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En definitiva esto es un campo abonado para todos aquellos investigadores de los lugares donde el azogue se llevó, con objeto de que en sus archivos nacionales o privados puedan llevar a cabo una nueva visión de este interesante estudio.

Breaking New Ground: A Reappraisal of Governors Vélez Cachupín and Mendinueta and Their Land Grant Policies[1]

MALCOLM EBRIGHT

Tomás Vélez Cachupín and Pedro Fermín de Mendinueta served as New Mexico's Spanish colonial governors on and off for two decades from 1749 to 1778, administering this incomparably remote province during a crucial period in New Mexico's history.[2] They attempted to balance the competing interests of elite stock raisers, many of whom were absentee alcaldes, with the interests of lower-class *pobladores* trying to establish land grant settlements at the edge of the frontier. At the same time they juggled the competing claims of Pueblo Indians and Spanish settlers while trying to keep a Navajo peace that had lasted since the 1720s. Affecting each of these issues was the all-consuming problem of Spanish-Plains Indian warfare. Governor Vélez Cachupín was reasonably successful in meeting these myriad challenges, while Governor Mendinueta was less so. Although in many instances Mendinueta's land grant policies were consistent with those of his predecessor, in other crucial cases he made large grazing grants to elite individuals who had been rejected by Vélez Cachupín and failed to protect Indian rights. Taken together, however, the land grants made

[1] The author wishes to thank Gilberto Benito Córdova, Richard Salazar, Julián Josué Vigil, and Carisa Williams for their assistance in completion of this article. The Spanish translations in this article, unless otherwise noted, were translated by the author.

[2] Tomás Vélez Cachupín served two terms as governor of New Mexico from 1749-1754 and 1762-1767 (Francisco Antonio Marín del Valle, Mateo Antonio de Mendoza, and Manuel del Portillo y Urrisola acted as governors from 1754 through 1762). Pedro Fermín de Mendinueta was governor from 1767-1778, holding office for two consecutive terms.

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by these two governors reveal a much more consistent government policy than had previously existed regarding land and water,[3] and their combined administrations provided the basis for the later successes of governors like Juan Bautista de Anza and Fernando de la Concha in establishing peace with the Comanche while expanding Spanish settlements.[4]

Tomás Vélez Cachupín served two five-year terms as governor of New Mexico after spending thirteen years in the military battalion at Havana, Cuba. When he first came to New Mexico, he served as captain of the cavalry at the Santa Fe Presidio. His military experience was put to the test in New Mexico, a province surrounded by the Ute, Apache, and Comanche tribes, and by the Navajo. His response was to expand Spanish settlements into the periphery of the settled areas, making peace with friendly Indians when possible, and fighting the hostile ones when necessary. These policies bore fruit in the creation

[3] One example of inconsistency in early eighteenth-century land policy was the question of purchases by Pueblo Indians from the Spanish. Since the early 1700s, pueblos like Santa Ana had purchased lands from Spaniards, often buying their own land back. (Laura Bayer with Floyd Montoya and the Pueblo of Santa Ana, *Santa Ana, The People, the Pueblo, and the History of Tamaya* [Albuquerque: University of New Mexico Press, 1994], 76-79.) Then in 1734 Governor Gervasio Cruzat y Gongora ruled that Baltasar Romero in particular, and Spaniards in general, could *not* sell land to the Pueblo Indians: "No pudiendose vender dicho sitío ní otros qe pertenesían a los españoles a los indios...." (Decree of Governor Cruzat y Gongora, Santa Fe, 1 March 1734, Spanish Archives of New Mexico, Volume I [hereinafter SANM I], No. 1345, State Records Center and Archives, Santa Fe.) Then in 1753 Governor Vélez Cachupín approved the sale of the same land to Santa Ana. (Approval sale of land from Alejandro Mora to Santa Ana Pueblo, Santa Fe, 13 May 1753, document in the files of Rothstein, Donatelli, Hughes, Dahlstrom, Cron, and Schoenburg, Attorneys for the Pueblo of Santa Ana, Santa Fe, New Mexico.) For a discussion of the procedures developed by Vélez Cachupín to protect the rights of both the Indians and the Spanish in connection with these sales, see Malcolm Ebright, "Frontier Land Litigation in Colonial New Mexico: A Determinant of Spanish Custom and Law," *Western Legal History* 8 (1995):215-19.

[4] Frank D. Reeve, "The Navaho-Spanish Peace: 1720s-1770s," *New Mexico Historical Review* 34 (1959):9-40; J. Richard Salazar, "Spanish-Indian Relations in New Mexico during the Term of Comandante General Pedro de Nava, 1790-1802," *Center for Land Grant Studies Research Paper No. 33*, 1994, Guadalupita, NM; and Jack August, "Balance of Power Diplomacy in New Mexico: Governor Fernando de la Concha and the Indian Policy of Conciliation," *New Mexico Historical Review* 56 (1981):141-60.

of the longest period of peace with both the Comanche and the Navajo achieved by any eighteenth-century New Mexico governor. Vélez Cachupín has been described by historians John Kessell as "young, full of ambition and not a little impetuous," Charles Cutter as pugnacious, and Alfred Barnaby Thomas as the most effective of New Mexico's eighteenth-century governors prior to Juan Bautista de Anza.[5]

When Pedro Fermín de Mendinueta became governor of New Mexico at the age of forty-two, he had served for twenty-six years in various military posts, beginning as a midshipman in the Spanish navy.[6] He was promoted to lieutenant colonel in 1744 for distinguished service against the English navy and served as *corregidor* of Mexico City with six hundred mounted dragoons under his command before being appointed governor of New Mexico. In contrast to Vélez Cachupín, Mendinueta's policies regarding Spanish settlement and Indian raids were largely a failure, resulting in the collapse of the delicate structure of peace that Vélez Cachupín had knit together.[7] Nevertheless, Mendinueta has also received good reviews from historians like Thomas, who described him as "one of the more capable governors of New Mexico."[8] Mendinueta's biographer, Elizabeth Nelson Patrick, was perhaps too laudatory, however, when she described him as "one of those rare types on the frontier, an honest, selfless, hard-working public servant." Patrick does admit that Mendinueta "seems too perfect," and she is skeptical of a record which "contains not one bit of criticism of him or his policies." Mendinueta's actions regarding land grants were often inconsistent and contradictory,

[5] John L. Kessell, *Kiva, Cross and Crown* (Albuquerque: University of New Mexico Press, 1979), 378; Charles R. Cutter, *The Protector de Indios in Colonial New Mexico, 1659-1821* (Albuquerque: University of New Mexico Press, 1986), 57; Alfred Barnaby Thomas, *The Plains Indians and New Mexico, 1751-1778: A Collection of Documents Illustrative of the History of the Eastern Frontier of New Mexico* (Albuquerque: University of New Mexico Press, 1940), 57.

[6] Service Record of Governor Pedro Fermín de Mendinueta, translated in Alfred Barnaby Thomas, "Governor Mendinueta's Proposals for the Defense of New Mexico, 1772-1778," *New Mexico Historical Review* 6 (1931):24; Elizabeth Nelson Patrick, "Pedro Fermín de Mendinueta, Colonial Governor of New Mexico, 1767-1778" (master's thesis, University of New Mexico, 1965), 1-3.

[7] Thomas, *The Plains Indians and New Mexico*, 57-58.

[8] Thomas, "Governor Mendinueta's Proposals," 21.

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and he was not universally loved by the common people of New Mexico as Patrick suggests.[9]

If Mendinueta's reputation seems rather inflated when judged in the light of his actions, Vélez Cachupín has not received the recognition from scholars that he deserves for being the first New Mexico governor to recognize *genízaro* property rights and the first to award *genízaros* their own land grants.[10] Both men were accomplished Indian-fighters who personally led their troops on military expeditions. But, whereas Vélez Cachupín's military campaigns were part of an overall strategy designed to achieve peace with New Mexico's indigenous people, Mendinueta more often reacted to crises caused by his own lack of a consistent policy and his insensitivity to the rights of native Indians and lower-class Spaniards.[11]

In 1754, Governor Vélez Cachupín conducted an extensive inspection of the province, preparing a detailed report describing the conditions he found in New Mexico. His main problem was the threat posed to New Mexico's settlements by the Plains Indians and Navajo who completely surrounded the frontier province.[12] To solve this problem Vélez Cachupín embarked on a program to resettle old communities that had been abandoned and to establish new ones in strategic areas. Northern New Mexico communities like Truchas, Las Trampas, and Abiquiú were the result. Less well-known, perhaps, were the land grants made by Vélez Cachupín, and later by Mendinueta, in

[9] Patrick, "Pedro Fermín de Mendinueta," 19, 116-17.

[10] Ebright, "Frontier Land Litigation," 211-13, and Decree of Governor Vélez Cachupín to *genízaros* at Abiquiú, Santa Fe, 20 May 1754, New Mexico Land Grant-Court of Private Land Claims (hereinafter NMLG-PLC), roll 38, case 52, frames 889-891.

[11] Elizabeth A. H. John, *Storms Brewed in Other Men's Worlds: The Confrontation of Indians, Spanish, and French in the Southwest, 1540-1795* (College Station: Texas A & M University Press, 1975), 321-35, 465-84; Stanley Noyes, *Los Comanches: The Horse People, 1751-1845* (Albuquerque: University of New Mexico Press, 1993), 51-66.

[12] The sixteen page report is neither signed nor dated nor addressed to a recipient, but internal evidence indicates that it was written in 1754 by Vélez Cachupín or his scribe. Robert Ryal Miller, ed. and trans., "New Mexico in Mid-Eighteenth Century: A Report Based on Governor Vélez Cachupín's Inspection," *Southwestern Historical Quarterly* 79 (1975-76):166-81; Decree of Governor Vélez Cachupín ordering resettlement of Abiquiú, Santa Fe, 21 February 1750, SANM I, No. 1100.

west central New Mexico between Albuquerque and Mount Taylor on the Navajo frontier along the Río Puerco and the Río Grande.

When Vélez Cachupín founded new communities or ordered abandoned ones resettled, he was careful to describe in detail the form these villages should take: a tight square of contiguous dwellings forming an enclosed plaza with no more than two entrances that could be readily secured against attack.[13] But Spanish settlers resisted this settlement pattern.[14] Also urging New Mexicans to band together in such communities in 1772, Governor Mendinueta reported to Viceroy Bucareli that the only way to withstand repeated Indian attacks was to establish these compact defensive villages instead of the dispersed settlements that still persisted. This was difficult to accomplish, the governor explained, because the *pobladores* were independent types "accustomed to live apart from each other, as neither fathers nor sons associate with each other...." He asked Bucareli to order them to consolidate their scattered settlements.[15] Both Vélez Cachupín and Mendinueta repeatedly expressed this need to establish defensive enclaves on the periphery of the Spanish settlement, and their letters to their superiors first in 1750 and later in 1770 use remarkably similar language in expressing this policy and describing the resistance they found from the settlers. Nothing much seemed to change in the space of twenty years: in 1750 Governor Vélez Cachupín reported that Ojo Caliente, Abiquiú, and Embudo had been abandoned,[16] while twenty years later it was Chama, Río Arriba, and Abiquiú that Mendinueta ordered to be resettled.[17] But something had indeed changed. Six community grants established by Vélez Cachupín in the 1750s were still

[13] Such settlements were often found in other Northern Provinces (for example San Antonio, Texas, and Hermosillo, Sonora) but seldom in New Mexico.

