuccessful in peopling the plains that the act was repealed in 1891. A second effort was made by Congress in the mid-1850's to provide settlement on the western lands. The Donation Land Law of 1854 was intended to promote settlement for the defense of the frontier. It made available 160 acres of subdivided township land to every white male citizen (or one who declared intent to be a citizen) over 21 years who was resident in New Mexico prior to 1853 and was still a resident when the Act was passed in 1854. To acquire the land, the claimant had to show continued residence and cultivation for four years.¹³ The first donation land certificate issued in New Mexico was to James Johnson in the township 18N and 20E, near the Shoemaker area along the Mora River and within the recognized boundaries of the Mora Grant.

The residency requirement was one of the problems with the donation act as most of the subdivided survey land was isolated from settled areas or was located within grant boundaries which were under litigation. The act declared ineligible all claimants to land grants (including those not resolved for nearly a half century later) and provided that holders of donation claims would be excluded from homesteads and preemptions.¹⁴ It was a system that was difficult to police and one that was open to fraud and speculation. A claimant could speculate on one quarter section through the donation certificate, hold it until the land rush period when the region was opened for settlement and sell the acreage for the minimum price of \$200. He would then be able to purchase a quarter section, later homestead an adjacent quarter, and increase his legal land holdings to 320 acres at no cost. It was not uncommon for people to explore the varying legal and illegal paths by preemption, donation, and homestead acts to acquire additional land...especially the stockmen who were continually searching for more grazing land.

The corruption set forth with the Donation Act caused many in Congress to call for its repeal as early as 1858.¹⁵ The final entry in New Mexico was not made until 1884, allowing sufficient time for the cattlemen and sheepmen to use the system to extend their control over more grazing lands. There were only 64 certificates issued in New Mexico during the 1870's covering less than 9,000 acres of land. As stockmen rolled onto the plains in the late 1870's, frequently bankrolled by outside speculators attracted to profits of over 30%¹⁶, livestock companies began to file for donations throughout the territory. Over 270 certificates were awarded between 1877 and 1884¹⁷ covering over 43,000 acres of land. Most of these donation certificates were issued in northeastern New Mexico. In 1880 there was a sudden surge in donation notifications (172) and donation certificates (162) that exceeded the number for all previous years combined.¹⁸ This coincided with the cattle boom period of 1878-1887 when the market prices rose to ^{a peak of} \$4.25/cwt. in 1883. The ~~resulting~~ ^{resulting} was an overstocking of the plains by the greedy cattle companies. This oversupply, as well as the 1886-87 blizzard disaster, brought many of the cattle companies to financial bankruptcy by 1887. Many donation claims, as well as some homestead patents, were acquired by banks and subsequently auctioned off.^{19a} In the northeast the donation claims were found along the Dry Cimarron, near the headwaters of the Chico and Ute creeks, the northeastern area of Union County, and in the lower Ute drainage near Tequesquite, Bueyeros, and Gallegos. This surge of land acquisition without intent of settlement brought the end to the Donation Land Act by 1884. Most of the dryland and irrigation farmer settlements of northeastern New Mexico occurred between 1890 and 1920, after the preemption ^{and} ~~and~~ donation laws had been repealed. Nearly all of the Hispanic and Anglo settlers on the northeastern plains acquired their titles through the Homestead Act and/or one of its' amendments.

