

DON FERNANDO DURÁN Y CHAVES'S LAND AND LEGACY



painting by Paul Sánchez

Dr. Joseph P. Sánchez

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PREFACE

The efforts of the National Park Service to recognize the many communities and cultures that have contributed to our national story is born out of its mission to preserve our national patronage for future generations. The origin of this study is based on that commitment and sincere desire to serve all the people who have made the United States the great nation that it is.

Atrisco is one such community that has been a willing participant in the development of community, region, and nation. In 1598, long before Jamestown, New Mexicans settled the interior of what would become the United States. The founders of the Atrisco Land Grant were among the early pioneers of New Mexico, and as frontiersmen, they established genealogical family lines that are three-hundred years old. Their ability to survive within the cycles of three great cultural periods, Spanish, Mexican, and Anglo-American, is a tribute to the intelligence and strength of character among them. Aside from military, economic and political contributions the people of Atrisco have made, they have participated and maintained an historical legacy in law, for their ability to defend their land against all comers is testimony to their having met the test of survival. Atrisco, after all, is the oldest part of Albuquerque.

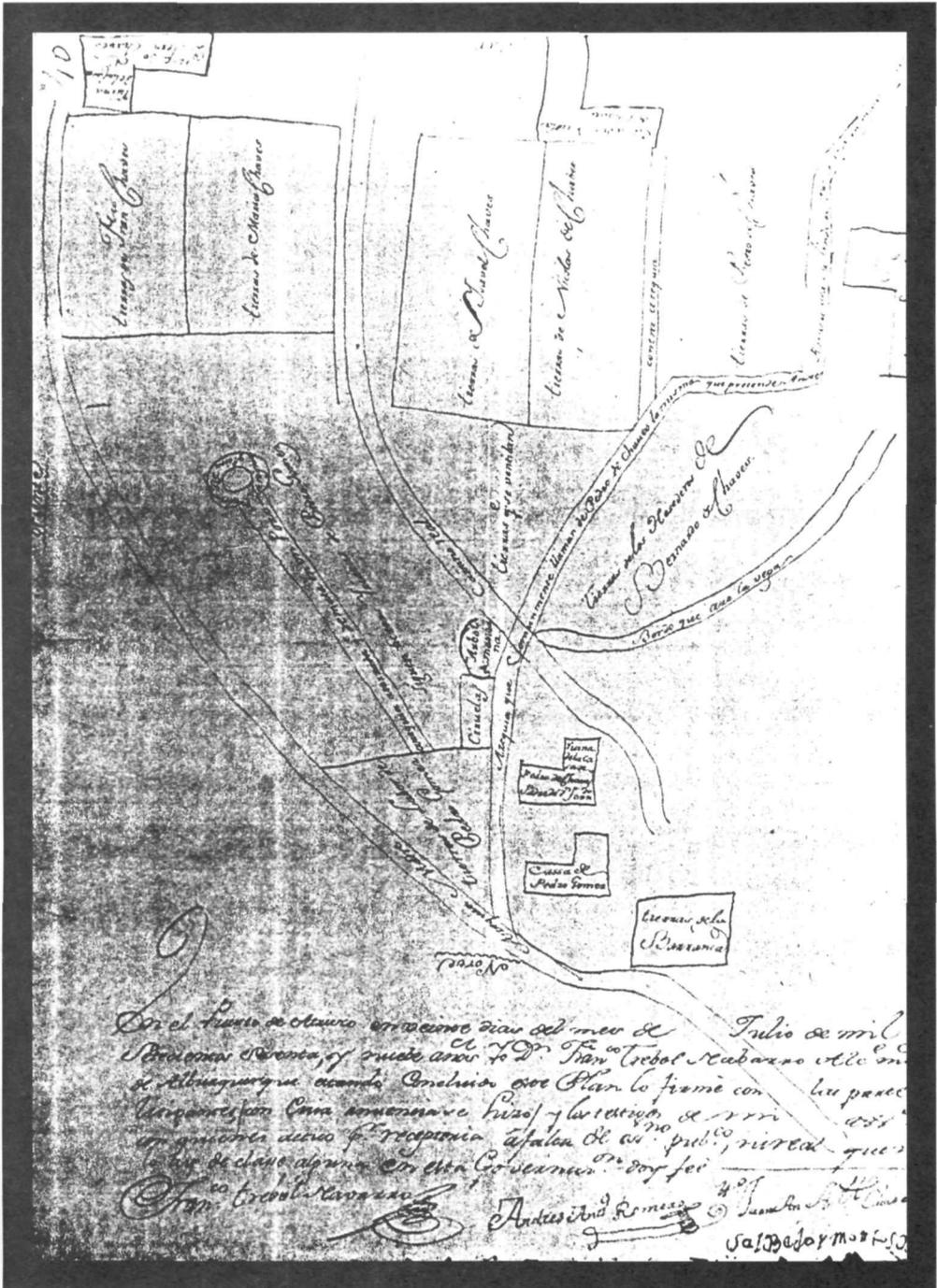
The National Park Service, Petroglyph National Monument, and the Spanish Colonial Research Center are proud to serve the historical community of Atrisco as well as the greater Albuquerque area. The National Park Service presents this study as a tribute to those who have made Atrisco and Albuquerque what they are.

A special debt of gratitude is owed to Judith Córdova, Superintendent, Petroglyph National Monument, for her efforts in bringing this work to its printed form. Edwina Abreu, Pacifica Casares, Judy Chetwin, Bruce Erickson, Greg Gnesios, Jerry Gurulé, and Erlinda Maes deserve a special note of appreciation for their assistance in the preparation of this manuscript.

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TABLE OF CONTENTS

Preface	i
The Valle de Atlixco, 1540-1681	1
Atrisco and Angostura, 1681-1706	8
La Villa de Albuquerque, 1706-1712	13
Atrisco, 1712-1769	18
Las Ciruelas and Arbolito del Manzano, 1769	23
Atrisco and the Río Puerco, 1768-1772	38
Atrisco, 1772-1821	47
The Mexican Period, 1821-1848	57
Ambiance and Context: The Office of the Surveyor General and the Court of Private Land Claims	66
Epilogue	83
Bibliography	89



Atrisco in 1769. Courtesy of the Archivo de la Nación (AGN) Mexico City.

THE VALLE DE ATLIXCO, 1540-1681

It is not known who first applied the name Atrisco or Atlixco to the valley of present Albuquerque. The place name derives from the nahuatl word *Atlíxco*, another variant spelling is *Aíxco*. Its literal meaning is “surface of a body of water”¹ In the Central Valley of Mexico, the name “Atrisco” comes into historical view following the conquest of Tenochtitlan by Hernán Cortés in 1521. In its sixteenth century context, Atrisco, one of Cortés’ tributaries, was located about eight leagues (approximately twenty miles) north of Izúcar. In the 1530s, the Val de Atrisco, as it was also called, was assigned to the jurisdiction of Puebla² Regarding its Mexican connection, historians Gilberto Espinosa and Tibo Chávez speculated that the name appeared in New Mexico early in the seventeenth century. They wrote, “Across the river [near present Albuquerque] was a settlement known as Atlíxco (later Atrisco). Atlíxco, in the Nahuatl language means ‘near the waters.’ Probably the vicinity was originally settled by the Mexican Indians who accompanied Oñate [in 1598] from the valley of Atlíxco, in Mexico”³ Similarly, throughout the seventeenth century in New Mexico, the area between Isleta and Bernalillo was known as the Valle de Atrisco. The historical record, nevertheless, is mute regarding how the place name “Atrisco” was transferred to New Mexico. Later, the Atrisco Land Grant would derive its name from the valley in which it was located.

The earliest European sighting of the valley was made by Captain Hernando de Alvarado, a member of the expedition led by Francisco Vázquez de Coronado, in 1540. Standing on the edge of a mesa overlooking present Alameda, Alvarado and his men looked down on a large valley which opened up to them from north to south as far as the eye could see. Through the valley ran a long river “Which we named Nuestra Señora [present Río Grande], because we reached it on the eve before her feast day in the month of September.”⁴ Along this river valley was a

¹Frances Karttunen, *An Analytical Dictionary of Nahuatl* (Norman: University of Oklahoma Press, 1983), 15.

²Peter Gerhard, *A Guide to the Historical Geography of New Spain: A Revised Edition* (Norman: University of Oklahoma Press, 1993), 56.

³Gilberto Espinosa and Tibo J. Chavez, *El Río Abajo* (Belen: Pampa Print Shop, no date), 12.

⁴Joaquín F. Pacheco, Francisco de Cárdenas, Luis Torres de Mendoza, eds. *Colección de Documentos Inéditos Relativos al Descubrimiento, Conquista y Organización de las Antiguas Posesiones Españolas de América y Oceanía* (Madrid, 1864-1865, 42 vols.), III:511-13. Also see, George P. Hammond and Agapito Rey, translators, *Narratives of the*

large pueblo Indian settlement area known as Tiguex. For a while, the river valley was known as the Valle de Tiguex. Coronado's expeditionary force camped on the north end of the valley, near present Bernalillo, in winter 1540-41. During that time, hostilities, known as the Tiguex War, broke out between the Spaniards and the Pueblos of Moho, Arenal and Alcanfor in the valley. The valley was conquered by the Spaniards, but not settled by them at that time.

Forty years after Coronado's expedition, a second expedition, led by Francisco Sánchez Chamuscado (1581-82) passed through the valley. Having left Santa Barbara near Parral, Sánchez, accompanied by soldiers and missionaries, followed the Río Grande northward. They continued their march, visiting pueblos along the way, until they came to the southern end of the valley where present Albuquerque rises on both sides of the Río Grande. There, they rested before proceeding farther north along the river.

All along the river valley, the Spaniards encountered people who lived similarly, yet spoke different languages. The Piros of the southern Río Grande in New Mexico, and the Tiguas or Tiwas in the Albuquerque area whom Sánchez Chamuscado encountered were only subtly different to the Spaniards. Hernán Gallegos noticed that all of the pueblos grew corn, beans, calabashes, and cotton. The Indians also made corn tortillas and *atole* as well as pottery and blankets.⁵ Although the pueblos they described were generally two, three and four stories high, the distinctions they made were too often based on their sizes. "The further one goes into the interior," wrote Gallegos, "the larger are the pueblos and the houses, and the more numerous the people."⁶

The descriptions left by the Sánchez Chamuscado expedition tell about the early human settlement of the valley. Equally important, they describe the valley, which because of a prominent pueblo in the area, they named Valle de Puaray; the mountain that formed the valley became known as the Sierra de Puaray.

Sánchez Chamuscado and his soldiers left the Río Grande pueblos bound for Santa Barbara, leaving missionary priests to convert the people of Puaray. Shortly, the priests were killed by the people of Puaray. The possibility that they were still alive, prompted Spanish officials to order another expedition northward.

Expedition, 1540-1542 (Albuquerque, 1940), 182-4. The historical narration of the Coronado expedition is recounted in Herbert E. Bolton, *Coronado: Knight of Pueblos and Plains* (Albuquerque, 1949). Also see, Joseph P. Sánchez, *The Río Abajo Frontier, 1540-1692: A History of Early Colonial New Mexico* (Albuquerque: Albuquerque Museum, 1987), 1.

⁵Sánchez, *The Río Abajo Frontier*, 31.

⁶George P. Hammond and Agapito Rey, eds. and trans., *The Rediscovery of New Mexico, 1580-1594* (Albuquerque: University of New Mexico Press, 1966), 84.

In 1582-83, Antonio de Espejo led an expedition from Santa Barbara to New Mexico. Three months later, in late February 1583, Espejo and his men reached Puaray. They were impressed with the number of pueblos which stretched from one end of the valley to the next. There, they learned that the Tiguas had killed the missionaries. Puaray had been abandoned. Espejo and his men went to the sierra to bring the people back. Some came down, and by means of signs they agreed to return to their pueblos because their families were suffering greatly from the cold weather. Still, many refused to return for fear of Spanish reprisal. The memory of Vázquez de Coronado's attack on Moho and Arenal four decades previous was still fresh in the lore of the people of Puaray.

Nevertheless, the Spaniards inspected many of the abandoned pueblos and provisioned themselves with corn, beans, green and sun-dried calabashes and other vegetables as well as cocks and hens. They also took some pottery which they needed. Still, the people of Puaray would not come down from the sierra, for they were afraid of the Spaniards. Perhaps to draw the Spaniards away from Puaray, Indians from other pueblos came with gifts and offered information about other provinces far away.⁷

Like Sánchez Chamuscado, Espejo presented another view which would attract Spanish settlement of New Mexico. In 1598, Juan Pérez de Oñate led a large caravan of settlers to New Mexico. Although they settled at the confluence of the rivers Chama and Río Grande near San Juan Pueblo, the settlement pattern eventually spread southward, first to Santa Fe, then to the Valle de Atrisco.

As Spanish colonial frontiersmen entered New Mexico between 1598 and 1680, they settled in Santa Fe and near Indian pueblos along the Río Grande. Spanish settlements dotted the New Mexican map from Taos Pueblo in the north to the incipient settlements of what would later be known as El Paso del Norte in the south.

Documentation regarding the earliest settlements in the Valle de Atrisco is, at best, vague and fragmentary. In 1659 for example, a reference was made to a short-lived Spanish cattle ranch near Isleta Pueblo called Pajarito, on the southern end of the Valle de Atrisco. The origins of Pajarito are, indeed, nebulous. According to testimony given in the case against Governor Bernardo López de Mendizábal,⁸ a certain Franciscan Friar Salazar had dispossessed Indians of farming land around Isleta Pueblo. Subsequently, Isletans began farming near the mountains, but Apache raiders made it quite dangerous to do so. Others began farming near present Pajarito.

⁷Sánchez, *Río Abajo*, 37.

⁸Primera Audiencia de don Bernardo López de Mendizábal, Año de 1663, Archivo General de la Nación (AGN), Sección Inquisición 594, Capítulo 172.

In the 1660s, Spanish officials considered settling the Valley of Atrisco. After his unsuccessful pacification of Quivira which he claimed to have undertaken in 1662, Governor Diego Dionisio de Peñalosa Briceño y Berdugo testified that he had “attempted to found a villa in the midst of the settled region, in a valley called Atrisco, this being the best site in all New Mexico. [He] drew up an order to this effect, and twelve or fifteen persons who offered to make the settlement signed it with him on Pedro Varela's farm”⁹ Whether the order was carried out is not clear, but the act may have empowered certain frontiersmen to proceed with establishing farmlands in the area.

In the early period of colonial New Mexican history, however, there were settlers in Atrisco decades before the Pueblo Revolt of 1680. It is likely that the Durán y Chávez family and others owned estates in that part of the Río Abajo (the lower river of the Río Grande) as early as the 1660s. In the area, between present Belen and Bernalillo, several haciendas had been established along the river in the middle seventeenth century. Following the Pueblo Revolt, it is believed that Fernando Durán y Chávez returned to claim ancestral lands from Bernalillo in the north to the southern terminus of Atrisco, north of Isleta Pueblo between 1681 and 1703.¹⁰ Certainly, the Valley of Atrisco was known to Spanish colonials who participated in the first phases of the reconquest following the first months of the Pueblo Revolt of 1680. It is evident that the Valley of Atrisco had been settled by farmers and stock raisers before 1680.

Having lost Santa Fe, the provincial capital, to rebelling Pueblo Indians in August 1680, Governor Antonio de Otermín and approximately 2,500 Spaniards had abandoned New Mexico and had settled in two refugee camps at El Paso.¹¹ In November, Otermín marched northward with 130 soldiers, 112 Indian allies, and several priests from El Paso to the Río Abajo, near present Albuquerque. Their mission was to survey the destruction of New Mexico resulting from the pueblo revolt of that year. Now, three months later, Otermín led the first of many sorties hoping to reconquer New Mexico, a quest that took twelve years. On this

⁹Testimony by Diego Peñalosa, Hearing of December 11, 1665, in Charles Wilson Hackett, ed., *Historical Documents relating to New Mexico, Nueva Vizcaya, and Approaches Thereto, to 1773* (Washington, D.C.: Carnegie Institution of Washington, 1937, 3 Vols.), III:265.

¹⁰Richard E. Greenleaf, "Atrisco and Las Ciruelas," *New Mexico Historical Review (NMHR)*, January 1967, 42:5.

¹¹Joseph P. Sánchez, "Twelve Days in August: The Pueblo Revolt in Santa Fe," in David Grant Noble, ed., *Santa Fe: History of an Ancient City* (Santa Fe: School of American Research, 1989), 19-52.

expedition, Otermín was only able to reconnoiter the land between Senecú and Cochiti. Their path led to Atrisco and beyond.

A day's ride south of Senecú, Otermín's scouts found horse tracks left by Apache raiders. Reaching Senecú, they found the pueblo abandoned. Evidently, Apaches had raided the pueblo causing its people to flee. The church and missionary residence had been burned. One of the priests with Otermín, Friar Francisco de Ayeta, found the altar and other religious paraphernalia half buried in a soaked sand bar in the Río Grande where the raiders had thrown them. All around Senecú, strewn household items could be seen—signs that the pueblo and mission had been maliciously ransacked. Passing on to Socorro, they found similar destruction by Apache raiders, and at Sevilleta, Otermín saw more of their handiwork. Most pueblos, had fled southward to El Paso; others went northward to join the revolt.¹² Meanwhile, Otermín reached Isleta and established his headquarters near there.

Soon after, Otermín ordered one of his captains, Juan Domínguez de Mendoza, to take sixty mounted men and a number of Indian allies and reconnoiter the land north of Alameda to Cochiti. Departing Isleta, Domínguez de Mendoza's first stop was to take a look at the damage done to his hacienda in the Valley of Atrisco, which was on the way north. Braving chilling winds and blowing snow, they reached "la estancia del Maese de Campo Juan Domingues" on December 13.¹³ One member of Domínguez Mendoza's party, wrote that "[December 13] dawned with extreme cold and a fierce hail storm with pounding winds that blew all night and all day. Nonetheless, we marched to the estancia of the Maestre de Campo Juan Domingues, three leagues away, where we found six estancias of Spanish settlers in this district deserted and burned and the cultivated fields full of stubble from the cut corn which the apostate traitors had gathered availing themselves of the lands which the settlers had possessed before the uprising."¹⁴ That Domínguez de Mendoza's hacienda was in the Valley of Atrisco is corroborated by testimony of Domínguez Mendoza, himself, who wrote that he and his men "marched that night to his own hacienda, which was in the jurisdiction that they call Atrisco, three

¹²Sánchez, *Río Abajo*, 137.

¹³Statement signed by Juan de Echeverría, Joseph de Ugarte, and witnessed by Francisco Xavier, Secretary of Administration and War, December 13, 1680, Archivo General de la Nación (AGN), Mexico City, Ramo de Provincias Internas (PI) 34.

¹⁴Statement signed by Juan de Echeverría, Joseph de Ugarte, and witnessed by Francisco Xavier, Secretary of Administration and War, December 13, 1680, AGN, PI 34. Translated by author.

leagues [approximately 7.5 miles] this side of the pueblo of Alameda.¹⁵ Their stay was short, lasting part of the night so that his men could warm themselves. Given their situation, Domínguez de Mendoza gave orders to conceal their fires. Sometime in the dead of night, he ordered his men to move out toward Alameda. The rest of the march took place in the Valley of Atrisco between Isleta and Alameda. Proceeding with “all vigilance and secrecy,” Domínguez de Mendoza arrived at Alameda at dawn, surrounding and besieging it. After they had cautiously entered the pueblo, they found it deserted. During a quick search of the houses, the soldiers found in one of them “a lone Indian who had hanged himself,” perhaps in despair, for he had been left behind.¹⁶

In the next few days, Domínguez de Mendoza led his men past Sandia and San Felipe where destruction met their eyes at every turn. Curiously though, he could not help but notice that in the deserted pueblo houses, the natives of Sandia and San Felipe had kept some of the religious paraphernalia taken from the churches of their former Christian priests.

By mid-December Domínguez de Mendoza and his men camped a short distance from the rebel stronghold at Cochiti Pueblo. There, they sought to speak with rebellious factions composed of many warriors from different pueblos. Despite the peaceful overtures made by both sides, Domínguez de Mendoza noted the hostility of one warrior faction and decided to leave before he was attacked. On December 19, after eleven days of scouting the area for Otermín, Domínguez de Mendoza returned to make his report to his commander now camped at Alameda. Otermín had seen and heard enough, and decided that it was best to return to El Paso before he could be attacked. The Spaniards had caught their first glimpse of the province in revolt.¹⁷ Entering the large valley south of Alameda, the small army followed the Río Grande, thus passing through the Valley of Atrisco on their return to El Paso. They would be back.

In the early history of the Valley of Atrisco, Spanish explorers claimed the area for Spain. The Valley of Atrisco, once the proud home of Tiwas, was known as the Valle de Tiguex and Valle de Puaray prior to the appearance of the name Valle de Atrisco. It is likely that the first Spanish subjects to settle in the Valle de Atrisco, and possibly gave it its name, were Nahua-speaking Mexican Indians who accompanied the Oñate expedition of 1598. By 1660, Spanish frontiersmen from the Villa de Santa Fe seeking farming and grazing lands settled in the valley that

¹⁵Declaration of the lieutenant general of the cavalry. [Place of the Río del Norte, December 20, 1681], Hackett, *Revolt*, II:258.

¹⁶Sánchez, *Río Abajo*, 138.

¹⁷Sánchez, *Río Abajo*, 141.

stretched from present Bernalillo to a point just north of Isleta Pueblo. In 1662, Governor Diego de Peñalosa attempted to settle the Valle de Atrisco with twelve families. Shortly, settlers, among them Juan Domínguez de Mendoza and members of the Durán y Chávez family, led by Pedro Durán y Chávez, established farms and estancias prior to the Pueblo Revolt of 1680. In the seventeenth century, seventeen haciendas were established between Isleta Pueblo and La Cienega, south of Santa Fe, most of them in the Río Abajo, the lower Río Grande below Cochiti Pueblo. At least, six of the haciendas were in the Valle de Atrisco. It is possible that during the hiatus of twelve years (1680-1692) of non-occupation of New Mexico by Spain, Fernando Durán y Chávez returned to look over his family lands in the Valley of Atrisco. The fragmentary historical record supports that the Valley of Atrisco had been settled by Spanish frontiersmen, farmers, and ranchers prior to the Pueblo Revolt.

ATRISCO AND ANGOSTURA, 1681-1706

One of the first settlers in the Valle de Atrisco was Pedro Gómez Durán y Chaves who had arrived in New Mexico in 1598, listed in Oñate's muster roll as *Sargento* Pedro Gómez Durán. Well-built with handsome features, he was a native of Llerena, Spain. Although he claimed to have been one of the founders of the Villa de Santa Fe in March 1610, he was, however, in Acapulco taxing the cargo of a ship fitted for a voyage to the Philippines in February of 1610.¹⁸ He is the progenitor of the Chávez family in New Mexico and one of the first Spanish settlers in the Valle de Atrisco.

His oldest son, Fernando Durán y Chaves inherited his *encomienda*. During the late 1630s, Fernando Durán y Chaves served as lieutenant governor of the Sandía or Río Abajo jurisdiction. In 1638 he accompanied Governor Luis de Rosas (1637-1641) in an expedition to the Apotapihuas in Sonora. Rosas was later murdered in Santa Fe by conspirators who were later caught. Meanwhile, don Fernando lost his *encomienda* during a political falling out with the new Governor Alonso Pacheco de Heredia (1642-44).¹⁹

In 1643, he attended the execution of eight conspirators in Santa Fe accused of murdering Governor Rosas. Earlier, don Fernando had supported the missionaries in their struggle against Rosas. When the friars turned against Governor Pacheco, he, sided with them. For that, he earned the enmity of Pacheco who accused him of sedition. Don Fernando lost his *encomienda* when he fled New Mexico to avoid persecution and possibly execution.²⁰ By 1646, during the administration of Governor Luis de Guzmán, he had returned. Under governors López de Mendizábal and Peñalosa, he served as *sargento mayor*. In 1663, he ran afoul of Peñalosa, and was imprisoned in the Palace of the Governors with his son Cristóbal and his brother Pedro. Don Fernando is thought to have died in 1668 or 1669.²¹ His land holdings in the jurisdiction of Sandía extended from San Felipe Pueblo to the Valle de Atrisco.

His third son, also named Fernando Durán y Chaves, who was born in New Mexico, was heir to his land holdings in the Valle de Atrisco and the Jurisdicción

¹⁸Fray Angélico Chávez, *Origins of New Mexico Family Names in the Spanish Colonial Period* (Santa Fe: William Gannon, 1975), 19.

¹⁹Chávez, *Origins of New Mexico Family Names*, 20.

²⁰Chávez, *Origins of New Mexico Family Names*, 20.

²¹Chávez, *Origins of New Mexico Family Names*, 20.

de Sandía. Having served as *alférez* of the jurisdiction of Sandía since 1671, he fled the Pueblo Revolt in 1680. Prior to that fateful year, he had lived in the Valle de Atrisco, and was the only one of his brothers to return with Diego de Vargas in 1692 to re-claim the family estate.

Vargas named Captain Fernando Durán y Chávez as his *alférez*, the standard-bearer of the army. When Vargas triumphantly entered Santa Fe on December 16, 1693, *Alférez* Durán y Chaves proudly bore the banner of *Nuestra Señora de los Remedios*.²²

Soon after Vargas's reconquest of New Mexico, Captain Fernando Durán y Chaves presented him with a petition requesting two grants of land. Intent on asserting his gubernatorial powers, Vargas pointed out to him that as this was a new conquest, no one could claim land based on prior ownership.²³ Therefore, don Fernando's petition began anew his family claim to lands in the Valle de Atrisco. Don Fernando's first request was for lands at San Antonio de Angostura lying between the Río Santa Ana and the Río Grande.