[14] Marc Simmons, "Settlement Patterns and Village Plans in Colonial New Mexico," *Journal of the West* 8 (1969):7-21.

[15] Mendinueta to Bucareli, 26 March 1772, translated in Thomas, "Governor Mendinueta's Proposals," 29. When Bucareli asked his attorney general for an opinion on the matter, Antonio Bonilla suggested that many of the settlers living in dispersed settlements might not have titles to the lands they occupied and therefore might be induced to form new compact settlements in exchange for land titles.

[16] Decree of Governor Vélez Cachupín ordering resettlement of Abiquiú, Santa Fe, 21 February 1750, SANM I, No. 1000.

[17] Decree of Governor Mendinueta ordering resettlement of Abiquiú, Santa Fe, 2 November 1770, SANM I, No. 36.

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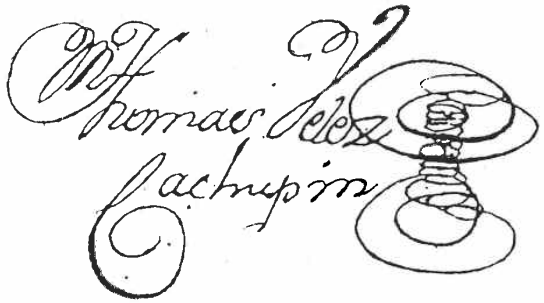

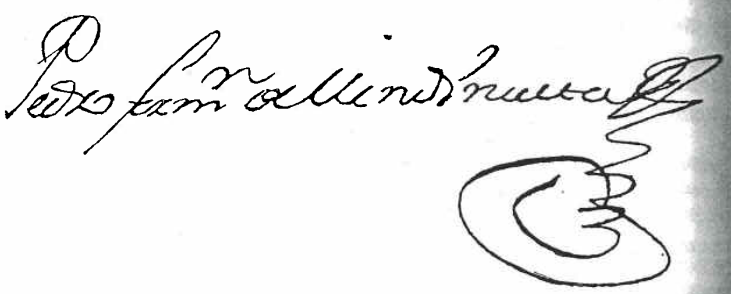

Signatures of Governor Tomás Vélez Cachupín (Sección Provincias Internas, Archivo General de la Nación, México, legajo 37, folio 16) and of Governor Pedro Fermín de Mendinueta (Sección Historia, Archivo General de la Nación, México, legajo 52, folio 5).

alive in 1770, and three of those are viable land grant communities today.[18]

Community grants were given to settlers who would receive title to small private tracts for homesites and garden plots and would use the remainder of the land in common for grazing and wood-gathering. Private grants, in contrast, were entirely owned by one or a few individuals. In the case of the large grazing grants discussed herein, the owners would not even live on the land but could prevent neighboring communities from using it. If water was scarce, which it usually was, livestock on a large grazing grant could monopolize available water as well as land, to the detriment of neighboring communities. Governor Vélez Cachupín used community grants as buffer settlements on the Indian frontier and gave these communities the resources they needed for survival. While Mendinueta paid lip service to the same settlement policy, he often privatized available land by making land grants to absentee owners.

Vélez Cachupín was more successful in using his land grant policy to plant settlements that endured as bulwarks against Comanche, Navajo, and Ute attacks than was Mendinueta because he had a better sense of what was required to maintain those settlements. He was able to deal directly with an often motley group of would-be settlers who were willing to risk their lives on the Indian frontier for a chance to become landowners and *vecinos*. Many of this group were *mestizo*, some were *genízaro*,[19] and some were *indios*. Vélez Cachupín found ways to encourage their land grant settlements and often took their side when they were confronted by large scale stock raisers who wanted their land. Mendinueta, on the other hand, called these settlers "churlish types accustomed to live apart from each other"[20] and, as shall be demonstrated, often favored the elite ranchers and the absentee

[18] The six Vélez Cachupín land grants are Las Trampas, Truchas, Abiquiú, San Fernando, Carnuel, and Las Nutrias. The first three are still in existence.

[19] The definition of *genízaro* as referring to detribalized Indians living in Spanish communities is probably too narrow. Ramón A. Gutiérrez, *When Jesus Came the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500-1846* (Stanford: Stanford University Press, 1991), 197.

[20] Governor Mendinueta to Viceroy Bucareli, Santa Fe, 26 March 1772 and Governor Mendinueta to Comandante General Teodoro de Croix, both translated in Thomas, "Governor Mendinueta's Proposals," 29.

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alcaldes whose herds of sheep and cattle often overran the land of these *pobladores*.

Like Vélez Cachupín, Mendinueta was beset with Indian problems throughout his ten-year term, and like Vélez Cachupín, he personally led numerous campaigns against "*los indios bárbaros*." But his Indian policy was mostly a failure. By 1772 the Navajo had forced the abandonment of all Río Puerco settlements, and by mid-1774 New Mexico was the focus of an all-out Comanche attack on virtually every settlement in the province. The condition of New Mexico described by Governor Mendinueta in 1772 prevailed to some degree for most of his administration: "incessant robberies, attacks and murders."[21]

Both governors were part of a fifty-year period of experimentation at the viceregal level attempting to craft a workable Indian policy for the northern frontier of New Spain. Vélez Cachupín was the first New Mexican governor to have some success with an Indian policy, built in part on his recognition of Indian and *genízaro* land rights. He seemed more sympathetic and direct toward Spanish settlers than was Mendinueta and because of this pragmatic approach was responsible for several changes in land grant policy that were nothing short of revolutionary. Governors Vélez Cachupín and Mendinueta each made numerous land grants during their terms in office. Vélez Cachupín made six community grants,[22] whereas Mendinueta

[21] Thomas, "Governor Mendinueta's Proposals," 35.

[22] The community grants made by Vélez Cachupín were: 1) Truchas, or Nuestra Señora del Rosario, San Fernando y Santiago del Rosario de las Truchas (Court of Private Land Claims 28 [hereinafter PLC]); 2) Abiquiú (Office of the Surveyor General 140 [hereinafter SG], PLC 52); 3) Nuestra Señora de la Luz y San Fernando y San Blas, or Bernabé Montaño (SG 49, PLC 7 and 77, SANM I, Nos. 688 and 692); 4) Las Trampas (SG 20); 5) Carnuel (SG 150, PLC 74); and 6) San Gabriel de las Nutrias (SANM I, No. 780).

The other grants Vélez Cachupín made were: 7) Francisco Montes Vigil (SG 128, PLC 14); 8) Cañada de Santa Clara (SG 138); 9) Piedra Lumbre (SG 73, PLC 30); 10) Polvadera (SG 131); 11) Bosque Grande, or Miguel and Santiago Montoya (PLC 66 and 272); 12) Nuestra Señora de la Luz de Las Lagunitas, or Antonio Baca (SG 101, PLC 70); 13) Juan Gabaldón (SG 65, PLC 86 and 202, SANM I, No. 352); and 14) Nuestra Señora de los Dolores Mine (SG 162, PLC 147).

made only three community grants.[23] This article will analyze five grants made by these governors, reassess their reputations, and focus on frontier problems in New Mexico in the mid-1700s.

Vélez Cachupín's hands-on approach is reflected in the documents for the San Gabriel de las Nutrias grant south of Tomé. Early in the year 1764, twenty-one heads of families petitioned for land at a place called Las Nutrias that was claimed as part of the commons of the Belén grant but which was not being used by the Belén settlers. The petitioners said they needed land for planting, pasture, and woodlands, since both land and wood were scarce at Tomé and in the Río Arriba area where they lived. Vélez Cachupín ordered Alcalde Miguel Lucero to investigate the petition and learn something about these petitioners and the circumstances of their request.[24] When the Belén settlers were asked if they had any objection to the San Gabriel de las Nutrias grant, they said they would agree if the Belén grant could be extended southward to the confluence of the Río Puerco and the Río Grande. Alcalde Lucero recommended approval of this request and of the Las Nutrias grant and took a census of the Las Nutrias *pobladores*. He found that they numbered twenty-four, including three women, two *genízaros*, two *coyotes*, and one Apache/Navajo.[25] Two

[23] The community grants made by Mendinueta were: 1) Atrisco (SG 145, PLC 45); 2) San Antonio de las Huertas (SG 144, PLC 90 and 269); and 3) Paulin Montoya, et al., or Ojo de San José (SG 185, PLC 182, SANM I, No. 584).

The other grants Mendinueta made were: 4) Joseph Pacheco (SG 218, PLC 15); 5) Agua Salada, or Luis Jaramillo (PLC 31, SANM I, No. 421); 6) Chaco Mesa, or Ignacio Chávez (SG 96, PLC 34, SANM I, No. 200); 7) Bartolomé Fernández (SG 78, PLC 61 and 126); 8) Felipe Tafoya (SG 99, PLC 67 and 187); 9) San Mateo Springs, or Santiago Durán y Chaves (SG 134, PLC 75); 10) Ojo de Borrego (SG 118, PLC 95); 11) Antonio Armijo (PLC 102, SANM I, No. 44); and 12) Juan Gabaldón (SG 65, PLC 86 and 202).

[24] The original wording is: "Me ynformara sobre el contenido de estas partes y asi mismo de la calidad y naturaleza de ellas." Petition of Pedro Romero, Severiano Romero, Cristóbal Baca, Juan Antonio Baca, and Vicente Gallegos to Governor Vélez Cachupín, February 1764, SANM I, No. 780; Order of Governor Vélez Cachupín to Alcalde Miguel Lucero, Santa Fe, 7 February 1764, SANM I, No. 780.

[25] Report of Alcalde Miguel Lucero, Fonclara, 14 February 1764, SANM I, No. 780. See Appendix A for the complete list. The term *coyote* was used to designate the mixed blood children of a *genízaro* (see note 19). Gutiérrez, *When Jesus Came the Corn Mothers Went Away*, 197.