The Homestead Act of 1862 was the final move by Congress to distribute the public domain to settlers who were willing to live on the land and to attempt to create small farms on the prairies and semi-arid plains of New Mexico. The idea of small farms as a means of survival was an ill fated proposal developed by the U S Land Office authorities and members of Congress who were humid area residents. This proposal, as well as the problems associated with earlier laws, served to demonstrate the failure of the nations' land policies in attempting to populate the vast land areas that were acquired by the U S Government in the West and Southwest. Homestead land, which was semi-complimentary, sought to increase the residency requirements in an attempt to thwart the ~~grazing~~ ^{livestock} companies from acquiring more land for ~~livestock~~ ^{grazing} purposes. The Homestead Act did open the frontier to a flood of farmers and land speculators, but the failure of its' purpose can be seen through the many adjustments and enticements legislated between 1862 and 1915 that were seen as necessary changes or additions that would help the farmer maintain a livilihood on the grasslands. After 1915 Congress began to follow a different track, and , with a realization that ranching would survive over farming on the marginal areas of the high plains, bills were passed which would support the ranching business over the small farmer. The homestead bill, as well as the preemption and donation land acts, were designed to create sequent occupation of the plains by ranchers, then rancher-homesteaders, farmer-homesteaders, then farmer-ranchers, and back to settlement with a focus on ranching. Although the homestead act did serve to create a land boom and introduce a large number of settlers ^{to} on the high plains of eastern New Mexico between 1880 and 1940, the method of settlement and policies associated with acquisition and retention of the land also played a leading role in leading to the vacation of the northeast ^{these come} by settlers. According to Victor Westphall, the Homestead Act was simply an additional act that could be used by ranchers to acquire large amounts of grazing land.

The abuse of the system was especially rampant during the 1880's and 1890's when drought, ~~and~~^{an} overstocked range due to poor market conditions, and the introduction of barbed-wire fencing to enclose waterholes, forced ranchers to search for legal methods (of ownership) to acquire the remaining water rights. Using the homestead and preemption laws, which were both in effect during the 1880's, in addition to some land bills passed during the 1870's, it was possible for a rancher to acquire nearly a thousand acres of additional land.¹⁹ Westphall points out that the Scottish-owned Prairie Cattle Company, a prominent landowner throughout Union County in the 1880's, had acquired most of ~~its~~^{its} titles through the homestead and preemption land acts. He stated that this was even accomplished without demonstrating any sign of improvements on the land.²⁰

The Homestead Act entitled every United States citizen (or one with intent to become a citizen) over 21 years of age, who was the head of a family, to a free quarter section or less of unappropriated public land in a legal subdivision.²¹ This was the first public land bill that recognized women as the head of a household and enabled them to file for ownership of land. Although there is not sufficient evidence to declare how widespread this condition was utilized, a sample of the land records^d of the northeast indicate that many patents were awarded to women. From interviews with pioneer family members, it has been ascertained that sisters and daughters of settlers who were over 21 years would declare their "independence" from the settler and file on adjoining quarter sections. One family in Quay County, with a sister and two daughters of legal age, actually constructed their home in the center of the section, and, by placing a bedroom on each quarter, was able to pass the residency requirement for a full section of land.²²

To provide some limitation on the wholesale land acquisition by ranchers, the Land Office stipulated that the person filing entry shall not be the proprietor of more than 160 acres of land in any ~~other~~ State or Territory and that the application

be made in good faith for the ~~purpose~~^{use} of actual settlement and cultivation. To discourage the widespread use of ~~ranch~~^{hired} hands in securing land titles that would later be donated to a rancher, it was stipulated that the entryman not be acting as an agent nor in collusion with any person, corporation, or syndicate for the purpose of giving them benefit of the land entered.²³ From the time of entry ~~until~~ until proof was made for a patent, the proprietor of the homestead quarter section would be expected to demonstrate continued residence and cultivation for a period of five years.

The Homestead Act was created during the Civil War period and contained a provision~~s~~ disallowing anyone who bore arms against the United States government from acquiring a homestead. A Homestead Bonus Act was created in 1864 which provided 160 acres of public land for each soldier with two years of service to the U S Government²⁴ This essentially closed out homesteading to residents of the South (including Texas) for at least a family generation. Although the land of northeastern New Mexico was not subdivided for homesteading until 1877, Southerners who had participated in the Civil War would not have been eligible until near the turn of the century. This military clause may have some bearing on the preponderance of settlers on the New Mexico plains from the north (Kansas, Illinois, Ohio, Pennsylvania) and the absence of settlers with family roots in the South outside of Texas.

