

CHAPTER 4.

History of the Baca Location No. 1

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Introduction

The Baca Location No. 1 (Baca Location) is unique among New Mexico land grants in having two histories that begin in separate locations. It is the only grant whose patent does not cover any part of the lands originally granted. It is the only grant whose patented lands are in three different states.

The lands that became the Baca Location by Congressional authorization in 1860 lie almost entirely within the Valles Caldera of north-central New Mexico. The original grant was in another location altogether, centering on what became the town of Old Las Vegas in eastern New Mexico.

The lands that became the Baca Location were a frontier long before they were granted to the Baca heirs. The Valles Caldera is only a short distance east of the Navajo country (see also chapter 9). The Valles are within easy striking distance by nomadic raiders who preyed first on the Pueblos, then on the Hispanics, and then on the Anglo-Americans who lived near or used the Valles Caldera. Bishop Crespo, describing his visitation of New Mexico in 1730, notes that Jémez is “five leagues from the Navahos” (Adams 1954:98).

Of interest to the Valles Caldera National Preserve (VCNP) is **Frank McNitt’s (1972)** account of Governor José Antonio Vizcarra’s 1823 punitive expedition against Navajo raiders who warred on the Mexican colony. At the end of Vizcarra’s expedition, he passed through the Valle Grande on his return to Santa Fe from the Four Corners region:

On August 24, after negotiating the pass through the Chuska Mountains and reaching the valley below, Vizcarra discharged two regiments of militia to make their separate ways home to Río Arriba and Río Abajo. With the balance of the command he proceeded directly eastward for fifteen leagues until meeting the Chaco Wash at Fajada Butte. For the next two days he followed his outward route, resting briefly at Pueblo Pintado before continuing past the Chacra Mesa and down Torreon Wash. Below the present town of Cuba the command turned east on a trail leading across the Jemez Mountains by way of the Valle Grande. At sunset on August 31, after an absence of seventy-four days, the

troops arrived in Santa Fe. The expedition was over (McNitt 1972:65).

Vizcarra’s action did not resolve the trouble with Navajo raiders. For example, between 1826 and 1829, during Governor Antonio Narbona’s administration:

Navajos raided along the Río Grande, striking repeatedly at Jemez but ranging from Abiquiu and the Valle Grande southward to Belen. Thousands of sheep and other livestock were run off; some of the pastors [shepherders] were carried away as slaves and others were killed. A token force of fifteen soldiers was sent in March 1829 to patrol the frontier at Jemez (McNitt 1972:70).

This proximity to Navajo country became apparent to contractors Robert Nesbit and Hiram Parker when Navajo raiders struck their camp in the Valle Grande in the summer of 1851 (**Church n.d.**; see also **McNitt 1972:184–185**; see also chapters 3 and 5).

The documentary history of the Baca Location, therefore, begins at the end of New Mexico’s Spanish colonial era and the opening of the Mexican Period. In this brief span of 25 years (1821–1846) during which New Mexico was part of the Mexican nation, the Mexican authorities made large land grants in northern and eastern New Mexico to place the land under private ownership as a buffer against the expansionist United States. Instead, after the U.S. occupation of the colony of New Mexico in 1846 and the formation of the New Mexico Territory in 1850, the grants became an important part of the economic development of the Territory and subsequently the State of New Mexico. The grant lands and the agricultural and extractive enterprises on them gradually became part of a regional, then a national economic network.

This chapter is a detailed examination of the documentary history of the Baca Location. The discussion derives from the sources provided in the accompanying annotated bibliography. Table 4.1 provides a timeline of selected events important in the history of the Baca Location.

Table 4.1. Timeline of selected events important in the Baca Location No. 1's History.

Year	Date	Event
1820	February 18.	Luis Maria Cabeza de Baca petitions Spanish colonial authorities of New Mexico for land on the Gallinas River at Las Vegas.
	post-February	Spanish colonial authorities place New Mexico under the jurisdiction of the province of Nueva Vizcaya.
1821	January 16	Baca re-petitions the provincial deputation of Nueva Vizcaya for the grant land.
	May 29	The provincial deputation notifies the Governor of New Mexico of the approval of Baca's grant request.
	August 14	Mexico wins its independence from Spain with the signing of the Treaty of Cordova.
1823		Governor José Antonio Vizcarra passes through the Valle Grande on his return to Santa Fe after leading a punitive expedition against Navajo raiders in the Four Corners region.
1826		The Alcalde of San Miguel del Vado delivers legal possession of the grant. Baca builds a house or hut on the Gallinas River, and runs sheep and mules.
1827		Baca dies of a gunshot wound suffered during an argument with a Mexican government soldier over the confiscation of contraband property belonging to an American trapper. His son, Juan Antonio Baca, takes over the family's ranching operation.
1835		Navajo raiders kill Juan Antonio and steal all of the family's sheep. The Baca heirs do not reoccupy the grant because of continuing Indian hostilities.
		The Town of Las Vegas receives its grant (Town of Las Vegas Grant). In 1838 Francisco Tomás Baca, son and executor of Juan Antonio Baca, protests to Governor Armijo that the Town of Las Vegas Grant covers the same lands as the Baca Grant. Armijo takes no action.
1846		U.S. troops (the Army of the West) occupy New Mexico, thereby marking the beginning of the American period.
1850		The U.S. Congress recognizes the former Mexican province of New Mexico as a territory of the United States.
1851		Navajo raiders strike Robert Nesbit and Hiram Parker's hay cutting camp in the Valle Grande.
1855		Luis Maria Cabeza de Baca's heirs petition New Mexico Surveyor General William Pelham for confirmation of the Baca Grant. With Francisco Tomás Baca as the driving force in this effort, the heirs allege that the Town of Las Vegas Grant is null because it was made in the knowledge that its lands were part of the Baca Grant. Pelham conducts a hearing on the two applications.
1856		John Watts files the brief of the claimants and suggests that the Baca family would be willing to select an equivalent number of acres rather than displace the residents of the Las Vegas Grant.

Table 4.1. Continued.

Year	Date	Event
1857	May 1	Luis Maria Cabeza de Baca's heirs record an agreement before the probate clerk of Bernalillo County. This agreement confers plenary authority on Francisco Tomás Baca to pursue their land grant claims.
1860		Surveyor General Pelham recommends to Congress that both the Baca and Las Vegas grants be confirmed, leaving it to the courts to determine the rights of the parties. To avoid litigation, the Baca heirs offer to give up their claim, provided they get an equivalent amount of land somewhere else in the Territory of New Mexico.
	June 21	The U.S. Congress confirms the Town of Las Vegas Grant and authorizes the heirs of Luis Maria Cabeza de Baca to select vacant lands in up to five equal-sized tracts, each square in plan, throughout the territory.
		The survey of the Town of Las Vegas Grant totals 496,446.96 acres. The Baca heirs receive scrip for an equivalent amount of land. They choose five tracts, each measuring 99,289.39 acres. The first of these parcels is the Baca Float No. 1 (a.k.a. the Baca Location No. 1 [henceforth, the Baca Location]).
ca. 1861–1872		Francisco Tomás Baca acquires interests of other heirs in the Baca Location and eventually assembles an interest of just over one-third of the tract.
ca. 1875		Tomás Dolores mortgages his claimed 100% interest in the Baca Location to José Leandro Perea, Mariano Sabine Otero's father-in-law, for \$10,000.
1876		Deputy U.S. Surveyors Sawyer and McBroom survey the Baca Location. The United States delivers title to Luis Maria Cabeza de Baca's heirs.
1880		Mariano Otero and his uncle, Miguel Antonio Otero, begin planning to develop Jémez Springs as a commercial resort.
1881	August 17	James Greenwood Whitney purchases Francisco Tomás Baca's interest in the Baca Location from his widow, María Gertrudis Lucero Baca. With the additional purchase of Baca's children's interests, Whitney claims a one-third interest in the tract..
1889–1894		The discovery of gold and silver nearby leads to the establishment of mines and mining towns in the area. The demand for lumber also sees the establishment of several sawmills close by in response to the growing demand for timber products.
1884	May 17	Weary of his prolonged personal and legal fights with members of the Oterero family over land issues, James Whitney sells his interests in the Baca Location to his younger brother, Joel Parker Whitney.
1890		Mariano Otero and his son, Frederico J. (F. J.), begin buying interests in the Baca Location from the Baca heirs after Mariano inherits his father-in-law's interest in the land grant.
1893		Joel Whitney petitions for partition of the Baca Location.