The second tract he requested fell between the pueblos of Sandia and Isleta. It was called Atrisco. Durán y Chaves described Atrisco as agricultural land with an *acequia madre*. It began on a bluff where Juan de Perea, a settler who had returned with Vargas²⁴ lived, and extended south along the west side of the Río Grande to some corrals formerly owned by his deceased brother-in-law *maese de campo* Juan Domínguez.

Having reviewed the petition, and having seen the lands requested, Governor Vargas granted the two tracts of land in recognition of the services given by Fernando Durán y Chaves during the reconquest of New Mexico. With legalistic style, Vargas made the grant by writing,

“Being present on this estate which is called on the twenty eighth day of the month of October of the year one thousand six hundred and ninety two before me Don Diego de Vargas Zapata Lujan Ponce de Leon, Governor and Captain General of this Kingdom and Province of New Mexico its new conqueror at his own expense and Castellán of its forces and garrison by His Majesty the petitioner presented the same and it having been by me examined I admitted the same....In so far as permitted by law and on this day, I make to the petitioner the grant which he asks for of the two tracts which he mentions that of the Angostura having been his

²²Fray Angélico Chávez, "Don Fernando Durán y Chávez," *El Palacio* (April 1948), 55:114.

²³Certified Copy, CPLC Case 45, 730, p. 1.

²⁴Chávez, *Origins of New Mexico Family Names*, 87.

own and that of Atrisco having belonged to his father Major Pedro Duran y Chávez and his brother-in-law Juan Dominguez de Mendoza which said grant I make in the name of His Majesty to the said Captain Don Fernando Duran y Chávez because of his having accompanied me the said Governor and Captain General in the conquest of this Kingdom...”²⁵

The agricultural lands were granted with all their appurtenances, pastures, marshes, woods and watering places, to Durán y Chaves. There was one important condition to the grant. Vargas specified that the land had to be settled and that the “said Don Fernando de Chávez shall be one of the settlers, and if he does not do this then this grant shall be void since I make it with this qualification and condition jointly with all his children and he shall enjoy the privileges of conqueror and settler.”²⁶

During Vargas’s second entrada, Durán y Chaves brought his wife Lucía Hurtado de Salas, whom he had married in 1675, and their ten children from their refugee settlement at Guadalupe del Paso.²⁷ Sometime in the early days of the reconquest, Durán y Chaves had leased farming land on the south side of the Villa de Santa Fe from Juan Lucero de Godoy, his brother-in-law. Later, when Governor Vargas permitted settlers to leave Santa Fe, Durán y Chávez moved his family to Bernalillo.²⁸ Upon his return to his old lands in Bernalillo, in the Valle de Atrisco he was named *alcalde mayor*, chief magistrate, and he reestablished the family claim to the land.²⁹ Fernando Durán y Chaves, the younger, is the founder of the succeeding generations of the Land Grant of Atrisco.

In 1696, when the pueblos in the area rebelled, Vargas instructed Durán y Chaves to bring his Bernalillo settlers to Santa Fe if their safety was imperiled. Earlier, Durán y Chaves had warned the governor of the impending rebellion. When it did happen, Vargas advised Durán y Chaves that “he was not giving him orders to march to Cochití and the other rebellious pueblos because he had faith in the strength and loyalty of the contiguous villas of Santa Fe and Villanueva. He directed him to ascertain whether the inhabitants of Bernalillo were safe to watch over them, and if they were not, they were to retire to Santa Fe, with the soldiers as

²⁵Certified Copy, CPLC, Case 45, 734, p. 2.

²⁶Certified Copy, CPLC, Case 45, 729, p. 3.

²⁷Chávez, *Origins of New Mexico Family Names*, 20-21.

²⁸Chávez, "Durán y Chaves," *El Palacio*, 55:114.

²⁹Certified Copy, CPLC, Case 45, 730, pp. 1-2.

escort, for which purpose he gave the necessary orders."³⁰ Don Fernando considered the instructions and citing the impossibility of doing so, he opted to move them instead to San Felipe which then stood on a high mesa. As a result of the strong Spanish presence, San Felipe Pueblo was unable to join in the rebellion.

Once pacification of the pueblos had taken place, the Spaniards faced another, more formidable enemy, the Apache. For the next few years, Apache raiders incessantly hit settlements in the Valle de Atrisco. In March 1704, Durán y Chaves and his neighbors suffered a devastating blow at the hands of the Apache who drove off nearly all of their livestock. After he had received a petition for military assistance from them, Vargas led an army south from Santa Fe. The campaign, which began on March 30, 1704, took place in the Sandia Mountains, which the Apache had used as a stronghold. Soon after the campaign had begun, misfortune struck the Spanish army when Governor Vargas fell gravely ill. He was taken to Bernalillo on April 2, where he died a few days later, probably in Durán y Chaves's house.³¹

Apache raids continued, and Bernalillo, in need of military protection, seemed to be the object of attacks. Don Fernando asked the acting Governor Juan Páez y Hurtado to establish a military post at Atrisco in the charge of Bernardo, his oldest son. Shortly thereafter, the *Puesto de Atrisco* was established, probably around 1704. A year later, Bernardo was killed in an accident.³²

Meanwhile, in 1701, Durán y Chaves presented a new petition for his grants at Angostura and Atrisco to Governor Pedro Rodríguez Cubero. Governor Rodríguez Cubero ordered Alcalde Mayor of the Puesto de Bernalillo, Captain Diego de Montoya, to assure that an act of possession be taken in conformity with custom, and that he make certain that no other claim to the land exist.³³ That done, Rodríguez Cubero approved the grant. On October 14, 1703, Captain Diego de Montoya, alcalde mayor and war captain of the post at Bernalillo went to Durán y Chaves's hacienda to present him with a title of investiture for the Angostura Grant. Apparently, the same was done for Atrisco, although the documentation for it has been lost. At that meeting, Montoya confirmed the boundaries of Angostura as being part of the puesto de Bernalillo bounded by lands owned by Captain Manuel

³⁰Hackett, *Historical Documents Related to New Mexico*, 351.

³¹Chávez, "Durán y Chaves," *El Palacio*, 55:115.

³²Chávez, "Durán y Chaves," *El Palacio*, 55:118.

³³Certified Copy, Case 45, 735, p. 4.

Baca on one side, the Pueblo of San Felipe on the other and, the Santa Ana River on the east side³⁴

The history of the Valle de Atrisco took on an official character after 1692 when Fernando Durán y Chaves applied for a land grant in which he reclaimed much of his family estate at Angostura and Atrisco. Although the certificate of investiture for Atrisco had been lost, it is probable that one had been issued sometime in 1703. Historically, the confirmation of land grants was supported through the oral tradition, although under the Spanish legal system, documentation was required to prove ownership of land. Nonetheless, Juan de la Candelaria offered corroborating support to the fact that an apparent document for Atrisco, like that for Angostura, had also been presented. That later Atrisqueños actively sought to expand toward the Río Puerco, is seen in the early claim by the Atrisqueña, Ana Sandoval de Manzanares to land bounded on the west by the Rio Puerco. Prior to the founding of Albuquerque in 1706, Spanish settlers had established their land holdings in the Valle de Atrisco. By 1692, many of their claims were at least sixty years old, despite their twelve-year absence caused by the Pueblo Revolt. Many of the old families of the Rio Abajo returned at the urgings of Diego de Vargas who promised to recognize their family claims to the land upon proof of ownership.

³⁴Certified copy, Case 45, 735, p. 5.

LA VILLA DE ALBUQUERQUE

Following the death of Governor Diego de Vargas, fifteen Santa Fe settlers, in November 1704, requested permission to leave New Mexico. They complained of poor living conditions, illnesses, constant Indian threats, difficulties in eking out an existence, and other personal reasons.³⁵ Giving the debilitating military preparedness, they feared another uprising. They were denied the required permission as officials feared encouraging an exodus from Santa Fe's small Spanish population of approximately 300 people.

Vargas's successor, Francisco Cuervo y Valdés, offered a smooth transition, but the tension in Santa Fe remained. Cuervo y Valdés arrived and took office in Santa Fe on March 10, 1705.³⁶ Aside from settler unrest, his first task was to address the problem of frontier defense as frontiersmen continued to fear another revolt like that of 1696. To that end, Cuervo y Valdés prohibited settlers from living among the pueblos.³⁷ The Spanish population had been clustered in three main areas, Santa Fe, Santa Cruz, and Bernalillo with scattered farms in the Valle de Atrisco. In command of thirty-four men and the general defenses at San Francisco de Bernalillo were Captain Fernando Durán y Chaves, Captain Diego Montoya, and Captain Manuel Baca. Their junior officers included two alfereces, Cristóbal Jaramillo and Pedro López, and one sergeant, Juan González.³⁸

Among the first settlers in the Valle de Atrisco, principally in the Bernalillo area, some of these men and their families were also the first settlers of the Villa de San Felipe de Albuquerque. As settlers, they contributed to the defense of the area as well as to the economic development of the Valle de Atrisco.

After 1706, with the founding of San Felipe de Albuquerque, the consolidation of the Valle de Atrisco into a defensive population cluster was begun. With it, began a definitive identity for the "puesto de Atrisco." To shore up the defenses of the area, Cuervo y Valdés similarly established a defensive post in

³⁵Petition of Santa Fe residents to the cabildo, November 5, 1704, Spanish Archives of New Mexico, New Mexico State Archives and Record Center, Santa Fe.

³⁶Ovidio Casado-Fuente, *Don Francisco Cuervo y Valdés: Gobernador de Nuevo México, Fundador de la Ciudad de Albuquerque* (Oviedo: Instituto de Estudios Asutrianos, 1983), 34.

³⁷Governor Cuervo y Valdés, Santa Fe, August 25, 1705, Spanish Archives of New Mexico, New Mexico State Archives and Record Center, Santa Fe.

³⁸Muestra General, signed by Cuervo y Valdés, SANM, II, no. 110.

Galisteo as another cluster in the area. By establishing focal points of defense throughout New Mexico, Cuervo y Valdés particularly moved to build up defenses in the Río Abajo. The founding of the Villa de Albuquerque would be one of his lasting achievements.

In the end, however, Cuervo y Valdés's accomplishments were questioned, for it was ascertained later that he had overstated them.³⁹ He had, for patronizing reasons, named the new villa after the viceroy Francisco Fernández de la Cueva, Duque de Albuquerque. After all, the viceroy had recommended Cuervo y Valdés for the governorship of New Mexico.⁴⁰ Indeed, it was he who had ordered Cuervo y Valdés to change the name of the new settlement from the Villa de Albuquerque de San Francisco de Xavier to the Villa de San Felipe de Albuquerque in honor of the king's coronation.⁴¹

Situated on high ground above the east bank of the Río Grande, and laying astride the Camino Real, the Villa de San Felipe de Albuquerque had been placed strategically in the valley which was the object of Apache depredations. Directly to the east, twelve miles or so, the Cañon de Carnué (Tijeras Canyon) gave access to raiders from the plains beyond the Sierra de Sandia. Having selected the site, Cuervo y Valdés announced an invitation throughout the province for settlers to join him in developing the new villa. Troops accompanied by their families led by Captain Martín Hurtado, arrived to create an important military presence in the valley. At first, as few as ten soldiers were stationed in the villa upgrading the defenses of the area. They were not, however, sufficient to deter Apache raiders from attacking settlements in the Valle de Atrisco. In time, the valley, known in the early post-reconquista period as "*el bosque grande de doña Luisa*,"⁴² would be referred to as the Valle de Albuquerque.

In 1706, prior to the establishment of the Villa de San Felipe de Albuquerque, Fernando Durán y Chaves and his family moved from Bernalillo to the Atrisco area. The relocation of the Durán y Chaves family to the Atrisco settlement in 1706, in effect, anticipated Cuervo y Valdés's plan to establish a villa in the Valle de Atrisco. As settlers had already been moving into the area, the governor saw an opportunity to develop a defense-minded population cluster in the Río Abajo. Pedro, son of Fernando Durán y Chaves, was one of the "twelve first

³⁹Hubert Howe Bancroft, *History of Arizona and New Mexico, 1530-1888* (San Francisco, The History Company, 1889), 17:228.

⁴⁰Casado-Fuente, *Don Francisco Cuerbo y Valdés*, 103.

⁴¹Casado-Fuente, *Don Francisco Cuerbo y Valdés*, 99.

⁴²Casado-Fuente, *Don Francisco Cuervo y Valdés*, 98.

families” which founded the Villa de Albuquerque.⁴³ Another son, Antonio, moved to Atrisco and married Magdalena Montaña. She died before 1718, and that year Antonio married Antonia Baca from Bernalillo. He was one of the last surviving brothers from Fernando and was the “possessor” of his father’s last will and testament.⁴⁴ Like other families in the area, the Durán y Chaves family counted as the pioneering families of the Atrisco-Albuquerque area.

Defense of the Valle de Atrisco was never adequate, for Apache raiders continued their incessant attacks on the settlements there. In 1708, captains Baltazar Romero and Fernando Durán y Chaves petitioned the cabildo of Santa Fe for more soldiers to be stationed at the Villa de San Felipe de Albuquerque. They claimed that Governor Cuervo y Valdés had given them privileges to the land, but that the force to protect them against the “danger from the enemies which surround us on all sides...,”⁴⁵ was inadequate. Cuervo y Valdés had temporarily assigned a squadron of soldiers from Santa Fe to protect the settlers of the Villa de San Felipe de Albuquerque while they established themselves in the area. Even worse, reported Romero and Durán y Chaves, the present governor, marqués de la Peñuela, had taken away “the escort, for which reason the enemy, seeing our weakness, have dared barbarously to commit various robberies, every day carrying off our stock, taking it from our corrals...and seeing that they are not punished, they may surprise us and destroy us and our wives and children.”⁴⁶ So dire was the situation that they strongly suggested that if the troops were not forthcoming, that they would be forced to remove themselves from the area and “go where we may deem best.”⁴⁷ The cabildo members presented the petition to the governor “who said that he would apply the best remedy”⁴⁸ to the request made by Romero and Durán y Chaves. The defense of the Valle de Atrisco with the Villa de San Felipe de Albuquerque was never satisfactory throughout the eighteenth century. Nonetheless, the settlers of the Albuquerque-Atrisco area remained on their lands. It was during this period that Atrisco became known as “Atrisco de

⁴³Chávez, “Durán y Chaves,” *El Palacio*, 55:118-119.

⁴⁴Chávez, “Durán y Chaves,” *El Palacio*, 55:119.

⁴⁵Ralph Emerson Twitchell, *Spanish Archives of New Mexico* (Cedar Rapids: Torch Press, 1914), I:351.

⁴⁶Twitchell, *The Spanish Archives of New Mexico*, I:352.

⁴⁷Twitchell, *The Spanish Archives of New Mexico*, I:352.

⁴⁸Twitchell, *The Spanish Archives of New Mexico*, I:352.

Albuquerque,⁴⁹ although Atrisqueños often referred to it as “Puesto de Atrisco,” signifying its military character.

The situation for those who lived in the Villa de San Felipe de Albuquerque and its adjoining districts changed little from its establishment in 1706. In 1754, Fray José Manuel San Juan Nepomuceno y Trigo, wrote that “I might say the site of the Villa de Albuquerque, for the settlers, who inhabit it on Sunday, do not live there. They must stay on their ranches to keep watch over their cornfields, which are planted at a very pretty place three leagues distant, called la Alameda. There are no Indians in the entire territory, but the settlers pay their parochial dues, from which the father barely has sufficient for his daily needs.”⁵⁰ Similarly, Atrisqueños paid their tithes, planted their fields, and guarded their lands from marauders day and night.

The importance of the Villa de San Felipe de Albuquerque, however, was its preeminent position in the valley. Its strategic location on the Camino Real, its relationship to Tijeras Canyon, and its military importance owed its eventual prestige to the growing political influence of the twelve founding families. The Villa de Albuquerque had changed the political future of Atrisco. Yet, it was Atrisco that would give Albuquerque its enduring qualities of venerability and antiquity. Nonetheless, life in the Valle de Atrisco was rapidly changing as the Villa de Albuquerque became the economic and political center of the area.

Diego de Vargas’s entrada into New Mexico in 1692 had, indeed, ushered in a new order of Spanish colonialism. Prior to the founding of the Villa de San Felipe de Albuquerque in 1706, settlers had begun to move into the Valle de Atrisco south of Bernalillo. Defense of the Río Abajo against Indian raiders was a motivating factor as was the desire of many settlers to reclaim their family land holdings they had possessed before the Pueblo Revolt of 1680. Some settlers moved into the valley because of the availability of fertile land, and others were part of a military force that had been assigned to the valley. The establishment of Albuquerque meant that a stronger military presence would be developed, but defenses in the Río Abajo resembled the inadequate defense program throughout the province of New Mexico.

The idea of clustering Spanish populations in defensive centers was the trend in the early decades of the eighteenth century. The significance of the Puesto de Atrisco was that it was a part of the settlement policy of the early eighteenth century. The puesto, the land grant, the settlement pattern of the Valle de Atrisco depended on the commitment and support of large families, namely, the Durán y Chaves clan, who were politically influential.

⁴⁹Greenleaf, “Atrisco and Las Ciruelas,” *NMHR*, 42:6.

⁵⁰Hackett, *Historical Documents Relating to New Mexico*, III:464.

The relationship between the Villa de Albuquerque and Atrisco was also religious. When Bishop Dr. Pedro Tamarón y Romeral visited Albuquerque in 1760 he noted that the villa was composed of 270 families, or 1,814 people. He said that the parish priest of the Villa de Albuquerque, Fray Manuel Rojo, also served the settlers on the west side of the river.⁵¹

The founding of the Villa de San Felipe de Albuquerque proved historically significant for it emerged from a small defensive post in the eighteenth century, to a major trade center in the following century. The economic development of the area eventually depended on the fortunes of Spanish Albuquerque. Meanwhile, Atrisco refused to take a back seat to the new villa.

⁵¹Eleanor B. Adams, editor, *Bishop Tamarón's Visitation of New Mexico, 1760* (Albuquerque: Historical Society of New Mexico: 1954), XV:43-44.

ATRISCO, 1712-1769

The changing face of Atrisco continued throughout the eighteenth century. Depending on the view, official or unofficial, Atrisco was often referred to as a *puesto* (a post), a *sitio* (a site or place), a *plaza* (a place), or an *aldea* (a village). Each term had its legal significance. But Atrisco was not easily defined, for private ownership of land had to be kept separate from lands held in common by the community of landowners. Pasturages, woodlands, and water presented other problems in the administration of the community of Atrisco. Economically, Atrisco was a farming community. Wheat, corn, and other crops were grown there during the colonial period. Wool, too, was a major industry as large sheep herds were tended in the uplands away from the farming bottomlands. In some ways, Atrisco could be defined by the many ways in which the land holding patterns and its uses could be seen.

In its larger context, Atrisco comprised of a number of individual settlements within the land grant, each containing its own plaza. Unlike Santa Fe where houses adjoined one another, Atrisco's settlement pattern, in general, contained houses that were near each other, albeit there were some structures that shared common walls. The settlement pattern, furthermore, was concentrated along the bottomlands for farming with access to a communal *acequia madre*. Ranching and grazing lands were located in the *mesilla* above the river. The census of 1802 showed four principal plazas in the Atrisco Land Grant, some named after the dominant family in each vicinity: Nuestra Señora de Guadalupe de los Garcias; San Fernando de los Chaves; San José de los Sánchez; and San Andrés de los Ranchos de Atrisco.⁵²

The frequent transferences of land were diligently tracked by their owners. Almost all transactions, moreover, were between kin, whether by blood, marriage, or *compadrazgo*. It seems that even before the death of the first owners of parcels of land within the Atrisco Land Grant, that the land had, through attrition, begun to be broken up from large estates to small parcels. Almost immediately, paternal granting of land to sons and daughters had occurred within the first generation of ownership. Through death, the names of owners changed as widows inherited land, some of them remarrying. Sale of parcels of land, which once had been concentrated among a few heads of families, changed hands.

The early history of most land transactions at Atrisco are easily traced. While some land transfers occurred during Fernando Durán y Chaves's lifetime, property transactions after his death, particularly between 1729 and 1757, became

⁵²Virginia Langham Olmstead, transcriber, Spanish and Mexican Censuses of New Mexico: 1750-1830, (Albuquerque: New Mexico Genealogical Society, 1981), 133-134.

increasingly complex as they took on a history of their own and set the pattern of future transactions. Soon after don Fernando's death, his sons Pedro and Nicolás sold their land to their niece's husband Bernabé Baca. The widow of Pedro's brother, Antonio, bought another piece of land from Pedro. Bernardo's children sold their inherited land to their cousin, Efigenia Chaves and her husband, Jacinto Sánchez. Meanwhile, Pedro moved north to a place in the Río Arriba; and Nicolás moved to a site south of Isleta pueblo.⁵³

The brisk pattern of selling and buying would eventually lead to bitter family splits, all of which began innocently. In 1729, for example, the widow of Luis de Chaves, Leonor Montaña, and her daughter, María Antonia de Chaves from Santa Fe inherited land in "el sitio de Atrisco." They sold it to a relative, Antonio de Chaves from Atrisco for two hundred thirty-nine pesos.⁵⁴ Sometimes, the land was donated, as in the conveyance of land in Albuquerque by Diego Padilla to Diego Borrego in 1734.⁵⁵ Each transaction followed a legally prescribed pattern so that by the 1730s, Atrisco appeared as a complicated web of ownership.

Ownership of the land with all of its covenants and restrictions had been established through the land grant and its subsequent conveyances. Transactions between settlers reveal how land was acquired within a land grant. Slowly, from fragmentary but useful documents, patterns of ownership and boundaries of the land within the Atrisco Land Grant emerges. It is, nevertheless, difficult to ascertain the size of each land holding because the documents rarely quantify the land under consideration.

All sales, resales, divisions, subdivisions, inheritance, and transfers of land were required to be notarized. In the absence of a notary, it was customary to have the highest ranking authority in the jurisdiction, usually the magistrate or *alcalde mayor* serve as notary with the obligatory witnesses. Both the buyer and the seller appeared before the *alcalde mayor* or notary, identified themselves, and certified the nature of the transaction. Given the barter economy of the period in New Mexico, payment was made in-kind, rather than in actual money. Since time immemorial, people have sold land for any reason whatsoever, and in the case of Isabel Montoya, poverty was the motivating factor.

Again, in 1732, another transaction took place, this time between Pedro Gomes de Chaves and Bernabé Baca. On March 26, 1732, Gomes de Chaves stood before the Alcalde Mayor Juan González de Bas and presented himself as a citizen

⁵³Tierras 934, Archivo General de la Nación.

⁵⁴Conveyance of Land at Sitio de Atrisco by Leonor Montaña and her daughter María Antonia de Chaves to Antonio de Chaves, September 9, 1729, SANM, I, roll i, frames 1250-2.

⁵⁵Twitchell, *The Spanish Archives of New Mexico*, I:71, No.178.

of the “Puesto de Atrisco.” He said that he had sold some agricultural land (*tierra de labor*) to Bernabé Baca, also from the “Puesto de Atrisco.” He said the land had been granted to his father, Captain don Fernando de Chaves. The size of the land was such that it could yield “about half a fanega of corn...and that its boundaries passed along the acequia madre on the northside, on the south with the boundary of his brother Antonio de Chaves, on the west with a small acequia which comes out of the acequia madre which waters the land of said don Antonio de Chaves, on the east is a cottonwood which is near the acequia madre....”⁵⁶ The land was sold for a hundred pesos.

By 1735, Captain Gerónimo Jaramillo, who served as *teniente de alcalde mayor* of the Jurisdiction of the Villa de Albuquerque, administered the sale of land at Atrisco. The seller, Francisco Xavier de Miranda, a settler of Puesto de Atrisco, sold a piece of land in Atrisco to Francisco Antonio Gonzales for one hundred ten pesos. The boundaries of the land, for which Miranda had a document stating he had purchased it from Juan Montaña, were physically described. The “boundaries are: on the east, on arroyo which was formerly an arm of the Río del Norte, and borders with lands of the said Juan Montaña, on the north with the lands of Phelipe Gallegos, on the west with the Río del Norte, and on the south with the lands of Joseph Montaña....”⁵⁷ It appears that the lands of Antonio Gurulé also bordered those of Miranda, probably on the north side.⁵⁸In the conveyance of his lands of 1735, Montaña renounced, according to law, any future claim to the lands he sold.

In the sale or transfer of land adjoining Atrisco, Atrisqueños diligently watched each transaction. In 1734, Joaquín Sedillo acquired land near Isleta Pueblo contiguous with Atrisco. The transaction had been notarized by Juan Gonzales Bas, the *alcalde mayor* of the Villa de San Felipe de Albuquerque, whom the Durán y Chaves clan had refused to seat in 1712. Later, in 1768, when Joaquín's son, Antonio Sedillo of Albuquerque, considered selling that land, its boundaries were described as commencing “below the pueblo of Isleta. Boundaries, north, the league of the pueblo of *Isleta*; south, a twin alamo called “*Alamo de Culebra*,” east, the *Río Grande*; west, the *Puerco* ridge. In the conveyance it is set forth that this tract was

⁵⁶Conveyance of Land in the Puesto de Atrisco from Pedro Gomes de Chaves to Bernabé Baca, Villa de San Phelipe de Albuquerque a 26 dias del mes de Marzo de 1732, SANM I, roll 1, frame 632-633. Translation by Joseph P. Sánchez.