In 1872 an amendment was passed to the Homestead Act that allowed any person to homestead who had performed military service during the Civil War. They could deduct the time of service from the residency requirement for a homestead patent. This immediately opened a flood of soldier-homesteaders into the western frontiers of Missouri, Kansas, Colorado, Nebraska, and the Dakotas in the 1870's and 1880's.²⁵ Although only a trickle of settlers reached northeastern New Mexico during this period, interview data has revealed a stepwise migration westward. People who

moved into Kansas and Missouri in the post-war era found that the land surrounding them was soon filled with claimants. According to Vance Johnson in Heaven's Tableland,

"Some pushed out on the Southern Plains even while the effects of the drought of 1887 were still apparent...in less than three years more than 6 million of the 7 $\frac{1}{4}$ million acres of public ~~land~~ domain in the Garden City land district of Kansas were preempted by homesteaders. By 1890, most of the good farm ~~lands~~ homesteads in Kansas and Colorado were reported occupied." 26

As these homesteaders' children reached adulthood near the turn of the century, there was no land available in the area ^{near} of their parents for them to homestead. Many parents would sell their patented title and move further west (to New Mexico) where unallocated public land was still in plentiful supply. There they could refile for another quarter section (or half section if after 1909) with their family consolidating the land on adjoining claims.

The claimant to the land would file an affidavit with a U S government representative that he or she did not own over 160 acres of land, would settle and cultivate, ^{and} ~~and~~ were acting on their own volition. An entry fee was established in 1862 of five dollars for registration for under 80 acres of land: ten dollars for entry over 80 acres.²⁷ Some of the homesteaders arrived in the northeast without sufficient cash to pay ^{even} these charges and ~~were frequently~~ ^{would immediately become by} indebted ~~for~~ a starter loan against their crop and equipment. The application was recorded at the district land office and also reported to the General Land Office in Washington, D C. District land offices were not very accessible to the early homesteaders. The first land office in New Mexico was established in Santa Fe in 1858 ^{with} ~~and~~ the second office ~~was~~ opened at Mesilla in 1874 (shifted to Las Cruces in 1883), ^{and} ~~and~~ a third office began at Folsom in 1888 ^{which} ~~that~~ was responsible for covering the vast area called the Colfax Land District. In 1889 the Roswell office of the Lincoln Land District took over the southern area of the Colfax District. In the 1890's land offices were added at Clayton, Las Vegas, and Tucumcari, and by 1915 U S Commissioners were available

at a number of smaller communities throughout the northeast. Land entries could be made at commissioner offices in Roy, Trementina, and Nara Visa by 1906, in Hayden, Des Moines, Clapham, and Mosquero by 1911, Solano by 1915, and at Maes by the end of the 1920's. Many of the offices were short-lived at some locations and most of them would shift to the areas with the highest ^{number}~~amount~~ of land dealings.

Prior to filing, the claimant usually arrived from where he currently resided and devoted some period of time in reviewing the unappropriated land. As most of the plains were not settled before 1905, it would be assumed that the early arrivals would have collected the choice lands. This wasn't necessarily true, as most potential homesteaders would have little clue as to the availability of land ~~and~~ and the spaces that had been appropriated. The only evidence that the land had even been surveyed would be ^{by} the location of huge stones that had been established at the corners of each section. Many settlers depended on realtors who worked at a fixed fee and had little incentive to provide reviews over a wide area. A large number simply selected a quarter section near a friend or family member and assumed that they had made a wise choice.

Once an entryman had filed for a homestead, they were ^{given}~~allowed~~ six months to occupy the land. This time period was allowed to provide the opportunity ^{for a}~~to~~ return to their place of residence, settle their business ^{there,}~~there,~~ and transport their families and belongings to the the new territory. A number of the ^aclaimants in the northeast actually returned to the new homestead parcel in advance of the families in order to establish a basic shelter and to protect their claims. As many of the wives and children would remain until the Fall harvest at the old homeplace, the male adults ^{might}~~would~~ return to the new lands in order to break sod for the following planting season. If there was climatic reason, such as drought, the Commissioner of the General Land Office could be petitioned to extend the six months settling period to twelve months for the homesteader to commence residency.