Table 4.1. *Continued.*

Year	Date	Event
1897	December 6	An interlocutory decree is entered making findings and an adjudication of the respective fractional interests of each party to Whitney's partition suit.
1898	October	The court enters a decree directing partition of the Baca Location and appoints commissioners to determine the feasibility of partition in kind.
	December	Commissioners report that partition of the Baca Location in kind was infeasible, and they recommend sale of all real property and the division of the proceeds.
1899	January–March	The court enters a decree ordering the sale of the Baca Location. The Special Master sells the grant to Frank W. Clancy, who was Whitney's counsel of record, as well as counsel to Otero's Valles Land Company and Thomas B. Catron, another claimant to the case. The Special Master distributes the proceeds to 46 owners, including two groups of Baca heirs, Whitney, Otero, and Catron.
1899 (<i>continued</i>)	March 18	Mariano Otero purchases the balance of the grant. F. J. Otero becomes the president of the Valles Land Company and uses the Baca Location as summer range for large numbers of horses, cattle, and sheep.
1904		Mariano Otero dies. F. J. Otero takes over full responsibility of the family's business interests.
1905		The Federal Government creates the Jemez Forest Preserve (subsequently renamed the Santa Fe National Forest).
1907		Timbering around the Baca Location was decimating local forests. Consequently, the value of the tract's timber holdings were increasing. Estimates of the Baca Location's timber resources were estimated to include 425 million board feet of white pine and from 15 to 25 million board feet of spruce.
1909	October 16, 1909	The Valles Land Company sells the Baca Location to the Redondo Development Company.
1915	April, 1	The Redondo Development Company mortgages the Baca Location to Warren Savings Bank of Pennsylvania.
1917		F. J. Otero does not renew his grazing lease. The Redondo Development Company leases the property's grazing rights to Frank Bond. Bond extends his family's <i>partido</i> sheep business operations into the Baca Location.
1918	December 14	Redondo Development Company contracts with George W. and Frank Bond for the sale of the Baca Location, excepting and reserving all timber for a period of 99 years.
1920s		Logging operations expand in the Jemez Valley. White Pine Lumber Company obtains Federal legislation to condemn a right-of-way across the Jemez Pueblo Grant for the transport of their products.
1926	April 8	The Bond brothers complete their purchase of the Baca Location from the Redondo Development Company, which reasserts its 99-year right to all of the tract's timber resources and one-half of all if its minerals.
1930	May 15	Redondo Development Company executes a first mortgage on its timber and mineral rights to Warren Savings Bank and Trust Company.

Table 4.1. Continued.

Year	Date	Event
1933	January 16	Redondo Development Company renews its mortgage with Warren Savings Bank and Trust.
	September 9	Warren Savings Bank and Trust pledges the note, bond and mortgage to the Reconstruction Finance Corporation as collateral for borrowing money.
1935		The Civilian Conservation Corps builds a road through the Valle Grande.
	July 19	Redondo Development Company sells its timber right to Robert Anderson, who owns Firesteel Lumber Company, for the term of 99 years.
		Under an agreement with Firesteel Lumber Company, New Mexico Timber Company begins logging operations; establishes the Redondo Logging Camp in Redondo Meadows for 25 employees and their families.
	December 17	Anderson protests his taxes on the timber and wins a reduction in state district court filed this date. He claims that there are 312 million board feet of timber on the Location in 1931, the same in 1932 and 1933, and 270 million board feet in 1935.
1936	May 26	Warren Bank sells the bond of \$130,000 and the first mortgage on the timber to Blue Diamond Trading Corporation of New York.
	May 28	Reconstruction Finance Corporation receives Redondo's note for \$65,000 from Warren Bank and Trust Company, then reassigns the note to Warren Savings.
	December 31	Anderson assigns all his right, title and interest in the timber to A.I. Kaplan of New York.
1937	October 14	Blue Diamond sells the renewal note and assigns the bond to Calumex Corporation in Delaware.
1938	September 16	Kaplan assigns all his right, title and interest to New Mexico Lumber and Timber Company.
1939	December 31	Redondo Development Company deeds all the timber to New Mexico Timber Co., whose President is T. P. Gallagher. New Mexico Timber Company mortgages the timber to the Reconstruction Finance Corporation for \$182,436.52, at interest of 5 percent per year.
		New Mexico Lumber and Timber Company closes the Redondo Camp when it moves its logging activity to the northwest part of the Baca Location.
1940	April 30	New Mexico Lumber and Timber Company assigns all its right to New Mexico Timber Company. T. P. Gallagher remains the President of the new interest.
	June 27	Reconstruction Finance Corporation recognizes the satisfaction of the mortgage and bond dated May 15, 1930.
1942	January 16	Reconstruction Finance Corporation releases the mortgage it holds on the timber.
1945		Frank Bond dies. His son, Franklin, takes over the family business and begins leasing grazing rights for the Baca Location to various cattle operations. Franklin also hires employees to work the ranch, thereby ending the <i>partido</i> sheep business system.

Table 4.1. Continued.

Year	Date	Event
1954		With Franklin Bond's death, the family leases the Baca Location ranch to outside parties, including the King family. With this transaction, the last of the Bond livestock were removed from the tract.
1963	January 11	George W. Savage, trustee for Ethel Bond Huffman (widow of Franklin Bond), sells the Baca Location to James Patrick Dunigan through the Dunigan Tool & Supply Company. Dunigan establishes the Baca Land and Cattle Company.
1963–1980		While his investors propose various development plans for the Valles Caldera, including a ski resort, a racetrack, and a resort community of home sites and stores, Dunigan remains committed to his idea of maintaining the property as a working ranch and sustaining the Valle Grande's beauty.
1964		Baca Land & Cattle Company, Dunigan Tool & Supply Company, and George W. Savage, Trustee, sue New Mexico Timber, Inc. and T. P. Gallagher & Co., Inc., on three counts: (1) to establish the parties' interests under the deed and contract of 1918 and 1926; (2) to seek damages for timber cut in violation of the terms of the instruments of 1918 and 1926; and (3) to seek damages for wasteful logging practices.
1967		U.S. District Court renders summary judgment for the plaintiffs on first two counts of the complaint, establishing Baca Land & Cattle Company's interest, and for damages for timber cut in violation of the instruments of 1918 and 1926. On third count, for wasteful logging practices, District Court orders trial by jury.
1967 <i>(continued)</i>		Baca Land & Cattle Company, Dunigan Tool & Supply Company, and George W. Savage, Trustee, appeal the decision of the District Court. The Tenth Circuit Court of Appeals dismisses the case and remands it back to the District Court.
1969	August 12	The District Court issues ruling, denying plaintiffs' motion for partial summary judgment.
	September 10	New Mexico Timber, Inc., and T. P. Gallagher & Co., Inc., file an appeal in the Tenth Circuit Court of Appeals against the District Court's ruling on logging practices and the award of compensatory damages.
1971		Dunigan buys the timber rights to the Baca Location from New Mexico Timber, Inc. and halts logging on the tract.
1980		James Dunigan dies.
2000		The U.S. government purchases the Baca Location.
2001		Valles Caldera National Preserve permits timber hauling on South Mountain to complete a timber project that was in progress when the Federal Government bought the ranch. The Preserve also begins the rehabilitation and obliteration of existing logging roads on 100.1 acres and 4.9 miles of roads.
2002		Interim cattle grazing program initiated, with up to 2,000 head run on 23,380 acres in Valle Grande, Valle Toledo, Valle San Antonio and Cerro Seco pastures.

Birth and Confirmation of the Baca Location Land Grant

On February 18, 1820, Luis María Cabeza de Baca individually and on behalf of eight other persons petitioned New Mexican colonial authorities for a tract of vacant land on the Gallinas River. The object of Baca's petition is present-day Las Vegas and environs.