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of the women were widows with sons, and the majority of the settlers were "*españoles con armas*" (armed Spaniards).[26]

Based on this report the governor established the Las Nutrias grant but not as a permanent grant. Instead he granted a conditional license giving the settlers permission to establish a temporary settlement of up to fifty families. The petitioners had already tried to found a settlement on the grant, but it was poorly located in relation to water availability and for purposes of defense. Vélez Cachupín therefore told the settlers to choose a new site on the banks of the Río Grande and to construct a compact defensive settlement. When they could demonstrate that the new village had permanently taken root, he would make the San Gabriel de las Nutrias grant permanent and formally place the settlers in possession.[27]

The governor resorted to the device of a temporary license in order to induce the Las Nutrias settlers to commit themselves to staying on the Indian frontier. Settlers acquired certain rights to their land by virtue of a formal permanent grant, and if they abandoned such a grant, much administrative red-tape had to be negotiated before they could be divested of those rights.[28] In the case of Las Nutrias, therefore, no permanent rights would be acquired until the governor was satisfied that the new settlement could survive over the long term. Vélez Cachupín knew that to accomplish this the *pobladores* needed the will and ability to fight off Indian attacks in situations where they might be greatly outnumbered. This required a fighting spirit, firearms, and a fortress-like settlement that could be defended if it came under seige.[29]

[26] Report of Alcalde Miguel Lucero, Fonclara, 14 February 1764, SANM I, No. 780.

[27] Decree of Governor Vélez Cachupín, Santa Fe, 17 February 1764, SANM I, No. 780.

[28] In 1770, for example, Abiquiú was still experiencing such severe Indian attacks that many of its settlers had again abandoned their homes, and Governor Mendinueta was compelled to order that they return or forfeit their lands. Decree of Governor Mendinueta ordering resettlement of Abiquiú, Santa Fe, 2 November 1770, SANM I, No. 36.

[29] Vélez Cachupín praised the fighting spirit of *genízaros* during the course of a lengthy witchcraft trial at Abiquiú. Opinion of Governor Vélez Cachupín, Santa Fe, 28 March 1764, Pinart Collection P.E. 52:5, Bancroft Library, Berkeley, California (hereinafter Pinart Collection). For a description of Spanish-Indian battles on the Navajo frontier from the Spanish point of view, see Marc Simmons, *The Fighting Settlers of Seboyeta* (Cerrillos: San Marcos Press, 1971).

When the Las Nutrias settlers requested permission to move to a site closer to the Río Grande, Vélez Cachupín himself traveled to Las Nutrias and asked Alcalde Lucero to bring all the heads of family to the house where he was staying. There he personally took another census, counting thirty families at the settlement, over half of whom were listed as mixed-blood. There were fourteen Spaniards (*blancos*) of whom two were widows with children, nine *mestizos* including one *mestiza* widow with children, four *indios*, two *mulatos*, and one *indio-genízaro*. The governor listed a total of 158 persons in the settlement, including wives and children.[30] By taking this census himself rather than having Alcalde Lucero do it, Vélez Cachupín was able to evaluate the settlers face-to-face and make his own judgment regarding their ability to survive under adverse conditions. Next, the governor went to the proposed site, examined the location, and found it to be adequate. He measured the house lots (*solares*) himself and ordered the settlers to build their homes of adobes according to a plan for the settlement that would include formal streets and a plaza.[31] The next day the governor went to the place where the agricultural land was to be located and oversaw the measurement of the farm tracts (*suertes*) that were distributed to each *poblador*. The settlers agreed to set aside a *bosque*

[30] Census taken by Governor Vélez Cachupín, San Gabriel de las Nutrias, 28 November 1765, SANM I, No. 780. In Las Trampas, Abiquiú, Ojo Caliente, San Miguel del Vado, and Belén, mixed-blood settlers also appeared in substantial numbers. James T. Glasscock, in "The *Genízaro* Outpost of San Miguel del Vado" (senior thesis, Colorado College, 1973), states that at least ten of the fifty-two grantees of San Miguel del Vado were *genízaro*. See Appendix B for the complete census. Sometimes the terms *mestizo* and *mulato* were used interchangeably to refer to individuals of mixed Spanish and Indian ancestry, but here the term *mulato* probably implies mixed Spanish and black ancestry. Gutiérrez, *When Jesus Came the Corn Mothers Went Away*, 196-97. See also Adrian Bustamante, "'The Matter Was Never Resolved': The *Casta* System in Colonial New Mexico, 1693-1823," *New Mexico Historical Review* 66 (1991):143-63.

[31] Order of Governor Vélez Cachupín, San Gabriel de las Nutrias, 28 November 1765, SANM I, No. 780. The mention of adobes suggests that many of the settlers were accustomed to building structures of less solid materials like *jacales* (houses constructed of vertical poles plastered with mud). See also the Carnuel grant where Vélez Cachupín imposed a similar requirement. Decree of Governor Vélez Cachupín, Santa Fe, 6 February 1763, SANM I, No. 202.

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for gathering firewood and vigas and to limit the areas where sheep could graze.[32]

Governor Vélez Cachupín did not take long to determine that the settlement had in fact taken root after his direct participation in the process. On 15 December 1765 he executed a formal grant, making permanent what had been temporary. The language of the document made it clear that property rights in the entire grant were being transferred to the settlers, including ownership of the common lands.[33] The grant was made with the condition that no one build a house outside the designated village, except for sheepherders' huts constructed with the permission of the town council. The governor also included three of the earliest conservation regulations on record: existing woodlands were to be preserved, additional trees planted, and no clear-cutting was to be allowed ("de ningun manera los ande cortar por el pie"). He then placed these matters in the hands of the council of citizens and their justice (*consejo de vecinos y su justicia*), who were to be appointed by the community.[34]

When Mendinueta, now governor of New Mexico, made a personal inspection of Las Nutrias in April 1770, he was surprised to find that the settlers still had not moved. They said that the soil at the new site, which Governor Vélez Cachupín had laid out with such care, was too sandy for making adobes and asked that they be put in possession of yet another site. Mendinueta ordered Alcalde Francisco Trébol Navarro to examine the new site and, if he found it satisfactory, to place the settlers in possession of the land by distributing house lots to form a defensive plaza. Again, an essential condition was that no one

[32] Order of Governor Vélez Cachupín, San Gabriel de las Nutrias, 29 November 1765, SANM I, No. 780.

[33] The original wording is: "por si y sus (h)erederos lo gocen y posean con total señorio...dejando los pastos comunes y concegiles para dha nueba poblacion." Auto de merced by Governor Vélez Cachupín, 15 December 1765, SANM I, No. 780. For a brief discussion of *tierras concegiles* in Spain, see David Vassberg, "The Spanish Background: Problems Concerning Ownership, Usurpations, and Defense of Common Lands in Sixteenth-Century Castile," in Malcolm Ebright, ed., *Spanish and Mexican Land Grants and the Law* (Manhattan, Kansas: Sunflower University Press, 1989), 12-23. *Tierras concegiles* (literally lands of the council) were common lands owned by a community grant, as distinguished from *tierras baldías* or *tierras realengas*, common lands owned by the king and considered public domain.

[34] Auto de merced by Governor Vélez Cachupín, Santa Fe, 15 December 1765, SANM I, No. 780.

was to build a house outside the four corners of the plaza.[35] But when Trébol Navarro arrived at the site, he found the settlers in a state of disarray, split between those who wanted to move and those who, without any reason other than whim, did not, or so he said. It was not overly sandy soil that had caused the problem, reported the alcalde, but rather the settlers' disunity. Trébol Navarro took it upon himself to suspend the governor's order, stating that it was useless to try to establish a new settlement with so much discord among the *pobladores*.[36]

A year later, sixteen of the Las Nutrias settlers formally asked Governor Mendinueta for permission to abandon their land grant. They said that Apaches had recently killed four of their number and taken two prisoner and that they all feared for their lives. But the governor was unmoved. He denied them permission to abandon the grant because it would be seen as a sign of weakness by the Apache and other tribes who had attacked the settlement. Scolding them for their disunity and failure to obey earlier decrees, Mendinueta blamed the settlers themselves for their problems, telling them that if they had built a defensive plaza as Vélez Cachupín had ordered, the Apaches would not have dared to attack them. As the settlement now comprised thirty families, but only sixteen individuals had signed the petition, Mendinueta surmised that this was a sign of factionalism. Nevertheless, he ordered Alcalde José García de Noriega to assign house lots at the new site and to make the settlers build their houses of adobe.[37] When García de Noriega informed the settlers of the will of the governor, they said they would obey even though they were very poor and were suffering great hardships, having neither provisions nor strength to oppose the enemy.[38]

It is apparent from several land grants and lawsuits in which Trébol Navarro was involved that he was strongly prejudiced against the *mestizo* and *genízaro* castes that made up sizable portions of communities like Las Nutrias. Both he and Mendinueta had narrow

[35] The original wording is: "Que ninguno fabrique casa fuera de los cuatro Angulos de la plaza." Report of Governor Mendinueta, 24 April 1770, SANM I, No. 645.

[36] Report of Alcalde Trébol Navarro, San Gabriel de las Nutrias, 28 April 1770, SANM I, No. 645.

[37] Order of Governor Mendinueta, Santa Fe, 1 February 1771, SANM I, No. 791.

[38] Act of possession by Alcalde García de Noriega, San Gabriel de las Nutrias, 16 February 1771, SANM I, No. 791.