⁵⁷Conveyance of lands in Puesto de Atrisco between Francisco Xavier de Miranda and Francisco Antonio Gonzales, 25 dias del mes de Marzo de 1735, SANM I, roll 2, frames 707-708. Translation by Joseph P. Sánchez.

⁵⁸Twitchell, *The Spanish Archives of New Mexico*, I:165, No. 601.

granted to the father of the grantor by the crown.”⁵⁹ On January 11, 1769, when Antonio Sedillo sold a tract from his inheritance, to Diego Borrego, the Atrisqueños looked on with great interest, for they turned out to witness the marking off of the boundary later that year.

In the grant, given to Antonio Sedillo in 1769, the eastern boundary was described as a hill called “Cerro Colorado, which is the boundary of those of Atrisco...The grant was made...in the presence of Captain Baltazar Baca and Manuel Torres, and the settlers of Atrisco and the Rio Puerco, including Manuel Vaca, José Chaves, and Lieutenant Juan Bautista Montaña, and some ‘*Navajo Apaches*.’”⁶⁰ Thus, Atrisqueños jealously guarded their boundaries whenever they were aware of a transaction.

Another example of a transfer of land took place in 1764, when Quiteria Durán y Chaves, don Fernando’s granddaughter, and wife of Bernardo Padilla, and mother of Pedro Durán y Chaves, divided her estate among her natural children, she did so as “don Fernando Durán y Chaves had wished.”⁶¹ Although she lived in the Villa de Albuquerque, Pedro had asked her to divide her lands in the Puesto de Atrisco into five equal parts (each 52 varas wide by 179 varas long), among himself and his brothers.⁶² Pedro might have made the request to protect his and his brothers interests to the land, for they were not the legitimate sons of Bernardo Padilla. If so, he may have avoided a long and bitter legal battle over the land.

How the Spanish colonial legal system worked is readily seen with the various transactions that took place at Atrisco during that period. More importantly, it is evident that the system of justice regarding how the procedure of testimony, the role of the magistrate, and the decision making process involving the governor as arbiter was followed in each step taken. That justice was served depended on how plaintiffs and defendants presented their cases. Each party was given an opportunity to see what had been said or entered into the record before it was submitted to the governor for final decision. Each side was given a voice in the matter as well as time to respond. When the case was finally resolved, even if governmental power was

⁵⁹Twitchell, *The Spanish Archives of New Mexico*, I:71.

⁶⁰Twitchell, *The Spanish Archives of New Mexico*, I:70-71.

⁶¹Año de 1764, No. 871, Petición de Quiteria Chaves sobre el repartimiento de unas tierras a sus Hijos naturales en defecto de no tenerlos legítimos. No. 871, SANM I, roll 1, frame 1386.

⁶²Quiteria Chaves, petition to divide her estate among her natural children, Atrisco, 1764, SANM I, roll 1, frame 1381.

required to enforce the gubernatorial decision, the Spanish colonial system of litigation demonstrated that it had worked.

LAS CIRUELAS AND ARBOLITO DEL MANZANO, 1769

In 1757 occurred a sale of a piece of land in Atrisco that would test the strength of the Durán y Chaves family established by don Fernando Durán y Chaves. Although he had not stated so in writing, don Fernando must have expected that the land would remain in family hands. His will, written in 1707 bequeathed his estate to his nine surviving children and the heirs of his deceased son, Bernardo. After his death, the will was executed as he had wished. For over thirty years after his death, the family transacted land deals among each other with few problems.

Problems, however, began innocently, when, in 1757, José Durán y Chaves from El Paso appeared before the alcalde mayor of the Villa de Albuquerque, Antonio Baca, and stated that he had sold lands which he had inherited from his father Bernardo Durán y Chaves, son of Fernando Durán y Chaves, II, the original grantee in 1692. As there were no claims against the property, Baca verified and certified the sale. The sales price was 550 pesos. The document was witnessed by several members of the family. For nearly twelve years, the land underwent a series of divisions and transactions as they had previously—all within the family.

In 1769, after Jacinto Sánchez's death, Joseph Hurtado de Mendoza, doña Efigenia's son-in-law, read Fernando Durán y Chaves's last will and testament and began to explore its advantages for his mother-in-law and her heiress, Feliciana Sánchez, his wife. Curiously, he noted, a piece of land was unaccounted, and he pondered the possibility of it belonging to lands adjoining those of his mother-in-law. Apparently, he arranged for Nicolás Durán y Chaves, his wife's great-uncle, to make a statement regarding a property in Atrisco known as Las Ciruelas.⁶³

Thus Nicolás de Chaves claimed that Las Ciruelas, bounded in the south by lands of the Durán y Chaves family, belonged to the heirs of his brother Bernardo who had died in 1705. Insisting that the acequia running through Atrisco at that time was not the original irrigation ditch used as the boundary of Bernardo's lands, Nicolás submitted that the wrong ditch had been used to survey the boundary. He suggested that the present owners of Las Ciruelas, the Romero family, illegally possessed the land. Nicolás said that he and his brother, Pedro, had dug an acequia dividing the land after they had inherited it from their father; and, that the original acequia was not the one in use, but one which had been covered from disuse.⁶⁴

⁶³Greenleaf, "Atrisco and Las Ciruelas," *NMHR*, 42:8.

⁶⁴Greenleaf, "Atrisco and Las Ciruelas," *NMHR*, 42:8.

Nicolás's statement was enough to challenge the Romero claim to Las Ciruelas. Hurtado de Mendoza lost little time in explaining its significance to his mother-in-law.

With statement in hand, Efigenia Durán y Chaves de Sánchez presented her petition to Francisco Trébol Navarro, the alcalde mayor of the Villa de Alburquerque. Legal proceedings over ownership of Las Ciruelas and its adjacent properties had begun.⁶⁵ In her statement to Trébol Navarro, she described how the boundaries had been determined when her late husband had acquired the land in 1757. She also noted that Jacinto Sánchez had been ill the day of the survey and, that her brother, Diego Antonio Durán y Chaves, witnessed the measurement of the land. As Efigenia had stated, her husband “*se hallaba postrado en cama.*”⁶⁶ Efigenia stated, furthermore, that the land divided by the acequia had therefore been illegally sold by Felipe Romero to Ignacio Romero. Her statement was that “having erred in [defining the boundaries] they showed the [wrong] boundaries; only a quarter of the land was what they had sold.”⁶⁷ Efigenia also stated that at the time of her statement, “doña Luisa Duran y Chaves, was already deceased, but at the time [of the sale] was absent from the said kingdom. She had given power of attorney to Juan Chaves, her brother, for herself as well as to her sons, nephews and heirs, and in the name of all, thus represented, the sale was made [to her husband Jacinto Sanchez].”⁶⁸ Efigenia also submitted as corroborating testimony, the paper supporting her claim signed by Nicolás Chaves, the elder, who also was deceased at the time of the hearing. The problem she said stemmed from an illegal sale of a part of the land in question by the Romeros while her husband still owned it. Describing that there was continuous trespass across her lands as well as continued development and farming on the land in question by the Romeros, she urged the alcalde to establish the ownership of Las Ciruelas before it became impossible to prove her right to the land.

The case was further complicated by the apparent death of Felipe Romero. His heirs, especially his son, Andrés Antonio Romero, watched the proceedings with great interest.

On April 12, 1769, Alcalde Mayor Trébol Navarro began the investigation into the ownership of Las Ciruelas. Summoning the interested parties to testify,

⁶⁵Autos Seguidos entre Yfigenia Duran y Chaves, Atrisco, 1769, AGN, Sección Tierras 934, exp. 7, ramo 2.

⁶⁶Autos seguidos entre Yfigenia Duran y Chaves, Atrisco, 1769, AGN, Tierras 934, f. 96.

⁶⁷Autos seguidos entre Yfigenia Duran y Chaves, Atrisco, 1769, AGN, Tierras 934. Translation by Joseph P. Sánchez.

⁶⁸Autos seguidos entre Yfigenia Duran y Chaves, Atrisco, 1769, AGN, Tierras 934, f. 26. Translation by Joseph P. Sánchez.

Trébol reviewed the claim by doña Lucía Ana Durán y Chaves, widow of Felipe Romero and daughter of Antonio Durán y Chaves and heir to his lands in Atrisco. She was also known as doña Ana. Beyond her hereditary interests to Las Ciruelas and other lands in Atrisco, the desire to determine its ownership was magnified more so because her son, Andrés Antonio Romero was living in Las Ciruelas and farming the said lands. On his shoulders would fall the burden of defending his mother's claim to the land against the interloper, José Hurtado Mendoza, and the eager Efigenia Durán y Chaves.

Meanwhile, Andrés Antonio Romero appeared before the governor in behalf of his mother, doña Ana Durán y Chaves and stated that she was indeed one of the heirs to the land passed down by don Bernardo Durán y Chaves. He stated that his grandfather Antonio Durán y Chaves had been in possession of those lands since 1722.⁶⁹ In clear language, he stated that his great grandfather, don Fernando Durán y Chaves, had stated in his will the following item: "To the children of my son, Bernardo, I leave the house that belonged to my father with its field at Las Ciruelas and one apple tree. I leave them, furthermore, one lot of land which runs from Las Ciruelas to where an irrigation ditch forms its boundary."⁷⁰

Andrés Romero explained that the referenced piece of land which the heirs attempted to take from his mother was on the other bank of the said irrigation ditch, which in effect served as a boundary for lands on both its banks. If that be so, then it should be clear that the other bank of the irrigation ditch formed a distinct boundary to the land on that side of it. And that land, he explained, was vacant and not mentioned in don Fernando's will.⁷¹

Andrés submitted, therefore, that Pedro Gomes and Nicolás Chaves, brothers to Antonio Durán y Chaves, his grandfather, as interested parties and settlers in the Valle de Atrisco, had in 1722, signed the paper because they recognized that the land in question belonged to don Antonio.⁷²

As described in the document of 1722, the contested land in Atrisco comprised of a lot with structures, "which run downward from the escarpment near the house of Juan de Perea to the three trees that are in the acequia which border the lands of Luis de Chaves, brother of the deceased" and at the time don Fernando had

⁶⁹Statement by Andres Antonio Romero, n.d., AGN Tierras 934.

⁷⁰Statement by Andres Antonio Romero, n.d., AGN Tierras 934. Translation by Joseph P. Sánchez.

⁷¹The statement was already admitted as a factor to consider before Alcalde Mayor Trébol Navarro, see Citaciones y Vista de Ojos, en el Puesto de Atrisco, 3 de Abril de 1769, AGN, Tierras 934. Transcription by Joseph P. Sánchez.

⁷²Statement by Andres Antonio Romero, n.d., AGN Tierras 934.

written his will, he believed that there was no other piece of land. But, don Fernando had “forgotten” that there was indeed another piece of land, and so he corrected his mistake by granting it to his son, Antonio Durán y Chaves, in front of witnesses. That piece of forgotten land, was the land in question.

Having presented his case, Andrés Antonio Romero made his plea: “I ask, in the name of my mother, that justice may be served, as do the [other] heirs seek, by using the boundaries left by my deceased grandfather and which my father used in the sale of the land in question to Ignacio Romero.”⁷³

In his statement, Andrés acknowledged that the transfer was made with the condition that Felipe Romero would give don Ignacio another piece of land should there be a cloud on the title to the land. He said that the confusion rested on the “verbal allegations [agreements] made between my father and Jacinto Sánchez. And, furthermore, although [he and his mother] had, nonetheless, seen don Fernando’s will, they had never read it with a studied eye.”⁷⁴ Until Hurtado Mendoza had pointed it out, it had not occurred to them that the land in question lay outside the terms of the will.

The paper signed in 1722 by Pedro Gomes now took on new significance, for it was the only statement showing that it was recognized that the land lay outside of the terms of don Fernando’s will. Thus, aided by her very able son, Andrés Antonio Romero, doña Ana mounted a vigorous offensive. Otherwise, doña Ana, in front of the appropriate officials, had already told don Pedro Durán y Chaves to his face that “his signature was on the testament, that is, the paper, which don Alonso Rael de Aguilar, had drawn up.”⁷⁵ Although don Pedro vigorously denied it, the words rang loudly and would not go away. Slowly, the tide began to shift in favor of doña Ana Durán y Chaves.

Attempting to recover his advantages, Hurtado de Mendoza drew up an interrogatory. On it, he listed nine questions which he hoped would draw attention to the issue of the acequia.⁷⁶ The interrogatory was submitted to Trébol Navarro who accepted it.

On May 18, 1769, at Tome, Pedro Gomes Durán y Chaves appeared before Alcalde Mayor Trébol Navarro to give testimony. Addressing the first question, he

⁷³Statement by Andres Antonio Romero, n.d., AGN, Tierras 934. Translation by Joseph P. Sánchez.

⁷⁴Statement by Andres Antonio Romero, n.d., AGN, Tierras 934. Translation by Joseph P. Sánchez.

⁷⁵Autos seguidos entre Yfigenia Duran y Chabes, Atrisco, 1769, AGN, Tierras 934, f. 99.

⁷⁶Yntterrogatorio de Preguntas, AGN 934, ff. 107.

affirmed as had his predecessors that the lands of Las Ciruelas and the Arbolito de Manzano were adjoining. They were the ones that doña Antonia Baca had sold, and the same ones that belong to Joseph, Juan and Lucía Chaves, and the same that don Fernando had left to his referenced heirs.⁷⁷

Don Pedro stated that the lands that came out of Las Ciruelas through that of the Arbolito de Manzano were adjoining with his and were the same ones sold by doña Antonia Baca. Moreover, they were the ones which his nephews Joseph, Juan and Lucía Chaves inherited from don Fernando through their father don Bernardo. The lands were still identifiable because the house, now in ruins, belonged to his grandfather don Pedro Durán y Chaves, the first settler of Atrisco. Those lands, he said, stretched to meet the entrance to Atrisco which was on a small hill.⁷⁸

He said that during don Fernando's lifetime there was no other acequia than the acequia madre which ran behind the said house and after the *bordo del arenal* turned as far as the large field with trees which his father owned. There the acequia stopped. That was the acequia that ran behind his grandfather's house which is now in ruins. Another acequia, the one which ran along some plum trees (*árboles de ciruelas*) were the lands that his father had left to his son don Bernardo. That acequia terminated in a hole that formed a tank which was on the eastside. Giving a half turn toward the east, it followed straight south toward the lands of Nicolás, his brother. That acequia watered the field of trees that his father had left him. Afterwards, that acequia met with the old road which ran past the ruined house. On many occasions, his father had told him that the acequia served as the eastern boundary of his lands and that the west side of it was the boundary to the children of his brother Bernardo.⁷⁹ He felt strongly that Felipe Romero did not in any way deserve the lands, "as much as he would like to say they are his."⁸⁰

Regarding the paper doña Ana had said he had signed, he reiterated that he had never placed his signature granting possession of the lands in question at Atrisco. He declared the paper false, for never in his life had he used the name Gomes, "because it was not his legitimate last name but one that is supposed."

⁷⁷Declaración de Efigenia Duran y Chaves, May 18, 1769, Tome, AGN, Tierras 934, ff. 111v.

⁷⁸Declaración de Pedro Gomes, 18 May 1767, Tome, Primera Pregunta, AGN, Tierras 934, ff.111.

⁷⁹Declaración de Pedro Gomes, 18 May 1767, Tome, Segunda Pregunta, AGN, Tierras 934, ff. 112.

⁸⁰Declaración de Pedro Gomes, 18 May 1767, Tome, Pregunta Sexta, AGN, Tierras 934, ff. 112v.

Thus, if his signature was forged, so too was the paper granting don Antonio possession of the land at Las Ciruelas.⁸¹

He stated, furthermore, that at no time could he ever remember any judge granting possession of lands to his brother, don Antonio Chaves. He accused Felipe Romero of trickery by means of producing a false document stating that everyone had agreed to give the lands to don Antonio because their father had forgotten to include them in his will. To don Pedro the entire proposition was false.⁸² Having terminated the inquiry as presented by Hurtado de Mendoza, Trébol Navarro ordered doña Ana de Chaves to submit the paper signed by don Alfonso Rael de Aguilar in 1722 within nine days.⁸³

Andrés Antonio Romero appeared before Trébol Navarro at Puesto de San Isidro de Pajarito and politely thanked him for having sent copies of the previous proceedings. The able Andrés had studied the documents, especially those with the interrogatory, and prepared a brief. Placing emphasis on the document of 1722, he explained that “it is very clear that don Antonio Durán y Chaves presented himself verbally before the referenced lieutenant general petitioning that doña Lucía Hurtado, legitimate mother of my referenced deceased grandfather don Antonio Chaves and her other children...as required in the said possession....don Pedro Durán y Chaves, don Nicolas de Chaves and don Pedro Gómez Durán y Chaves that the said piece of land belonged to my grandfather don Antonio Durán y Chaves and with their statements the said lieutenant general proceeded to give him possession which was signed by the aforesaid as evidenced by their signatures....With his wornout statements don Pedro Gómez attempts to deny that which he gave when he was young before the competent judge and despite his cleverness his advanced age does not permit it.”⁸⁴

Andrés minced few words in tearing his adversaries’ testimonies apart one by one. Intrepidly, he went on to say that he held little respect for the statement made by don Nicolás as well. He felt that their statements were made faulty by their advanced ages. Indeed, Andrés boldly stated that he questioned don Nicolás’s testimony, “if it is true that he gave it, for he was more advanced in age” than don

⁸¹Declaración de Pedro Gomes, 18 May 1767, Tome, Octava Pregunta, AGN, Tierras 934, ff. 112v.

⁸²Declaración de Pedro Gomes, 18 May 1767, Tome, Novena Pregunta, AGN, Tierras 934, ff. 113.

⁸³Auto signed by Francisco Trébol Navarro, 29 May 1767, Puesto de San Isidro de Pajarito, AGN, Tierras 934 115v-116.

⁸⁴Respuesta de Andres Antonio Romero, AGN, Tierras 934, ff. 25. Translation by Joseph P. Sánchez.

Pedro. Andrés flatly stated that he felt that don Bernardo was not in his right mind. Bernardo, son of don Nicolás, on the other hand, may have perjured himself, for on the first question, he had already answered falsely (*que desde la primera pregunta viene faltas a la Religión del juramento*).⁸⁵

An astute student of the genealogy of Atrisco, Andrés aptly pointed out that Bernardo had sworn that “he is the oldest son of don Nicolás de Chaves which is not so because the eldest is Joseph Chaves after whom was born Nicolás Chaves....who died a few years later. Andrés said that Bernardo was not in his right mind, “his testimony lacks truth...because he is such a limited individual that it is impossible that he is aware of what he has declared.”⁸⁶ Then in colonial terms, he condemned the testimony of Antonio Chaves of Las Nutrias because he was a “genízaro, his mother, a Jumana, was a servant to don Pedro de Chaves. Therefore, he is incapable of understanding the gravity of his legal oath.”⁸⁷ Then, Andrés, in discrediting Antonio Chaves’s testimony, declared that Antonio was not the son of don Nicolás, for his mother was unmarried.⁸⁸ Andrés submitted that Antonio’s falsehoods were enough to dismiss his testimony.

Turning to testimony describing the location of Las Ciruelas, Andrés declared that he placed no value on what Joseph Hurtado de Mendoza had submitted. He turned to don Fernando’s will and the document of 1722 which had been given to his grandfather don Antonio Durán y Chaves. “Las Ciruelas is located on the eastside” of Atrisco, he wrote. And the unattached land that don Fernando de Chaves had left in his will “runs from the said Las Ciruelas to the west where the house belonging to don Pedro Chaves stood. The clause in the will that cites that the acequia is the boundary of the said unattached lands runs from north to south and border the said lands on the eastside with the said acequia. And the piece of land under examination is on the other side of the said acequia which heads south.”⁸⁹ That, he said, had already been proven and did not pertain to the heirs of don Bernardo de Chaves. He, furthermore, left them **cenidos** in relation to the said acequia and nothing is conceded from the other side of the acequia.

⁸⁵Respuesta de Andres Antonio Romero, AGN, Tierras 934, ff. 25. Translation by Joseph P. Sánchez.

⁸⁶Respuesta de Andres Antonio Romero, AGN, Tierras 934, ff. 25.

⁸⁷Respuesta de Andres Antonio Romero, Agn, Tierras 934, ff. 25. Translation by Joseph P. Sánchez.

⁸⁸Respuesta de Andres Antonio Romero, AGN, Tierras 934, ff. 25.

⁸⁹Respuesta de Andres Antonio Romero, AGN, Tierras 934, ff. 25. Translation by Joseph P. Sánchez.

Then Andrés played his trump card—he asked Trébol Navarro to permit him to submit “more proof, which is my right and that of my said mother, I ask you, so that you may be better served, to summon Isidro Sánchez, settler of La Alameda.” Surely, thought, Andrés, if anyone could clarify whether the granting of possession to Antonio de Chaves was truly made in 1722, Isidro Sánchez would be the one, for he was there.

Andrés stated, moreover, that the lands sold by don Joseph were not the ones in question, for they belonged to someone else. The ones sold, as shown in the sales contract, by Joseph Chaves was made before Captain don Antonio Baca to Jacinto Sánchez, and “I was the witness as demonstrated by my signature on the sales contract...and...that...permitted the past sale of the said lands in question to be without contradiction.” In other words, the lands sold to Jacinto Sánchez were not the ones at Las Ciruelas and Arbolito de Manzano. His point was that the acequia madre was the original boundary of the lands owed the heirs, not the one that was covered from disuse at Las Ciruelas. With that, Andrés ended his response to Hurtado de Mendoza’s interrogatory.

Old and ailing, Isidro Sánchez Vañares Tagle, could not make the trip from Santa Fe to the Villa de Albuquerque. He apologized that he was sickly and could not mount a horse to present himself before Trébol Navarro. His record was unblemished in the service to his king, for he had served as lieutenant of the Pueblos of Jemes, Zia, Santa Ana and the Puesto de San Francisco de Bernalillo, and he had assisted the Franciscan friar Carlos Joseph Delgado establish relations with the Hopi that permitted the transfer of natives to re-establish Sandia Pueblo in the late 1740s. He had also served as lieutenant at the presidio of San Felipe de Terrenate in Sonora.⁹⁰

Sánchez stated that in 1722 when he was stationed at the Real Presidio de la Villa de Santa Fe, he had accompanied Alfonso Rael de Aguilar and was a guest in the house of don Antonio Durán y Chaves in the Puesto de Atrisco. During that time, the heirs of don Fernando Durán y Chaves also were at the house. Among them were don Pedro, don Nicolás, Pedro Gomes, and doña Isabel Durán y Chaves, who met to dispose of the will left by the deceased don Fernando. In the proceedings, the land in question came up and it was decided by everyone there to grant it to Antonio de Chaves, which was done by Rael de Aguilar, as he had been empowered to do so. To Sánchez’s recollection, the land had little use. Then he described, with great accuracy, the boundaries:

Its boundary ran on the westside along the acequia which passes the house of Pedro de Chaves, on the south with the lands of Nicolás Chaves, on the eastside the Camino Real, and on the north

⁹⁰Signed statement by Isidro Sánchez Vañares Tagle, 6 June 1769, Santa Fe, AGN, Tierras 934, ff. 26.

with the vado or ford of the same acequia close to a small apple tree. This is the land which the said don Alfonso Rael de Aguilar with all the ceremonies empowered him he granted without any controversy. The said heirs signed it, and I signed for Nicolás, and I remember that he was disappointed in me because I did not put don with his name, otherwise it was done quietly and calmly.⁹¹

Sánchez said that Rael de Aguilar had officiated over such proceedings many times, and as proof of this, any one could check the archives in Santa Fe and see that he had been authorized to do so on various occasions. Trébol Navarro received Sánchez's deposition two days later and entered it into the record.⁹²

Having looked over Ysidro Sánchez's statement, Trébol Navarro informed doña Ana Durán y Chaves that "at first view" he believed Isidro Sánchez statement "was not sufficient proof" to support her case and that she ought submit other witnesses.⁹³ Forty-five year old Diego Antonio Durán y Chaves, brother of doña Efigenia, stepped forward in her defense. Asked if "he knew that the piece of land of which doña Ana Duran y Chaves has been dispossessed by doña Efigenia Duran y Chaves at the Puesto de Atrisco and which actually was owned by Ignacio Romero is the same unattached land which was sold by the heirs of the deceased don Bernardo de Chaves to the said dona Efigenia Chaves, or that which is acknowledged to have another owner? He answered that publicly and by notary he knew through hearsay that the piece of land was vacant and that recently, he saw Felipe Romero, consort of doña Ana Duran y Chaves, who communicated the sale of a piece of land to Ignacio Romero."⁹⁴

Regarding the acequia and the most recent sale of the land to Jacinto Sánchez, don Diego answered that at the time of the sale, the acequia was already there and that Jacinto Sánchez who was ill in bed on the day of the sale had asked don Diego to go out with the buyers and the heirs of don Bernardo because no one else knew enough about the boundaries of the land to be sold as most of them had been raised outside of Atrisco. Furthermore, they only sold a piece of land that they had inherited from their father which agreed with that stated in don Fernando's

⁹¹Statement signed by Isidro Sánchez, 6 June 1767, Santa Fe, AGN, Tierras 934, ff. 26v.

⁹²Diligencia signed by Francisco Trébol Navarro, 8 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 27.

⁹³Diligencia signed by Francisco Trébol Navarro, 8 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 27-27v.