Baca's associates dropped out of the project before an answer came from the governmental authorities. In 1820, in the turmoil of the revolution against Spain that had begun in 1810 and would shortly result in an independent Mexico, the New Mexican colony was placed under the jurisdiction of the province of Nueva Vizcaya (now the Mexican States of Chihuahua and Coahuila). On January 16, 1821, Baca, for himself and his 17 sons, petitioned the provincial deputation of Nueva Vizcaya for the same grant that he had requested originally. Baca and his sons described their requested tract as bounded on the north by the Chapelote River, on the east by the Aguaje de la Yegua and the Antonio Ortíz Grant, on the south by the San Miguel del Vado Grant and on the west by the summit of the Pecos Mountains (**Bowden 1969:794**).

On May 29, 1821, the provincial deputation notified the New Mexican colonial governor that the grant had been approved. The Alcalde of San Miguel del Vado was supposed to deliver legal possession of the grant to Baca and his sons, and after considerable delay, he did so in 1826 (**U.S. Congress, House 1860**). Meanwhile, by the Treaty of Cordova, signed on August 24, 1821, Mexico won its independence from Spain.

Luis María Cabeza de Baca built a little house on the Gallinas River at the place called Loma Montosa, and ran sheep on the grant. He died in 1827 after being fatally wounded by a soldier in an argument over 13 packs of contraband pelts that belonged to American trapper Ewing Young (**Martin 2003**; see also chapter 3). His son, Juan Antonio Baca, took on the ranching operation.

The Baca family had begun taking their sheep into the Jémez Mountains during periods when the Navajos refrained from raids. In 1835, however, Navajo raiders suddenly struck. They killed Juan Antonio and stole his sheep (**Martin 2003:27**).

Because Indian hostilities simultaneously plagued the Gallinas River, Juan Antonio's heirs did not reoccupy the grant given to Luis María Cabeza de Baca. After the Town of Las Vegas received its grant in 1835, Francisco Tomás Baca, son and executor of Juan Antonio Baca and one of Luis María's many grandsons, protested to Governor Armijo that the Town of Las Vegas Grant covered the same lands as the Baca Land Grant, but Armijo took no action (**Bowden 1969:797**).^{4.1}

In 1846 U.S. troops (the Army of the West) occupied the colony of New Mexico. In 1850 Congress recognized the

former Mexican province as a territory of the United States. The first Anglo-American relationship with the Valles Caldera was military. The Army of the West brought cash and contracts to the region. The U.S. Army was a market for forage and beef, buying first for its own needs. Then, as it pacified the various Indian groups and confined them to reservations, the Army bought beef to feed them. This military activity was the beginning of modern ranching in what was to become the State of New Mexico.

In 1851 Navajos raided the camp that civilian contractors Nesbit and Parker had established to cut hay for the U.S. Army (**Church n.d.**; see also **McNitt 1972:184–185**; see chapter 5). This camp was on the East Fork of the Jémez and “was apparently later the site of Camp Valles Grandes, established by the U.S. Army as a deterrent to Navajo and Apache movement through the area during the final Navajo Wars of 1863” (**Scurlock 1981:137**).

In 1855 the surviving heirs of Luis María Cabeza de Baca petitioned New Mexico Surveyor General William Pelham for confirmation of the grant. Francisco Tomás Baca apparently was the driving force behind this effort. The heirs alleged that the Town of Las Vegas Grant was null because it had been made with the knowledge that its lands were part of the original Baca Land Grant.

The heirs of Luis María Cabeza de Baca waited for the Surveyor General to act on the matter. Two years later, on May 1, 1857, the heirs, including 5 grandsons who represented their deceased fathers and 10 other male heirs (including 2 males representing female heirs) recorded an agreement before the probate clerk of Bernalillo County, New Mexico, conferring plenary authority on Francisco Tomás Baca to pursue their claims to lands granted to Luis María Cabeza de Baca, and which were now occupied by “settlements that have no legal right.” Francisco Tomás agreed to assume all expenses. Francisco Tomás' widow, María Gertrudis Lucero Baca, would later claim that the other heirs stated that at the “final conclusion” of the matter, Francisco Tomás would be paid by them either in lands “satisfactory to him” or in money (**Whitney v. Otero 1893**, Exhibit A, May 1, 1857). In this way, Francisco Tomás Baca and his immediate family claimed to have acquired about one-third interest in the total grant (**Martin 2003:38**). This document neither specifies the Baca Location nor names the specific percentage of any grant, a point that figured prominently in the final resolution of the 1893–1899 partition suit.

New Mexico Surveyor General Pelham conducted a hearing on the Baca and Town of Las Vegas Grant applications. He recommended to Congress in 1860 that both grants be confirmed, leaving it to the courts to try to determine the rights of two parties (**U.S. Congress, House 1860**). To avoid litigation, the Baca heirs offered to give up their claim, provided they got an equivalent amount of land somewhere else in the New Mexican Territory. Congress approved an act on June 21, 1860, confirming the Town of Las Vegas Grant and authorizing the heirs of Luis María Cabeza de Baca [*sic*] to select vacant lands in “square bodies, not exceeding five in number” (**U.S. Public Law 167 1860**).

^{4.1} Because it is a source of considerable historical confusion, it is important to note that Francisco Tomás referred to himself as Tomás even in legal documents. Francisco Tomás, however, had a brother, Tomás Dolores, who was 20 years younger. Tomás Dolores usually appears in historical documents as Tomás D.

The Town of Las Vegas Grant was surveyed in 1860 for a total of 496,447 acres (200,901 ha). The Baca Land Grant heirs received scrip for an equivalent amount of land. They promptly chose five tracts measuring 99,289 acres (40,180 ha). Each appears as a distinctive square on historical land grant maps. All five tracts were in the Territory of New Mexico in 1860. Due to subsequent boundary changes, two parcels are now in Arizona, and one in Colorado.

The first tract, called Baca Float No. 1 because it was “floated” or relocated from the original grant, was located in Sandoval County, New Mexico, on December 6, 1860. Its original description was:

Beginning at a point 2½ miles [4 km] west of the corner of Townships 19 and 20 North and Range 4 and 5 East, N.M.P.M., and thence North, South, East and West from said center point a sufficient distance to embrace 99,289.39 acres [40,180.24 ha] (Bowden 1969:799).

This boundary encompassed the Valle Grande, the Valle San Antonio, the Valle Santa Rosa, and Redondo Creek, lands subsequently known as Baca Location.

Baca Float No. 2, in San Miguel County north of Tucumcari, was patented in 1860. Baca Float No. 3, now in Arizona, was subsequently relinquished due to conflicts with a prior grant. Baca Float No. 4, in Saguache County, Colorado, was patented in 1900. Baca Float No. 5, in Yavapai County, Arizona, was patented in 1865 (Bowden 1969:799ff).

Competing Interests: The Basis for the Baca Location Partition Suit

Contrary to the claims made by Francisco Tomás Baca and his heirs, several sources identify his younger brother, Tomás Dolores, as the sole inheritor of the Baca Location during the late nineteenth century (Scurlock 1981:138; U.S. Congress, House 1860). From his base in Peña Blanca, Tomás Dolores ran one of the largest sheep and cattle enterprises in the Territory of New Mexico until he moved to Las Vegas in 1865 to open a mercantile and to run freight wagons over the Santa Fe Trail (Cabeza de Baca 1994:80). According to his granddaughter, Fabiola Cabeza de Baca, Tomás Dolores mortgaged the 100,000-acre (40,000 ha) Baca Location to José Leandro Perea, Maríano Sabine Otero’s father-in-law, for \$10,000 about 1875. Tomás Dolores mortgaged the land to make up a shortfall of \$40,000 that became known while he served as a bondsman for the newly elected San Miguel County sheriff-clerk-treasurer (Cabeza de Baca 1994:72–73). This action, in which Tomás Dolores treated the whole Baca Location as his exclusive property, helped to create the grounds for the bitter partition suit of 1893 involving Maríano Otero and Joel Parker Whitney. This suit in turn led to the extinction of all the rights that Luis María Cabeza de Baca’s heirs had in the Baca Location.