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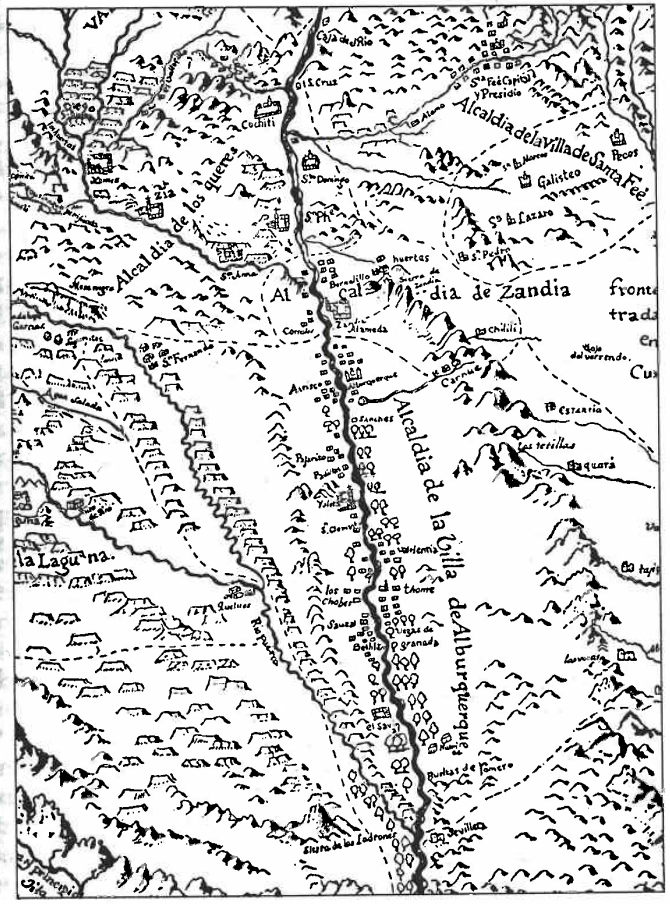
views as to the abilities of these members of the lowest echelons of society to become good citizens who would help defend the beleaguered province. This bias was not unusual among the upper classes in New Mexico at mid-century and was shared to some extent by Vélez Cachupín, as can be seen in his statement that *genízaros* were "perverse, lazy, and difficult to regulate and subdue." Yet Vélez Cachupín also believed that *genízaros* were not inherently bad but simply followed a different lifestyle than Spaniards due to "their love of the life of the vagabond, moving from one place to another...causing much damage to the planted fields and livestock." (This might help explain why the Las Nutrias settlers were reluctant to build a permanent settlement of adobe houses.) What distinguished Vélez Cachupín from Trébol Navarro and Mendinueta was his belief that the *genízaros* were capable of reform through education.[39]

The Las Nutrias settlement survived, as can be seen on the 1779 Miera y Pacheco map, where it is shown southeast of Sabinal on the east side of the Río Grande.[40] On the other hand, the San Gabriel de las Nutrias grant was never adjudicated by either the Surveyor General or the Court of Private Land Claims. It was absorbed into the Casa Colorado grant which was confirmed as a community grant by the U.S. Congress in 1858 and later found to substantially overlap the Belén grant.[41] But for the patient, direct approach of Governor Vélez Cachupín at the outset, Las Nutrias might not have survived. The community continued under Mendinueta, but he was more likely to scold the settlers than support them. Governor Mendinueta left most of the details to alcaldes like Trébol Navarro, who seemed to polarize

[39] The original wording is: "amantes de vivir vagos...de unos lugares a otros dispersos...causando muchos perjuicios en Lavores, y Ganados." Opinion of Vélez Cachupín in Abiquiú witchcraft trial, Santa Fe, 28 March 1764, Pinart Collection P.E. 52:5.

[40] The settlement of Las Nutrias is shown on the 1779 Miera y Pacheco map, New Mexico State Records Center and Archives, and the 1842 J. C. Walker map in Malcolm Ebright, *The Tierra Amarilla Grant: A History of Chicanery* (Santa Fe: Center for Land Grant Studies, 1980), 15.

[41] Town of Casa Colorado grant, NMLG-SG, roll 12, report 5, frames 840-889. See also J.J. Bowden, "Private Land Claims in the Southwest," 6 vols. (master's thesis, Southern Methodist University), 2:207-08.



Portion of the map of the *Provincia Interna de Nuevo México* by Bernardo de Miera y Pacheco, 1779. Reprinted with permission from the University of New Mexico Press. Fray Francisco Atanasio Dominguez, "The Missions of New Mexico, 1776" trans. Eleanor B. Adams and Fray Angélico Chavez (Albuquerque: University of New Mexico Press, 1956), 2–3.

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reluctant settlers rather than unite them. When Trébol Navarro reported to Mendinueta that the Las Nutrias settlers were disorganized, the governor took his word for it without meeting the settlers in person as Vélez Cachupín had done. A similar pattern existed with other land grants started by Vélez Cachupín where Mendinueta and Trébol Navarro were also involved and where the settlers were primarily *genízaro/mestizo*: after Vélez Cachupín helped plant and nurture the settlement, it would be abandoned because Mendinueta would accept a recommendation from Trébol Navarro that it was not viable.

A good example of this phenomenon is the Carnuel grant made by Vélez Cachupín in 1763. As with the San Fernando grant, Vélez Cachupín was quite precise about the size and configuration of the proposed settlement. He ordered that each house lot be at least fifty *varas*, with corrals attached to each house to protect cattle against Indian raids, and that the houses be constructed of adobe. He scolded Alcalde Antonio Baca when Baca allotted only thirty *varas* to some settlers because they would not work as hard as the others, and he ordered that each settler receive fifty *varas*.[42] In 1771 the Carnuel settlers, who had been forced to temporarily abandon the grant due to Apache raids, asked Governor Mendinueta for permission to permanently abandon the grant. Mendinueta refused and instead asked Alcalde Trébol Navarro to assemble some of the *genízaros* from the Albuquerque and Río Puerco areas and encourage them to resettle Carnuel with the original grantees. If they would resettle the grant, everyone would be treated equally, he said, but if they would not, the *genízaros* would be forced to live as servants since they had no land.[43] When the *genízaros* and the settlers refused because of the danger, Trébol Navarro ordered the settlers to assemble at Albuquerque and return to Carnuel where, in one of the most vindictive measures seen in these documents, each settler was forced to demolish his house and all other buildings, so that the settlement was left in ruins.[44] Then in

[42] Decrees of Governor Vélez Cachupín, Santa Fe, 6 February and 20 February 1763, and Act of possession of Alcalde Trébol Navarro, San Miguel de Laredo [de Carnuel], 12 February 1763, SANM I, No. 202.

[43] Decree of Governor Mendinueta, Santa Fe, 12 April 1771, NMLG-SG, roll 27, report 150, frames 7-14.

[44] Reports of Alcalde Trébol Navarro, San Felipe de Alburquerque, 16 April, 24 April, and 27 May 1771, SANM I, No. 202.

1774, when another group of *genízaros* from the San Fernando grant offered to resettle Carnuel with thirty-five families led by Antonio Montaño, Mendinueta rejected their petition on the recommendation of Trébol Navarro, who thought that these families would also abandon the settlement in a few years, although they were generally more industrious than the first settlers.[45]

The difference between Mendinueta and Vélez Cachupín was not simply one of style but involved a fundamentally different view of community land grants on the frontier and the rights to be accorded to the substantial *genízaro/mestizo* population that would settle them. A factional dispute among the grantees of the Belén grant southwest of Tomé provides another opportunity to compare the land grant approach of Mendinueta to that of Vélez Cachupín. This argument between two Belén grant factions (the Baca faction and the Torres faction) began with a 1767 petition by twelve members of the Baca faction objecting to the establishment of a new settlement by the Torres faction at Sabinal on the southern part of the grant. The Baca faction was using the Sabinal area to pasture their horse herd and wanted to continue using the land without actually settling there. They claimed to have dug an *acequia* and were worried that the Torres group would enclose the woodlands, denying them access. The Baca group claimed priority over the Torres faction, telling the governor that they were the first settlers and had suffered many hardships in order to drive the enemy away, "[such as] eating mice, badgers, and wild herbs."[46] The Torres group,

[45] Petition of Antonio Montaño and others, report of Alcalde Trébol Navarro, Santa Fe, 17 March 1774, and Order of Governor Mendinueta, 23 March 1774, SANM I, No. 46. See also, Robert Archibald, "Cañon de Carnuel: Settlement of a Grant," *New Mexico Historical Review* 51 (1976):313-28, and Frances Leon Swadesh, "Archaeology, Ethnohistory and the First Plaza of Carnuel," *Ethnohistory* 51 (1976):31-44.

[46] The original wording is: "Comiendo ratones, tejones, y yervas silvestres." Petitions of Domingo Baca, et al., to Governor Vélez Cachupín, 6 February 1767, Belén, SANM I, No. 869. Whoever the first Spanish settlers were, and whatever they ate, they may not have been the first to settle the Belén area, for in 1746 *genízaros* led by Antonio Casados filed suit claiming that they were granted the land before any Spaniards came. The suit was never resolved, and the *genízaros* were simply absorbed into various communities on the grant, leaving their property rights to be decided at a future date. Governor Joaquín Codallos y Rabal held a lengthy hearing on the petition of the *genízaro* Antonio Casados and then forwarded the proceedings on to the viceroy, but no final decision has been found. Declaration of Antonio Casados, Santa Fe, 12 February 1746, SANM I, No. 183.

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represented by Felipe Tafoya, told the governor that they were the first settlers on the grant, had dug the *acequia* in question, and needed the grazing land at the new settlement because their cattle and sheep were being crowded at their present location near Belén.[47] Half of the eighteen families comprising this group were *genízaro*, which is probably where some of the factionalism arose since *genízaros* had been discriminated against and deprived of land and water rights on the Belén grant.[48]

Governor Vélez Cachupín ruled in favor of the Torres group, giving them "license and permission" to settle at Sabinal, on condition that they build their houses in a square and that they be well-armed, since they would be near the Ladrones Mountains and needed to defend themselves against the Gileño Apache. As San Gabriel de las Nutrias, the aforementioned community that he had been nurturing, was across the Río Grande southwest of Sabinal,[49] the governor even suggested that the Sabinal settlers build a boat for communication and mutual support between the two communities. He also ordered that the *genízaro* agricultural lands and houses be separate from those of the Spaniards (*blancos*), following the discriminatory practice of having Spaniards and *genízaros* live apart. Since all the houses were to be built in a square, however, this would still comprise a compact settlement.[50]

In any case, the Sabinal settlement seems to have survived, for a decade later in 1776 the same factions filed another lawsuit, this time with Governor Mendinueta. The new dispute was over the temporarily abandoned settlement of San Gabriel de las Nutrias across the Río Grande from Sabinal and a continuation of the power struggle between the Belén Spaniards and the *genízaro*-dominated Sabinal settlement. The

[47] Petition of Felipe Tafoya to Governor Vélez Cachupín, Belén, February 1767, SANM I, No. 869.

[48] For a discussion of *genízaro* land tenure on the Belén grant, see the lawsuit Joséph Marcelo Gallegos vs. Pedro Iturbieta, Belén, May-June 1765, SANM I, No. 362, discussed in Ebright, "Frontier Land Litigation," 211-14.

[49] Decree of Governor Vélez Cachupín, Santa Fe, 19 July 1765, SANM I, No. 869. Vélez Cachupín used the same "licencia y permiso" language when he made the San Gabriel de las Nutrias grant. Decree of Governor Vélez Cachupín, Santa Fe, 17 February 1764, SANM I, No. 780.

[50] Decrees of Governor Vélez Cachupín, Santa Fe, 19 July 1765 and 23 February 1767, SANM I, No. 869.