⁹⁴Declaración de don Diego Antonio Chaves, 8 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 27v-28r. Translation by Joseph P. Sánchez.

will.⁹⁵ As a witness to the sale of the land, Diego Antonio Durán y Chaves presented a clear and credible statement.

Another witness, Ignacio Chaves, a settler of Atrisco, came forward to support doña Ana's case. He stated that he knew the land in question well and that Felipe Romero had sold a piece of land to Ignacio Romero by virtue of the instrument of possession that was made by Alfonso Rael de Aguilar in 1722. As long as he could remember, the acequia had always been there. Having sworn his statement, Ignacio Chaves declared that he was forty-three years old and had been raised at Atrisco.⁹⁶ Therefore, his testimony, too, had great credibility in the proceedings.

His case deteriorating, Joseph Hurtado de Mendoza made a desperate effort to salvage the legal position and interests of doña Efigenia. In his written statement, he said that don Diego Antonio Durán y Chaves and Ignacio Chaves lied in their statements. Hurtado de Mendoza said that at the time of the sale, the lands were not vacant and that don Diego knew it because Joseph and Nicolás Chaves, the sellers, were there, showed all interested parties the land in 1757, and testified to the contrary in 1769.

Along a different line of reasoning, Hurtado de Mendoza stated that soon after his marriage to Feliciana Sánchez, he was planting his field when don Diego told him that the piece of land on the other side of the acequia which serves to irrigate his corn fields was his (Hurtado de Mendoza's through Efigenia) because when the Chaves's were going to re-plow (*reirar*) the fields, "they showed him the said lands adjoining the Old Road and told him that although Felipe Romero had sold the said piece of land, he had done so in bad faith. Therefore, I could easily claim it because it was mine. Similarly, you would be best served summoning Ignacio Chaves, who under the same oath, says and declares that he is certain that the acequia is still visible, that it issues from Las Ciruelas, but it is covered up. Likewise, ask him if he is certain that when Felipe Romero went to sell the said piece of land that he wanted to buy it, but he did not do it because Tomás Chaves then told him not to buy it because he would end up with nothing, for it did not belong to Felipe Romero."⁹⁷

On June 12, 1767, Trébol Navarro, in an effort to clarify the charges leveled by Hurtado de Mendoza summoned Joseph Chaves, Diego Antonio Chaves, and

⁹⁵Declaración de don Diego Antonio Chaves, 8 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 27v-28r.

⁹⁶Declaración de Ignacio Chaves, 8 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 28v-29.

⁹⁷Declaración de Ignacio Chaves, 8 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 28v-29r.

Ignacio Chaves before him to clarify their answers.⁹⁸ Joseph Chaves and Diego Antonio Chaves testified in the same session. Asked how much land was actually shown to Jacinto Sánchez and what were its boundaries, don Joseph answered “That having brought Nicolás de Chaves over from his house so that he could make known his lands after he had shown them to us, and that on the eastside they issued from Las Ciruelas and ran to the south until it reached the property of don Nicolás. Don Nicolás had told him that they reached up to where he has declared and he knows full well about them, having dealt with the sale with Jacinto Sánchez. Sánchez asked his brother-in-law, don Diego Antonio Chaves, to be sure to see them and having joined him (Joseph Chaves) and his brother, Juan Chaves, together went to Las Ciruelas following the eastside they walked along it straight south and they came to the hole or well which was filled. Walking beyond it, toward the property of Nicolás Chaves, don Diego Antonio parted from them without having made any recommendation.”⁹⁹

Turning to don Antonio Chaves, Trébol Navarro, asked him whether it was true he had made certain comments to Hurtado de Mendoza leading him to believe the land at Las Ciruelas was his, and whether or not he said that Romero had sold the land in bad faith. Don Antonio responded he “had not said anything like that, and if he did intimate anything like that, he did not remember it, nor does he have any recollection of such a thing.”¹⁰⁰ When asked if one afternoon don Joseph Hurtado de Mendoza had taken him out to the acequia at Las Ciruelas which is filled and is still distinguishable, don Antonio responded that “it is certain that he entered the said acequia at the said Ciruelas where it originates, and, while in it, he followed it to the hole which he has declared before and that from there he turned around to Ciruelas by means of the same acequia”¹⁰¹ indicating that nothing else happened or was said. The acequia he followed was short, covered over, and did not go any place. It merely terminated at the tank it formed. There was nothing special about it, especially as the lands around it were largely vacant. It hardly met the specifications of an acequia madre, much less one that would be used to define the boundaries of several heirs.

⁹⁸Auto signed by Trébol Navarro, 12 June 1767, Puesto de San Isidro de Pajarito, AGN, Tierras 934.

⁹⁹Declaraciones de don Diego Antonio Chaves and don Joseph Chaves, 12 June 1767, Puesto de San Isidro, AGN, Tierras 934, ff. 31r-31v.

¹⁰⁰Declaraciones de don Diego Antonio Chaves and don Joseph Chaves, 12 June 1767, Puesto de San Isidro, AGN, Tierras 934, ff. 31r-31v. Translation by Joseph P. Sánchez.

¹⁰¹Declaraciones de don Diego Antonio Chaves and don Joseph Chaves, 12 June 1767, Puesto de San Isidro, AGN, Tierras 934, ff. 31r-31v. Translation by Joseph P. Sánchez.

That day, Ignacio Chaves testified again, but did not change his previous testimony. Basically, he reiterated that he knew the land in question at Las Ciruelas. He explained that he had not purchased the land because Tomás Chaves had warned him that the land was sold by Felipe Romero in bad faith. Ignacio clarified that “Tomás Chaves, brother-in-law of Felipe Romero, had told him not to buy a piece of land that ran from the old road, but from the new road that had been recently opened. Afterwards he became suspicious whether the land belonged to Felipe Romero.”¹⁰² Slowly, Trébol Navarro began to see how Hurtado de Mendoza had deftly twisted people's words at Atrisco. The testimony of Antonio Chaves and Ignacio Chaves clearly showed an odd manipulation of facts.

Having lost some ground with Diego Antonio de Chaves and Ignacio Chaves, Hurtado de Mendoza called upon Marcial Zamora and Juan Candelaria from the Villa de Albuquerque to testify in his behalf. They were subjected to an interrogatory of five questions related to their knowledge of the land at Las Ciruelas. They were unable to go to Pajarito because they could not cross the Río Grande which was running high and fast. So, Trébol Navarro delegated his commission, in this instance, to Francisco Perea, the teniente of the Villa de Albuquerque, to carry out the inquiry.¹⁰³

On June 14, 1769, Perea took the testimony of Marcial Zamora who readily said he may not remember everything they wanted to know but he did know that there was no other acequia at the time of don Fernando than the acequia madre. On the same day, Perea interviewed Juan Candelaria who had basically the same answers. He said that at one time the entire Valle de Atrisco belonged to don Fernando and that during his lifetime there was only one acequia: the acequia madre. If there was another acequia, he did not know about it. Perhaps, he thought, they were referring to one small acequia that watered the lands of Pedro Gomes which ran only a short distance. Beyond what he had answered, he had little more to say on the subject.¹⁰⁴

Patiently, on 16 June 1769, Trébol Navarro reviewed the new materials, and was, probably relieved to know that Hurtado de Mendoza did not have any more witnesses to present. Upon receiving the new testimony to review, Andrés Romero

¹⁰²Declaración de Ignacio Chaves, 12 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 34.

¹⁰³Notation signed by Francisco Trébol Navarro, 12 June 1769, AGN, Tierras 934, ff. 33v.

¹⁰⁴Declaración de Juan Candelaria, 14 June 1769, Villa de Albuquerque, AGN, Tierras 934, ff. 34r-35v.

asked for six days to respond. Trébol Navarro granted the grace period.¹⁰⁵ Having reiterated his position, Andrés accused Hurtado de Mendoza of maliciously obscuring the facts and proving nothing. All the new testimony showed that only the acequia madre existed at the time of don Fernando. Therefore, the land in question could only be located in relation to it. Even some of the witnesses chosen by Hurtado de Mendoza had shown that. It followed from the testimony that Hurtado de Mendoza had misrepresented the facts. Everything that had happened to his mother, Ana de Chaves, in regard to her being dispossessed of her land, thought Andrés Romero, could be traced to Hurtado de Mendoza. Andrés stated that Hurtado de Mendoza had not proven his case. He felt that Hurtado de Mendoza had stalled for time because he had maliciously plowed the land and was waiting to harvest it. Again, he asked Trébol Navarro to do the right thing and give the land back to his mother.¹⁰⁶

Trébol Navarro now turned to making a recommendation to Governor Pedro de Mendinueta. On July 1, 1769, Trébol Navarro transmitted the entire set of files to the governor for a decision. Governor Mendinueta responded four days later with a request that Trébol Navarro convene all the interested parties at the Puesto de Atrisco and draw a map of the land in question and its relationship to all other boundaries and acequias to the time of don Fernando's will.¹⁰⁷ Trébol Navarro immediately complied with the order; he convened all parties that day and began the task of drawing up a map that all would find agreeable.¹⁰⁸

By July 22, Trébol Navarro had gathered all materials pertaining to the case and sent them off to the governor. A few weeks later, in August, he received the governor's final decision on the matter. Calling Hurtado de Mendoza and doña Ana Durán y Chaves before him, Trébol Navarro read them the governor's final decision. On August 22, 1769, they met at Puesto de San Isidro de Pajarito. Trébol Navarro, with all the powers vested in him, read the decision, dated August 11, 1769, in its entirety to them.

Trébol Navarro began by noting that Governor Pedro Fermín de Mendinueta had stated that none of the heirs of Bernardo Chaves had shown the boundaries of the land in question to be theirs, nor had Hurtado de Mendoza been

¹⁰⁵Traslado a Andres Romero, 16 June 1769, Puesto de San Isidro de Pajarito, AGN, Tierras 934, ff. 35r.

¹⁰⁶Response by Andres Romero to don Francisco Trébol Navarro, n.d., AGN, Tierras 934, ff. 37r-38v.

¹⁰⁷Pedro Fermín de Mendinueta, 5 July 1769, Santa Fe, AGN, Tierras 934, ff. 39.

¹⁰⁸Obdecimiento, 5 July 1767, signed by Francisco Trébol Navarro, AGN, Tierras 934, ff. 39v.

effective in that effort. In viewing the question of the acequia as a boundary during the time of don Fernando, the governor stated that don Fernando as the owner of the Valle de Atrisco had left the land to the heirs of don Bernardo, his son, but the only acequia that he could have used as a boundary would have been the acequia madre “which is the one that Andrés Romero says it is, not the one presented by Hurtado de Mendoza.”¹⁰⁹ The first acequia, wrote the governor, runs southwest to the house of Pedro de Chaves, which was the one indicated by don Fernando, but the second acequia in the small piece of land runs southeast, a very distinct direction to what don Fernando had indicated. The acequia madre defined the lands of the heirs of don Bernardo, María Chaves, the litigants as well as those of Isabel and Nicolás Chaves, and even those of don Pedro de Chaves. Otherwise the whole thing appeared “absurd (*es absurdo*).”¹¹⁰

Regarding the contention by Hurtado de Mendoza that the paper of 1722 was false, the governor dismissed the notion. He said that the considerable analysis made of the signatures proved that the document was not false. Indeed, the governor ordered them compared with signatures made by Rael de Aguilar in other documents in the archives in Santa Fe and were found to be authentic. The governor seemed somewhat concerned that Hurtado de Mendoza had signed every document regarding the claim made by doña Efigenia Durán y Chaves and seemed to question his motives in doing so. He questioned, furthermore, Hurtado de Mendoza’s impetuous planting of the land in question while a legal cloud over it existed. It did appear to most observers that Hurtado de Mendoza was hoping to harvest the crop of corn and wheat in the fall and make whatever profit he could.

Announcing his decision, the governor stated: “Whereas this is my will in the definitive sentence, I declare, and judge that the piece of land litigated in these proceedings is the same that was given to don Antonio Durán y Chaves on April 26, 1722, and it pertains to his heirs and consequently to his daughter Lucía Ana Durán y Chaves, as the heiress. Under the same supposition, it makes legitimate the sale of land made by Felipe Romero, her husband.” He ordered doña Efigenia to return the lands at Las Ciruelas and Arbolito del Manzano to doña Ana Durán y Chaves. Doña Efigenia was also ordered to pay all costs pertaining to the proceedings for having made a false claim.

Meanwhile, Las Ciruelas was now considered developed property, and Trébol Navarro, the consummate bureaucrat, sent two men out by order of the governor to evaluate the land and tax it. That done, Hurtado de Mendoza paid the

¹⁰⁹Sentencia definitiva, signed by Governor Pedro Fermín de Mendingueta, 11 August 1769, Santa Fe, AGN, Tierras 934, ff. 42r-43v.

¹¹⁰Sentencia definitiva, signed by Governor Pedro Fermín de Mendingueta, 11 August 1769, Santa Fe, AGN, Tierras 934, ff. 42v.

twenty-two pesos. Apparently, Hurtado de Mendoza and doña Isabel reached an agreement concerning the fair distribution of the crops grown on the land between April and August 1769. Next, Trébol Navarro officially granted doña Ana possession of Las Ciruelas and Arbolito del Manzano. A copy of those proceedings was sent to the governor on September 4, 1769, to acknowledge compliance of the decision.¹¹¹ As part of the settlement the governor ordered Hurtado de Mendoza to give his copy of don Fernando's will to the Santa Fe archive in order to avoid a future controversy over lands mentioned therein.¹¹²

The case had run for five months during which time doña Ana had been dispossessed of her land in April 1769. Had it not been for Andrés Antonio Romero, her son, Joseph Hurtado de Mendoza would have had his way. To Andrés the worst had happened when his mother lost Las Ciruelas and Arbolito del Manzano the first time.

The historical significance of the case is multi-fold. The case revealed a process regarding land ownership in Spanish colonial New Mexico as well as in other parts of the Spanish Empire. The legal procedure was diligently followed in every step no matter how small. The record attests that even if the presiding official, in this case Francisco Trébol Navarro, the *alcalde mayor*, of the Puesto de Atrisco, did not agree with the plaintiffs, he nevertheless entertained seriously the question put by them before him. Although he had made a decision to dispossess doña Ana Durán y Chaves, he still reported every question and concern they had in getting the decision changed.

The legal tradition, as evidenced by the case, shows the level of legal sophistication as regards land ownership possessed by frontiersmen in New Mexico during the colonial period. They kept documents, they were literate in the legal terms of law and tradition, they diligently kept watch of what was rightfully theirs both in the documentation of will, transfers of land, deeds, and other legal papers as well as what was physically on the ground. The oral tradition was another source, for evidently, witnesses knew the boundaries of their own land and those of their neighbors. Genealogical records were extremely important sources of information, and Andrés Antonio Romero made excellent use of his knowledge of the genealogy of the settlers of Atrisco. That documents were written and signed by the litigants and some very verbal witnesses also indicates that, contrary to popular twentieth century beliefs, literacy was valued and vital in colonial New Mexico. Indeed, the case of Las Ciruelas and Arbolito del Manzano at Atrisco along with other land grant issues in New Mexico during that period have revealed a number of extremely significant sources for the study of culture in New Mexico in the eighteenth century.

¹¹¹Notificación de la Sentencia, 22 August 1769, Puesto de Atrisco, signed by Francisco Trébol Navarro, AGN, Tierras 934, ff. 44-45.

¹¹²Attached note signed by Governor Mendinueta, n.d., AGN, Tierras 934, ff. 45.

ATRISCO AND THE RÍO PUERCO, 1768-1772

For decades, Atrisqueños had complained of the constrictions placed on them by the narrow boundaries of their grant and had, for more than a decade grazed their livestock and established ranches westward to the Río Puerco. Now in 1768, they asked Governor Pedro Fermín de Mendinueta to extend their grant to the Río Puerco for grazing purposes. The petition to the governor set the tempo and rhythm for the rest of the century in regard to consolidation of their holdings and expansion projects to the west.

The boundaries of Atrisco, wrote Hurtado de Mendoza, are adjoined: on the north by the Río del Norte and the Villa de Albuquerque; on the east the boundary runs very close along the said Río del Norte and Ranchos del Estero; and on the south are the lands of Captain don Antonio Baca, which causes a bottleneck forcing us westward not having anywhere else to go, not even to lands held in common. Forced toward lands that have been vacant and unsettled since time immemorial we take possession of them settling them from the end of the Bosque Grande on the Río Puerco to the Cerro Colorado where each one of us have made ranches, and corrals. [Those are the lands] we have been enjoying because of the pasturage for our livestock as well as the nearby firewood, there being no other place to provide us all year long.¹¹³

Hurtado de Mendoza had succinctly explained an historical process that, as the Valle de Atrisco had become settled on the northern and southern ends, had confined the Atrisqueños to the bounds of the original grant with no room to expand along the Río Grande. Their needs, however, went beyond farming, as their sheep and cattle herds required greater grazing lands. Their only direction for expansion was westward. However, other settlements, like that of Nuestra Señora de la Luz de San Fernando y San Blas del Río Puerco, had been established in that area since 1753.¹¹⁴ Given the Atrisqueño dispute with the San Fernandinos, however, Hurtado de Mendoza and his associates needed to act quickly to claim the available land as far west as the Río Puerco.

San Fernandinos, nevertheless, consistently accused Atrisqueños of encroaching on their lands. Between 1759 and 1766, several infractions occurred

¹¹³Petition by Joseph Hurtado de Mendoza, et al, to Governor Pedro Fermín de Mendinueta, 1768, Records of the Surveyor General (SG) 145, #1037. Translation by Joseph P. Sánchez.

¹¹⁴Twitchell, *Spanish Archives*, I:91.

during the administrations of governors Francisco Antonio Marín del Valle and Tomás Vélez Cachupín. Each time, both sides raised questions regarding boundaries. Indeed, in 1768, Hurtado de Mendoza argued that the boundary issue had to be settled in order for the Atrisqueños legally to enjoy the benefits of their toil in the lands west of Atrisco. That had been the object of his petition.

Still, the San Fernandino's pointed to the recent history of Atrisqueño encroachments. In 1759, Agustín Gallegos, lieutenant of the settlement of Nuestra Señora de la Luz de San Fernando y San Blas, wrote to Governor Marín del Valle complaining about such encroachments on their lands.¹¹⁵ Gallegos had at least succeeded in getting the ear of Governor Marín del Valle.

The governor's response, dated February 21, 1759, supported the San Fernandinos. He ordered that anyone grazing their herds along the Río Puerco and appurtenant lands respect the rights of the settlers of Nuestra Señora de la Luz de San Fernando y San Blas.¹¹⁶ No one, he ordered, may graze nor water his herds within the boundaries of the lands owned by the grantees of San Fernando. And, he mandated that the alcalde mayor of the Villa de Alburquerque announce his directive to the citizens so that it be clear to everyone.¹¹⁷ Then he strongly recommended that the San Fernandinos place landmarks of "stone and mortar" along their boundaries so that there would be no mistake by trespassers.

Yet, longstanding questions abounded about the open lands south of San Fernando. On August 11, 1764, for example, Miguel Tenorio stated that there were, indeed, open lands that were not owned by anyone and were of little value. Additionally, he recognized that they had been used and claimed by certain settlers of Atrisco and Luis Jaramillo who also had lands on the Río Puerco.¹¹⁸

It was true that Atrisqueños had been grazing their lands for years on the vacant land, but as far as is known, they had not petitioned for a grant to it.

Meanwhile, the San Fernandinos sought to reinforce the boundaries of their grant and any lands not claimed in the area. Their description of the boundaries appeared to be somewhat inaccurate, especially in regard to the eastern and southern

¹¹⁵Statement by Agustín Gallegos, teniente, 1759, Poblacion de Nuestra Señora de la Luz de San Fernando y San Blas, SANM, Microfilm Roll 1, Frame 810.

¹¹⁶Statement by Governor Francisco Antonio Marín del Valle, 21 February 1759, Villa de Santa Fe, SANM, Microfilm Roll 1, Frame 811.

¹¹⁷Statement by Governor Francisco Antonio Marín del Valle, 21 February 1759, Villa de Santa Fe, SANM, Microfilm Roll 1, Frame 811.

¹¹⁸Statement by Miguel Tenorio, 11 Agosto 1764 (copied from the original during the administration of Governor Pedro Fermin de Mendinueta), SANM, Microfilm Roll 1, Frame 812.

ends. In their petition to Governor Tomás Vélez de Cachupín, for example, they said their boundaries ran from the stone ford of the Río Puerco on the northside; to the Cerro Colorado on the west side; with *mesa prieta* on the east, and a ridge known as the *Ceja del Río Puerco* on the south. Actually, the *ceja* would have been southeast of San Fernando. [Author's note: The *ceja* is easily located. As one stands any place in Albuquerque and looks west, the line forming the horizon south of the three extinct volcanos forms the *Ceja del Río Puerco*.] They stated that “at this time no one inhabits those lands.” They felt overcrowded in the lands they presently occupied, but somewhat threatened by the Atrisqueños who had not only grazed their livestock on the land to the south of them, they had even established ranches on it. They found they had no choice but to drive out shepherds from nearby mountains as well as their haciendas.¹¹⁹ As they had tolerated such trespasses since the days of Governor Marín del Valle, they asked that their boundaries, as specified, be legally reinforced so that they could better protect their claim to the land they owned against all comers.¹²⁰

Governor Vélez Cachupín responded on July 17, 1766.¹²¹ He flatly stated that trespassing was prohibited and like his predecessor, he forbade the Atrisqueños from grazing their herds on land belonging to the settlers of San Fernando. He decreed, therefore, that anyone trespassing on land belonging to the settlers of San Fernando be fined thirty pesos. He authorized the alcalde mayor of San Fernando to fine the trespassers and “the corresponding head of livestock that equals the thirty pesos in fines and that this be placed on all livestock.”¹²² The governor intended, for example, that the owner of the herd found trespassing would be fined thirty pesos for each head of cattle or group of sheep in the herd valued at thirty pesos. The money, said the governor, would go toward the construction of a much needed church at Nuestra Señora de la Luz de San Fernando y San Blas.

¹¹⁹Statement signed by Juan Bautista Montaña, Bernardo de Mirabal, Antonio Durán, Joseph Mariano Barela, Tomás Gurulé, Joseph de Jesus Montaña, Juan Antonio Glore (Gurulé), Y[g]nacio Jaramillo, Antonio Mariano Gallegos, a ruego Agustín Gallegos, a ruego Martín Gallegos, a ruego Antonio Candelaria, a ruego Antonio Montaña, a ruego Juan Candelaria, y a ruego Marcos Baca, SANM, Microfilm Roll 1, Frame 814.

¹²⁰Statement signed by Juan Bautista Montaña, Bernardo de Mirabal, Joseph Mariano Barela, Antonio Durán, Tomás Gurulé, et al., SANM, Microfilm Roll 2, Frame 814.

¹²¹Decision of Governor Tomás Vélez Cachupín, 17 July 1766, Villa de Santa Fe, SANM, Microfilm Roll 2, Frame 816.

¹²²Decision of Governor Tomás Vélez Cachupín, 17 July 1766, Villa de Santa Fe, SANM, Microfilm Roll 2, Frame 816.

He instructed Juan Cristóbal Sánchez¹²³ of the Villa de Albuquerque to inform the settlers at Atrisco of the prohibition against them trespassing on land belonging to San Fernando under penalty of fine. Ignorance, he stressed, would be no excuse. The stage was set for Joseph Hurtado de Mendoza's petition to Governor Mendinueta asking for recognition of the Atrisqueño occupation and development of vacant lands along the Río Puerco.

Hurtado de Mendoza stated that all the time that Atrisqueños had been expanding westward, they had been careful not to encroach on lands claimed by the settlers of San Fernando, as it was commonly called, along the Río Puerco. He explained that between the Bosque Grande and San Fernando there was an open space of at least a league and a half. No one had ever claimed or settled it, not even the San Fernandinos who appeared not to have any need of it because they had so much more land in the other direction. And, even though their population had been four times greater than that of Atrisco, their land easily accommodated them.¹²⁴

On the other hand, the settlers of San Fernando saw the expansion of the Atrisqueños in their direction as a threat. Before the late 1740s, settlers along the Río Abajo, the lower river of the Río Grande which commences south of Cochiti Pueblo, had been migrating westward. By the 1750s, Bernabé Montañón and others had received a large land grant on the west bank of the Río Puerco where they founded a settlement called Nuestra Señora de la Luz de San Fernando y San Blas. Soon, new migrants arrived to found other towns along the Río Puerco. At the same time, other frontiersmen were expanding southward from Bernalillo along the Río Grande toward Isleta Pueblo. In 1760, the Río Abajo area near the Villa de Albuquerque had 270 families numbering 1,814 people, mostly of Spanish and "Europeanized mixtures." Atrisco had over 200 settlers. Land pressure caused the people of Atrisco to squabble over boundaries, genealogies, and land titles, or to seek new lands upon which to expand their already large herds of cattle and sheep as well as to seek firewood.¹²⁵

Throughout the decade, Atrisqueños grazed their sheep and cattle herds as far west as the Bosque Grande on the Río Puerco, about a league and a half from San Fernando. Claiming encroachment, the San Fernandinos drove out the Atrisqueños by force. Not to be denied, the powerful Sánchez and Durán y Chaves families joined forces and petitioned Governor Pedro Fermín de Mendinueta to

¹²³Decision of Governor Tomás Vélez Cachupín, 17 July 1766, Villa de Santa Fe, SANM, Microfilm Roll 2, Frame 816.

¹²⁴Petition by Joseph Hurtado de Mendoza, et al, to Governor Pedro Fermín de Mendinueta, 1768, Records of the Surveyor General (SG) 145, #1037.