The coming of the railroad created an endeavor never before known in New Mexico: the tourist trade. Two

well-to-do businessmen with local and national political connections, Maríano Otero and his uncle, Miguel Antonio Otero, began planning to develop Jémez Springs in 1880 following their purchase of the old bathhouses that local residents had long used.^{4.2} The Oteros intended to make Jémez Springs, located outside the west boundary of the Baca Location as defined by the 1876 survey of the land grant (Sawyer and McBroom 1876), a commercial resort. Their venture had the backing of officials of the Atchison, Topeka, and Santa Fe Railroad. Their plan was to operate the springs, with customers arriving by spur line that would connect Jémez Springs with Bernalillo. Their company built a hotel and new bathhouses at this location in 1882 (Otero 1935:237–238, 241–277). After Miguel Antonio Otero died that same year, plans to make Jémez Springs a major resort were dropped, although the Otero family continued to run successful businesses in the community for the next 20 years (Martin 2003:41).

Even after the arrival of the railroad, few people moved into the high country around the Valles Caldera. There were only two homesteads near the Baca Location by about 1883 (USDA Forest Service 1883–1913).

Gold and silver were discovered about 5 miles (8 km) south of the Baca Location in 1889. Major mines and the boom-towns of Albemarle, Allerton, and Bland followed about 1894. The demand for lumber led to the establishment of several sawmills (Scurlock 1981:140).

Maríano Otero and his son, Frederico J. (F. J.), began buying interests in the Baca Location from the Baca heirs about 1890 after Maríano inherited an interest in the land grant following the death of his father-in-law, José Leandro Perea. As noted previously, Perea bought the mortgage on Tomás Dolores Baca’s interest in the property about 1875, after Tomás D. discovered that, as a bondsman, he owed \$40,000 to San Miguel County (Cabeza de Baca 1994:72–73). Numerous transactions in the records of Bernalillo County show that other grant heirs sold their interest in the Baca Location piecemeal and that the Oteros bought up these interests as they became available. The Oteros also formed the Valles Land Company at this time (Bernalillo County, New Mexico 1849–1903).

The Partition Suit of 1893–1899

The Baca Location was transformed from a land grant held by multiple owners to a corporate entity under the sole control of one man by an Anglo-American innovation: the partition suit.

The U.S. Territorial government made the laws necessary to accomplish the transfer of most of the Spanish Colonial

^{4.2} Miguel Antonio Otero studied law in St. Louis before returning to New Mexico to serve as private secretary to Governor William Lane (1852–1853). Maríano Otero dealt in real estate in central New Mexico to build upon his family’s wealth and influence. He served two terms as the delegate from the Territory of New Mexico to the U.S. Congress (Martin 2003:34).

and Mexican period land grants from the grant heirs to private speculators—usually Anglo-Americans but including several Hispanic *patrones*—men who acquired land and made that land the basis of their participation in regional and national trade networks. Mariano Otero was one of these men.

The partition statute of 1876, variously amended and now codified at 42-5-1 through 9 NMSA 1978, authorizes the holder of an undivided interest in a land grant to sue all other holders in an action for partition. This statute means that anyone who has acquired an undivided interest in a land grant can request its partition, which constitutes a legal action that effectively terminates the grant and allocates exclusive holdings to individuals in proportion to their interest in the tract. For example, an individual with a one-third undivided interest in a land grant of 100 acres (40 ha) would receive exclusive rights to or compensation for 33.33 acres (13.33 ha) upon the grant's termination. Contention between Hispanic and Anglo-American speculators—men who had purchased interests in the Baca Location from various Baca heirs for control of the land grant—took the form of a partition suit.

As noted above, from about 1861 to 1872, Francisco Tomás Baca, grandson of Luis María Cabeza de Baca, and his immediate family claimed to have acquired a 33.3 percent interest in the Baca Location from other heirs. Other individuals, including Mariano Otero, José Leandro Perea, and Thomas B. Catron, subsequently obtained significant interests in the grant through mortgages, purchases, and inheritances. James Greenwood Whitney, an English immigrant who became wealthy from cattle ranching and operating a mercantile, purchased the claimed 20 percent interest that Francisco Tomás Baca held in the Baca Location from his widow, María Gertrudis Lucero Baca, on August 17, 1881. María Gertrudis Lucero, in turn, persuaded her children to sell their interests to Whitney, to give the speculator her family's full one-third interest in the grant (**Martin 2003**:35, 38).

James Greenwood Whitney was a fierce competitor with the Otero family in the acquisition of another important land holding. While gaining a foothold in the Baca Location, he simultaneously claimed the title to the Bartolome Baca Land Grant in the Estancia Basin of central New Mexico, a holding that the Oteros believed they had rightfully acquired.^{4.3} Violent and scandalous events followed. Whitney was tried for the

murder of Manuel B. Otero, Mariano's first cousin, who died in a gunfight.^{4.4}

Weary of his legal troubles, Whitney well knew that the powerful Otero family and its many supporters continued to hold him responsible for Manuel B. Otero's death. Consequently, James Greenwood Whitney sold his right, title, and interest in the Baca Location, Cañada de Cochití, and Ojo del Borrego land grants to his brother, Joel Parker Whitney, on May 17, 1884, for \$17,000 (**Whitney v. Otero 1893**).

After waiting nearly a decade, Joel Parker Whitney filed suit against Mariano Otero et al. on August 25, 1893, requesting partition of the Baca Location (**Whitney v. Otero 1893**). He claimed that after the death of Luis María Cabeza de Baca, Baca's grandson Francisco Tomás had appeared before the Surveyor General at the request of all the Baca heirs to pursue their land claims. Whitney added that Francisco Tomás' efforts led to the Congressional act of 1860 authorizing the five Baca Locations. The heirs paid Francisco Tomás with a one-third interest in the Las Vegas Grant, in the Ojo del Espíritu Santo Grant, and in any other grants he might locate, by an agreement dated May 2, 1857 (**Whitney v. Otero 1893**).

Joel Parker Whitney asserted that the 15 signers of this document acted as representatives of all the other Baca Land Grant heirs, but he did not know on what authority and had no written evidence. Whitney also claimed that in this way Francisco Tomás Baca obtained a one-third interest in the Baca Location, which his widow subsequently sold to Whitney's brother, James Greenwood Whitney (**Whitney v. Otero 1893**).

No agreement of May 2, 1857, appears in the court papers, but a Spanish transcript of a document dated May 1, 1857, is Exhibit A. This certificate states that Francisco Tomás Baca was authorized to represent the heirs, and that he subsequently was to be paid in money or in "a portion of the lands satisfactory to him" (**Whitney v. Otero 1893**). This document does not mention any particular grant.

Joel Parker Whitney claimed one-third of the Baca Location plus additional interests (i.e., both the interests that Francisco Tomás Baca bought from the other heirs and those that accrued to him for his representation of the other heirs before U.S.

^{4.3} In the court battle over the Bartolome Baca Land Grant title, Thomas B. Catron, who subsequently played a key role in the Baca Location partition suit, served as legal counsel to the Otero family.

^{4.4} Whitney engaged in a shootout with Manuel B. Otero at the Otero family's Estancia Springs Ranch house. During the exchange in which 10 shots sounded in 10 seconds, Whitney's brother-in-law died, Otero was mortally wounded, and Whitney himself was wounded. Whitney fled the scene.

Authorities subsequently charged him with murder while he convalesced at St. Vincent Hospital in Santa Fe. He escaped from the hospital with the assistance of his brother, Joel Parker Whitney, and boarded a private car on a train headed to California. He was recaptured at a train stop south of Las Vegas with the help of Miguel Antonio Otero II, Manuel B. Otero's cousin, who would

become Governor of the Territory of New Mexico between 1897 and 1906.

While traveling in custody back to Valencia County for trial, Whitney received bail for \$25,000 during an unusual, hastily arranged court hearing in Albuquerque. This hearing raises questions about the presiding judge's motives. Among other things, the judge's actions suggest the possibility that he accepted a bribe. Alternatively, his conduct also may be viewed as a prudent act acted to prevent a crowd of incensed Otero family supporters in Los Lunas from lynching Whitney on his return to Valencia County.