Belén settlers, led by Francisco Pablo Salazar, asked that the Las Nutrias land be given to them because they had transferred part of the Belén grant to the Las Nutrias group, and therefore it should be returned to them now that it was abandoned. The Sabinal settlers, on the other hand, claimed they should get the land because they had worked harder to settle Sabinal and had had to give some of their land to certain *genízaros* from Tomé in order to keep their settlement alive and at full strength. The Sabinal settlers were already having problems with the nearby Belén group, claiming that their pastures were being obstructed and their animals impounded or sent across the Río Grande to Las Nutrias. They felt that these problems would be compounded if the Salazar faction was given title to the San Gabriel de las Nutrias grant.[51] Instead of deciding the dispute, however, Governor Mendinueta referred the matter to Alcalde Diego de Borica, who ruled only that the *genízaros* from Tomé could remain at Sabinal, farming and pasturing their flocks and herds through the year 1776 while the governor decided the case. The alcalde's decision did not respond to the issue of the lands at Las Nutrias, however, and it remains unclear whether the governor ever rendered a decision about the Las Nutrias lands.[52]

By deferring to the local alcalde, Mendinueta missed an opportunity to continue Vélez Cachupín's policy of encouraging new settlements. Instead he left the factions within the Belén grant to their own devices; in such a situation the strongest faction prevailed, usually the Spaniards, who were squeezing the *genízaros* within their enclave established by Vélez Cachupín. The *genízaros* of Sabinal still felt insecure two years later, for at the behest of Governor Anza they sent a spokesman to Durango to petition for their own formal community rights. Father Juan Agustín de Morfí reported in 1778 that more Spanish citizens from Belén had also settled at Sabinal but had built their houses "in the same disorderly and careless manner as in Belén," apparently disregarding Vélez Cachupín's 1767 order.[53] Governor

[51] Petitions of Francisco Pablo Salazar for the Belén faction and Juan Francisco Baca, et al., for the Sabinal faction, Belén, 17 March 1776, SANM I, No. 877.

[52] Governor Mendinueta to Alcalde Borica, Santa Fe, 18 March 1776, and Alcalde Borica to Governor Mendinueta, Santa Fe, 31 March 1776, SANM I, No. 877.

[53] Marc Simmons, ed., *Father Juan Agustín de Morfí's Account of Disorders in New Mexico, 1778* (Isleta Pueblo: Historical Society of New Mexico, 1977), 35-36.

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Vélez Cachupín was more willing than was Mendinueta to make difficult decisions in factional disputes like this, even if the groups he supported did not always do what they promised. But Vélez Cachupín was not lenient with those he believed to be shirkers, as he demonstrated with the Los Quelites grant.

The Los Quelites[54] grant on the Río Puerco was made in 1761 by Governor Francisco Antonio Marín del Valle to twenty settlers who used the twin inducements of flattery and necessity to get this community grant. They told the governor that the settlement was needed as "a fortress against the enemy Gila [Apache]," and that if they received the grant they would name it San Francisco del Valle after the governor. Alcalde Miguel Lucero reported that the land and water was sufficient to support thirty-five families "and as many more." He said that all but three of the proposed settlers were vagrants with no land; only ten had firearms, and the rest had lances and shields. This mixed group was placed in possession of the land and told that they should form a settlement of up to fifty families. They were each to receive 200 *varas* of land sufficient to plant four *fanegas* of wheat and one-half *fanega* of corn.[55]

In 1765, eight grantees of the Los Quelites grant who were not living there asked Vélez Cachupín for permission to withdraw from the grant because the place was not conducive to farming. Led by José Gonzales, this faction claimed that there was insufficient water in the Río Laguna and the Río Puerco, and what little water existed was so salty that it destroyed their crops. The land was fit only for raising sheep and cattle but was "unbearable to those of us who have nothing to breed," and the settlement was too far from the nearest priest.[56] After an investigation that included reports from Alcalde Antonio

[54] *Quelites* are edible herbs used like wild spinach. The most common variety is *quelites salados*, also called lamb's quarters. The greens are cooked as are those of the variety *quelites colorado*. The word *quelites* is apparently derived from the Aztec *quilitl*. L.S.M. Curtin, *Healing Herbs of the Upper Rio Grande* (Los Angeles: Southwest Museum, 1965), 168-69.

[55] Petition of Antonio Sedillo, et al., to Governor Marín de Valle, [March 1761]. Grant by Governor Marín del Valle, Santa Fe, 1 April 1761, and Act of possession by Alcalde Miguel Lucero, 4 May 1761, SANM I, No. 719.

[56] Petition of José Gonzales, Simón Zamora, Antonio Fajardo, José Márquez, Gregorio Rivera, Joaquín Peralta, Juan Peralta, and Gregorio Sedillo to Governor Vélez Cachupín, n.d., SANM I, No. 720.

Sedillo at Acoma-Laguna and from other settlers who were living at Los Quelites, the other side of the story emerged. Sedillo said that water was not a problem because the settlers had other sources when the Río Puerco went dry, including springs and a cistern, and that their corn, cotton, and chile were thriving.[57] According to the eight settlers who remained at Los Quelites, the problem was not with the land or the water but rather with the Gonzales faction themselves who simply did not want to risk their lives in a dangerous frontier settlement.[58]

Governor Vélez Cachupín considered the various arguments and determined that the water problems resulted from the flooding of an arroyo descending from Laguna Pueblo that had tainted the water at Los Quelites with a stream of salt water. He suggested, in his characteristically practical approach, that these problems could be controlled by constructing earthworks to divert the water. The governor commended the tenacity and courage of the resident settlers, but as for the non-residents he minced no words. To him, they were cowards whose problems stemmed from their failure to work hard in making the settlement a success, and they were unworthy of the grant that had been made to them. He ordered that they lose their rights to the Los Quelites grant and that they and their heirs be forever ineligible to receive another land grant anywhere in New Mexico.[59]

Once again Vélez Cachupín decided a dispute between two factions about the ownership and use of land grant lands in a manner that encouraged those willing to settle in frontier communities and discouraged those who did not have the stomach for such a perilous life. Vélez Cachupín dealt with recalcitrant settlers differently than did Mendinueta; he did not simply scold them but generally found examples of the conduct he was recommending in other settlers and commended them, as he did the settlers residing at Los Quelites. While he might be scathing in his criticism of those he considered shirkers, he was consistently specific in his criticism and specific about the conduct he was encouraging, always holding out the possibility of

[57] Report of Alcalde Antonio Sedillo, 10 July 1765, SANM I, No. 720.

[58] Report of Bernardo Vallejos on behalf of Antonio Sedillo, Bernardo Vallejos, Joaquín Sedillo, Juan Sedillo, Pascual García, Bártolo Olguin, Antonio Barela and Lázaro Sedillo, San Rafael de Los Quelites, 10 July 1765, SANM I, No. 720.

[59] Decision of Governor Vélez Cachupín, Santa Fe, 16 July 1765, SANM I, No. 720.

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reform. This is borne out in the response of Vélez Cachupín to a 1762 petition by forty-eight Albuquerque residents who objected to an order to consolidate available horses in the area under the control of the Albuquerque militia. Horses were scarce, and the settlers needed them in their fields. The governor told the settlers they should be more grateful for the land grants they had received and should show more enthusiasm in defending those lands by following the example of the *vecinos* in the jurisdiction of Fonclara, who regularly performed their militia duty.[60] Governor Mendinueta's actions regarding such communities were not always so decisive, as illustrated by the history of the San Fernando grant.

The grant known as Nuestra Señora de la Luz, San Fernando y San Blas had a long and controversial history involving more than one alteration of grant documents and several squabbles between the grantees and their neighbors. The history of the San Fernando grant begins in the fall of 1753 with a petition by Ramón García Jurado[61] and some families from the Villa of Albuquerque to Governor Vélez Cachupín asking for a community grant on the Río Puerco. The petitioners said they could not support themselves on their existing lands and so were forced to work for nearby Pueblo Indians, weeding their fields and hauling firewood in return for a few ears of corn. This appears to have been something of an exaggeration in light of later statements made by the petitioners, but it must have had the desired effect of getting the governor's attention.[62] Vélez Cachupín ordered

[60] Vélez Cachupín recommended that the herd of horses be assembled without prejudice to the tending of the settlers' fields by alternating the herd to work a different farm every eight days, when they were not on militia duty. Petition to Governor Tomás Vélez Cachupín for the establishment of a guard in Albuquerque, with reply from the governor, Santa Fe, 17 May 1762, Pinart Collection, P.E. 52:6.

[61] Ramón García Jurado had been an alcalde active in Indian affairs earlier in the century, but with a mixed record. In 1703 six Tegua Indians asked that García Jurado be named to represent them in a lawsuit protesting their false imprisonment, but three decades later in 1732, he was suspended as alcalde and banished to Zuni Pueblo for failure to pay Zia Indians for certain work he had ordered them to perform. Cutter, *Protector de Indios*, 46-47 and 78-79.

[62] Petition of Ramón García Jurado, Antonio Montaño, José Montaño, Bernabé Manuel Montoya, Juan Bautista Montaño, Pedro Montaño, and Ramón García Jurado, Jr., to Governor Vélez Cachupín, n.d. SANM I, No. 688. In 1773 Governor Mendinueta reported that a similar land shortage was forcing Spaniards to purchase substantial amounts of agricultural produce from the Indians; another instance of

Alcalde Antonio Baca to determine whether the land could be farmed by damming the Río Puerco, whether there was sufficient timber and grazing land, and how many families could be supported on the land.[63] Baca and certain "experts in rural and farming matters" who accompanied him reported that the tract could be settled by as many as twelve families, that it contained sufficient grazing lands, and that additional lands could be irrigated by taking out an *acequia* and constructing stock ponds (*tanques*).[64]

Governor Vélez Cachupín made the grant to the six petitioners and to six more who were "the most appropriate ones [for the purpose] and who have arms."[65] The governor directed that the settlement should be constructed in the form of a defensive plaza with only one gate for wagons to enter and that the settlers should work together to dam the river, dig an *acequia*, and build the houses forming the plaza. The private tracts could not be sold for four years, and the names of the six additional settlers were to be added to the act of possession by the alcalde. He urged the settlers to attend Mass on holy days, teach the youth and the Indians their prayers and Christian doctrine, and preserve peace, Christian unity, and friendly social intercourse. This suggests that *genízaro* and Spanish settlers were all living together with some Navajo in the same settlement.[66]

On 11 December 1753, Alcalde Antonio Baca and Bernabé Montaño, who acted as spokesperson, went to the site of the new settlement with ten prospective settlers. Baca ordered an inquiry to determine whether the land was public (*realengas*), and thus available for a grant, and whether anyone objected. It remains unknown, however, whether anyone was notified about the San Fernando grant and given a chance to object. When no one did object, the settlers were

Spaniards working for Indians due to a shortage of agricultural lands was reported by Governor Francisco de la Concha in 1789. Gutiérrez, *When Jesus Came, the Corn Mothers Went Away*, 304-5.

[63] The original wording is: "personas peritas en materia de campo y labores." Order of Governor Vélez Cachupín, Santa Fe, 21 October 1753, SANM I, No. 688.

[64] Report of Alcalde Antonio Baca to Governor Vélez Cachupín, Pueblo of Zia, 2 November 1753, SANM I, No. 688.