¹²⁵Joseph V. Metzgar, "The Atrisco Land Grant, 1692-1977," *New Mexico Historical Review*, (October 1977), 52:272.

grant them the vacant lands south of San Fernando.¹²⁶ Using the able and articulate talents of Hurtado de Mendoza, they explained their problems with the San Fernandinos, the unsettled land they claimed, and their service to the king as defenders of the frontier along the Río Abajo and the Río Puerco.

Although their relationships with the San Fernandinos had been troubled, the Atrisqueños, on the other hand, offered a solution to the defense of the area. Hurtado de Mendoza argued that “the land we have been settling is on the usual path of the enemy Apache. We serve as a bastion for its defense.”¹²⁷ The effort, explained Hurtado de Mendoza, had not been without sacrifice, for not only had they suffered serious depreciations of their herds at the hands of Apache raiders, the settlers of San Fernando, unaware of the protection the Atrisqueños had given them, drove them off the land causing more losses to their herds. He stressed that continuous experiences such as those would lead to the ruination of many families from Atrisco. Such sacrifices, he suggested, should not go unrewarded “especially in this kingdom, so that we may be willing subjects, we place ourselves at the great mercy of your Lordship so that, like our true Father, you will grant us the said land, putting us in possession of it”¹²⁸ in conformity with the law. On April 28, 1768, the petition was presented to the governor. The Atrisqueños realized that a grant would solve their problems with the people of San Fernando.

Having reviewed the petition, Governor Mendinueta, stated that he understood the reason for the Atrisqueño request for more lands. He agreed that limited lands along the Río Grande had forced them to seek new lands for pasturage needed to increase their herds. He observed that the settlers of San Fernando del Río Puerco had rights to their lands. To the south, there was a strip of “no more than two leagues of land” that was available. The Cerro Colorado was the southern boundary cited by the San Fernandinos. Even though Atrisqueños did not have title to that strip, it was the same land where they had taken their herds to forage for many years.

Based on their prior and long term usage of those vacant lands, the governor conceded them the lands.¹²⁹ The governor then ordered Francisco Trébol Navarro,

¹²⁶Metzgar, "Atrisco," *NMHR*, 52:272.

¹²⁷Petition by Joseph Hurtado de Mendoza, et al, to Governor Pedro Fermín de Mendinueta, 1768, Records of the Surveyor General (SC) 145, #1037. Translation by Joseph P. Sánchez.

¹²⁸Petition by Joseph Hurtado, et al, to Governor Pedro Fermín de Mendinueta, 1768, Records of the Surveyor General (SG) 145, #1038. Translation by Joseph P. Sánchez.

¹²⁹Río Puerco Land Grant conceded to the settlers of Atrisco, signed by Governor Pedro Fermín de Mendinueta, 1768, Villa de Santa Fe, Records of the Surveyor General (SG) 145, #1042.

alcalde mayor and war captain of the Villa de Alburquerque, to proceed to the site and grant them possession of the land described above.

On May 6, 1768, Trébol Navarro summoned the settlers of San Fernando before him to read them the governor's directive of the land grant given to the Atrisqueños. Then he went out to the site and walked both parties through the measurement of the land and the placement of the "firm and durable" landmarks as prescribed in the governor's orders. He affirmed that they had done so in the customary manner. Two days later, he went out to San Fernando and read the governor's grant to all of the settlers there present so that there could be no misunderstanding of the proceedings.¹³⁰

Hoping to overturn the governor's decision to grant the Atrisqueños land along the Río Puerco, the San Fernandinos met with Trébol Navarro on May 9, 1768. Juan Bautista Montaña, lieutenant alcalde mayor and War Captain of San Fernando, initiated the discussion by presenting an old document to Trébol Navarro showing that they had a prior claim over the lands ceded to the Atrisqueños. They claimed that they had held those lands since the administration of Governor Thomas Vélez de Cachupín in the 1750s.

Standing before a mixed group of Atrisqueños and San Fernandinos, Alcalde Mayor Trébol Navarro studied the document over, and concluded that someone had maliciously tampered with it. Although it was a copy of the actual document that had been signed by former Governor Tomás Vélez Cachupín, Trébol Navarro was immediately drawn to the blotted out words over the descriptions of the boundaries claimed by the San Fernandinos. He said the words were "totally blotted out, not by error of the scribe, for when an error is made only a single line is drawn through it so that it is still legible. Then it is corrected at the end of the document, as it is done in any tribunal or adjudication."¹³¹ The alcalde mayor could not believe that it was caused by anything else than someone maliciously tampering with the document. He felt that he could only rely on the testimony given by reliable witnesses concerning the boundaries and nothing else.

Calling Juan Bautista Montaña before him, after all, it was he who had shown him the document, Trébol Navarro asked him how the blots got on the document. Montaña, obviously thinking quickly, responded before all present that

¹³⁰Auto signed by Francisco Trébol Navarro, 6 May 1768, Puesto de San Isidro de Pajarito, SG 145, #1043; and, Citación signed by Francisco Trébol Navarro, 8 May 1768, Puesto de la Población de San Fernando, SG 145, #1044.

¹³¹Statement signed by Francisco Trébol Navarro, 9 May 1768, Población de San Fernando en el Río Puerco, SG 145, #1045. Translation by Joseph P. Sánchez.

“the said señor don Tomás Vélez had blotted out the words.”¹³² Just then, one of the settlers present, Antonio Candelaria, spoke up. He said that even though he was a settler of the Villa de Albuquerque, he had served as lieutenant of the Puesto de San Fernando for a year and three months. During that time he had actually held the document in his hands and had noticed that the document did not have any blots on it “as it does now.” Trébol Navarro then announced to all present that “these land grant documents have been maliciously blotted,” and, therefore, had no validity.¹³³ He then ordered that the settlers of San Fernando follow the mandates dictated by Governor Mendinueta in granting the vacant lands to the people of Atrisco.

Trébol Navarro then assigned the lands to the Atrisqueños. To Efigenia Durán y Chaves, he gave ranch land for raising livestock. That land had formerly belonged to her brother, Diego Antonio Durán y Chaves. His lands were now shown as being some distance away, “more than one quarter league,” from the boundary of San Fernando. Near the lands assigned to Diego Antonio, Trébol Navarro, gave Hurtado de Mendoza the prime site for a ranch. After which Trébol Navarro announced, “having named and appropriated the said ranch and being that don Joseph Hurtado de Mendoza now owned the first place, I ordered the rest of the settlers that they should follow suit in establishing their ranches to the south of his so that they may avoid any injury to the settlers of the referred to San Fernando.”¹³⁴ Apparently, Hurtado de Mendoza owned the northernmost ranch as no one else was assigned lands along the northern boundary thereby avoiding any discord between the two settler groups.

Admonishing both groups, Trébol Navarro urged them to live in peace. He explained that no one settler had the authority to cross his livestock into any other’s property under any circumstances. Under the terms, the required permission, especially that of Hurtado de Mendoza, the principal owner, must be unanimous among the Atrisqueños, even if it involved a brother, a parent or a neighbor. He emphasized that this land was not one that had been inherited from a parent or relative, but specifically, it was a land grant for the benefit of a community of people. Anyone rebelling against this concept would answer to the governor by losing his land. No settler would be allowed “to sell, nor alienate his ranch through any entitlement be it his relative, friend or neighbor as this land is conceded by his

¹³²Statement signed by Francisco Trébol Navarro, 9 May 1768, Población de San Fernando en el Río Puerco, SG 145, #1045. Translation by Joseph P. Sánchez.

¹³³Statement signed by Francisco Trébol Navarro, 9 May 1768, Población de San Fernando en el Río Puerco, SG 145, #1045. Translation by Joseph P. Sánchez.

¹³⁴Statement by Francisco Trébol Navarro, 9 May 1768, Población de San Fernando en el Río Puerco, SG 145, #1047. Translation by Joseph P. Sánchez.

Lordship, the Governor, so that it would be productive and enjoyed for stock raising by the grantees. It was not intended for gain by sale.”¹³⁵ With that, Trébol Navarro signed it before the witnesses, Bernardino Chaves and Estevan Padilla, and submitted to the governor as the last stage in the proceedings.

With the legal finalization of the grant, Atrisqueños increased their holdings which now stretched from the Río Grande on the east to the Río Puerco on the west.¹³⁶ Hoping to begin a large scale sheep herding industry, the Atrisqueños began moving westward. Their efforts, however, came to a near halt when Navajo and Apache raiders stepped up their activities and stymied the hopes of the Atrisqueños for over a generation.

It appeared that the boundaries of the settlements along the Río Puerco had been resolved. Yet, new problems would continue to arise as expansion took place. The land had harsh, and the precariousness of living in that desolate country was compounded by Apache and Navajo raiders. For at least a generation, the settlers of Atrisco and San Fernando were able to hold on. Were it not for the lack of water, the land grants appeared to be worth the risk. But eventually, the settlers would learn that the land could only support what its natural carrying capacity would permit. Despite the abundance of land in almost all directions, especially west of Río Puerco, the land grant system limited expansion, for Indian pueblos and Hispanic settlers in the area jealously guarded their rights to grants of land given them by the king of Spain. So, too, did the low water supply along the Río Puerco act as a control on settlement patterns. To an extent, Hispanic expansion westward was curbed by belligerent tribes, who, especially in times of stress, saw the large Spanish sheep and cattle herds as a solution to their dwindling food sources in the area. In the end, it was the Spanish land grant that bound settlers to a given area. Meanwhile, the settlers of Atrisco enjoyed their acquisition and expansion to the Río Puerco despite the hardships they suffered.

In the end, the efforts of the San Fernandinos were frustrated by decisions that went against them. Their petitions in which they had asked the governor to resolve their western boundary water rights with the Navajo and Salvador Jaramillo of the Juan de Tafoya Land Grant, the dismissal of their claims against the intrusion of the pueblos of Jémez, Zia, and Santa Ana on their northern boundary, and their failed efforts to expel the Atrisqueños on their southern boundary had ended in their

¹³⁵Statement signed by Francisco Trébol Navarro, 9 May 1768, Población de San Fernando en el Río Puerco, SG 145, #1048. Translation by Joseph P. Sánchez.

¹³⁶In present day terms, from Las Barrancas, that is, from the bluffs which can today be seen immediately as one drives west across the Río Grande bridge on I-40, to the Río Puerco is roughly ten miles. In between, one can see Cerro Colorado, a red ferrous hill on the left as one descends on I-40 to the Río Puerco.

frustration. The San Fernandinos and other settlers in the area continued to press their claim against the Navajo. The result was the devastating Navajo War of 1774-75.

Regarding Atrisco, the actions of Joseph Hurtado de Mendoza had legally increased the land holding pattern of those so named in the annexation of land running to the Río Puerco. He had successfully proven that, in fact, there were vacant lands that were not included in the grant given to the settlers of Nuestra Señora de la Luz de San Fernando y San Blas. As a result, Atrisco ran from the Río Grande to the Río Puerco. The Río Puerco lands were now tied to the hereditary rights of those Atrisqueños who held title to both lands.

ATRISCO, 1772-1821

By the end of the Spanish period, Atrisqueños were well versed in the legal language of land tenure. They kept meticulous records of each transaction, and they continued to watch transfers of land among their neighbors with great interest. As they had in earlier periods, Atrisqueños continued to will, sell, transfer, subdivide, and sue over boundaries to increase or protect their lands. By the late eighteenth century, the face of Atrisco no longer resembled the pattern it had during the days of Fernando Durán y Chaves. In many cases, the genealogical ties had been broken, for other settlers, some distantly related, others not related at all to the Durán y Chaves clan had acquired interest to the land.

In 1790, Viceroy conde de Revillagigedo ordered a census of New Spain and its frontier areas.¹³⁷ As part of the Bourbon Reforms, which promised a more efficient government for Spain's overseas empire, the census would provide invaluable information for taxation purposes. The census of 1790, despite its weaknesses, provided a picture of New Mexico in the late eighteenth century. Listed in the census are the occupations of the male heads of households, names of spouses as well as ages and genders of immediate family members. Ethnic identity is also featured in the census. The census of 1790 is the only eighteenth century census that lists Atrisco and the Villa de Albuquerque separately. Although the first census of the nineteenth century, taken in 1804, appears incomplete, it shows a population of 224 settlers distributed among the four plazas as follows: the first plaza, Nuestra Señora de Guadalupe de los Garcías, 51 inhabitants; the second plaza, San Fernando de los Chaves, had 39 inhabitants; the third Plaza, San José de los Sánchez, had 52 inhabitants; and, the fourth, San Andrés de los Ranchos de Atrisco, had 84 people.¹³⁸

In 1790, the total population of New Mexico stood at 30,953 with major population centers at the Villa de Albuquerque (5,959), the Villa de Santa Cruz de la Cañada (8,895), the Villa de El Paso (5,244), and the Villa de Santa Fe (2,542). Given the remoteness of certain areas near these population centers, it is likely that more people actually resided within New Mexico than were counted. Vagabonds,

¹³⁷Eric Louis Palladini, Jr., *Don Fernando's Legacy: A Microhistory of Atrisco, New Mexico, 1691-1821* (Master's Thesis, Tulane University, 1990), 52.

¹³⁸Palladini, *Don Fernando's Legacy*, 61.

semi-sedentary tribes, sheepherders and their families in out-of-the-way places, and other such categories were not included in the census.¹³⁹

With its four plazas, the 224 Atrisqueños formed a viable community. Of them, 117 or 52% were males; and, 107 or 48% were females in 1790. Among them were 109 children under fifteen years old, and fifty-seven young adults between the ages of 15 and 24 years. Of the 224 inhabitants of Atrisco, fifty-eight were over age 24, indicating a high mortality rate between thirty and forty years of age.¹⁴⁰

Based on the occupational structure of Atrisco in 1790, the following list presents a picture of ethnicity within its society. Of the Spanish settlers twelve were ranchers, seven were farmers, four were weavers, one was a shoemaker, and one was a musician. Among the mestizo (or half Central Mexican Indian and half Spanish) settlers, the census noted one shoemaker, one carpenter, two carders, one day laborer, and one spinner. Two *genizaros* (generally defined as a detribalized Indian) worked as sheepherders. One *coyote* (a halfbreed of New Mexican Indian descent) worked as a carpenter, another was a carder, and two others were day laborers. The census of 1790 showed only one Apache living in Atrisco who worked as a carder.¹⁴¹

Given the high percentage of Spanish ranchers and farmers at Atrisco, the marriage pattern and concern for a union with a person of equal status was sought in order to preserve the family line.¹⁴² Inheritance was kept within the family or extended family. The pattern tended to reflect New Mexican society which would remain ethnically stratified. On the other hand, New Mexicans were not indifferent to ethnic or caste classifications common throughout the Spanish empire.

In the late eighteenth century, New Mexicans seemed to be in continuous litigation regarding their lands. Like Atrisqueños and San Fernandinos, Spanish settlers in other parts of New Mexico sought to increase their land holdings. During the period 1770 to 1821, New Mexican frontiersmen pursued every opportunity to acquire land, grazing privileges and water rights.

Some New Mexicans, however, were more successful than others. Expansion minded settlers from the Villa de Alburquerque, for example, who petitioned for a settlement at Carnué in March 1774, were denied. They would try again. On the other hand, Spanish settlers from the Pecos valley, were, in 1803, successful in acquiring a tract of land along the Pecos River at a place named San

¹³⁹Palladini, *Don Fernando's Legacy*, 53.

¹⁴⁰Palladini, *Don Fernando's Legacy*, 56.

¹⁴¹Palladini, *Don Fernando's Legacy*, 58.

¹⁴²Palladini, *Don Fernando's Legacy*, 59.

José del Vado del Río de Pecos.¹⁴³ In 1815, settlers who petitioned for lands known as *Rancho de la Xemes* near Vallecito had been put in possession of them. Later, upon review of the proceedings, they were denied because of errors in the documents submitted in the process.¹⁴⁴ Of course, anything could happen to one's petition. The 1821 petition by Estevan Baca for lands on the Pecos River, for example, simply died for lack of action by Governor Facundo Melgares.¹⁴⁵ Two years later, Mexican independence from Spain was achieved. The incipient Mexican nation state would begin land grant processes anew for those who still had the energy to do so.

Other activities, meanwhile, included those of Juan Cristóbal Sánchez, the alcalde mayor of the Villa de Albuquerque, who in 1772, sought to expand his right to graze his herds near Tomé on a tract owned by Nicolás Durán y Chaves.¹⁴⁶ Still, there were other cases where redress of grievance was sought as in 1815, when María Polonia Silva of La Cienega south of the Villa de Santa Fe complained that her husband had sold her land without her consent.¹⁴⁷ From Taos to El Paso, New Mexico was alive with land transactions.

Atrisco was no different than the rest of New Mexico during the period 1770-1821. In many ways, the litigation surrounding the lands at Atrisco was representative of several situations and trends in other areas of New Mexico. Three generations after don Fernando, Atrisco continued to change in ownership and in complexity. The first generation had kept a sharp and vigilant eye on its founding documentation. By the second generation, the transference, sale and other conveyances of land in the form of gifts or donations, had complicated the historical paperwork regarding the land. By the third generation, some of the original documentation had been misplaced or lost; and, careful notarization of new documents created a future basis for legal ownership of the land at Atrisco. This trend had been occurring in other parts of New Mexico as well as in other parts of the Spanish empire for quite some time.

The relative frequent and variation of conveyances of land at Atrisco continued to form a complicated web of ownership. On February 3, 1782, for example, the Atrisqueña, doña Tomasa Tenorio, widow of Salvador Jaramillo, a resident of the Villa de Albuquerque and owner of a grant on the Río Puerco,

¹⁴³Twitchell, *The Spanish Archives*, 266, #887.

¹⁴⁴Twitchell, *The Spanish Archives*, 316, #1064.

¹⁴⁵Twitchell, *The Spanish Archives*, 46, #130.

¹⁴⁶Twitchell, *The Spanish Archives*, 241, #878.

¹⁴⁷Twitchell, *The Spanish Archives*, 266, #889.

presented a proposal to convey lands to her son bordered by those of don Diego Antonio Chaves. It was her intention in her Last Will and Testament to leave three fields in Artisco to her son Miguel Jaramillo. Now, however, she wished to make a present and donation of the lands to her son while she still lived.¹⁴⁸

The lands bordered those of Ignacio Chaves on the north and the lands of don Diego Antonio Durán y Chaves on the south. On the east the referenced lands were bounded by the Río Grande, and on the west side were other lands of the said Diego Antonio Chaves. In anticipation of any litigation by any heirs, doña Tomasa promised to renounce any future claim she may have to the land. She also protected the transfer by validating that she was the sole owner of the land and that the title was clear.¹⁴⁹

Still, there were other heirs who could file a claim. “Through a second marriage on the maternal side,” the children of doña Manuela Gregoria Armijo had a claim to the lands of doña Tomasa. In order to avoid any cloud over the title to the aforesaid lands given to Miguel, doña Tomasa, reached an accord with the interested heirs by “ceding and transferring all her interest of right and dominion” to Miguel.¹⁵⁰

Given that other nearby lands in Atrisco may be involved, Alcalde Mayor don Vicente Armijo stated that “none of the heirs shall ever bring suit against the said lands with their ditch (acequia) except don Pablo Chaves, who is the proprietary owner of the lands with their ditch.” Apparently, the acequia formed the boundary with the neighboring Pablo Chaves’s lands. He, therefore, would have an interest in any changes to the acequia that would affect his lands. Regarding the lands of doña Manuel Armijo, Armijo stated that they “may be held hereafter by her children by her second marriage on the maternal side.”¹⁵¹

Done at the request of doña Tomasa Tenorio, and agreed upon by all parties, certain lands in Atrisco changed ownership with the stroke of a pen. By doing so, doña Tomasa had avoided any legal problems for Miguel that would have resulted from a contested will.

Other legal action demonstrating the changing relationships at Atrisco took place in 1786. Appealing their grievance to Governor Juan Bautista de Anza in the

¹⁴⁸Conveyance of Land by doña Tomasa Tenorio, 3 February 1782, Puesto de Atrisco, SG 145, #1171. Translation of this English version made by Surveyor General's translator.

¹⁴⁹Conveyance of Land by doña Tomasa Tenorio, 3 February 1782, Puesto de Atrisco, SG 145, #1171.

¹⁵⁰Conveyance of Land by doña Tomasa Tenorio, 3 February 1782, Puesto de Atrisco, SC 145, #1171.

¹⁵¹Conveyance of Land by doña Tomasa Tenorio, 3 February 1782, Puesto de Atrisco, AG 145, #1171.

Villa de Santa Fe, Francisco Chaves and Bartolomé Montoya both residents of the Sitio de Atrisco represented themselves and several others in a suit against Diego Antonio Chaves.¹⁵² Their complaint stemmed from actions of the same “Diego Antonio Durán y Chaves” who had opened new farmlands that blocked off entrances and exits to traditional watering places used by the settlers of Atrisco for their livestock.

The suit by Francisco Antonio Chaves and Bartolomé charged that Diego Antonio Chaves, by establishing his farm in the path of the entrances and exits, had deprived us of the watering place, which we had free, at the spring our great grandfather left us for the purpose of watering our stock, that, if for that purpose of giving them water we go to said spring and by chance any animal, because the farm of said gentleman is near by, goes in and damages his planted ground, the fines he causes us to pay, and which we pay together with the amount of the damage, are exorbitant, and which is done on a summary order, because the acting official is his son-in-law, and in as much as justice is of his house and the fear falls on the same person, we are forced to obey and keep silent, paying the damages and the fine, although we know what is imposed upon us is unjust, in that it results to our injury and most serious damage, for all of which and all else within our rights.¹⁵³

They also complained that the transit of their livestock to the traditional watering place now had to be made across a sandy stretch of land that cause injury to the animals. What they wanted was for don Diego to make the exits and entrances to the spring accessible for their livestock.

At Santa Fe, Governor Juan Bautista de Anza reviewed the case. He noted that don Fernando Durán y Chaves, great grandfather to Francisco Antonio Chaves, Bartolomé Montoya and Diego Antonio Chaves, had stated in his will that all heirs would be provided free pastures and watering places without exception. Anza, furthermore, cited that his predecessor, Governor Pedro Fermín de Mendinueta had, in 1767, ordered don Diego Antonio Chaves, “not to prevent the entrances and exits

¹⁵²Presentation of Francisco Antonio Chaves and Bartolomé Montoya against Diego Antonio Chaves on damages and boundaries, Year 1786, No. 3, CPLC 45, #739. Translated by Court of Private Land Claims. For a copy of the Spanish document of the same proceedings, see "Francisco Antonio Chaves and Bartolomé Montoya, Proceeding against Diego Antonio Chaves for access to their lands, 1786, Atrisco. SANM I, Roll 1, frame 1404-1408.

¹⁵³Presentation of Francisco Antonio Chaves and Bartolome Montoya against Diego Antonio Chaves on damages and boundaries, Year 1786, no. 3, CPLC 45, #740. Translated by Court of Private Land Claims.

of the town of Atrisco, specified in detail by the first founder or settler of said town which appear in his respective testamentary provision.”¹⁵⁴

Anza then ordered the alcalde mayor of the Jurisdiction of Albuquerque, Manuel de Arteaga, to inform don Diego that he must make the watering places accessible to the other heirs of Atrisco. He also instructed don Diego neither fine nor assess damages against other heirs for transferring their livestock using the entrances and exits, for it was their right to cross the traditional egresses and exits.¹⁵⁵

Alcalde Mayor Arteaga summoned all concerned parties to hear the notification issued by Governor Anza. On April 15, 1786, they met at San Agustín de Isleta. Calling the meeting to order, Arteaga read the order of compliance to don Diego in front of witnesses and the aggrieved parties. Arteaga made it clear to don Diego that it was their right to pass through the land using the proscribed easement. Don Diego, furthermore, was notified that they were not obligated to pay him any damages to crops in the path of the traditional right of way. That done, the matter was settled.¹⁵⁶ On April 17, 1786, Arteaga submitted a report of the proceedings to Governor Anza as required.

Sometimes title to land in Atrisco was lost or misplaced, and with the proper authorities, the land could be sold. In 1798, for example, Domingo Chaves of the Villa de Albuquerque, and Toribio Sedillo of Rancho de Atrisco, presented their case before Alcalde Mayor Manuel de Arteaga.¹⁵⁷ Chaves explained that at one time he had given Manuel Baca, then deceased, who was a settler of Rancho de Atrisco, 700 head of sheep on a partido contract which he lost. As payment, Baca gave Chaves his right to his cultivated land in Rancho de Atrisco.¹⁵⁸ As the land was owned by Baca’s wife, Feliciana Chaves, the law required her consent, which she

¹⁵⁴Decision by Governor Juan Bautista de Anza, 16 May 1786, Villa de Santa Fe, CPLC 45, #741. Translation by Court of Private Land Claims.

¹⁵⁵Decision by Governor Juan Bautista de Anza, 16 May 1786, Villa de Santa Fe, CPLC 45, #741. Translation by Court of Private Land Claims.

¹⁵⁶Notification presented by Alcalde Mayor of the Jurisdiction of Albuquerque, Manuel de Arteaga, 17 April 1786, San Agustín de Isleta, CPLC 45, #742.

¹⁵⁷Notification of Sale signed by Alcalde Mayor Manuel de Arteaga, 5 October 1798, Plaza de San Andrés de Los Padillas, SG 145, #1124. English version translated by Office of Surveyor General.

¹⁵⁸Notification of Sale signed by Alcalde Mayor Manuel de Arteaga, 5 October 1798, Plaza de San Andrés, SG 145, #1125.

gave.¹⁵⁹ At that time, the transaction was made before Francisco Trébol Navarro, now deceased.