After recovering from his gunshot wounds in California, Whitney returned to New Mexico to stand trial for the murder of Manuel B. Otero (**Martin 2003**:36–37). On April 29, 1884, during court proceedings that lasted just one day, the mostly Anglo-American jury acquitted Whitney of the crime, finding that he had acted in self-defense.

authorities) amounting to about 45 percent of the entire grant. The commissioners appointed by the court, however, subsequently found Joel Parker Whitney's interest to be about 19 percent of the grant.

Maríano Otero, aided by Thomas B. Catron, who filed an affidavit in support of Otero's (Valles Land Company) petition in early 1898 (*Whitney v. Otero 1893*), argued that the Valles Land Company actually had held true right to lands claimed by Whitney because many of Francisco Tomás Baca's purported land purchases were not legally recognized transactions. The defendants called upon the Baca heirs to testify that they never agreed to pay Francisco Tomás Baca for his services with a share of their interest in the land grant. Besides, Maríano Otero had inherited a significant share in the Baca Location following the death of his father-in-law, José Leandro Perea, who had obtained the interest by buying the mortgage on Tomás Dolores Baca's interest in the property.

The court determined that Maríano Otero's interest in the Baca Location was 34.9 percent—just over a full third. On December 6, 1897, an interlocutory decree was entered making findings and an adjudication of the respective fractional interests of each party to the suit (*Whitney v. Otero 1893*).

On October 4, 1898, a decree was entered directing partition of the Baca Location and appointing commissioners to determine the feasibility of partition in kind. Two months later, on December 5, 1898, the commissioners reported that partition in kind was not feasible, given their identification of 46 valid, undivided interests in the property that ranged from more than 34,700 acres (14,960 ha) to as few as about 113 acres (45.2 ha) (*Martin 2003:38–39*). The commissioners recommended the sale of all the real property and the division of the proceeds. On January 27, 1899, Associate Justice of the Supreme Court of the Territory of New Mexico John R. McVie entered a decree ordering the sale of the entire Baca Location in public auction to the highest bidder. He appointed a special master to carry out the sale and to distribute the proceedings to the claimants (*Whitney v. Otero 1893*).

In his report to Associate Justice of the Supreme Court of the Territory of New Mexico J. W. Crumpacker, Special Master William D. Lee stated that he sold the Baca Location to Frank W. Clancy for \$16,548.21 on March 13, 1899, "for cash at the Court House door of the Court House of Bernalillo County in the Town of Albuquerque" (*Whitney v. Otero 1893*). Clancy was Joel Parker Whitney's attorney of record. Clancy was also, according to a court decree entered some time subsequent to December 4, 1897, "of counsel" to the Valles Land Company (*Whitney v. Otero 1893*). Moreover, Clancy simultaneously served as Catron's counsel in a disbarment suit.

The special master's deed from Lee to Clancy was filed in the Bernalillo County Clerk's Office on March 29, 1899. This deed conveyed the full fee title to the Baca Location without exceptions or reservations (**Bernalillo County, New Mexico 1849–1903**, reel 31, Deed Books 352–353).

On March 18, 1899, just 5 days after he bought it, Frank W. Clancy sold the entire Baca Location to the Valles Land Company, whose owners were none other than Maríano and F. J. Otero. The subsequent deed filed for this purchase

conveyed the full fee title without exceptions or reservations (**Bernalillo County, New Mexico 1849–1903**, reel 31, Deed Books 354–355).

In this case, a partition suit ended uncharacteristically with a Hispanic capitalist in full control of the lands. Maríano Otero was not an heir to the grant; rather, as a member of New Mexico's economic elite, he was sophisticated enough to use the law to his advantage. Otero demonstrated his ability to make at least temporary alliances with Anglo-American claimants, including Thomas B. Catron, a formidable land speculator and owner of lands within the Baca Location acquired from the Baca heirs. As shown by a much later petition (October 15, 1909) by F. J. Otero to the New Mexico Supreme Court (asking the Court to issue a decree confirming that all unknown heirs of Luis María Cabeza de Baca were bound by the proceedings in the case), Catron became a stockholder in the Valles Land Company (*Whitney v. Otero 1893*, petition of Valles Land Company, October 18, 1909). This suggests an explanation of Catron's acquiescence in the sale of the Baca Location to the Otero family.

The Otero Family's Tenure

Having acquired the Baca Location, the Valles Land Company began to use the land as summer range for large numbers of horses, cattle, and sheep (*Martin 2003:44*; see also chapter 6). Following his father's death in 1904, F. J. Otero managed the Baca Location as summer range between 1905 and 1909.

While Maríano Otero purchased the Baca Location as a business proposition, he already was a member of the Cañon de San Diego Grant around nearby Jémez Springs by right of being a resident of the grant community. Over the years, however, Otero had increased his interest in this 110,000-acre (44,000-ha) land grant significantly in support of his expanding sheep enterprise. By the time of his death he had come to treat the entire community tract as his private property (*Martin 2003:44*). Trying to assert their interests, the other Cañon de San Diego Grant heirs filed suit against F. J. Otero and his brothers over their inheritance claim.

As recounted previously, the contested inheritance claims between Francisco Tomás and his younger brother, Tomás Dolores, led to the extinction of the claim of the Luis María Cabeza de Baca heirs to the Baca Location. Unintended consequences carried the day: the dispute over the inheritance of right in the Cañon de San Diego Grant led to the sale of the Baca Location by the Otero brothers, and to the end of their family's interest in their community land grant as well.

To settle the dispute, the judge awarded 80 percent of the acres to the heirs of the original grantees and ordered the [Cañon de San Diego] land grant sold and the money divided. Combined with other losses, the settlement forced the brothers to look elsewhere to add to their cash flow. By 1905 Frederico Otero actively marketed the Baca Location to prospective buyers, most of whom hailed from the East Coast (*Martin 2003:44*).

In 1909 F. J. Otero, as president of the Valles Land Company, sold the Baca Location to the Redondo Development Company, an organization with access to eastern capital and headquarters in Warren, Pennsylvania (see also chapter 7). The deed contained no reservations (*Baca Land and Cattle Company v. New Mexico Timber, Inc.* [*Baca Co. v. NM Timber, Inc.*, 1967], Valles Land Company to Redondo Development Company, October 16, 1909, in Abstract of Title, box 110A). F. J. Otero subsequently leased the grazing rights to the Baca Location for 9 years, from 1909 to 1918.

Redondo Development Company: Mortgaging the Baca Location's Future

Three years after Redondo Development Company purchased the Baca Location, George White, who had firsthand knowledge of the Jemez Mountains going back to the days when he had helped string telephone line through the locality in 1905, filed a homestead entry for 156 acres (62.4 ha) in the Valles de los Posos along the east border of the Baca Location, as determined by Daniel Sawyer and William H. McBroom's 1876 survey. "White and his wife Lottie built a small cabin in the northern arm of the Posos at the foot of an old trail that crossed the Sierra de los Valles from Guaje Canyon" (Martin 2003:52). The isolation of this tract, however, led the Whites to abandon the homestead within the year.

One of White's contemporaries, James Leese, who had lived in the locality for about a decade, filed entry for White's abandoned Valles de los Posos homestead on June 3, 1915 (Martin 2003:52). The Leese family built a two-story log summer home with a corrugated metal roof, and fenced a 3-acre (1.2-ha) garden in which they grew potatoes and other vegetables. They made none of the other improvements required for a homestead patent, however. The Leese family occupied the property only during the warm season of 1915 and the summers of 1916 and 1917. Even then, James Leese worked elsewhere and only visited the homestead (Martin 2003:52).

Redondo Development Company challenged the legality of the Leese homestead entry, citing Lewis D. W. Shelton's unofficial 1910 survey of the Baca Location's boundaries to show that the Sawyer and McBroom survey was in error and that the Leese claim was really on their land. The Santa Fe National Forest supervisor asserted that Leese had not met the requirements of the Homestead Act. The Surveyor General in Santa Fe authorized a new boundary survey to resolve the discrepancies between the Sawyer and McBroom and Shelton surveys. Leese bowed out, giving Redondo Development Company a quitclaim deed for the tract. The company paid Leese for the log house and fencing that he had erected on the property (Martin 2003:53).