Once residence was established, an extended absence of up to one year by the homesteader was only permitted by the land commissioner in times of crop failure or of physical disability of the farmer.²⁸ Brief leaves from the homestead were overlooked by the land office, but extended leaves had to be applied for. The land office would frequently extend a continuous leave from the property for up to five months in each year, but any unexplained absence for more than six months would enable the government to return the land to the public domain for redistribution. If, after fourteen months from the date of entry the settler could prove settlement and cultivation over that period, he or she would be entitled to purchase the patent at the minimum government price.²⁹ To "prove up" the entry without purchase, the homesteader had to supply certified proof of residence and cultivation for a minimum period of five years from the date of entry. This proof had to be submitted within seven years from the date of entry. Once the claimant declared intent to demonstrate proof for a patent, the land office would publish this intent for thirty days in the newspaper distributed nearest to the land being patented. If there was no contest, and the certified proof was supplied, the homesteader received a patented title (signed by the President) to the land.

The passage of the Homestead Act was followed in 1873 with the Timber Culture Act and in 1877 by the Desert Land Act. Both of these acts provided the incentive of acquiring additional land without a residency requirement in return for the production of a non-indigenous crop. The Timber Culture Act evolved from the belief that the treeless high plains should be planted in trees whose evapotranspiration processes would serve as rainmakers and increase the general rainfall.³⁰ This land policy allowed a homesteader an additional 160 acres, provided trees were planted and maintained on 40 acres. The timber-culture did not allow claimants to acquire land where trees existed; such as on the windward slopes of mesas or

along the floodplains of the drainage valleys. Trees had to be planted in areas where they didn't naturally exist, and in New Mexico that meant irrigation. Most settlers were aware that the introduction of an irrigation scheme would provide a greater return on crop production than on a harvest from trees. Very little land was allocated under this act in the territory of New Mexico, even though the minimum tree-planting acreage was reduced from 40 acres to 10 acres in 1878. The Timber Culture Act was repealed in 1891.

Although little land was distributed under the timber-culture system, the fraudulent use of the policy was quite widespread in New Mexico. The major abuse was the filing of entry to the land with the pledge to plant trees when the intent was only for temporary occupancy. A timber-culture entry could be held for thirteen years (or longer if extensions were granted). Therefore a homesteader or a rancher could acquire an additional 160 acres free of rent and taxes and use it for grazing purposes for over a decade. This was so widely practiced in New Mexico that only about 13,000 acres of the over 230,000 acres that were filed upon were ever certified.³¹ In the northeast there were a significant number of filings on timber-culture land in the portion of Colfax County east of the Maxwell Grant lands, along the dry Cimarron valley and near Clayton in Union County, and along the lower Ute Creek drainage in Harding County. The majority of the timber-culture claims were filed between 1887 and 1891, in the final years of the programs' existence. The only certificates to be awarded were on the Johnson Mesa area where ~~r~~ainfall is sufficient to support timber growth but the climate unsuited for orchards; along portions of the Tramperos and Ute creeks where irrigation could support orchards and tree plantings; and ~~around~~ around Clayton where there is insufficient rain or surface flow to support ten acres of timber for a sustained period. Little is known of what proof was necessary to receive certificates to 160 acres ~~to~~ ^{of} timber-culture land, however, it is clear today that there is ~~no~~ ^{no} evidence of ten to forty acre woodlands

in the areas of the northeast where timber-culture certificates were awarded. Ranchers were the primary beneficiaries of the timber-culture policies in the northeast. ~~as large scale~~ Homesteading by farmers did not begin until nearly a decade after the act was repealed.