[65] The original wording is: "las mas aproposito y con Armamento." Grant by Governor Vélez Cachupín, Santa Fe, 25 November 1753, SANM I, No. 688.

[66] Grant by Governor Vélez Cachupín, Santa Fe, 25 November 1753, SANM I, No. 688.

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placed in possession of the grant "in equal shares of the lands, pasture, timber, water, and watering places."[67] Baca specified the boundaries and made it clear that the entire grant was owned by the twelve grantees either as private land for planting wheat (and for house sites) or as pasture lands to be used in common by the community. The boundaries of the San Fernando grant, which were later to be the source of much confusion, were the Camino Real from Zia to Laguna on the north, the Cerro Colorado on the south, the Ceja of the Río Puerco on the east, and the Mesa Prieta on the west. Baca specified the distance from each of these landmarks to the settlement of San Fernando but did not make clear which would prevail should a conflict arise over the precedence of the landmark or the distance.[68]

In early March of 1754 Alcalde Baca distributed house lots and tracts of farmland at San Fernando, prefacing the *repartimiento de tierras* with a description of how good the land was: "quite ample, firm, and spacious, [protected] at all times from the menace of floods."[69] This gratuitous bit of hyperbole, together with the very specific *repartimiento*, seems to have been a response to Governor Vélez Cachupín's strict order to comply with the terms of his grant without any deviation. In a detailed *repartimiento*, Alcalde Baca proceeded to name each settler, list the number of people in the household, and give each one a house lot forty *varas* wide and a farm tract of 300 x 100 *varas*. He repeated the requirement that the settlers live in adjacent houses surrounding the plaza, admonished them to

[67] The original wording is: "por yguales partes de dichas tierras, pastos, montes, aguas, y abrevaderos." Auto de posesión by Alcalde Antonio Baca, San Fernando, 11 December 1753, SANM I, No. 688.

[68] The original wording is: "cuyos linderos se incluyen todos las doce partes mercenados de tierras de pan llevar que dando libres para pastos comunes de dicha poblazon el demas terreno." Act of possession by Alcalde Antonio Baca, San Fernando, 11 December 1753, SANM I, No. 688. This language challenges the holding in *U.S. v. Sandoval* (167 U.S. 298) that the common lands of a community grant were owned by the Spanish government. See Malcolm Ebright, *Land Grants and Lawsuits in Northern New Mexico* (Albuquerque: University of New Mexico Press, 1994), 105-23. See also Daniel Tyler, "Ejido Lands in New Mexico," in Ebright, *Spanish and Mexican Land Grants and the Law*, 24-35.

[69] The original wording is: "muy amplio, fixo y capaz sin ruyna que en nigun tiempo le pueda amenazar de llubias." Repartimiento de tierras by Alcalde Antonio Baca, San Fernando, 11 March 1754, SANM I, No. 688.

teach their children and servants the basics of the Catholic religion, and told them to mark clearly the boundaries of their farm tracts.[70]

Despite the detailed *repartimiento*, the settlers failed to occupy the land in 1754. Five years later Felipe Tafoya (who acted as an attorney but in fact was not) filed a petition on behalf of the San Fernando settlers before Governor Marín del Valle, who served between Vélez Cachupín's two terms. It was probably no accident that this petition came after Vélez Cachupín had left office, for the petition failed to mention the requirement that the settlers build their homes and move onto the grant within two months. Tafoya asked that the archives in Santa Fe be searched and a copy of the grant be given to the settlers (who had lost their copy) so that they could proceed with the work of settling the land and constructing stock tanks.[71] Governor Marín del Valle realized that the San Fernando grantees had lost their right to the land by not settling in two months but agreed to re-grant it if the settlers would commit themselves to forming the kind of settlement Vélez Cachupín had outlined in his earlier decree. The grantees agreed, and Marín del Valle appointed one of their number as *teniente alcalde* to supervise the house-building and administer justice.[72] Within the next decade the San Fernando settlement finally took root, and the settlers began making their presence known primarily by objecting to several grants adjacent to or overlapping the San Fernando grant. The boundaries of the San Fernando grant seemed elastic enough to encompass whatever neighboring grant was proposed.[73]

In 1767 the San Fernando grantees complained to Governor Mendinueta that the Navajo were encroaching on their land and asked that the Indians be ejected because they were occupying one of the few

[70] Repartimiento de tierras by Alcalde Antonio Baca, San Fernando, 11 March 1754, SANM I, No. 688.

[71] Felipe Tafoya to Governor Vélez Cachupín, Santa Fe, n.d., SANM I, No. 688.

[72] Order of Governor Marín del Valle, Santa Fe, 19 January 1759, SANM I, No. 688.

[73] By 1877 the following settlements existed on the San Fernando grant, some as the result of resettlement of eighteenth-century communities that had been abandoned: La Cueva, San Francisco, Durán, and San Ignacio. Apparently the settlement at San Fernando was not revived in the nineteenth century. Jerold Gwayn Widdison, "Historical Geography of the Middle Río Puerco Valley, New Mexico," *New Mexico Historical Review* 34 (1959):259-60.

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springs on the grant, where water was extremely scarce.[74] Furthermore, the San Fernando settlers expressed concern about whether a neighboring grant made to Juan Tafoya Altamirano was also an encroachment upon their lands and demanded that the Tafoya grant be measured or they would abandon their own grant. Finally, the San Fernando settlers said they planned to work on a couple of *acequias* that would benefit the Indians of Santa Ana, Zia, and Jémez Pueblos and asked the governor to order these Pueblo Indians, as well as other Río Puerco Valley settlers, to help them with the work.[75]

Mendinueta sent Alcalde Bartolomé Fernández to investigate these complaints and to measure the Juan Tafoya grant again. Taking a one hundred *vara cordel* (a measuring rope one hundred varas long), Fernández measured 1400 *varas* toward the west, stopping at some Navajo cornfields, and then measured 8,600 *varas* to the east, marking off the two leagues (10,000 *varas*) from east to west stipulated in the Tafoya grant. The alcalde reported that he did not believe there could be any encroachment on the settlers on the east because San Fernando's grant called for only a league and a half in the direction of the Tafoya grant whereas there were at least four leagues between the two grants. In any case, the protesting San Fernando settlers had been present when the measurement of the Tafoya grant was made.[76]

When Governor Mendinueta received this report, he was incensed. He accused the San Fernando settlers of making false statements in their petition. He pointed out that the boundaries of the Tafoya grant had been measured and the landmarks set without objection in the presence of some of the same San Fernando settlers

[74] The settlers were being a bit disingenuous, for they knew that the area around the springs had been used by the Navajo for farming. The Navajo planted patches of corn using drought-resistant strains of seed, often leaving the plants to fend for themselves. Since the Indians moved around and did not carefully cultivate these crops, the Spaniards often assumed that they were abandoned. For example, Alcalde Bartolomé Fernández mentioned fields planted by the Navajo during his act of possession for the Bosque Grande or Miguel and Santiago Montoya grant. Act of possession of Bartolomé Fernández, 29 January 1767, NMLG-PLC, roll 41, case 66, frame 90. See also Reeve, "The Navaho-Spanish Peace," 33, 39.

[75] Petition of twenty *vecinos* of Nuestra Señora de la Luz, San Fernando y San Blas to Governor Mendinueta, San Fernando, June 1767, SANM I, No. 692.

[76] Report of Bartolomé Fernández, Nuestra Señora de Guadalupe, 6 July 1767, SANM I, No. 692.

who had signed the present complaint. Accordingly, he fined them sixty *pesos de tierra* (produce worth sixty *pesos*) and gave them a stern lecture: "if the *vecinos* of the Río Puerco commit such an excessive offense again they shall be punished with due severity and it will be remembered."[77] So the San Fernando settlers, who started out complaining that they had to weed the Indians' corn to get a few ears of their own, now found themselves having to give up sixty *pesos* worth of corn and other produce because they had incurred the wrath of Governor Mendinueta. It appears that the real reason for their objection to the Juan Tafoya grant was that they did not want anyone irrigating farmland upstream from them; if new settlers were to arrive they wanted them to live at San Fernando for better defense against Indian raids.[78]

The next major event took place in the spring of 1768 when a group of settlers from Atrisco told Mendinueta that they lacked sufficient pasture and woodlands. As they were hemmed in by other land grants in at least two directions, they asked for land west of Atrisco in the direction of the Río Puerco south of San Fernando. The Atrisqueños had tried to settle the land earlier but had been driven off by the San Fernando settlers, so in their petition they attacked the legality of the San Fernando grant, arguing that it had not been settled according to the royal laws.[79] Governor Mendinueta did not order an investigation but simply decided that there was no overlap between the grant requested by the Atrisqueños and the San Fernando claim. He made the grant to the Atrisco settlers, telling Alcalde Francisco Trébol Navarro to deliver possession to the grantees after notifying the neighboring parties to appear with their documents.[80]

But, true to form, the San Fernando settlers objected to the Atrisco grant. When they presented the grant made to them by

[77] The original wording is: "si dhos vecinos del Rio Puerco reincidiesen en semejante exceso seran castigados con severidad que corresponde, y se tendra presente el cometido." Order of Governor Mendinueta, Santa Fe, 7 July 1767, SANM I, No. 692.

[78] Petition of San Fernando settlers to Governor Mendinueta, June 1767, SANM I, No. 692.

[79] Petition of Atrisco settlers to Governor Mendinueta, [1768], University of New Mexico Center for Southwest Research Collection, PC 29-301, Box 8 #45, folder 2; NMLG, roll 26, frame 1035 et seq.

[80] Grant by Governor Mendinueta, Santa Fe, 8 April 1768, SANM I, No. 694.

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Governor Vélez Cachupín, however, Alcalde Trébol Navarro noticed that part of the southern boundary at Cerro Colorado had been scratched out. Initially it read "on the south by the Cerro Colorado which is about two leagues from the aforesaid settlement."[81] When questioned by Trébol Navarro, one of the San Fernando settlers stated that Vélez Cachupín himself had made the changes, but the alcalde did not believe him. First, a witness stated to the alcalde that he had seen the original Vélez Cachupín grant and it was not altered. And furthermore, Trébol Navarro argued that the custom and proper practice followed by officials when making changes on official documents was to draw a line through the erroneous portion so that the words in question were still legible and then to write the changed language at the end.