The resurvey redefined the east, south, and west grant boundaries. Three patented homesteads and the two sulfur-mining claims made by John W. Walton and Mariano Otero, all of which had been thought to lie outside the Baca Location (based

on the Sawyer and McBroom survey), were discovered to be within the land grant. "Because these homesteaders and miners had received valid title to their land and had acted in good faith, their ownership was not challenged" (Martin 2003:53).

Timbering approached the Baca Location from lower elevations that were more accessible to the railroad (chapter 7). As with the grass needed for herding and ranching, the timber of the Valles Caldera rose in value as the lower areas were sharply reduced in productivity.

In 1898 the Anglo-American owners of the Ramón Vigil Land Grant on the nearby Pajarito Plateau leased the timber rights on the grant to H. S. Buckman, a lumberman from Oregon. Buckman began cutting timber on the Plateau in 1899. Hal Rothman (1989:203) observes, "Buckman's timber enterprise destroyed what remained of the native ecosystem on the Vigil Grant."

[C]hanging patterns of land use in the region ignited a complicated process of economic, social, political, and environmental change. This change was incremental. Each stage pushed the people of the area closer toward dependency on outside markets. Native American and Hispanic populations found themselves with less and less of the plateau at their disposal. The Ramón Vigil Land Grant, its productivity demolished by Bishop and Buckman, was no longer available. The density of Hispanic and Native American stock outside the Vigil Grant increased, and more animals competed for less grazing land. Anglo overgrazing extended the impact of earlier limited overgrazing by Hispanics and Native Americans; cattle and sheep trails were no longer centralized around water sources. Larger herds also drove game higher into the Jemez Mountains, and the black bear, wild turkeys, and pumas that characterized the pre-1800 plateau became scarcer. The advantages of the plateau as a subsistence environment quickly disappeared. The people that depended on this land had to find new sources of sustenance. Prior to the lumber camps and tie-gangs, few Hispanics or Native Americans worked for anyone else. Instead, they grew foodstuffs, tended animals, and traded for items that they could not produce themselves. Cash money was scarce, and labor was a commodity to be bartered, not sold. Buckman's crews received cash for their labor, and the influx of money made the goods in the stores by the railroad in Española more available to the people of the region. With motives born of desire and necessity, Hispanics and Native Americans began to participate in the cash economy. As their base of subsistence became less fruitful, many Hispanics entered the market to trade for foodstuffs. Many also sought to acquire the tools and implements of industrial America. These were expensive, and often required credit—the final step in becoming a part of the cash economy...the need for credit and its availability dramatically changed both farming and grazing in the Pajarito Plateau area. Cash crop farming became prevalent, and new patterns of land use emerged (Rothman 1989:205–206).

The timber on the Baca Location was estimated in 1907 at 425 million board feet of white pine and from 15 to 25 million board feet of spruce. Another informant estimated 403 million board feet of merchantable timber. A “cruiser” stated that there were also “telegraph poles, ties, piling, mine props and stulls in large quantities” (**Laughlin Papers 1907**).

During 1911 and 1912, the U.S. Surveyor General (Santa Fe) made restorative surveys. The object of this work was to clarify the shared boundaries of the Baca Location, the Jémez Forest Preserve, and the Ramón Vigil Land Grant. Notes accompanying the cadastral surveys indicate the interests that would predominate on the Baca Location over the next 50 years: “The ridges, densely timbered with fir and spruce, and considerable pine, give good timber values” (**Douglass and Neighbour n.d.**).

This survey also showed that the operation on the Ramón Vigil Land Grant, carried on under the name of the Ramon Land and Lumber Company, had cut about 100,000 board feet of timber from the Jémez National Preserve (rather than the west side of the Vigil Grant) (**USDA Forest Service 1915**).

A later (1921) cadastral survey again noted:

The remainder of the [Baca Location] grant is covered with timber, the bulk of which is spruce, fir and aspen. Some of the lower elevations and southerly slopes, contain considerable valuable pine timber. Oak undergrowth occurs most in the higher pine levels (Osterhoudt et al. 1921).

On April 1, 1915, Redondo Development Company mortgaged the Baca Location to the Warren Savings Bank of Pennsylvania, borrowing \$175,000. Redondo Development Company reserved a right to sell timber from the lands for a price not less than \$175,000. The company authorized the issuance of bonds in the value of \$175,000, securing the payment of principal and interest (at 6%) by this mortgage to Warren Savings Bank of Pennsylvania. The bonds were to mature on April 1, 1925.

This mortgage applied to:

... all that certain tract of land cummunly [sic] known as Baca Location No. One, situated in the counties of Sandoval and Río Arriba in the Territory of Mexico [sic], the same being one of the tracts of land located by the heirs of Luis María C. de Baca under the authority conferred [sic] by section 8 of an act of Congress of the United States approved June 21, 1860. . . (Redondo Development Company 1915).

Divided Rights, Part I: Bond Family Ranching and the Beginning of Commercial Timbering

F. J. Otero did not renew his grazing lease in 1917. The Bond brothers, George W. and Frank, first leased the grazing rights to the Baca Location from Redondo Development Company in 1917 as part of their efforts to acquire the pasturage that

they needed to sustain their dominant position in northern New Mexico’s sheep and wool industries. In March 1918, Frank Bond inquired about buying the Baca Location. On December 14, 1918, Redondo Development Company signed a contract with the G. W. Bond and Brothers Company for the sale of the Baca Location, reserving an exclusive 99-year timber right. G. W. Bond and Brothers Company continued to lease the Baca Location from 1918, fulfilling the terms of the purchase contract in 1926 (**Kelly 1972:6–7; Otero 1935:237; Wentworth 1948:239–241**).

In the meantime, Guy H. Porter and his son, Frank H. Porter, formed the White Pine Lumber Company in 1922. In 1924 they began to ship timber from the Cañon de San Diego Grant by rail to Bernalillo. This required the condemnation of a right-of-way across Jémez Pueblo. New Mexico’s members of Congress obtained passage of the (Federal) Pueblo Lands Condemnation Act of 1926 to enable the lumber company to take the Pueblo lands. The act turned out to be defective—it did not name the United States as the representative of the Indians. New Mexico’s members of Congress went back and obtained passage of a second Federal statute in 1928. Anglo-American businesspersons, including New Mexico’s U.S. Senators, found ready acceptance in Congress and in the White House of the assumption that the rights of Indians should be set aside to facilitate exploitation of the lands for private profit.

On April 8, 1926, the Bond brothers completed their purchase of the Baca Location, with a half interest in its mineral rights, for \$400,000. The terms of the contract excepted and reserved all the:

... timber, trees and wood and increment thereof, standing, growing, lying and being in and upon the above described premises, with the right of entry and reentry at all times for and during the term or period of ninety-nine years from the date hereof. . . (Baca Co. v. NM Timber, Inc. 1967, 8NN-021-89-022 #5648, FRC#76L0201, box 110A; see also Bond and Son 1918–1919; Scurlock 1981:144).

Timber operations on the Baca Location began in 1926 and continued under various auspices until 1971 (chapter 7).

On May 15, 1930, Redondo Development Company mortgaged the “timber, trees and wood owned by this company standing, growing, lying and being upon land... Commonly known as Baca Location No. 1” to Warren Savings Bank and Trust Company (**Baca Co. v. NM Timber, Inc. 1967**, Abstract of Title to Timber Interest, box 110A). Redondo Development Company also conveyed a one-half interest in all minerals. The company executed a promissory note to the bank for \$65,000 payable in 4 months, with a bond of \$130,000 (**Baca Co. v. NM Timber, Inc. 1967**, Abstract of Title to Timber Interest, box 110A).

The company renewed its mortgage to Warren Savings Bank and Trust Company on January 16, 1933, by delivering a promissory note for \$65,000. Warren Savings Bank and Trust Company, in turn, pledged Redondo Development Company’s promissory note, bond, and mortgage to the Reconstruction Finance Corporation on September 9, 1933, to borrow funds

for its own use (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A).

Redondo Development Company sold its timber interests to Robert Anderson of Firesteel Lumber Company for \$150,000 on July 19, 1935 (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A). The term of this sale was 99 years and was subject to approval by Warren Savings Bank and Trust Company.