The Desert Land Act of 1877 was established to promote irrigation in the areas of the West unsuited to dryland farming. The act allowed 640 acres of land for \$1.25 per acre with the condition that an irrigation system be in place and operational within three years (amended to four years in 1891) and 80 acres (amended to 40 acres in 1891) be under irrigated cultivation. This act was somewhat ludicrous in that it expected someone who had to invest heavily in an irrigation system for land reclamation to pay the minimum federal price for it, whereas dryland farmers received land, which required little improvement, for free. The Land Office also stipulated that an aggregate of three dollars per acre should be expended in the acquisition of water rights and the construction of waterworks and improvements.³² The investor in irrigation land also faced a risk of financial loss of \$160.00 plus the acreage if he was unable to show proof of cultivation in three years. When filing, the entryman would pay \$0.25 per acre, with the remaining \$1.00 per acre to be paid when the proof of reclamation was provided. By petition to the Secretary of the Interior, it was possible to receive an extension of the reclamation period from the three or four years to a maximum of six years. In 1891 the acreage allocated in the first act was deemed as too excessive for cultivation purposes and the allotment was reduced to 320 acres with 40 acres to be cultivated.

There were scattered filings for sections under the Desert Land Act in northeastern New Mexico between 1882 and 1891³³, but most of these were made by ranchers who were anxious to have a three-year lease (at 25¢ per acre) on additional grazing land. The desert land policy was so open to mismanagement throughout the West that in some cases ranchers would pour a container of water into a ditch in the presence of witnesses to prove to the Land Office that an irrigation system

was in existence.³⁴ This type of action was especially in use when cattle speculators began overstocking in the early 1880's in response to high market price conditions and marginal grassland was in high demand. By the late 1880's cattlemen were no longer seeking additional land as both market conditions and the disastrous winter of 1885-86 on the Southern Plains (with losses of 40 - 90% of the herds) led many companies into financial ruin.

The most significant Desert Land entry in northeastern New Mexico was the Charette Lakes to Colmor area, a strip of public land between the Maxwell and Mora land grants in the southern part of Colfax County. The irrigation company which was originally proposed in the 1880's was never created. The idea was resurrected in the early 1920's and an operating ditch system was set in place. The company was unable to generate a profit and was one of the few irrigation systems in the northeast to declare bankruptcy. Successful irrigation companies such as Springer, Antelope Valley (French), Maxwell, Cimarron, and Miami, found it more convenient to purchase the large land requisites and water rights from the Maxwell Land Grant Company than to negotiate with the Land Office over irrigating particular sections of marginal land.

The timber-culture and desert land acts, which were intended to encourage settlement of the northeast, were useful to the rancher-homesteaders as a method of extending their stockrange. Two acts were passed after the arrival of the farmer-homesteader which were designed to improve conditions for the farmer. In recognition that the 160-acre small farm limitation was unsuited to a semi-arid environment, the Congress passed the Enlarged Homestead Act of 1909 which raised the acreage of a homestead to 320 acres. This act also spelled out precisely the phased cultivation requirements necessary for a farmer to 'prove-up' on the land. Beginning with the second year from entry, up to 10 acres had to be cultivated for crops other than native grasses. In the third year this had to be expanded to

20 acres of cultivation. The fourth year requirement was never established, as, in 1912 the Three-Year Homestead Law was passed as an amendment to the Homestead Act, reducing the residency period from five years to three years. This amendment was the result of a long trial and error realization that many farmer-homesteaders could not survive through a five-year period and pay taxes. It also came on the heels of a low rainfall period of 1910 and 1911 when many farmers began to abandon their claims. The three-year residency also allowed for a five month annual absence from the land in order to seek wage employment and ^{then} improve his chances of remaining on the homestead. ³⁵

The enlarged homestead and three-year ^{homestead} acts were the last attempts to improve the lot of the farmer-homesteader. In 1916 the Stock Raising Homestead Act was passed which was intended to encourage use of sections of ^{the} land not claimed by the farmer-homesteaders or to permit redistribution of parcels that had defaulted back to the government. The 640-acres allocated for grazing purposes could be viewed as insufficient livestock acreage for continued support of a family in northeastern New Mexico. It certainly falls far short of the 2500-acre minimum stock raising farm size recommended in the Powell Report to Congress in 1897. The Stock Raising Act benefited very few settlers in the northeast other than to allow a few farmers the opportunity to shift into stock raising on condition that they relinquish the claim to the farmland they occupied. Farmers on good productive land would view this as a foolish adventure and would normally find an extended family adult to file on the section of grazing land. Many of the farmers on marginal lands had located back-up cash wages ^{employment} which enabled them to maintain their small farm during brief periods of climatic difficulty ^{and they had little interest in increasing their tax bill.} The major people to benefit from this act were the few remaining cattlemen and sheepgrowers on the high plains who were interested in increasing the scale of their operations. It took the environmental

calamity of the 1930's to jolt the Congress into reassessing its' long history of failure in distributing the subdivided public lands of the West.