Trébol Navarro may have been correct regarding this custom, but his procedure in deciding the conflict was improper, since a dispute of this seriousness should have been decided by the governor. Instead, he declared that the San Fernando settlers had forfeited any rights they might have had to the land sought by the Atrisqueños because of their alteration of the grant documents. The alcalde then set a monument at two cottonwood trees on the west bank of the Río Puerco as the boundary between the two grants and gave the Atrisco settlers possession of the land they requested. It is doubtful that the San Fernando settlers would have received more sympathy from Mendinueta, since the governor had already fined them once, but he had more authority to decide such a case than did the alcalde.[82]

In July of 1769 Luis Jaramillo, a former corporal at the Santa Fe Presidio, asked the governor for a tract of land west of the San Fernando grant to graze his flock of one thousand sheep. He based his request on his thirty-six years of military service and the services of his father and other relatives in the pacification of the province.[83] Mendinueta readily granted the petition, telling Alcalde Antonio Sedillo to

[81] Apparently the Cerro Colorado was more than two leagues from the settlements, so by crossing out the language about distance, the San Fernando settlers hoped that the landmark and not the lineal measurement could determine their southern boundary. This was not to be.

[82] Report by Alcalde Trébol Navarro, San Fernando, 9 May 1768, SANM I, No. 694.

[83] Luis Jaramillo to Governor Mendinueta, [July 1769], SANM I, No. 421.

summon adjoining landowners to appear with their documents and place Jaramillo in possession if there was no conflict in boundaries.[84]

But the San Fernando settlers once again appeared at the possession ceremony, asking the alcalde to suspend the proceedings so that they could file their objections before Governor Mendinueta.[85] Their rambling protest centered around the hardships they suffered from Indian raids, lack of water, and the service they performed by protecting other settlements. They argued that their boundaries were the natural landmarks, not the distances, called for in their grant: "our boundaries remain without any regard to leagues."[86]

Mendinueta had already fined the San Fernando settlers once in connection with their protest of the Juan Tafoya grant, and he was in no mood to countenance any more dissembling on their part. As before, it was apparent that the settlers had changed their *testimonio* because no changes had been made on the original, and the changes on the copy had not been made in the proper and customary manner. When he saw their new alterations, the governor exploded: "They stupidly and maliciously altered the *testimonios* of the grant and the act of possession wherever leagues were mentioned."[87] Accordingly, the San Fernando protest was denied, and Luis Jaramillo was put in possession of his grant. Alcalde Sedillo was directed to measure a league and a half west from the center of the San Fernando grant and to erect landmarks so that the San Fernando settlers would know once and for all where their boundary was in relation to the Luis Jaramillo grant. Should there be a gap between the two boundaries (which in fact

[84] Grant by Governor Mendinueta, Santa Fe, 20 July 1769, SANM I, No. 421.

[85] Petition of Antonio Montaño, Marcos Baca, José de Jesus Montaño, Antonio Durán, Felipe Baca, Juan Candelario, José Antonio Castelo, Tomás Gurulé, Agustín Gallego, Mariano Gallego, and Juan Bautista Montaño to Antonio Sedillo, [San Fernando, July 1769], SANM I, No. 421.

[86] The original wording is: "nuestros linderos queden libres sin aditamiento de leguas...." Petition of Antonio Montaño, Marcos Baca, Tomás Gurulé, José Antonio Castelo, José de Jesus Montaño, Mariano Gallego, Felipe Baca, Antonio Candelaria, Antonio Durán, and Agustín Gallego to Governor Mendinueta, [San Fernando, July 1769], SANM I, No. 421.

[87] The original wording is: "necia y maliciosamente testaron en el testimonio de merced y posesion todos los lugares en que mencionaba legues...." Decision by Governor Mendinueta, 7 August 1769, SANM I, No. 421.

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there was), Sedillo was to notify the governor, and the San Fernando settlers were to pay the costs of Sedillo's survey.[88]

Once again the San Fernando settlers paid for arousing the ire of Governor Mendinueta. Had they exercised more discretion they might have enjoyed greater success, as their position had some merit. Even today in New Mexico, surveyors faced with two types of boundary calls, one a natural landmark (like the Cerro Colorado or the Mesa Prieta) and the other a distance (as from the center of the grant to the boundary), are required to give precedence to the natural landmark.[89] But it was not the boundary issue that primarily concerned Governor Mendinueta, though that was the nominal basis for his decision. As will be seen, what really swung the balance was Mendinueta's preference for private grazing grants like the Juan Tafoya Altamirano and Luis Jaramillo grants, and his close relationship with the elite stock-raisers who were the recipients of these grants and the alcaldes who placed the grantees in possession.

The San Fernando grant was established by Governor Vélez Cachupín to provide a buffer settlement on the Navajo frontier but was handled differently by Governor Mendinueta when its common lands were under attack. As with the San Gabriel de las Nutrias grant, Vélez Cachupín took a particular interest in the many details of the proposed settlement but, unlike Mendinueta, when cases came before him involving nearby land he was solicitous toward the rights of the San Fernando grantees. Rather than simply chastizing the San Fernando settlers, Governor Mendinueta might have protected them by making fewer grazing grants.[90] Instead, he privatized to absentee owners much

[88] Decision by Governor Mendinueta, 7 August 1769, SANM I, No. 421. When the two grants were finally surveyed there was no conflict but rather a two-and-one-half mile gap between them.

[89] This rule is based on the theory that the parties are more likely to be familiar with a natural feature as a boundary than with a measured distance and therefore intend the natural feature to be the boundary. Even if marked on the ground with a landmark like a pile of stones or a cross, the measurement was never exact, and the landmark could always be moved (and often was), while a natural feature had the virtue of a degree of permanency. Curtis M. Brown, *Boundary Control and Legal Principles* (New York: John Wiley and Sons, 1957), 76-81.

[90] An exception to Mendinueta's negative approach to the San Fernando settlers occured in 1770 when the governor granted them some additional land so they could move to a location where ground water was more plentiful. The wells they had dug in the old location turned out dry, though they had hired dowsers (*balisanes*) to help them

of the land in the Río Puerco watershed around the San Fernando grant, making seven private grazing grants in the area two years after taking office.

First in line a few months after Mendinueta took office in June 1767 was Alcalde Felipe Tafoya. Tafoya's petition had been turned down by Vélez Cachupín the previous year because, rather than risk his life in a frontier settlement, he wanted to acquire a grazing grant in the San Fernando area.[91] Yet Mendinueta made him a grant of almost 22,000 acres in record time. The grantees who follow read like a "Who's Who" of New Mexican notables. They include cartographer and Alcalde Bernardo de Miera y Pacheco; Alcalde Bartolomé Fernández, who had placed Tafoya in possession of his grant and then received his own grant of more than 25,000 acres; Alcalde Carlos Pérez de Mirabal who had been commissioned to place Fernández in possession; and finally, retired corporal Luis Jaramillo and Santiago Durán y Chaves, each with one thousand head of sheep needing grazing lands. Jaramillo received almost 14,000 acres and Durán y Chaves more than 4,000. In other words, every alcalde who officiated at a ceremony of possession for one of these grazing grants soon requested, and then received, his own grazing grant nearby.[92] It was as if these officials would learn about available land while performing their official duties and then apply for a neighboring tract of land for themselves. Governor Mendinueta made each one of these large private grants with very little investigation and sometimes under protest, leaving it to his alcaldes to notify adjoining landowners and the Navajo.

Another example of Mendinueta's favoritism toward elite alcaldes over *mestizo pobladores* was a lawsuit filed against Trébol Navarro by thirty-seven Albuquerque residents who objected to serving

locate water. NMLG-PLC, roll 34, case 7, frames 53-65.

[91] See NMLG-PLC, roll 41, case 67, frames 104-05; Order of Governor Vélez Cachupín in response to Felipe Tafoya petition, Santa Fe, 3 December 1766, SANM I, No. 688; and Richard Salazar, "The Felipe Tafoya Grant: A Grazing Grant in West Central New Mexico," *Center for Land Grant Studies Research Paper No. 28*, 1994.

[92] Nuestra Señora de la Luz de las Lagunitas grant, NMLG-PLC, roll 41, frame 472. Felipe Tafoya grant, made 15 June 1767 by Alcalde Bartolomé Fernández (NMLG-SG 99, PLC 67 and 187); Bartolomé Fernández grant, made 2 September 1767 by Alcalde Carlos Pérez de Mirabal (NMLG-SG 78, PLC 61 and 126); Ignacio Chávez grant, made 17 February 1768 by Alcalde Bartolomé Fernández (NMLG-SG 96, PLC 34).

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under him in his capacity as war captain. They said Trébol Navarro was influenced by his father-in-law, Antonio Baca, and that they had both treated the petitioners unfairly, often taking revenge on them to further their own private interests. Instead of investigating, Governor Mendinueta immediately came to the defense of Trébol Navarro, saying that as governor he had the power to appoint whomever he felt was qualified for the post of *alcalde mayor* and war captain, and for the petitioners to try to set conditions and limit that power was shameless and audacious.[93] The governor accused the signers of the petition of being insubordinate and treasonous, "not only of mixed blood, but also worthless for the king's service."[94] And to add insult to injury, he ordered them all jailed simply for filing the petition, an action that could not have endeared him to New Mexico's poor.

In addition, although Trébol Navarro and other alcaldes like Bartolomé Baca were notorious for their mistreatment of Pueblo Indians, Mendinueta made grants to them anyway. The governor must have known of these abuses, for both these individuals were singled out by Father Juan Agustín de Morfí in his 1778 account of the disorders in New Mexico.[95] Mendinueta's partiality to Trébol Navarro is also exemplified by his appointment of the alcalde as interim governor at the end of his own term when his successor, Juan Bautista de Anza, was delayed in Sonora.

Both Governor Mendinueta and Governor Vélez Cachupín were beset by competing forces. On the one hand there was the pressure from the Spanish crown to solve the "Indian problem." Vélez Cachupín realized that to maintain peace with the Navajo, Spanish settlements

[93] The original wording is: "con sobrada de vergonzada y audacia, poner condiciones y coarta las facultades...." Decree of Governor Mendinueta, Santa Fe, 28 January 1768, SANM II, No. 635.

[94] The original wording is: "no solo color quebrado, sino inutiles para el servicio del Rey." Order of Governor Mendinueta, Santa Fe, 28 January 1768, SANM II, No. 635.