Under an agreement with Firesteel Lumber Company, New Mexico Lumber and Timber Company began logging near Redondo Creek in 1935. Firesteel's owner, Robert Anderson, variously claimed (in a 1935 petition for a reduction of taxes) that there were 270 to 312 million board feet of merchantable timber on the Baca Location (*Baca Co. v. NM Timber, Inc. 1967*, box 110A). New Mexico Lumber and Timber Company built Redondo Camp at Redondo Meadows to house 25 employees and their families (chapter 7). This logging camp included log cabins, transportable skid-mounted frame houses, sheds, stables, a mess hall, and a school. In addition, during 1935, the Civilian Conservation Corps built the road across the Valle Grande that continues to be the main connection between Los Alamos and Cuba today (**Tucker and Fitzpatrick 1972:162–171**).

New Mexico Lumber and Timber Company's Redondo Camp closed in 1939 when logging activity shifted to the northwest part of the Baca Location (**Scurlock 1981:151**). Heavy logging continued through the war years and included cutting on Redondo Peak, at El Cajete, and along the Jaramillo drainage.

When Frank Bond died in 1945, his son, Franklin, began leasing parts of the Baca Location to various cattle operations. The Bond family also ended their reliance on the traditional *partido* system and began hiring shepherds and cowboys to work their flocks and herds (chapter 6). Following Franklin's death in 1954, the family leased the ranch to outside parties. The King family, whose son Bruce subsequently served three 4-year terms as governor of New Mexico in the 1970s, 1980s, and 1990s, obtained a 5-year lease in 1959 for summer pasturage of their cattle. With this transaction, the last of the Bond sheep were removed from the Valle Grande and this important part of the Bond family's connection to the Baca Location came to an end.

Lena Bonaguidi, Leonard M. Tartaglia, and Irene Tartaglia sued Frank Bond and Son, Inc., and New Mexico Timber, Inc., on January 13, 1959, complaining that they were rightful owners of 74 acres (30 ha) in Section 9, T19N, R3E. The court found for the plaintiffs. The judge determined that the west fence line of the Baca Location is on the east boundary of the tract held by Bonaguidi and others (*Baca Co. v. NM Timber, Inc. 1967*).

Divided Rights, Part II: James Patrick Dunigan vs. New Mexico Timber

On January 11, 1963 George W. Savage, trustee for Ethel Bond Huffman (Frank Bond's widow), sold the Baca Location

to James Patrick Dunigan, owner of Dunigan Tool and Supply Company, Abilene, Texas, for \$2.5 million.

Dunigan's acquisition of the Baca Location began a significant interlude in the pattern of use of the Valles Caldera. Dunigan continued cattle leases, but he also initiated the drilling of experimental steam wells. Dunigan was interested specifically in long-term conservation and went to extraordinary lengths, as shown by his lawsuit against New Mexico Timber, Inc., to try to restrain wasteful land use. Further, his companies eventually sold the Baca Location back to the public after his death.

New Mexico Timber, Inc., merged with the San Diego Land Corporation on April 30, 1963. In this transaction, New Mexico Timber, Inc., assumed the name of its parent corporation.

In 1964 Dunigan's Baca Land and Cattle Company sued New Mexico Timber, Inc., and T. P. Gallagher and Co., Inc., on three counts: (1) to establish the parties' interests under the deed and contract of 1918 and 1926; (2) to seek damages for timber cut in violation of the terms of the deed and contract of 1918 and 1926; and (3) to seek damages for wasteful logging practices (*Baca Co. v. NM Timber, Inc. 1967*, box 110A).

In a response to interrogatories filed on October 19, 1964, in this case, Vega Testman, representing New Mexico Timber, Inc., deposed that the logging operation on the Baca Location between the years 1960 and 1963 had employed 81 men. Based on the employees' surnames, it appeared that 54 were Hispanic. The others apparently were Anglo-Americans, although Jémez Indians could have been in both groups (*Baca Co. v. NM Timber, Inc. 1967*, box 110A).

Baca Land and Cattle Company argued that the defendant, New Mexico Timber, Inc., did not own any of the trees or wood "which were not in being on December 14, 1918" (*Baca Co. v. NM Timber, Inc. 1967*, Motion for partial summary judgment filed December 23, 1965, box 110A). That is, Baca Land and Cattle Company claimed that New Mexico Timber, Inc., owned only the trees growing on the land at the time of signing the 1918 agreement.

While Dunigan and the timber companies were in court, logging continued. One deposition noted that logging took place on Cerro Toledo about 1966, with roads built "around and around the mountain" (*Baca Co. v. NM Timber, Inc. 1967*, Deposition of J. B. Harrell, Jr., July 17, 1968, box 110A). The roads were later bermed and abandoned, but the scars remain clearly visible today.

Dunigan had only partial success in his lawsuit. In 1967 the U.S. District Court rendered summary judgment for the plaintiffs on the first two counts of the complaint (*Baca Co. v. NM Timber, Inc. 1967*). The Court established Baca Land and Cattle Company's interest in the timber on the Baca Location and right to damages for timber cut in violation of the instruments of 1918 and 1926. With regard to the third count, although the District Court ordered New Mexico Timber, Inc., to restrain wasteful and abusive logging practices, it ordered trial by jury to consider the question of restitution for damages. Importantly, in doing so, the District Court upheld New Mexico Timber, Inc.'s 99-year timber lease on the Baca Location.

Baca Land and Cattle Company, Dunigan Tool and Supply Company, and George W. Savage, the trustee of the Bond family, immediately appealed the District Court's decision. The 10th Circuit Court of Appeals dismissed the case on October 19, 1967. The court found that Baca Land and Cattle Company had set forth three different legal theories on the same set of facts as the basis for its dismissal. Because each theory of the appellants arose out of the same transaction or occurrence, the 10th Circuit said that the common practice of all circuit courts directed it "to conclude that the trial court's ruling is not appealable" (*Baca Co. v. NM Timber, Inc. 1967*). The case was remanded to the District Court.

Dunigan testified on July 18, 1968, that the Baca Location ran 7,000 steers from about April 15 to November 15 (*Baca Co. v. NM Timber, Inc. 1967*, Record on Appeal, box 110A). Dunigan said that this had been his operation for the years 1965 through 1968 (in 1963 and 1964, the prior lessee still controlled the grass).

George W. Savage, the Bond family trustee, testified that logging had marred the natural beauty of the Baca Location. He claimed that the severity of this disturbance eliminated "the motive of pride of possession" and that in his opinion this might reduce the value of the Baca Location from \$2.5 to \$1.5 million (*Baca Co. v. NM Timber, Inc. 1967*, Deposition of George W. Savage, July 18, 1968, in Record on Appeal, box 110A).

In his findings of fact and conclusions of law dated June 5, 1969, U.S. District Judge H. Vearle Payne found that timbering methods used before the 1960s meant that an area that had been logged could be used for cattle grazing. Moreover, he concluded that:

... the slash and debris did not form barriers to livestock or deer or other reasonable uses of the land by the fee owner, numerous trees were left standing, and erosion problems were localized to widely spaced lead roads and skid trails. Slash and debris left did not constitute a grave fire danger (Baca Co. v. NM Timber, Inc. 1967, Findings of Fact and Conclusions of Law, H. Vearle Payne, June 5, 1969, box 110A).

Payne added, however, that:

... as a result of the timbering practices employed by the defendants commencing about the time plaintiffs acquired their interest in the Baca Location, slash and debris is piled upon slash and debris forming a barrier to livestock and deer and depriving plaintiffs of reasonable use of land (Baca Co. v. NM Timber, Inc. 1967, Findings of Fact and Conclusions of Law, H. Vearle Payne, June 5, 1969, box 110A).

Judge Payne found that clear-cutting meant that both dead and damaged live trees were left standing, such that they might constitute a severe fire danger, or might blow down and increase the tangle on the ground. He added that the recent system of haul roads had created a severe erosion problem (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A).

Judge Payne then found that the timbering methods now being used were not contemplated in 1918 and 1926. He found that clear-cutting had not been anticipated originally and that this method destroyed the scenic value of the Baca Location (to which, he clearly indicated, the fee owner had a right). Yet the judge explicitly authorized clear-cutting of spruce and mixed conifers because this was the common method at the time of his ruling (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A).