In 1934 the Taylor Grazing Act was passed as the drought and dust bowl conditions swept through the southern plains, destroying the last vestiges of a formerly rich grassland that had been poorly managed. Farmers and small ranchers were abandoning the land in large numbers and the government was forced to reduce the herd sizes on the overstocked lands. The Taylor Grazing Act became a method of consolidating the abandoned public domain and removing it from private management. The Department of Interior, in consultation with New Mexico officials, designated portions of an area that would become a permanent grazing preserve. Attempts were made to classify all federal lands into tracts that could still be sold and ^{into} areas that had lost its' reasonable market value. Grazing districts ^{were established in} and areas that couldn't be sold ~~were established~~ ^{land lots} and consolidated as much as possible. ^{Once grass cover was established,} ~~and~~ permits for up to ten years were leased on a controlled basis. Stockmen were elected to the district committee and major areas of the plains and New Mexico reverted to government owned and managed grasslands that were rented ^{for} ~~at~~ a small flexible fee for cattle ranching.

36

Bankhead Jones Act??

Although there was much land blocked for grazing reserve in the northeast, only two areas represent ^{ed} significant consolidations of grassland. In some cases a number of farmers were forced to sell or exchange lands in order for the ~~land~~ consolidations to take place. Most of the area surrounding Mills in northern Harding County (approximately 100,000 acres) and the Texas border area from near Seneca to as far south as Sedan (almost 60,000 acres) in Union County were consolidated into grazing reserves.

plains grass and back

This law effectively reversed the 50-year policy of finding farmers for the semi-arid plains and ^{created} ~~found~~ a bureaucratic method for returning ^N large chunks of ~~land to~~ ^{land to} the ranchers. By 1940 the transition was in full swing. Although many farmers were still cultivating market crops in response to the high rainfall period

from 1939 to 1943, the trend was clearly toward cultivating winter feed for livestock whose summer pasturage was leased from the federal government. The farmer had become a rancher-farmer. It was not until the 1960's with the introduction of massive sprinkler irrigation systems tapping the large pool of limited groundwater resources, that allowed the return and survival of the farmer again. This survival was no longer confined to small farms dependent on rainfall conditions.

As a supplement to this confusing government policy on the land distribution in northeastern New Mexico, ^{mention will be made here} some of the subdivided public domain ^{that} was not immediately available for settlement. The Survey Ordinance of 1785 gave ownership of section 16 in each township to the states for support of public schools. In 1848 a measure was passed adding section 36 of each township to this school land revenue program. Some states did not retain ownership of this land until it became valuable, but sold it very early on to the ranching companies. There are even examples of patents being awarded on these ^{reserved} sections in the northeast between 1880 and 1920 rather than the expected outright cash purchases from the State (or Territory) of New Mexico. Data show that ownership of land in the school sections of northeast New Mexico has been obtained in very inconsistent ways.

A law was passed in 1824 which gave the right of preemption of a quarter section of land (160 acres) to all counties in the public land states for the location of county seats.³⁷ In addition to these sections, which were intended to remain in public ownership, the Morrill Land Grant Act, passed in 1862, awarded 30,000 acres of land for each senator and representative in Congress to the states and territories to provide revenue for the benefit of a college of agriculture and mechanical arts. States without public lands were issued scrip to land in states to the west at the value of the government price of \$1.25 per acre. Much of the scrip was purchased by land speculators at reduced

market prices (5 million acres alone by one Cleveland entrepreneur)³⁸. In 1868 Congress attempted to discourage absentee ownership and large land block consolidation by passing a law that only three sections per township could be acquired by scrip. To the state governments that did not trade in their land resources, it meant that a number of sections could be set aside for university (or asylums) funding prior to the distribution of the subdivided townships for homesteading.