Sometime later, Domingo Chaves gave the land to José Chaves so that he could sell it to Salvador Jaramillo. The land was kept by Jaramillo who lost or misplaced the title to the land. Meanwhile, Toribio Sedillo purchased the land from Jaramillo for 300 pesos, and in so doing, gave him assurances that the land was his, and purchased for a just price. Jaramillo relinquished any future claim to the land.¹⁶⁰ Sedillo was given full title to the land by the alcalde mayor. In the absence of proof of ownership, the transaction was properly witnessed, and the alcalde mayor gave Sedillo possession of the land¹⁶¹ in the customary way. Thus, new documentation was created which served in the place of the original title showing that an act of possession had been carried out.

Another case in which no formal paper existed for the transfer of land occurred in 1804 when Juan Chaves, a settler of San Andrés de Los Padillas, negotiated the sale of a piece of land and house in Atrisco. On May 9, 1804, the Atrisqueño Miguel Antonio Chaves bought a tract from Juan Chaves. The land which Juan had inherited from both maternal and paternal sides, included a house of which Juan owned a half interest.¹⁶² Juan's siblings, Pedro, María Guadalupe (then deceased), and Ventura were the children of Diego Antonio Chaves. Juan and María Guadalupe shared inherited rights to the land in this transaction. Similarly, Juan and Ventura shared rights to the house and its appurtenances. In order for Juan to sell the property, he had to show sole ownership of both house and land.

Juan claimed he owned the entire tract of land, for he had purchased all of his sister's right to it. Prior to her death, María Guadalupe Chaves, had sold Juan her share without there being a formal paper signed. Because the deal was accomplished in good faith, "both of them being satisfied," only a simple paper was signed before two witnesses, Jacinto Rodríguez from La Joya de Sevilleta, and Pedro Antonio Chaves from Atrisco, Juan Chaves's brother. Thus, when Juan

¹⁵⁹Notification of Sale signed by Alcalde Mayor Manuel de Arteaga, 5 October 1798, Plaza de San Andrés de Los Padillas, SG 145, #1125.

¹⁶⁰Notification of Sale signed by Alcalde Mayor Manuel de Arteaga, 5 October 1798, Plaza de San Andrés de Los Padillas, SG 145, #1126.

¹⁶¹Notification of Sale signed by Alcalde Mayor Manuel de Arteaga, 5 October 1798, Plaza de San Andrés de Los Padillas, SG 145, #1127.

¹⁶²Conveyance of Sale signed by Alcalde Mayor Manuel de Arteaga, 9 May 1804, San Andrés de Pajarito, SG 145, #1135. This document was translated by Will M. Tipton, translator, U. S. Surveyor General's Office, March 30, 1886.

Chaves sold his land to Miguel Antonio Chaves, Pedro appeared to validate that María Guadalupe had sold her part to Juan.¹⁶³

Regarding the house, Juan said he had bought the house inclusive of its garden from his sister Ventura Chaves.¹⁶⁴ He stated that he had purchased both shares of the house and land belonging to his sisters for a total of 400 pesos.¹⁶⁵ Once satisfied that both house and land belonged solely to Juan, Miguel Antonio Chaves purchased all rights to the land, garden, and house.

In the absence of any formal paperwork demonstrating Juan to be the sole owner, the procedure required that witnesses to the deal present themselves and divulge all they knew about the transaction. This was done in front of the alcalde mayor of the Villa de Albuquerque, don Manuel de Arteaga. In preparing the new document, Juan Chaves relinquished all rights to the property with all of its improvements. Juan stated that if the property and house should be worth more than Miguel paid for it, that he would make “him a present and donation” *intervivos*. He promised to cede and transfer his own right to the said lands to Miguel Antonio Chaves “in order that he may enjoy them for himself, his children, heirs, and successors, and that no suit or cause shall be brought by the said vendor nor his heir and that in case any should be brought that they be not heard in court or out of it as from the present time to that time he relinquishes all and any laws which may be in his favor.”¹⁶⁶

Alcalde Mayor Manuel de Arteaga then presented the formal documents as an instrument that “might serve as a title and by it he may take possession of said lands, and may sell, exchange, or alienate them to the person or persons he may desire, and in order that it may be of record.” It was signed by all parties.¹⁶⁷ Then the

¹⁶³Conveyance of Land signed by Alcalde Mayor Manuel de Arteaga, 9 May 1804, San Andrés de Pajarito, SG 145, #1136.

¹⁶⁴Conveyance of Land signed by Alcalde Mayor Manuel de Arteaga, 9 May 1804, San Andrés de Pajarito, SG 145, #1136.

¹⁶⁵Conveyance of Land signed by Alcalde Mayor Manuel de Arteaga, 9 May 1804, San Andrés de Pajarito, SG 145, #1137.

¹⁶⁶Conveyance of Land signed by Alcalde Mayor Manuel de Arteaga, 9 May 1804, San Andrés de Pajarito, SG 145, #1137-38.

¹⁶⁷Conveyance of Land signed by Alcalde Mayor Manuel de Arteaga, 9 May 1804, San Andrés de Pajarito, SG 145, #1138.

document was notarized by Marcos Lobato, Justice of the Peace, who affixed a seal to it before two witnesses, Juan Antonio Sarracino and José Antonio Chaves.¹⁶⁸

One of the last transactions at Atrisco during the Spanish colonial period took place on January 23, 1815, before Alcalde Mayor Jose Mariano de la Peña of the Villa de San Felipe de Neri de Albuquerque. Francisco Antonio Chávez from Abiquiu had decided to sell some land in Ranchos de Atrisco. The purchasers were Salvador Garcia, Antonio Sedillo, Toribio Sedillo, Julian Sedillo, Rosa Gutiérrez, Juan de la Cruz Castillo, Ignacio Gabaldon, Juan de Jesus Garcia, Miguel Anaya and Manuel Jaramillo, all settlers from Ranchos de Atrisco.¹⁶⁹ Francisco Antonio had inherited the land from his father Tomás Francisco Durán y Chaves from Atrisco. Previously, his father don Tomás had acquired it from his brother José. Apparently, the land had been willed to don Tomás and seven brothers and partitioned, but the land in question was a tract exchanged between the brothers Tomás and José.¹⁷⁰

The boundaries of the land adjoined those of Antonio Chaves on the north. The south side bounded those of Santiago Chaves. On the east was the Río Grande. And, on the west the lands were bounded by the *Ceja del Río Puerco*.¹⁷¹ The land measured 564 linear varas.¹⁷² In the sale, Francisco Antonio Chaves gave up all rights and customs to entrances, exits, uses, and servitudes. He swore that the land was free from ground rent, mortgage or any encumbrances. Don Francisco Antonio sold the land for 282 pesos, whereupon he renounced any future claim to the land.¹⁷³

In accordance with laws regulating the sale of land, Francisco Antonio stated under oath that the land was free of encumbrances and should it be otherwise he would return the amount paid for the land and any value accrued from any

¹⁶⁸Notarized Notification of Sale signed by Marcos Lobato, Justice of the Peace, and witnesses, Juan Antonio Sarracino and José Antonio Chaves, n.d., SG 145, #1139.

¹⁶⁹Conveyance of Land by don Francisco Antonio Chaves, 23 January 1815, San Felipe de Neri de Albuquerque, SG 145, #1114. Translated by Will M. Tipton, translator, Surveyor General's Office, 30 March 1886, Santa Fe, New Mexico Territory.

¹⁷⁰Conveyance of Land by don Francisco Antonio Chaves, 23 January 1815, San Felipe de Neri de Albuquerque, SG 145, #1114.

¹⁷¹Conveyance of Land by don Francisco Antonio Chaves, 23 January 1815, San Felipe de Neri de Albuquerque, SG 145, #1115.

¹⁷²Conveyance of Land by don Francisco Antonio Chaves, 23 January 1815, San Felipe de Neri de Albuquerque, SG 145, #1116-1117.

¹⁷³Conveyance of Land by Francisco Antonio Chaves, 23 January 1815, San Felipe de Neri de Albuquerque, SG 145, #1115.

development from that date forward.¹⁷⁴ Thus, another transaction was fulfilled under the law.

The long history of Atrisco during the Spanish period served to establish the legal hold Atrisqueños held over the land between two rivers. Their many transactions established a longstanding pattern of ownership within the Durán y Chaves family and other powerful allies such as the Sánchez and Baca clans. Each transfer, donation, sale, or partition conveying land in Atrisco developed paper trails demonstrating the successor of each transaction. Genealogical lines maintained the lists of owners; and, validated their claims based on wills and bills of sale. When given settlers were given possession, a certificate of investiture was included in the process showing that an official, usually the *alcalde mayor*, had taken the possessor by the hand and walked him over the boundaries in view of witnesses. The metes and bounds were shown to everyone and the transaction was completed before the world. The final signature in the matter was that of the governor to whom all papers were remitted for final inspection.

In the long haul, the documentation became critical to the ownership, for soon the world would change, new sovereigns would require proof of ownership, and Atrisqueños, like most land grant owners would be challenged to provide legal proof of their ownership to their land. After 1810, a new order was at hand as Father Miguel Hidalgo raised the standard of rebellion against Spain. By 1821, the Spanish colonial period in Mexico and Latin America was virtually over. As for New Mexico, it then belonged to the new nation state, Mexico, which held dominance over the area between 1821 and 1848.

¹⁷⁴Conveyance of Land by don Francisco Antonio Chaves, 23 January 1815, San Felipe de Neri de Albuquerque, SG 145, #1116.

THE MEXICAN PERIOD, 1821-1848

During the Mexican Period, definitions related to sovereignty especially regarding the granting of land were changed. Under Spanish law and custom, public lands known as *tierras realengas* or *tierras baldias* theoretically belonged to the monarch. The king, as sovereign, granted towns or villages *tierras concegiles* or *propios*. Public lands were available as common lands for grazing or for temporary planting by individuals who could not claim them for their own unless they applied for them, as did Atrisqueño Joseph Hurtado de Mendoza in the Río Puerco area in 1768. Land grants to individuals or to towns were made from public lands.

Under Spain, *propios* were properties owned by a municipal community as private property. *Propios* were usually rented out by town councils (*cabildos*) for revenues which were used for public works. The *Recopilación de leyes de los reynos de las Indias* provided for the regulation of *propios*. In the establishment of the Villa de Santa Fe, the instructions of 1609 to Governor Pedro de Peralta similarly provided mention of *propios*.

Toward the end of the Spanish Period, the *Plan de Pitic* of 1789 revisited the legal usage of *propios* in the establishment of the town of Pitic (present Hermosillo). Later, the Plan de Pitic¹⁷⁵ was applied to the establishment of towns in Alta California in the eighteenth century as well as to other areas in New Spain's northern frontier.

Historian Iris W.H. Engstrand emphasizes the importance of the Plan de Pitic in regard to town founding throughout the frontier provinces of New Spain. She writes: "Although the Plan of Pitic was formally adopted after the first two pueblos in Alta California were founded (San José in 1777 and Los Angeles in 1781), it was used as a guideline for founding the Villa de Branciforte between Monterey and San Francisco in the mid-1790s. The Plan, because it was a restatement of the municipal ordinance contained in the Laws of the Indies, and embodied the regulations used for town founding throughout the frontier provinces of New Spain, is a key document to be studied in understanding Spain's well-established rules for civilian settlement."¹⁷⁶ Under Mexico, the Plan de Pitic served as a precedent for the establishment of *ejidos*.

¹⁷⁵For a transcribed copy of the Plan de Pitic, see Joseph P. Sánchez, "El Plan de Pitic de 1789 y las nuevas poblaciones proyectadas en las Provincias Internas de la Nueva España," *Colonial Latin American Historical Review* (Fall 1993), Vol. 2, No. 4, pp. 449-67.

¹⁷⁶Iris H.W. Engstrand, "A Note on the Plan of Pitic," *Colonial Latin American Historical Review*, (Winter 1994) Vol.3, No.1, 78. For a brief view of the historical precedent of the Plan de Pitic see Jane C. Sánchez, "The Plan of Pitic: Galindo Navarro's Letter to Teodoro de Croix, Comandante General de las Provincias Internas," *Colonial Latin American Historical Review* (Winter 1994) Vol. 3, No. 1, 79-89.

As the Spanish Colonial period gave way to the development of a new nation state, Mexico, New Mexicans looked on with anticipation. Changes were in the wind, as a new political vocabulary blew northward. Colonization policies established during the Spanish Colonial period greatly influenced the Mexican period. As the transition took place, Mexican officials merged old ways with new policies. Particularly in Texas, the Spanish policy of allowing Anglo-Americans to enter and settle in Spanish territory provided, of course, that they be converted to Catholicism as well as brought in a prescribed number of families, and showed progress toward cultivating the land, continued into the Mexican period as Anglo frontiersmen crossed the Sabine River on their way to San Antonio. Mexico hoped, as did Spain, to populate the wide open spaces along its northern frontiers of Texas and New Mexico. By awarding land grants to entrepreneurs who promised to colonize its northern frontier under the Colonization Law passed on August 18, 1824, Mexico hoped to develop and bolster defenses of the area. Settlement and economic patterns were indeed influenced under Mexican administration of New Mexico. The Colonization Law of 1824 took its precedence from the Colonization Law of January 4, 1823, which had been repudiated in its favor.

The Colonization Law of 1823 had authorized the central government of Mexico to enter into contracts with *empresarios* who would introduce two hundred families into Mexico. In return for his services, the *empresario* would receive three haciendas and two farmfields (*labores*) for every two hundred families he settled. The most an *empresario* could receive was nine haciendas and six *labores*. Each settler who declared himself a farmer would receive one *labor*, and each stock raiser would receive at least a *sitio* (six square miles) of land. This law authorized any duly ordained *ayuntamiento* to grant land within its jurisdiction.¹⁷⁷

The Colonization Law of 1824 provided for a stronger role by the states in the granting of land. That role was reinforced when, in 1828, the central government issued a new policy consistent with the Colonization Law of 1824 authorizing governors to grant land within their jurisdictions to any Mexican citizen or foreigner who properly requested land for cultivation or settlement.¹⁷⁸ In 1835, the central government attempted to withdraw this authorization to its governors, but found it difficult as it had earlier relinquished this power to the states.¹⁷⁹ The contradiction in the Mexican land policy seemed to depend on who was in power. The Colonization Law of 1824, for example, applied when Mexico defined itself as a republic. When,

¹⁷⁷J.J. Bowden, "Private Land Claims in the Southwest," (Master's Thesis, Southern Methodist University: 1969), 71.

¹⁷⁸Bowden, "Private Land Claims in the Southwest," 74.

¹⁷⁹Bowden, "Private Land Claims in the Southwest," 76.

a dictatorship calling for a centralized system of government was in power, the authority of the states seemed to be curtailed. Therefore, under the centralist form, a valid grant could not be made within the provisions of the Colonization Law of 1824 or the regulations of 1828. In an attempt to straighten out the confusion within Mexico, the Mexican government in 1854 declared void all grants made between October 3, 1835 and August 4, 1846; and March 17, 1853, and July 7, 1854.¹⁸⁰ However, that declaration had no authority in lands ceded to the United States between 1848 and 1853, for by that time, the Mexican government no longer had jurisdiction over grants made in New Mexico, Arizona, and California during the period 1821-1853.

In New Mexico during the Mexican Period (1821-1848), however, the interrelationship between the central administration in Santa Fe and the local municipal councils (*ayuntamientos*) had similarities to the old Spanish system. During the late Spanish Period, local government was reorganized; and, largely in name, *cabildos* were changed to *ayuntamientos*. In the Mexican Period, the presiding officer of the *ayuntamiento* was the *alcalde constitucional*, a legally empowered magistrate judge. In that regard, the main difference between the Mexican and Spanish periods was that the *alcalde constitucional* was elected and made decisions in consort with the *ayuntamiento*. Unlike the *alcalde constitucional*, the *alcaldes mayores* were appointed and held judicial, executive, and legislative powers in large districts.¹⁸¹ *Alcaldes mayores* also exercised military functions as *capitanes de guerra*.¹⁸² Prior to the establishment of the *ayuntamiento*, the *alcaldes mayores* of the Spanish Period made decisions or recommendations on their own as judicial officers without benefit of a council. In New Mexico, *alcaldes mayores*, as appointees, were obligated to carry out orders from their governors without question. To that end, *alcaldes mayores* like Francisco Trébol Navarro deferred to the decisions of the governor. More than once, Trébol Navarro was overruled by Governor Pedro Fermín de Mendinueta. Unlike the Spanish *alcaldes mayores*, the *alcaldes constitucionales* seemed to have developed enough local political strength to overrule their governors. This may have been the result of longevity in power as *alcaldes constitucionales* generally tended to hold office longer than Mexican Period governors. Additionally, the vote of the *ayuntamiento* usually supported decisions made by the *alcaldes constitucionales*. Given the elective character of government

¹⁸⁰Bowden, "Private Land Claims in the Southwest," 82.

¹⁸¹Marc Simmons, *Spanish Government in New Mexico* (Albuquerque: University of New Mexico Press, 1968), 219.

¹⁸²Simmons, *Spanish Government*, 219.

under Mexico, the local political system played a greater role in the administration of judicial and economic matters as well as the distribution of land.

At first the linkage between the central Mexican government in Mexico City and the other states appeared weak. In 1835, Antonio López de Santa Anna, president-dictator of Mexico, moved to consolidate the country. Quickly changing the form of government from a federal republic to a dictatorship, the national congress in Mexico City, early in 1835, abrogated the self-governing powers of the states. Each state or *departemento*, thereafter, was permitted a five-member council which reported directly to the national congress. In November 1835, a provisional departmental council met in New Mexico in conformity with the Mexican directives. The convocation of the council signaled New Mexico's preparation for departmental status. Seven months later, the first permanent council for New Mexico was recognized under the Constitution of 1836. By that time, New Mexico had been divided into several districts each one administered by a *prefecto*, with judicial and political powers. The *prefectos* were appointed by the governor, now called a *jefe político*, of each department throughout the Mexican Republic. Thus, the *prefectos* reported to the *jefe político* who in turn was directly responsible to the national congress. The *jefe político* was the chief political and military figure in his jurisdiction. He also served as president of the territorial *diputación*, or legislative assembly.¹⁸³ As the chief administrative official in the territory, the *jefe político* reported to Mexico City. Once the prefect system was established, the chain of command linked local control (*alcalde constitucional*, the *ayuntamiento*, the *prefectura*, and the *diputación*) with the central government through the *jefe político*.¹⁸⁴

The administration of justice during the Mexican Period was further upgraded by the establishment of the *prefecturas*, large districts administered by a prefect with judiciary control. Thus, between the office of the *jefe político* who administered the *departemento* and the *ayuntamiento* which oversaw the affairs of the *municipio*, the *prefectos* with political power over large districts added another layer of decision making before a given case reached the governor. In the Spanish Period, the *alcalde mayor* appealed directly to the governor.

The change in the bureaucratic administration of justice during the Mexican Period added a degree of procedural authority to the granting of land to Mexican citizens. Customarily, it was presumed that government officials such as governors,

¹⁸³Daniel Tyler, "New Mexico in the 1820's: The First Administration of Manuel Armijo" (Dissertation, University of New Mexico: 1970), 29.

¹⁸⁴Joseph P. Sánchez, "Año Desgraciado, 1837: The Overthrow of New Mexico's Jefe Político Albino Pérez," *Atisbos: Journal of Chicano Research* (Stanford University: Summer-Fall, 1978), 183-184.

prefects, alcaldes and members of ayuntamientos had the power to hear cases and make land grants. At the end of their proceedings, all they needed to do was to make a certified copy validating their actions and, usually, get the approval of the governor.

Regarding the distribution of land during the Mexican Period, the Colonization Law of 1824, on the other hand, directed the states to enact laws consistent with national policies providing for the colonization of lands within their respective boundaries. Mexican law, moreover, prohibited the granting of lands within twenty leagues of an international boundary and ten leagues of coastlines without consent of the central government in Mexico City. No individual, furthermore, could receive more than eleven square leagues of land.¹⁸⁵

In New Mexico, especially during the 1840s, New Mexican officials used land grants to influence private enterprises and create defensive barriers against marauding Indians, Texans, and Anglo-American intruders. New Mexicans were encouraged to settle lands in river valleys on the northeastern and eastern peripheries bordering the Republic of Texas.¹⁸⁶

Governor Armijo, one of the more profligate grantors of land during the Mexican period in New Mexico, apparently gave away 16,500,000 acres of the 31,000,000 acres of land between 1837 and 1846.¹⁸⁷ Guadalupe Miranda and Charles Beaubien requested and received lands from Armijo in 1841 east of the Sangre de Cristo Mountains along the Cimarron and Canadian rivers. They had planned to ranch, cultivate cotton and sugar beets, cut timber and prospect for minerals. That grant later became subject of one of the largest land grant claims when Beaubien's son-in-law, Lucien Maxwell, claimed nearly two million acres (2,680 square miles) in northeastern New Mexico and southeastern Colorado.¹⁸⁸

Cautiously selecting land grant recipients to meet the defensive policies for New Mexico, Armijo generally chose foreigners who had married Mexican women or foreigners who had lived in New Mexico since the 1820s. Most foreign grantees had New Mexican partners. During his administration, Armijo authorized grants to New Mexicans and their foreign-born partners in New Mexico. In 1845, for example,

¹⁸⁵Bowden, "Private Land Claims in the Southwest," 73.

¹⁸⁶Twitchell, *The Leading Facts of New Mexican History* (Cedar Rapids: The Torch Press, 1912), II:196-7. Also, see Alan Ward Minge, "Frontier Problems in New Mexico Preceding the Mexican War, 1840-1846" (Ph.D. diss., University of New Mexico, 1965), 306.

¹⁸⁷Victor Westphal, "Fraud and the Implications of Fraud in the Land Grants of New Mexico," *NMHR*, (July 1974), 49:199-200.

¹⁸⁸Lawrence R. Murphy, "The Beaubien and Miranda Land Grant, 1841-1846," *NMHR*, (January 1967), 52:27-46. Also see William A. Keleher, *Maxwell Land Grant: A New Mexico Item* (Santa Fe: 1942), and Jim Berry Pearson, *The Maxwell Grant* (Norman: 1961).

Gervasio Nolan, a French Canadian, and two New Mexican partners, received lands neighboring the Beaubien-Miranda Grant on the Canadian River.¹⁸⁹ Charles Beaubien's thirteen year old son, Narciso, and Stephen Louis Lee, a trapper from St. Louis, received the Sangre de Cristo Grant in the San Luis Valley straddling present New Mexico and Colorado.¹⁹⁰ Cerán St. Vrain and Cornelio Vigil received a grant along the Cucharas, Huerfano, and Apishapa rivers in eastern Colorado, known as the Animas Grant; and, John Scholly and his Mexican and Anglo-American partners received land northwest of Las Vegas.¹⁹¹

Armijo's land policies seemed to alarm New Mexicans because of the amount of land granted to foreigners. One of Armijo's opponents was the famous Father Antonio José Martínez of Taos. At first opportunity, in February 1844, when an ailing Armijo was replaced briefly by interim governor Mariano Martínez, Father Martínez urged him to annul the Beaubien-Miranda grant. Arguing that a law of March 11, 1842, permitted foreigners to acquire property anywhere in the Mexican Republic except in departments contiguous with other nations requiring special permission to do so, Father Martínez persuaded the interim governor to oust Beaubien from his land. As it turned out, Beaubien, a naturalized Mexican citizen, had as his partner in the land grant, Charles Bent, who was a foreigner. In late spring 1844, Governor Martínez ordered Beaubien to vacate his grant. Father Martínez's victory was short-lived, for the next governor, José Chávez reinstated the rights of Beaubien, Bent, and St. Vrain to settle foreigners on the Beaubien-Miranda Grant. In 1845, General Francisco García Conde, a representative of the central government inspecting New Mexico, ordered all foreigners in the Cimarron area to leave their lands. Meanwhile, Manuel Armijo had, once again, assumed the governorship of New Mexico, and encouraged the foreigners to ignore the order. Motivated by his one-fourth interest in the grant, Governor Armijo supported foreign settlers in their desire to remain on the Beaubien-Miranda land grant.¹⁹²

¹⁸⁹Morris F. Taylor, "The Two Land Grants of Gervasio Nolan," *NMHR* (April 1972), 47:151-84.

¹⁹⁰Herbert O. Brayer, *William Blackmore: The Spanish-Mexican Land Grants of New Mexico and Colorado, 1863-1878* (Denver, 1949), 59-62.

¹⁹¹Harold H. Dunham, "Cerán St. Vrain," in Leroy Hafen, ed., *The Mountain Men and the Fur Trade of the Far West* (Glendale: The Arthur H. Clark Company, 1966), V:310-11, and, Twitchell, *The Spanish Archives of New Mexico*, I:276-277.

¹⁹²Murphy, "Beaubien and Miranda" 32-33, 35; Twitchell, *Spanish Archives*, I:276-77; J.J. Bowden, "Private Land Claims in the Southwest," 6 vols. (LLM thesis, Southern Methodist University, Dallas, 1969), III:775-76.

Buoyed by the Mexican government's desire to colonize the northern frontier by anyone who would swear allegiance to the Mexican government, become a Roman Catholic, and promise to bring additional settlers into the area, Armijo's give-away land grant policies attracted new settlers into New Mexico. Between 1821, when New Mexico's population was reckoned to be approximately 42,000, and 1846, the number had virtually reached 65,000 people.