Judge Payne awarded damages to the plaintiff to pay for the harm caused by the defendant, but he rejected Baca Land and Cattle Company's argument that New Mexico Timber, Inc., owned only the timber existing as of 1918, pointing to the 99-year provision and ruling that this period controlled, and that "increment" meant the natural increase and growth over this period. He upheld the property right of the defendant, while at the same time recognizing that Baca Land and Cattle Company could use the land for any purpose other than timbering, including scenic value and use (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A).

In the ruling that followed on August 12, 1969, Judge Payne denied the motion of the plaintiffs (Baca Land and Cattle Company, Dunigan Tool and Supply Company, and George W. Savage, Trustee) for partial summary judgment. New Mexico Timber, Inc., and the other defendants, he said, were the owners of all timber, trees and wood "and the increment thereof," and were permitted to clear-cut spruce and "mixed conifer-type" trees (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A).

Judge Payne stipulated methods to repair damage: (1) cut down dead and living trees that were likely to blow over, (2) properly reseed and reconstruct water bars at appropriate spots on all roads not regularly used for timber harvesting, and (3) straighten out slash and debris so it lay on the ground. The timber companies must accomplish these tasks within one year, the judge ruled, and added that Baca Land and Cattle Company could use the Baca Location for any purpose except for the rights reserved in the 1918 contract and the 1926 deed. He also awarded Baca Land and Cattle Company compensatory damages of \$202,278.31. Nevertheless, he awarded no damages for the clear-cutting of the Cerro del Medio area as of about January 7, 1969, nor any damages for the timber practices of the defendants up to and including January 7, 1969 (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A). In conclusion, however, Judge Payne's ruling made it inevitable that more logging damages would occur in the future.

New Mexico Timber, Inc., and the other defendant companies appealed this ruling on September 10, 1969 (*Baca Co. v. NM Timber, Inc. 1967*, Abstract of Title to Timber Interest, box 110A). In 1971, however, the parties settled. Dunigan bought back the timber rights and temporarily halted logging on the Baca Location (chapter 7).

Under Dunigan's ownership, two land sales occurred (*Martin 2003*:103–104). Until this time, three small homestead entries and the sulfur mineral claims filed by John W. Walton and Maríano Otero were the only legally recognized

inholdings within the Baca Location (see chapter 8). Each of the properties received patents because their owners had acted in good faith under the belief that the respective tracts were outside the land grant boundaries that were based on the 1876 Sawyer and McBroom survey.

In 1975, Dunigan finalized the sale of a 165-acre (66-ha) parcel along the Baca Location Land Grant's east margin to the Pajarito Mountain Ski Area. This sale allowed the ski operators to open a new lift and allow development of new north-facing slopes for ski runs. In 1977, the National Park Service (NPS) bought the 3,076-acre (1,245 ha) Upper Frijoles Tract at the southeast corner of the grant as an addition to Bandelier National Monument for \$1,350,000. As part of the complex negotiations for this transaction, Dunigan traded a 12-acre (4.8-ha) parcel on the south side of New Mexico Highway near the Upper Frijoles Tract to Jacob Harrell, Union Oil Company of California, in exchange for the undivided mineral interest in the property that the NPS wished to acquire (**Martin 2003**:105–106).

After James Patrick Dunigan died in 1980, his estate sold two other small properties within the land grant to private individuals. These transactions took place in 1986 and 1987 (**Martin 2003**:106).

Federal Acquisition of the Baca Location

By the 1970s, Dunigan was well aware of initiatives by the NPS, USDA Forest Service, and U.S. Fish and Wildlife Service to explore the public acquisition of the Baca ranch. This was not the first time that the U.S. Government had considered the issue. Congress first briefly entertained the idea in 1888, inspired by “the writings of ethnologist Adolph F. Bandelier and journalist Charles Lummis” (**Martin 2003**:73–74). Edgar Lee Hewett, the renowned archaeologist who was the driving force behind the legislative act that established the Bandelier National Monument, first lobbied Congress in 1900 to include the Valles Caldera in a great “Pajarito National Park.” The first bill died in committee. Hewett became a tireless advocate for the protection of the Pajarito Plateau's archaeological resources. It took him 16 years, 6 more congressional bills, and countless meetings with ranchers, loggers, homesteaders, and Pueblo communities—who all had stakes and vocal concerns about their access to the Jemez Mountains' land and natural resources to win Congressional authorization of Bandelier National Monument—a small area within the much larger park originally proposed in 1916.

Ranchers, miners and loggers finally accepted the monument to put an end to proposals for a larger park, but Hewett felt that Bandelier National Monument was an inadequate fragment of his vision. He revisited the idea of placing the Valles Caldera in public ownership in his 1923 proposal to establish a geographically expansive “Cliff Cities National Park” (**Martin 2003**:74). The NPS was responsive to the idea because it would have included the transfer of huge tracts to their administration, including 195,000 acres (78,000 ha) of the Santa Fe National Forest, the entire Baca Location, and

the culturally significant pre-Columbian and early Historic period Tewa Pueblo villages of Otowi and Puye. The USDA Forest Service, Frank Bond and other ranchers, loggers, homesteaders, and Pueblo communities each renewed its objections to Hewett's plan of creating an archaeological preserve whose reach extended beyond the established boundaries of the now-existing Bandelier National Monument (**Martin 2003**:74).

Two more attempts to establish a national park that included at least major parts of the Valles Caldera were made before Dunigan's acquisition of the Baca Location. In 1938 H. E. Rothrock, Natural Resources Division, NPS, spearheaded an attempt to establish a million-acre (400,000 ha) national park that would have included “the entire Valles Caldera, and thus all of the Baca Location, the ancient villages on the mesas to the north and south, the Bond-owned Ramon Vigil Grant on the Pajarito Plateau, and the Cañada de Cochiti Grant” (**Martin 2003**:75). The coalition of other Federal, private, and tribal interests kept Rothrock's expansive idea from moving from the Department of the Interior to Capitol Hill.

In 1961 an influential local resident, Evelyn Frey, informed New Mexico Senator Dennis Chavez that the Bond family was interested in selling the Baca Location (**Martin 2003**:75–78). Chavez found that the idea of creating a national park that included the Valle Grande interested both his colleague, New Mexico Senator Clinton P. Anderson, and the NPS. By this time the NPS had a long history of welcoming any proposal that would increase its holdings around the Bandelier National Monument. Senator Anderson engaged the Bond Estate, the NPS, and the USDA Forest Service in various discussions. T. P. Gallagher, president of New Mexico Timber, Inc., was steadfast in his opposition to the idea. He repeatedly reminded the parties that his company owned the timber on the Baca Location and intended to log it all (**Martin 2003**:77; see also chapter 7).

Dunigan was sympathetic to the idea of the preservation of the Baca Location, and listed the Valles Caldera with the NPS as a National Natural Landmark (NNL). Rather than focusing on the tract's scenic, cultural-historical, and cultural values, however, the NNL nomination highlighted the Valles Caldera's long, rich volcanic history (**Martin 2003**:111). While his investors proposed various development plans for the Valles Caldera, (including a ski resort, a racetrack, and a resort community of home sites and stores), Dunigan remained committed to his idea of maintaining the property as a working ranch and sustaining the Valle Grande's beauty (see **Martin 2003**:80–82).

After Dunigan died in 1980, negotiations for the Federal acquisition of the Baca Location were shelved until the early 1990s. The **USDA Forest Service (1993)** issued a preliminary study titled, *Report on the Study of the Baca Location No. 1 Pursuant to Public Law 101-556*. The study was intended “to support informed and educated decisions regarding the Baca in the future” (**USDA Forest Service 1993**:2). The purpose of this document was to prepare for the acquisition of the Baca Location by the Federal Government. The report did not state this intent because the owners were not offering the Baca Location for sale at the time.

New Mexico's Congressional delegation pursued acquisition throughout the 1990s. After lengthy negotiations with the Dunigan companies, the Federal Government acquired the Baca Location in 2000 and established the VCNP.

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