- ¹Warren Beck and Inez Haase, Historical Atlas of New Mexico, Oklahoma University Press: 1969, map 33.
- ²Public Land Statuates of the United States, compiled by John W Keener, U S General Land Office, 1916, statute section 2259.
- ³Beck and Haase, Historical Atlas..., map 33.
- ⁴Victor Westphall, The Public Domain in New Mexico 1854-1891, University of New Mexico Press: 1965, pp. 162-163.
- ⁵Carl F. Kraenzel, The Great Plains in Transition, Oklahoma University Press:1955, p. 295.
- ⁶Westphall, The Public Domain, p. 27.
- ⁷According to Peter Wolfe in Land in America (Pantheon Press: 1981, pp. 47-50), two other methods, purchase by individual or corporate speculators or purchase through auction, which were available in other parts of the West, were not used in distributing the public domain in New Mexico.
- ⁸Everett Dick, The Lure of the Land, University of Nebraska Press: 1970, p. 102.
- ⁹Peter Wolfe, Land in America, p. 50, states that "most settlers either could not afford \$1.25 per acre or found it easier to trespass on the land without payment until a land title was needed to mortgage or sell."
- ¹⁰According to an interview with Julian Estrada of the Variadero community in eastern San Miguel County, the Blea family had established a patron-partidaro system in the Trementina area by the early 1870's.
- ¹¹in Alfonso Griego, Good-bye My Land of Enchantment, Private Printing: 1981, p.18.
- ¹²Westphall, The Public Domain, p. 62
- ¹³Everett Dick, The Lure of the Land, p. 132
- ¹⁴Westphall, The Public Domain, p. 38
- ¹⁵Westphall, Ibid., p. 39.
- ¹⁶Kraenzel, the Great Plains, p. 108. The high priced beef market attracted investors into New Mexico cattle companies from New York, Boston, England, Scotland, Germany, Holland, and France.
- ¹⁷Westphall, The Public Domain, p.116.

in New Mexico 1854-1891

18 Victor Westphall, "Public Domain", in the New Mexico Historical Review, 1958, p.42.

19a Kraenzel, The Great Plains, p. 112.

19b Westphall, The Public Domain, p. 43.

20 Ibid., p. 62.

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Form*

21 General Land Office, Public Land Statutes, "Homesteads", Section 392, May 20, 1862.

22 Interview with _____ Runyon for "Missouri Avenue on the Caprock", and unpublished manuscript by J L Williams, 1980.

23 General Land Office, Public Land Statutes, Section 2290, 1916.

~~24 Ibid., 1916. Other fees for entry or final proof included 25¢ for an affidavit, 25¢ for a witness, and \$1.00 service charge if dealing with a realtor.~~

24 Steven Zimmet, U S Department of the Interior, "The Public Domain", 1966.

25 Everett Dick, Lure of the Land, p. 140.

26 Vance Johnson, Heaven's Tableland, Farrer and Straus, New York: 1947, pp. 56-57.

27 General Land Office, Public Land Statutes, 1916. Other fees established for entry or final proof included 25¢ for an affidavit, 25¢ for a witness, and \$1.00 service charge if dealing with a realtor.

28 U S Government Land Office, Land Statute Amendment, Statute 854, 1889.

29 GLO, Public Land Statutes, Section 392, 1862.

30 Kraenzel, The Great Plains, p. 295.

31 Westphall, The Public Domain, p. 72.

32 GLO, Public Land Statutes, "Desert Lands", Statute 26, Section 1096, 1891.

33 Westphall, The Public Domain, p. 177.

34 Kraenzel, The Great Plains, p. 295.

35 GLO, Public Land Statutes, "The Three-Year Homestead Law", Statute 37, Section 123, 1912.

*Public
Land
Statute*

³⁶Everett Dick, Lure of the Land, p. 347.

³⁷Everett Dick, Lure of the Land, p. 120.

³⁸Ibid., p. 217.