The broad colonization projects of the Mexican period had little affect on the old Spanish land grants, such as Atrisco. The usual transactions continued to be worked within members of a given grant. Conveyances, donations, and sales of lands marked the exchange of ownership of such land grants. At Atrisco, foreigners did not figure into any land exchanges which continued to be made among family members, close friends, and extended family relations. One such example of business at Atrisco resulted in 1823 when Miguel Jaramillo's will was reviewed by his family.

As his executors, Jaramillo named Antonio Chaves, Bartolomé Chaves, and Rafael Sánchez, all residents of Atrisco.¹⁹³ In his will, Jaramillo noted that he had been married four times, the first time to Francisca Lucero and the second time to María Manuel Trujillo. Francisca bore him four children, José Miguel, Catarina, Manuel, and María de los Reyes. At his death all four were married. María Manuel bore no children in that marriage. His third wife, María Antonia Sánchez, similarly, bore him no children. His fourth wife was Gertrudis Candelaria. They had six children, Juan Antonio, Miguel, Barbara, María Guadalupe, Fernando and María Antonia. Although his first three wives did not bring "any dower or fortune" into the marriage, María Gertrudis Candelaria did bring in some personal property and a calf.¹⁹⁴ Hence, Jaramillo clearly addressed property which he had earned during his lifetime.

To the children of his first marriage he left a house in Atrisco "which is my residence." He also owned a piece of land in "the meadow" which had been donated to him by his grandmother, Tomasa Tenorio. Her ordered that "it shall go to the children which I had by my wife María Gertrudis Candelaria, one-half to them and one-half to my said wife since, of the land referred to of La Casa Vieja, I hold by purchase made during the time of this last marriage about two hundred varas and of which property my said wife made a relinquishment in favor of my first children wherefore I have given her one-half of the meadow to compensate for the said

¹⁹³Last Will and Testament of Miguel Jaramillo, 30 March 1823, Alburquerque, Surveyor General 145, p. 1153.

¹⁹⁴Last Will and Testament of Miguel Jaramillo, 30 March 1823, Alburquerque, Surveyor General 145.

property.”¹⁹⁵ Jaramillo also referenced a share of a tract of land called the Torreon on the other side of the Río Grande which, should it be proved his, appeared to go to doña Gertrudis.

The rest of his property included two mules. The one called La Chiquita, he ordered to be delivered to doña Gertrudis “to replace the cow with her calf which she brought me.” Jaramillo’s shotgun still in the possession of Manuel Jaramillo went to his son Juan Antonio. Jaramillo also listed one axe and one “reed” for weaving blankets. He acknowledged a debt of one sheep to Francisco Xavier Chaves with the words “let it be paid.”¹⁹⁶

The will, taken before *alcalde constitucional* Juan Armijo of the Jurisdiction of Albuquerque, was validated on March 30, 1823. Jaramillo’s burial costs were taken from the sale of a piece of land known as La Casa Vieja. Jaramillo said that La Casa Vieja contained “a little more or less four hundred varas and the same amount of uncultivated land which I acquired by inheritance from my parents, I order that of the best of the said cultivated land these be taken one hundred varas to pay for my interment and the masses with the condition that they may be taken by any of the legates who may be willing to pay for them, and all that remains in this place, it is my will that it shall to my said children by my first marriage.”¹⁹⁷ The business of Jaramillo’s Will concluded, his heirs continued the land grant in tact for another generation.

Meanwhile, Atrisco, a district of the Jurisdiction of Albuquerque, participated in the business of the town council or *ayuntamiento de Albuquerque*. Occasional elections were held for district representatives who would represent their constituents in the *ayuntamiento de Albuquerque*. In 1833, for example, one such election for president and secretary was held in accordance with the Law of July 12, 1830, articles 19 and 20. Under the law, Atrisco was described as “*La Plaza de los Ranchos de Atrisco...de las manzanas numeros 35 y 36*” indicating blocks 35 and 36. Toribio Sedillo won with fourteen votes cast in his favor. Four secretarial positions were voted upon. The first secretary, José Baca won with twelve votes. Toribio Sedillo, the second secretary, collected eleven votes; Matias Castillo, the third secretary, got nine votes; and, Transito Roman Sánchez, the fourth secretary,

¹⁹⁵Last Will and Testament of Miguel Jaramillo, 30 March 1823, Albuquerque, Surveyor General 145.

¹⁹⁶Last Will and Testament of Miguel Jaramillo, 30 March 1823, Albuquerque, Surveyor General 145.

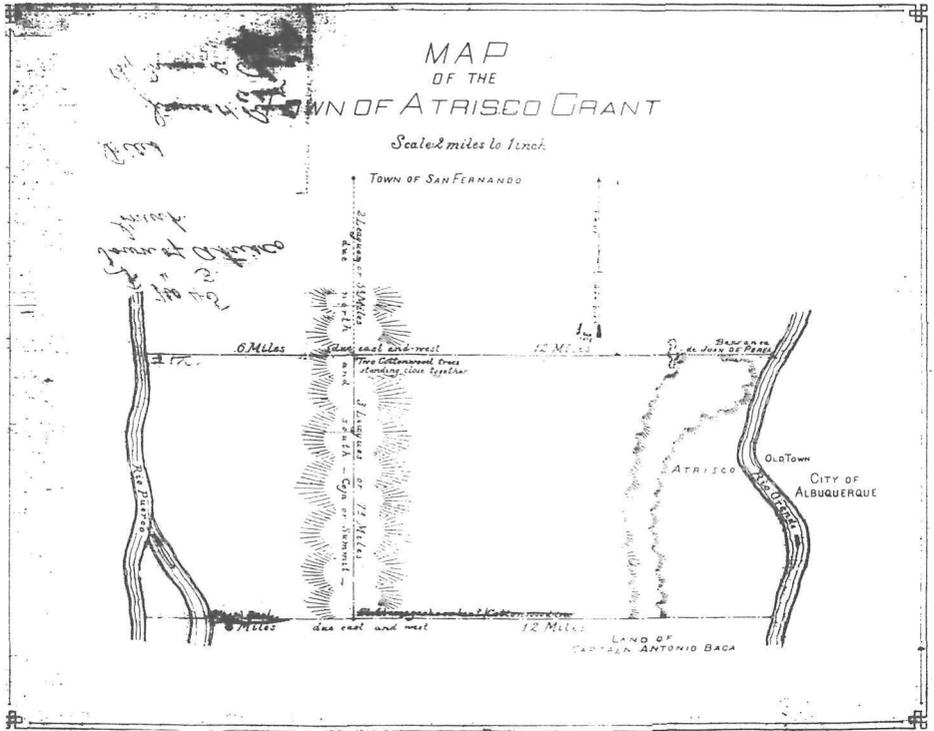
¹⁹⁷Last Will and Testament of Miguel Jaramillo, 30 March 1823, Albuquerque, Surveyor General 145.

garnered the remaining votes.¹⁹⁸ The record did not clarify how Toribio Sedillo could serve as both president and second secretary at the same time.

As Atrisco was a Spanish Period land grant, its survivability throughout the Mexican Period was firmly established. For survival, Atrisco depended largely on the political influence its members had with the *ayuntamiento de Alburquerque*. The regulatory provisions of Mexican law did not significantly affect the ability of Atrisqueños to maintain or convey their lands in any manner they wished. As a *partido* or district of Alburquerque, Atrisco was, indeed, a member of the body politic of the *ayuntamiento de Alburquerque*. Its membership was validated by the timely *partido* elections of its representatives who reported to the *ayuntamiento de Alburquerque*. *Partidos* were subdivided into *manzanas* or blocks for the purpose of identifying voter and law enforcement needs.

The Mexican Period was truly a period of transition. The changes, although mostly administrative, demonstrated the adaptability of New Mexicans to a new political system. In the short twenty-seven year period of Mexican rule, New Mexicans participated in the political system thrust upon them by Mexico. Their novitiate in Mexican politics prepared them for the next cycle of change. As regards the Atrisco Land Grant, Mexican legislation related to colonization had little, if any, effect on its status. Much of the business at Atrisco during that period revolved around conveyances among Atrisqueños. No petitions for new lands were made by Atrisqueños during that period. Between 1846 and 1848, Atrisqueños and their fellow New Mexicans watched the outcome of the war between Mexico and the United States with disquieting interest. As the Army of the West under General Stephen Watts Kearney occupied New Mexico, a new order was at hand.

¹⁹⁸En la plaza de los ranchos de Atrisco, 2 February 1833, signed by Toribio Sedillo, presidente, and secretaries, Transito Roman Sánchez, Matias Castillo, and José Baca, Mexican Archives of New Mexico (MANM), Microfilm Roll 16, frame 694.



Map of the Town of Atrisco Grant, 1892, Court of Private Land Claims File 45.

AMBIANCE AND CONTEXT: THE OFFICE OF THE SURVEYOR GENERAL AND THE COURT OF PRIVATE LAND CLAIMS

If Atrisqueños and their fellow New Mexicans wondered how they would fare under the new sovereign as regards their land and citizenship rights, they merely needed to witness the first few decades of the Anglo-American occupation of the Greater Southwest. Fortunately, their long legal traditions under Spain and Mexico had taught them how to defend themselves in court. The change in sovereignty, however, offered new challenges. In the first half century following ratification of the Treaty of Guadalupe-Hidalgo, hundreds of state, territorial, and federal legal entities produced a number of conflicting opinions and decisions interpreting the Treaty's provisions. Citizenship rights seemingly guaranteed in Articles VIII and IX¹⁹⁹ of the treaty were not all they seemed. Property rights of former Mexican citizens in

¹⁹⁹A useful copy of the Treaty of Guadalupe-Hidalgo is Bill Tate, *Guadalupe Hidalgo Treaty of Peace 1848 and The Gadsden Treaty with Mexico 1853* (Española: The Rio Grande Sun Press, 1969). Article VIII of the Treaty is as follows: "Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present Treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic retaining the property which they possess in the said territories, or disposing thereof and removing the proceeds wherever they please; without their being subjected, on this account, to any contribution, tax or charge whatever.

Those who shall prefer to remain in the said territories, may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But, they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories, after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

In the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it, guaranties equally ample as if the same belonged to citizens of the United States."

Article IX is as follows: "The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States and be admitted, at the proper time to be judged by the Congress of the United States to the enjoyment of all the rights of citizens of the United States according to the principles of the Constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction."

California, Arizona, New Mexico, and Texas proved vulnerable to interpretation by district and territorial courts. Within a generation Mexican-Americans who had been under the ostensible protection of the treaty, quickly learned to use the court system to challenge perpetrators who violated their rights. Their abilities to survive in this new environment had been honed by their participation in the Spanish and Mexican period legal systems. The Anglo-American judicial system, however, was administered by Anglo-American politicians, legislators, and judges who usually worked against Mexican-American interests to protect themselves under the law. For nineteenth century Hispanics, justice was not always served.

Despite their assertive efforts to establish their citizenship rights under the Treaty of Guadalupe-Hidalgo, Hispanic and Indian litigants were frequently at the losing end, for “defeats outnumbered victories by about two to one.”²⁰⁰ It may be erroneous to assume, as one historian has concluded, that the Supreme Court had decided almost half of the major cases citing the Treaty of Guadalupe-Hidalgo.²⁰¹ It can be safely assumed that the majority of cases that were tried at the district court level never reached the Territorial Court, much less the Supreme Court.

As New Mexico had remained a territory for sixty-four years, the civil rights of Hispanics there were deemed less than those in California which quickly became a state in 1850. Through precedences set by the Northwest Ordinances of 1787, the Louisiana Purchase Treaty of 1802, and the Wisconsin Organic Act of 1836, inhabitants of territories were considered a dependent people and not entitled to full participation in the overall body politic of the United States. Hispanics of New Mexico did not acquire full rights of citizens of the United States under terms of the Treaty of Guadalupe-Hidalgo until statehood in 1912.

The failure of the United States government to adjudicate titles and ownership of many Spanish and Mexican land grants in the nineteenth century has proven to be one of the most shameful episodes in American history. The Territorial Period of New Mexico (1850-1912) was one of change and uncertainty in which Hispanic New Mexicans would struggle to assert their rights against a system managed by unscrupulous, deceitful and racist, if not at least ethnocentric, individuals. New Mexicans had seen their ilk before, but this time, the stakes were high, and the players, usually in the form of Anglo-American lawyers with the deck stacked in their favor, played for keeps. If New Mexicans had learned anything from their legal experiences during the Spanish colonial and Mexican periods in which they had defended their land claims against all comers, they had learned to guard, jealously, historical documents proving their ownership to their land. This time,

²⁰⁰Richard Griswold del Castillo, *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict* (Norman: University of Oklahoma Press, 1990), p. 107.

²⁰¹Griswold del Castillo, *The Treaty of Guadalupe Hidalgo*, p. 88.

however, they must deal with a system that was managed by individuals who were not dedicated to seeking justice but to their own self interest. The failure of the system eventually led to the creation of the Court of Private Land Claims,²⁰² but not before havoc had been visited upon the civil rights of New Mexicans. Even then, the Court of Private Land Claims left much undone.

Although the Treaty of Guadalupe-Hidalgo (1848) had obligated Congress to recognize valid land claims, the process to recognize land grant claims had begun as early as 1846. Under the Kearney Code issued by General Stephen Watts Kearney, commander of the Army of the West which had militarily invested New Mexico, land grants had to be registered with the territorial secretary, Donaciano Vigil. The registration of grants created an abstract of land titles. But the process required that New Mexicans give up their original documentation. That action resulted in loss of original titles that, because of their unavailability, could not be drawn upon later for title investigations. Of that catastrophic event, Historian Richard Wells Bradfute wrote "Evidence exists that land titles were carted away and new ones created; at any rate, there was no assembling of titles in New Mexico as there was in California."²⁰³ The land registration under the Kearney Code was repudiated by the New Mexico Territorial Legislative Assembly in favor of the Act to establish the offices of the Surveyor General of New Mexico, Kansas, and Nebraska passed by Congress on July 22, 1854.²⁰⁴ Many members of the territorial assembly hoped that the Surveyor General's office, charged with examining land claims and making recommendations to congress would fulfill the treaty obligations of the United States. That would not be the case.

For some forty years, the Congress of the United States vainly attempted to recognize legitimate titles to land grants that fell within the provisions of the Treaty of Guadalupe-Hidalgo. In 1852, Congress created a commission to investigate and settle eligible claims in California. Owing to California's economic importance due to the "Gold Rush" of 1849, and the fact that California had become a state, the commission moved to confirm 618 of 813 claims. The process took nearly thirty years.²⁰⁵ Congress, however, failed to act on grants in other areas of the ceded territory until 1854. That year, the office of the surveyor general was created.

²⁰²Robert Wells Bradfute, *The Court of Private Land Claims: The Adjudication of Spanish and Mexican Land Grant Titles, 1891-1904* (Albuquerque: University of New Mexico Press, 1975), vii.

²⁰³Bradfute, *The Court of Private Land Claims*, 12.

²⁰⁴Bowden, "Private Land Claims in the Southwest," 249.

²⁰⁵Bradfute, *The Court of Private Land Claims*, 12.

The legislation creating the office of the surveyor general provided that land claimants could submit their claims to the surveyor general who would then investigate the claim and make recommendations to Congress. Although there was no time limit specified for the presentation of a claim, Congress had the power to make the final determination or confirmation of a grant. Meanwhile, any land grant claim under consideration by Congress would be reserved from the public domain until it was rejected or confirmed. Between 1854 and 1891, Congress confirmed grants singly or in groups, preferring to deal with each case individually. No other legislation or provision was made by Congress to deal with land grants during this period.²⁰⁶

Meanwhile, the inability of Congress to act decisively placed the land grants in limbo. Land grant rings such as the Santa Fe Ring, attempted to gain as much control of grants as possible. Like the carpetbaggers of Reconstruction South, these organizations controlled the Territorial government of New Mexico. They were composed of politicians, lawyers, railroad administrators, and businessmen. It has long been suspected that Governor William A. Pile was a member, as were at least three surveyors general and certain Territorial delegates to Congress. So successful were these rings that the lawyers may have received as much as 80 percent of their fees in land grant property.²⁰⁷ While they watched their land holdings dwindle, New Mexicans asked for reform.

On March 19, 1881, during the term of Surveyor General Henry M. Atkinson, heirs and legal representatives of the grant initially possessed by Joseph Hurtado de Mendoza and other settlers of the Town of Atrisco filed a petition for the confirmation of land extending from Atrisco to the Río Puerco. The petitioners presented Spanish colonial documents signed by Governor Pedro Fermín de Mendinueta. The documents consisted of three instruments: the petition signed by Hurtado Mendoza and his associates asking for a tract of land extending from the Bosque Grande in the Río Puerco to the Cerro Colorado; a granting decree dated April 28, 1768, citing the land boundaries; and, the Act of Possession showing that on May 7, 1768, Francisco Trébol Navarro had given Hurtado de Mendoza and his associates the grant.²⁰⁸

Having read through the *expediente*, Atkinson sought corroborating testimony. The boundaries were an issue, for proof, documentary and oral, was required. The historical documents described the tract of Atrisco as being bounded:

On the north, by the Barranca de Juan de Perea;

²⁰⁶Bradfute, *The Court of Private Land Claims*, 12-13.

²⁰⁷Bradfute, *The Court of Private Land Claims*, 2-3.

²⁰⁸The Town of Atrisco Grant, SG 145. These details were discussed in Chapter VIII above.

on the east, by the Río Grande; on the south, by the lands of Antonio Baca; and on the west by the *ceja* of the Río Puerco.²⁰⁹

Similarly, the boundaries of the Río Puerco lands were bounded:

On the north, by the Cerro Colorado which is located two leagues south of the San Francisco del Río Puerco; on the east, by the *ceja* of the Río Puerco Mountain; on the south, by a point three leagues south of the Cerro Colorado; and on the west, by the Río Puerco.²¹⁰

The petitioners stated that Atrisco was in existence at the time New Mexico was acquired by the United States. The heirs alleged that the original grant documents had been lost, but they presented a number of deeds demonstrating the activity in transactions and conveyances at Atrisco from a very early date as well as church records and oral testimony showing the continuous settlement of Atrisco and the Río Puerco lands. The Atrisqueños hoped to convince Atkinson that they had been in possession of the grant since at least 1700.

In February 1884, the embattled heirs to the Atrisco grant met and complained about their need to protect themselves "because there are Anglo-American claim jumpers wanting to take possession of our land." The grantees said that they had been successful in running off squatters, but they knew that time was against them. At the meeting, they formed a commission of six heirs to carry on the land grant claims of the Town of Atrisco and Ranchos de Atrisco before the Territorial Surveyor General. The Atrisqueño commission retained two lawyers, Amado Chaves of San Mateo in Valencia County and Urbano Chacón of Santa Fe to represent Atrisco before the Surveyor General.²¹¹

At the time, Chaves and Chacón were unable to locate the original grant papers. In presenting the Atrisco claim in late December 1885, they stated that documents bearing the date 1768 indicated the date of the second grant. They figured the date of the first grant to be sometime around 1700. Offering those documents as evidence to initiate the history of the claim, they presented both the Atrisco lands and the Río Puerco grant as a consolidated claim. Surveyor General George W. Julian agreed to admit those documents into the record.²¹²

For five years, any decision on Atrisco by the Office of the Surveyor General seemed to stall while an investigation took place. Meanwhile Atkinson was replaced

²⁰⁹The Town of Atrisco Grant, SG 145.

²¹⁰The Town of Atrisco Grant, SG 145.

²¹¹Metzgar, "The Atrisco Land Grant, 1692-1977," *NMHR*, 52:275.

²¹²Metzgar, "The Artisco Land Grant 1692-1977," *NMHR*, 52:275.

by George W. Julian. Finally, on January 28, 1886, Surveyor General Julian recommended to Congress that the circumstantial evidence presented by the heirs of the land at Atrisco indicated that a grant had been made in or about 1700, and that documents dated 1768 presented evidence that the Río Puerco grant to them was genuine. The land, reported Julian, covered an area approximately eight miles from north to south and about fourteen miles from east to west. The area comprised of approximately 72,000 acres. Julian recommended that Congress approve the Atrisco grant along with its Río Puerco claim. At that point, the Atrisqueños were encouraged that the next step would be a survey of their land, prior to approval of their grant.

It appeared the Atrisqueños had won a victory. But that was not the case. In May 1887, the Atrisqueños learned that their application for a survey of their land had been rejected by the Commissioner of the General Land Office of the Department of the Interior. The disapproval was based on lack of evidence proving the claim to the original grant on the Río Grande, the lack of boundary details, the incomplete list of legal heirs, and indisputable evidence that the land had been continuously occupied. Amado Chaves learned of the decision on May 31, 1887. Shaking their heads, the disappointed Atrisqueños, while initially chagrined at the turn of events, were undaunted. Momentarily, however, they could see no recourse to their setback.

Four years later luck favored their cause. On February 26, 1891, the Territorial Legislative Assembly passed "An Act Relating to Community Land Grants, and for Other Purposes." The law provided for the incorporation of community land grants. As amended, Section 38 provided that "This act shall not operate to divest any private rights or affect any private titles, but shall extend only to land grants made to a pueblo or colony or for the public use of a community."²¹³ The significance of the law is that it broke the legal logjam in which Atrisco had been placed. The people of Atrisco, lacking an authorized survey, now saw a hopeful sign that their land grant could be recognized. Further, the provision to allow them to incorporate and form a body politic gave them the power to act in unison.

A few days later, on March 3, 1891, a congressional bill proposed the creation of the Court of Private Land Claims. The two actions proved significant, for they began the juridical process underwhich the people of Atrisco would gain permanent possession and official recognition of their ancestral lands stretching from the Río Grande to the Río Puerco.²¹⁴ On January 21, 1892, owners and proprietors of the Land Grant of Atrisco had filed a petition with the office of the Clerk of the

²¹³An Act to Amend Section 38 of An Act of the 29th Legislative Assembly of the Territory of New Mexico, Entitled "An Act Relating to Community Land Grants, and for Other Purposes." *II. B. 200; Approved February 26, 1891. Laws of New Mexico, 1891*, Chap. 86, p. 174, University of New Mexico Law School Library, Fiche 55 and 56.

²¹⁴Metzgar, "The Atrisco Land Grant, 1692-1977," *NMHR*, 52:276.

District Court for Bernalillo County in behalf of 225 people who claimed an interest in the Atrisco grants. Their petition called for the incorporation of both grants into the Town of Atrisco.

About ten months later, on November 7, 1892, the Town of Atrisco, now a municipal corporation, filed a suit in the Court of Private Land Claims against the City of Albuquerque and the United States.²¹⁵ Each step taken, from incorporation of the Town of Atrisco to the petition listing claimants, by the Atrisqueños seemed to be a preparation for filing their case in the Court of Private Land Claims.

The creation of the Court of Private Land Claims had a history of its own. Appalled by the chaotic situation regarding land claims and the increasing demand for a final determination of land grant titles by heirs and other interested persons, including the railroads and other commercial groups, Governor Edmund G. Ross sought a solution. Initially, he had suggested the creation of a land commission similar to that of California. Toward the end of his administration, he recommended that a court of private land claims be established.²¹⁶

Meanwhile, grantees, businessmen, and settlers who needed to have land grant questions resolved, appealed to President Benjamin Harrison to bring about the adjudication of the land grant issue in the ceded territory. Debate whirled about the kind of adjudication that should be undertaken. The question seemed to be over whether it be through a commission or a special judicial tribunal. President Harrison included a statement in his State of the Union presentation on December 3, 1889, but Congress did not take up the cause. Pressured by the Mexican government which insisted on the observance of the rights of its former Mexican citizens, Harrison delivered a special message²¹⁷ urging Congress to act on the issue, and ended with the hope that the present session of Congress would bring about the necessary legislation to resolve the issue.

A year later, Congress had not yet acted on Harrison's recommendations. Meanwhile, Antonio Joseph, the Territorial delegate from New Mexico, along with several other Senators and Congressmen, presented a compromise bill.²¹⁸ The Act of March 3, 1891, created the land grant tribunal known as the Court of Private Land Claims. When all was said and done, the establishment of the Court of Private Land Claims came about as a result of the need to reform the land claims process which

²¹⁵Town of Atrisco v. The United States of America and the City of Albuquerque, 1892, CLPC 45.

²¹⁶Bradfute, *The Court of Private Claims*, 14.

²¹⁷Bradfute, *The Court of Private Land Claims*, 15.

²¹⁸Twitchell, *The Leading Facts of New Mexican History*, II:464-65.

was fraught with corruption on the part of Territorial administrators. The enabling legislation for the Court of Private Land Claims repealed the Act of July 22, 1854, which created the office of the surveyor general. Congress had finally taken a positive step toward resolving the land grant issues of Hispanics in the ceded territory. In the end, however, the step did not go far enough because the Court of Private Land Claims was short-lived, lasting thirteen years. While it lasted, nevertheless, the Court of Private Land Claims was successful in quieting land titles against the United States, although it lacked the power to completely settle the land grant issues at hand.

Immediately signed by President Harrison, the Act of March 3, 1891, provided for a court comprised of five justices, one chief justice and four associate justices, for the purpose of adjusting perfect and inchoate land claims in the ceded territory which had not yet been adjudicated. California was excepted from the act. The court was empowered to “adopt all necessary rules and regulations” for the transaction of its business, and hold sessions within its jurisdiction. With the exception of the first session which required ninety days notice to the people of the ceded territories, the court was instructed to publish announcements of all its sessions in English and Spanish languages “once a week for two successive weeks” in one newspaper in the capital of the state or territory where it presided.²¹⁹

All claims of inchoate lands derived from Spain or Mexico within the ceded territory not filed by March 3, 1893, were forever barred.²²⁰ Subsoil rights containing mineral wealth were also exempt, for such rights were vested in the sovereign.²²¹ The United States quitclaimed its interest in surface estate only. Another limitation of the court was that it could not confirm inchoate claims exceeding eleven square leagues. Unfavorable decisions could be appealed directly to the United States Supreme Court.²²² Favorable decisions depended on a survey to be made by the Commissioner of the General Land Office, who in turn, would return the survey to the court for final approval.