[95] For the specific abuses against Pueblo Indians committed by Trébol Navarro, see Simmons, *Father Juan Agustín de Morfí's Account*, 18, 23-24, 31, 32, and 34. For further documentation of Trébol Navarro's abuses as well as those of other alcaldes accused by Morfí, including Clemente Gutiérrez, Baltasar Baca, Pedro Padilla, Nerio Montoya, Manuel Vigil, Cristóbal Vigil, and José Miguel de la Peña, see Patrick, "Pedro Fermín de Mendinueta," 19. These alcaldes made the Pueblo Indians sow their fields, grind their corn, and work in their households without pay. Simmons, *Father Juan Agustín de Morfí's Account*, 30-32.

had to respect Indian rights as long as they were at peace but be ready to fight if attacked. *Pobladores* willing to settle on the frontier often included a high proportion of mixed Spanish and Indian blood settlers, *genízaros*, and even some Indians.[96] If the *pobladores* were to remain in their settlements under the adverse conditions of the frontier, their interests had to be considered and protected by the governor. But the governor was also lobbied by large-scale ranchers who needed huge tracts of grazing land for their flocks of sheep. Grazing grants to these individuals comprised the majority of the grants made by Mendinueta, yet they exacerbated the Spaniards' "Indian problem," especially with the Navajo. His policy resulted in all-out warfare on the "*indios bárbaros*," causing an increase in attacks on Spanish settlements.[97]

Vélez Cachupín was also more successful than Mendinueta with Indian affairs, partly because of his policy of promoting trade with the Comanche and friendly commerce with the Navajo. When this policy was changed by Governor Marín del Valle in 1754, warfare between the Comanche and the allied Spanish-Pueblo forces resumed. Upon Vélez Cachupín's return to office in 1762, he soon reestablished peace with the Comanche, but when Mendinueta took over in 1767, his policies destroyed the carefully maintained Comanche peace as well as the fifty year-old Navajo peace.

The differences between these two governors are further reflected in the approaches they took to the land grants they made on the Navajo frontier. Both governors included language in their grants ordering the grantees not to interfere with Navajos who might be using land adjacent to or within the proposed grant. Mendinueta often turned a blind eye to infractions, however, while Vélez Cachupín scrupulously made sure that the grantees and the alcaldes honored these conditions.

[96] See appendixes A and B for two census lists of the settlers of the San Gabriel de las Nutrias grant. In the 1765 census, over half are listed as either *mestizo*, *mulato*, or *indio*. Note also that the terms *indio* and *genízaro* are used interchangeably by Alcalde Lucero (Report of Alcalde Miguel Lucero, Fonclara, 14 February 1764) and Governor Vélez Cachupín (Census taken by Governor Vélez Cachupín, San Gabriel de las Nutrias, 28 November 1765), as the three Anayas, Javier, Juan and Pablo, are listed as *genízaro* by Lucero and as *indio* by Vélez Cachupín, SANM I, No. 780.

[97] According to Thomas, "The unusual relations that had obtained under Vélez were not reestablished until two decades later under Governor Anza. Mendinueta's policy was that of war which, in turn, necessitated extensive defensive measures...." Thomas, *The Plains Indians and New Mexico*, 38-39.

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When Governor Mendinueta made his grazing grants on the Navajo frontier, he seldom received a report as to whether the grant would damage third parties. Even when he knew that Navajos were living on or near the land requested, he went ahead with the grants.[98] Although the grant documents uniformly stated that the Navajo had no objections to the grants, the true feelings of the Navajo were displayed in 1772 when they formed an alliance with the southern Apache, raided the settlements along the Río Puerco, and forced the Spanish to withdraw. It seems safe to assume, then, that the neighboring Navajo did not generally receive notice of Mendinueta's grants, nor was the provision that these grants not prejudice Indian rights honored.[99] Vélez Cachupín, on the other hand, showed in his grant documents a much greater sensitivity to the situation of both the Navajo and the settlers living next to them and was less likely to promote the interests of the elite stock raisers. By favoring elite alcaldes, Mendinueta was jeopardizing the settlers' interests in communities like Las Nutrias and San Fernando as well as prejudicing the Navajo's property rights.[100]

Much of the difference in the effectiveness of Governors Mendinueta and Vélez Cachupín sprang from the differences in their styles of governing. Mendinueta had little understanding of the indigenous people or even of the lower-class Spaniards with whom he dealt. Because of this, Mendinueta and governors like him often misinterpreted the intentions of the natives, attacked friendly tribes, and failed to support land grant settlements that were the first bulwark

[98] See, for example, the San Mateo Spring grant made to Santiago Durán y Chaves in 1768 without prejudice to the corn fields of the Navajo. NMLG-PLC, roll 41, case 75, frames 935-36.

[99] Frank McNitt, *Navajo Wars: Military Campaigns, Slave Raids, and Reprisals* (Albuquerque: University of New Mexico Press, 1972), 29. Although Spanish protection against Indian attacks actually declined during Mendinueta's terms, there was sufficient consistency between the Indian policies of Vélez Cachupín and Mendinueta that the next governor, Juan Bautista de Anza, was able to establish prolonged permanent peace with the Comanches, allowing Spanish settlement to expand dramatically.

[100] The Navajos who were not Christianized did not have title to the lands they occupied under Spanish law, but their use-rights were protected as a matter of Indian policy. As Mendinueta said, "good treatment by the Spaniards may attract them to come under the control of the sovereign and into the pale of the church." Order of Governor Mendinueta in response to petition of San Fernando settlers, Santa Fe, 20 June 1767, SANM I, No. 692.

against Indian attack. For example, in 1761, when Governor Portillo y Urrisola was serving in the interim between Vélez Cachupín's two terms, he met with a group of Comanche chiefs who had been responsible for an attack the previous year. When negotiations broke down, the governor seized the chiefs as hostages (a violation of the code of honor normally followed) and then proceeded to slaughter more than four hundred Comanche men and capture three hundred of their women. When Vélez Cachupín returned to office in 1762, he found the Comanche poised to declare war on New Mexico. He was able to calm the situation and reestablish peace by meeting personally with the Comanche chiefs, smoking the peace pipe with them, and treating them with respect.[101]

Mendinueta did not always give the *pobladores* the same consideration, as when he jailed the petitioners who complained about the conduct of Trébol Navarro without a hearing. In 1768, Vélez Cachupín, in contrast, was willing to back the settlers when they presented evidence of wrongdoing against an alcalde, as he did in 1763 when he suspended Alcalde Antonio Baca based on a protest signed by forty-five Albuquerque *vecinos* accusing the alcalde of persecution, bribery, and other excesses. Vélez Cachupín appointed Miguel Lucero in Baca's place "to avoid inconveniences and disturbances both temporal and spiritual."[102]

In the same way, Vélez Cachupín was willing to meet with land grant settlers where they lived and help them solve their problems by addressing the concrete circumstances of their lives. As long as the *pobladores* dealt fairly with him he would support them. But if they displayed cowardice, as apparently did some of the Los Quelites settlers, his reaction was swift and sure punishment. Vélez Cachupín showed compassion for the Spanish settlers "because of their extreme poverty," though he sometimes considered them to be "perverse and lazy." His prescription for peace and harmony between the Indian, Spanish, and *mestizo* population of New Mexico was contained in his instructions to his successor: "Be indifferent in general but in particular

[101] Representación del Gobernador D[on] Thomas Vélez Cachupín sobre restablecimiento de la Paz con los comanches, translated in Thomas, *The Plains Indians and New Mexico*, 148-54.

[102] Governor Vélez Cachupín's order in response to petition for removal of Alcalde Antonio Baca, Pinart Collection, P.E. 52:11.

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cases persuade each one for his best interest...permit their familiarities and take part in their fun at suitable times...[and] give them the greatest consideration under the laws which protect them."[103]

[103] Copia de la Ynstrucción que D[on] Tomás Vélez Cachupín...dexó a su successor don Franzco Marín del Valle, translated in Thomas, *The Plains Indians and New Mexico*, 129-43.

APPENDIX A

Census of San Gabriel de las Nutrias Settlers
Taken by Alcalde Miguel Lucero on
14 February 1764

1. Pedro Romero	Español con armas
2. Tomás Montoya	Español con armas
3. Juan Domingo Jaramillo	Español con armas
4. José Antonio Montoya	Español con armas
5. Antonio Chaves	Coyote con armas
6. Cristóbal Baca	Español con armas
7. Juan Antonio Baca	Español con armas
8. José Salas	Español con armas
9. María Baca	Viuda con dos hijos
10. Bárbara Barela	Española
11. Miguel Montoya	Español con armas
12. Francisca Salas	Española con una hija con armas
13. Antonio Serna	Español sin armas
14. Severino Romero	Español sin armas
15. Vicente Gallegos	Español con armas
16. Matías Alderete	Español con armas
17. Juan Barela	Español con armas
18. José Chaves	Español sin armas
19. Javier de Anaya	Genízaro de a pie
20. Juan de Anaya	Genízaro de a pie
21. Pablo de Anaya	Genízaro de a pie
22. yerno de Griego	Genízaro de a pie
23. José	Apache a pie
24. Andrés Chaves	Coyote con armas españolas

Census of Alcalde Miguel Lucero, Fonclara, 14 February 1764, SANM I, No. 780.

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APPENDIX B

Census of San Gabriel de las Nutrias Settlers
Taken by Governor Tomás Vélez Cachupín on
28 November 1765

		Number in family
1. Tomás Montoya	con su mujer y seis hijos	8
2. Juan Antonio García	soltero	1
3. Juan Varela	con su mujer y dos hijos	4
4. Antonio Serna	con su mujer y cuatro hijos	6
5. Juan Miguel Chaves	con su mujer y cinco hijos	7
6. Juan Chaves	con su mujer y cinco hijos	7
7. José Antonio Montoya	soltero con su madre y una hermana	3
8. Pedro Romero	con su mujer y seis hijos	8
9. Antonio Montoya	soltero y para casarse	1
10. Bártolo Aragón	con su mujer y cuatro hijos	6
11. Matías Alderete	con su mujer y siete hijos	9
12. Vicente Gallegos	con su mujer y cuatro hijos	6
13. María Luisa Baca	viuda con dos hijos	3
14. María Baca	viuda con seis hijos	7

Todas estas catorce familias están reputadas y conocidas por blancas

15. Antonio Chaves	calidad mestizo, con su mujer y dos hijos	4
16. Andrés Chaves	mestizo, con su mujer y cuatro hijos	6
17. Antonio Baca	mestizo con su mujer y un hijo	3
18. José Antonio García	mestizo con su madre y dos hermanos	4
19. José Jaramillo	mestizo, soltero	1
20. Gregorio Griego	mestizo con su mujer y tres hijos	5

21. Juan Domingo Jaramillo	mestizo con su mujer y un hijo	3
22. Joseph [de Salas?]	mestizo con su mujer y ocho hijos	10
23. Francisca Salas	mestiza viuda con cinco hijos	6
24. Juan Antonio Anaya	calidad Indio con su mujer y tres hijos	5
25. Francisco Javier Anaya	Indio con su mujer y cinco hijos	7
26. Pablo Anaya	Indio con su mujer y dos hijos	4
27. Juan Chaves	Indio con su mujer y tres hijos	5
28. Manuel Bustos	calidad mulato con su mujer y siete hijos	9
29. Antonio García	mulato con su mujer y un hijo	3
30. [S]ánchez	indio genízaro con su mujer y cinco hijos	7
	Total de personas	158

Census taken by Governor Vélez Cachupín, San Gabriel de las Nutrias, 28 November 1765, SANM I, No. 780.

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