The act provided that people who had been in actual and continuous adverse possession of land not exceeding 160 acres for twenty years were to be given patents following a survey of their land ordered by the court.²²³ Persons making adverse claims, however, could not apply for lands to “any city lot, town lot, village lot, farm

²¹⁹Court of Private Land Claims Act, Chap. 539, 26 Stat., 854 (1891).

²²⁰Court of Private Land Claims Act, Chap. 539, 26 Stat., 854 (1891).

²²¹Court of Private Land Claims Act, Chap. 539, 26 Stat., 854 (1891).

²²²Court of Private Land Claims Act, Chap. 539, 26 Stat., 854 (1891).

²²³Court of Private Land Claims Act, Chapter 539, 26 Stat., 854 (1891).

lot, or pasture lot held under a grant from any corporation or town the claim to which may fall within the provisions of section eleven of this act."²²⁴

The Court of Private Land Claims was originally chartered for five years ending on December 31, 1895, but its term was extended from time to time, ultimately expiring on June 30, 1904. The court originally convened for business in Denver, Colorado, on July 1, 1891. It relocated, however, to Santa Fe, New Mexico, for lack of a government building to house it in Denver. Nearly a year and a half later, on December 6, 1892, the Court of Private Land Claims began holding special sessions from time to time in Tucson and Phoenix, Arizona. The main business of the court was twofold: the adjudication of the validity of land claims, and the approval of surveys made to confirm said claims.

In the course of thirteen years, the Court of Private Land Claims dealt with 290 claims that had been filed covering an aggregate area of 35,491,019 acres.²²⁵ Two hundred twenty-eight cases were in New Mexico; 17 in Arizona; and 3 in Colorado. Of them, 158 cases were rejected. Only 21 cases were confirmed for the entire land claimed. In other cases, the court recognized titles, in whole or in part, covering a total of 2,051,525 acres of which 116,539 were in New Mexico. A total of 33,439,494 acres of rejected claims reverted to the public domain. Some grants which exceeded the eleven leagues limitation or were smaller than what had been claimed were substantially reduced in size. Seventy-three cases, 58 in New Mexico and 15 in Arizona, were appealed to the United States Supreme Court. Of them only 39 appeals were passed upholding 23 decisions made by the Court of Private Land Claims, reversing five others, and reversing or remanding 11 cases. The U.S. Government had been the appellant in 26 cases. It was able to secure a reversal or a reversal and remand in 10 cases. Only one money payment in the amount of \$513.63 was made.²²⁶ Thirteen years after its initiation, the Court of Private Land Claims had, according to Congress, discharged the obligations of the United States under the Treaty of Guadalupe-Hidalgo (1848) and the Gadsden Purchase Treaty (1853).

During the thirteen year period of the Court of Private Land Claims, Atrisqueños, like many other Hispanic land grant heirs, had been busy defending their boundaries, just as they had during the administration of the Office of the Surveyor General. Before the court had finished its business in 1905, its justices had learned much about the long history of the Atrisco Land Grant and its claim to additional land

²²⁴Section 16 of Court of Private Land Claims Act, Chap. 539, 26 Stat., 854 (1891).

²²⁵Bowden, "Private Land Claims in the Southwest," 243. The following statistics are taken from Bowden, pp. 243-248

²²⁶Bowden, "Private Land Claims in the Southwest," 248. Also see *Chaves v. United States*, No. 57 (Mss., Records of the Ct.Pvt. L. Cl.).

as far west as the Río Puerco. They knew about Pedro Durán y Chaves' occupation of lands in the Valle de Atrisco prior to the Pueblo Revolt of 1680. They had heard testimony about the Fernando Durán y Chaves's 1692 grant of Atrisco and Angostura. They had read through translations of land transactions and conveyances between 1729 and 1772.

Pouring over the ponderous documentary collection that formed the significant Atrisqueño claim to land as far as the Río Puerco made by Joseph Hurtado de Mendoza in 1768, the justices learned about the Spanish legal system. The Court of Private Land Claims justices knew all about Joseph Hurtado de Mendoza's representation of doña Efigenia Durán y Chaves's attempt to gain possession of Las Ciruelas and Arbolito del Manzano. And, they read all of the sordid details concerning doña Efigenia's fight with doña María over 700 head of sheep. In the end, they learned that the Atrisqueño claim was longstanding.²²⁷ Yet, like the surveyors general of the earlier period of land grant litigation, they seemed to have reservations about the grant. To them, dutifully, it needed to be tested adversarially.

The justices of the Court of Private Land Claims also reviewed the significant event of the creation of the Town of Atrisco under the Act Relating to Community Land Grants of February 26, 1891. As provided by the Act, the people of Atrisco claiming to be the possessors of two grants lying between two rivers, the Río Grande and the Río Puerco, petitioned the District Court of Bernalillo County to incorporate their interests by creating a corporation with a body politic under the name of the Town of Atrisco. The justices were particularly interested in the provision of the law, passed by the Territorial Assembly that provided that the District Court could incorporate the owners of land grants if they filed a petition of incorporation along with proof that two-thirds of the grantees voted for incorporation. The justices of the Court of Private Land Claims were satisfied that the people of Atrisco had successfully called for a vote to incorporate.

Having conformed to all the requirements of the Act, the Atrisqueños, under the auspices of the District Court of the County of Bernalillo, next petitioned the Court for confirmation of the incorporation of Atrisco from the Río Grande to the Río Puerco. In affirming the legality of the actions taken by the people of Atrisco, the District Court recognized that a legal election had taken place in which two-thirds of the required voters had voted in favor of the petition to incorporate. On April 11, 1892, the court granted their request declaring the creation of the Town of Atrisco and the people there a duly constituted body politic.²²⁸

²²⁷See previous sections of this study for the historical development of the grants within each of these themes.

²²⁸Decree by the District Court, County of Bernalillo, Territory of New Mexico, Case #3278, CPLC 45.

In their review, the justices noted that in early November 1892, following the confirmation of incorporation by the District Court of Bernalillo County, the Atrisqueños, under Manuel Antonio Jaramillo, President of the Town of Atrisco Board of Trustees and José de la Luz Sánchez, Secretary and Treasurer,²²⁹ filed suit in the Court of Private Land Claims over boundary issues between them and the City of Albuquerque. The Town of Atrisco retained the firm of Warren, Fergusson, and Bruner, which had represented them in other matters. The landmark case, *Town of Atrisco v. the United States of America and the City of Albuquerque*, would be won by the Atrisqueños, but the price of the confirmation of the grant boundaries would place the Town of Atrisco within the municipal limits of Albuquerque. E.W. Dobson, attorney for the City of Albuquerque and Matthew G. Reynolds, U.S. Attorney for the Court of Private Land Claims represented the defendants.

In their petition to the Court of Private Land Claims, the Atrisqueños began by reminding the justices that the Town of Atrisco was a corporation duly organized and existing under the "Act relating to Community Land Grants, and for other purposes" that had been approved on February 26, 1891. Next followed a lengthy discussion concerning the historical boundaries of the Town of Atrisco, the petitioners stated that a portion of their lands were "included within the boundaries claimed by the City of Albuquerque."²³⁰ That issue needed to be clarified. As part of its suit, the incorporated Town of Atrisco also requested of the Court of Private Land Claims that its two grants be confirmed.

The plaintiffs alleged that the first grant of 1692 comprised of 41,533 acres and the second grant of 1768 contained approximately 26,958 acres.²³¹ In their allegation that a portion of the grant, approved in 1700, conflicted with the boundary of the Town of Albuquerque, they stated:

A portion of the said lands is included within a certain claim for a tract of four (4) square leagues of land, having for its center the

²²⁹Metzgar, "The Atrisco Land Grant, 1692-1977, *NMHR*, 52:277.

²³⁰Town of Atrisco v. U.S., 1892, CLPC 45.

²³¹The boundaries described in this petition are consistent with all previous descriptions, to wit: [Regarding the 1692 Grant] "On the North by the barranca de Juan de Perea; on the South by lands of Captain Antonio Baca; on the East by the Rio Grande, on the West by the ceja (ridge) of the Rio Puerco." [Regarding the 1768 Grant] "On the North, commencing at a point two (2) leagues south of the Town of San Fernando, in front of two large cottonwood trees standing close together, -on the South by a bent cotton wood tree, called and known as 'el alamo gacho', a point three (3) leagues south of the said two large cottonwood trees before mentioned; on the West by the Rio Puerco and on the East by the ridge (ceja) of a hill called the Rio Puerco Mountain, the same being the western boundary of the first before-mentioned tract."

center of the old Villa de Albuquerque (sic), by and on behalf of the City of Albuquerque, a municipal corporation, created under the laws of the Territory of New Mexico, and situated in the County of Bernalillo, and which said claim was duly confirmed by this Honorable Court on April 26th. 1892, but without prejudice to the right of your petitioner to claim any portion of the said lands which lies on the west side of the Rio Grande. The portion of said lands so included within the boundaries claimed by the City of Albuquerque is claimed by your petitioner under and by virtue of said grant to the predecessors in title of your petitioner, made about the year 1700; and although the same is held and owned in severalty by persons owing the same, and the confirmation of the same under the said claim of the City of Albuquerque, will enure to the benefit of said individual owners, yet your petitioner claims title to the whole of said tract of land within the said boundaries thereof, hereinbefore set forth, adversely to any claim thereto on the part of the City of Albuquerque.²³²

The Atrisqueños contended that Atrisco should prevail as it predated Albuquerque.

In their statement, the Atrisqueños stated that the recent history of the grant included their petition to the surveyor general who, had on January 28, 1886, wrote his decision and recommendation in his report to Congress approving both grants. However, Congress had taken no action and that “the said claim has not been heretofore submitted to any authorities constituted by law for the adjustment of land titles within the limits of the said Territory.”²³³ In other words, no survey was granted or made of Atrisco at that time. The Atrisqueños included maps of both grants to show the area of their just claim.

The response by the City of Albuquerque, tersely worded, but predictable, refuted the claim by the Town of Atrisco.²³⁴ The City of Albuquerque alleged that by admission of the Atrisqueños no documentary record existed for either the 1692 or 1768 grant.

As if with impunity, the City of Albuquerque stated that “This defendant further denies that after the making of the said supposed grant about the year 1700, the settlers of the Town of Atrisco possessed or occupied, or improved, or cultivated, as grantees, the said first mentioned tract, but admits that from and after

²³²Town of Atrisco v. U.S., 1892, CPLC 45.

²³³Town of Atrisco v. U.S., 1892, CPLC 45.

²³⁴Town of Atrisco v. U.S., 1892, The Answer of the City of Albuquerque, CPLC 45.

the date of the grant made in 1768, the grantees under the said grant, possessed, occupied, improved and cultivated, as grantees, the said tract therein described.”²³⁵

Furthermore, alleged the City of Albuquerque, “this defendant avers that whatever possession or right any person or persons may have had to the lands included within the description set forth in the first paragraph of said petition have been under and in subordination to the jurisdiction, authority and title of the Villa de Albuquerque (sic), in the same manner and to the same extent as other persons holding, possessing and owning lands within the limits of the grant of said Villa de Albuquerque (sic) as already recognized and confirmed by this Honorable Court.”²³⁶

The City of Albuquerque ended its response by stating that the matter had been settled earlier by the Court of Private Land Claims on April 16, 1892, without prejudice to the right of the Town of Atrisco to claim any portion of lands lying on the west side of the Rio Grande. To that end, the City of Albuquerque appended the earlier ruling stemming from their adjudicated case of the City of Albuquerque v. United States. At that time, the City of Albuquerque sought to define its boundaries based on its Spanish Land Grant. It claimed that since its founding, it had been entitled to four square Spanish leagues of land measuring from the center of the plaza to each of the four cardinal points of the compass. The findings, it claimed were confirmed and based on Spanish law contained in the *Recopilación de las leyes de los Reynos de las Indias*, Title V, VII, XII, and XIII, Book IV.²³⁷ At that point, the City of Albuquerque considered the issue a moot point. The Atrisqueños thought differently.

Meanwhile, the Atrisqueños were puzzled over the government’s contention that a grant had never been made to Atrisco in or about 1700, and that no documents existed to support the Town of Atrisco’s claim. The Atrisqueño response came quickly. When they wrote their petition to the Court of Private Land Claims, the Atrisqueños had already discovered a number of much-needed documents dating to the end of the seventeenth century related to Atrisco, which the City of Albuquerque had failed to notice.

The documents related that Atrisco was probably owned by Pedro Durán y Chaves prior to the Pueblo Revolt of 1680, and that on October 7, 1692, Fernando Durán y Chaves had been given a new grant for both Angostura and Atrisco. The lands were located between the barranca de Juan de Perea and the corrals owned by Juan Domínguez de Mendoza. In 1692, Governor Vargas had conceded both tracts to don Fernando with all the privileges of conquistador and founder based on

²³⁵Town of Atrisco v. U.S., 1892, The Answer of the City of Albuquerque, CPLC 45.

²³⁶Town of Atrisco v. U.S., 1892, The Answer of the City of Albuquerque, CPLC 45.

²³⁷City of Albuquerque v. United States, No. 8, in Town of Atrisco v. U.S., 1892, CPLC 45.

the recognition that his family had owned Atrisco. The plaintiffs argued that the grant given to don Fernando was a community grant, not one given to an individual. The government argued the contrary stating that if the grant had been given to don Fernando as an individual, then the people of Atrisco had no interest in the claim. Still, no document demonstrating that investiture had been given to don Fernando had been located.

The Atrisqueños clarified their understanding of the dates by stating: "At some time subsequent to the Year of our Lord 1692 and prior to the year 1768, and as your petitioner believes and states during or shortly subsequent to the year 1700, there was duly and lawfully made by the then Governor and Captain General of the Kingdom and Province of New Mexico, under the Crown of Spain, to the inhabitants and settlers of the Town of Atrisco a grant of a tract of land."²³⁸ The government argued that the 1768 grant was a grant made to fifteen individuals. In other words, the Rio Puerco claim was not a grant but a life estate or license in favor of Hurtado de Mendoza and his associates.

In the midst of the debate between the Town of Atrisco and the City of Albuquerque, the Atlantic and Pacific Railroad asked for a dismissal of the claims made by the Atrisqueños. The Railroad based its interest on the fact that on March 12, 1872, it had filed a map with the General Land Office designating its line of road. In 1881, it constructed its line through the Counties of Bernalillo and Valencia in the Territory of New Mexico. When the Atlantic and Pacific Railroad was incorporated by Congress in 1866, it was granted odd numbered sections of public land in New Mexico "within a distance of forty miles on each side of the line of railroad constructed by it; and that the land, the title to which is sought to be confirmed by plaintiff in this section lies within the fifty mile limit." The railroad further alleged that when it filed its map, "no proceedings were had any where or in any way preventing the rights granted to this defendant by said Act of Congress, from attaching to any of the real estate described in plaintiff's petition, to which they could attach under the terms of its said grant." Therefore, "this defendant prays that the plaintiff's petition be dismissed as to all of the odd numbered portions."²³⁹

The United States attorney next took his turn at discrediting the Town of Atrisco. His supplemental arguments, entered in the August term of 1894, basically followed those of the City of Albuquerque, especially in stating that the Atrisqueños did not have any record or documentary evidence supporting the grant. His argument, strongly worded, questioned whether "any such grant was ever made to said Fernando Duran y Chaves, the same was surrendered or annulled prior to the year 1700; and

²³⁸Town of Atrisco v. U.S., 1892, CPLC 45.

²³⁹"Comes now the Atlantic and Pacific Railroad Company," in Town of Atrisco v. U.S., 1892, CPLC 45.

the heirs and representative of said supposed grantee have never claimed and do not now claim any title or interest whatever adverse to or in conflict with the said title by your petitioner and its predecessors in interest, under and by virtue of the said two grants to the inhabitants and settlers of the town of Atrisco.”²⁴⁰

The attorney for the United States stated that his office had undertaken its own research and had, indeed, found a document that supported that a 1692 grant had been made to Fernando Durán y Chaves as alleged by the Atrisqueños but averred that he had ever been placed in possession of the land in Atrisco. As the land was made to an individual, he argued, it was not a community grant. He concluded that as the grant was made to an individual, it therefore “cannot, under the laws of New Mexico, be incorporated as a community grant, and therefore this suit cannot be maintained by this plaintiff.”²⁴¹

The Court of Private Land Claims had already read through the original Spanish documents in the Office of the Surveyor General for New Mexico. Eusibio Chacón, official translator for the Court, certified the translations had been compared and accepted.²⁴²

Meanwhile, the Court sought to establish the historical continuity between the incorporators of the Town of Atrisco and the original grantees of the Atrisco Land Grant. Among the incorporators were Antonio José Chaves, Juan Baca, Juan Sánchez, and José de la Luz Sánchez. Each was able to prove his genealogical lineage to the original grantees. Chaves proved that he was the descendant of Efígenia Chaves on his paternal side, and Tomás García on his maternal side. Baca descended from Tomás García, another original grantee. Juan Sánchez traced his lineage to Pedro Sánchez, original grantee. And, José de la Luz Sánchez demonstrated that he was a descendant of José Sánchez, another original grantee of the Atrisco Grant.²⁴³

On September 4, 1894, the court issued its decision that a grant held under Spain or Mexico covering a large tract of land issued to a large number of individual heads of families was clearly a community grant. In regard to the interest held by the City of Albuquerque, the court stated that “it is further ordered, adjudged and decreed, that the claim of the said defendant, the City of Albuquerque, in or to any part or parcel of the said land so confirmed as aforesaid, or to any title or interest therein, is invalid and is hereby rejected and declared wholly void and of no effect.” With those words, the Atrisqueños had not only validated their

²⁴⁰“Comes now the United States by its attorney,” in *Town of Atrisco v. U.S.*, 1892, CPLC 45.

²⁴¹“Comes now the United States by its attorney,” in *Town of Atrisco v. U.S.*, 1892, CPLC 45.

²⁴²Statement signed by Eusibio Chacón, *Town of Atrisco v. U.S.*, 1892, CPLC 45.

²⁴³Deraignment of Title of plaintiff,” in *Town of Atrisco v. U.S.*, 1892, CPLC 45.

boundaries, they had gained title to both grants between two rivers. Their grant to the Town of Atrisco was confirmed “in trust and for the use and benefit (sic) of the inhabitants of said original and additional grants may appear, the said land so confirmed as aforesaid being in width from north to south, three leagues, more or less, for the entire length, thereof from the Rio Grande to the said Rio Puerco.”²⁴⁴ Thus, the Town of Atrisco had prevailed. Both the Atlantic and Pacific Railroad and the U.S. Government appealed the decision in 1895 but their time of sixty days to appeal had expired. In 1897, the United States again objected, this time to the validity of the survey claiming that the boundaries, in all directions, north, east, south, and west, did not conform to the decree of confirmation.²⁴⁵

Nonetheless, as prescribed by the procedure, the grant was surveyed by the Surveyor General’s office prior to final approval. Atrisco was surveyed by Deputy Surveyor George H. Pradt. The survey showed that the two tracts covered a total area of 82,728.72 acres. The cost of the Atrisco totaled \$813.59. The cost along with fees incurred in clearing the title with the Court of Private Land Claims, resulted in a “peculiar trustee arrangement in late 1898,” in which the Town of Atrisco lost 12,000 acres of its common lands.²⁴⁶ The trust deed agreed upon by the president and secretary of the corporation of the Town of Atrisco provided for a special trustee of 12,000 acres as security of the \$1,000 owed as fees for clearing the land titles of the Town of Atrisco. The corporation, required to pay the fees by September 12, 1899, failed to do so. Having given proper notice in an Albuquerque newspaper, the trustee, under the agreement, auctioned the land to the highest bidder. From the proceeds, the trustee paid the costs of the sale, amortized the debt with interest for payment, collected his fee of \$50.00, and gave the balance to the corporation. Fortunately, the commissioners of the Town of Atrisco were allowed to bid at the auction of their land. Thus, at the auction, 12,000 acres, nearly half of the 1768 grant, “passed into the hands of private interests, mostly heirs and officials of the Atrisco grant.”²⁴⁷

During the auction process, in 1898, an adjustment was made to Atrisco’s southern boundary so that it would conform to the northern boundary of Pajarito. The Court of Private Land Claims ordered a survey “commencing at a point three chains west of the 10 mile corner on said north boundary of the ceja of the

²⁴⁴Decision signed by Chief Justice Joseph R. Reed, September 4, 1994, *Town of Atrisco v. U.S.*, 1892, CPLC 45.

²⁴⁵“Now comes the United States, 1897” in *Town of Atrisco v. U.S.*, 1892, CPLC 45.

²⁴⁶Metzgar, “The Atrisco Land Grant, 1692-1977,” *NMHR*, 52:279.

²⁴⁷Metzgar, “The Atrisco Land Grant, 1692-1977,” *NMHR*, 52:279-80.

Rio Puerco to a point due east of the northwest corner of said survey of the Pajarito grant; thence west to said northwest corner of said survey of the pajarito grant on the Rio Puerco."²⁴⁸

On May 5, 1905, President Theodore Roosevelt, signed the United States patent confirming the lands approved by the Court of Private Land Claims along with the survey for the Town of Atrisco. The patent was issued "in trust for the use and benefit of the inhabitants of said original and additional grants as their respective interests may appear, and to their successors in interest and assigns forever."²⁴⁹

Atrisco during the first decades following the Anglo-American occupation of New Mexico seemed to change once again. The ability of Atrisqueños to survive the change appears remarkable in contrast to other land grant heirs throughout the ceded territory who did not fair as well. Their legal internship during the Spanish colonial period had trained them well to conserve their documents, for when they needed them, they made the difference between victory and defeat. The surveyor general had, indeed, been fair to the Atrisqueños, but he had not prepared them to defend their title against all comers. It was during the period of the Court of Private Land Claims that the Atrisqueños learned the value of preparation, not only legal preparation, but historical preparation by way of research. In the end, history vindicated their claim and saved them from oblivion.

²⁴⁸Order by Chief Justice Joseph R. Reed, April 17, 1898, Santa Fe, NM, in *Town of Atrisco v. U.S.*, 1892, CPLC 45.

²⁴⁹Metzgar, "The Atrisco Land Grant, 1629-1977, *NMHR*, 52:280.

EPILOGUE

After the incorporation of the land grant as the Town of Atrisco, Atrisqueños faced a series of tests. Historian and heir to Atrisco lands, Joseph V. Metzgar identified a common thread in the early decades of the modern history of Atrisco. He wrote that

...a constant problem was that of preventing 'inside' interests from gaining rewards and acreage for themselves without regard to the interests of all heirs. Indeed, the corporation failed seriously in several respects. First, it did not establish definitive and complete heirship listings. Second, it did not keep secured and adequate records of all land transactions. Third, it did not provide official accounting of funds. Finally, it did not maintain a record of the minutes of trustee meetings....Considering the circumstances, it seems surprising that so much of the common lands remained intact and integrated. Yet there was concern and honest leadership within and without the inner circle which helped regain integrity and beneficial communal development.²⁵⁰

During the first fifty years of the twentieth century, Atrisqueños wrestled with the phantom power of astute insiders as they had in the eighteenth century. In the end, the majority will prevailed.

Economic change blew in the wind for all New Mexicans who depended on rural industries such as agricultural and grazing economies. After 1890, there had been a steady decline of usable open range as government land management, conservation programs, privatization of watering places, fencing, and homsteading became widespread trends. In addition to the aforesaid factors, the close of the open range brought about a decrease in grazing capacity of New Mexico. In turn, livestock raising decreased to nearly 60 per cent of what it had formerly been. By the 1930s, drought and overgrazing had depleted range vegetation by nearly 60 per cent.²⁵¹ Similarly, agriculture declined. Not only had settlements along the Río Puerco been abandoned, the last extensive grazing of sheep on Atrisco's common lands took place in the 1930s. Irrigated acreage in the Middle Río Grande Conservancy District, fell from 125,000 in 1880 to 40,000 in 1925.²⁵²

²⁵⁰Metzgar, "The Atrisco Land Grant," *NMHR*, 52:281.

²⁵¹Metzgar, "The Atrisco Land Grant," *NMHR*, 52:281.

²⁵²Metzgar, "The Atrisco Land Grant," *NMHR*, 52:281.

Aside from the Great Depression that contemporaneously afflicted worldwide economies, these factors had profound effects on Atrisco's future, for both livestock grazing and agriculture declined forcing Atrisqueños to seek jobs in Albuquerque and elsewhere. During the period preceding World War II, economic and environmental factors accelerated the move from farm to city.

Drawn from their traditional industries, Atrisqueños pondered the meaning of these changes. During this period, the Town of Atrisco Board of Trustees embarked on what seemed daring and foresighted enterprises. In 1920, the Town of Atrisco signed its first lease ever to an outside interest for the exploration and development of any gas and oil resources that could be found within its jurisdiction. Six years later, the Town of Atrisco let another lease for the mining of volcanic ash to Cegelsky, Avery, and Preston, an Albuquerque firm. One of the most far-reaching decisions made by the Board of Trustees involved the lease for the construction of an airport from which evolved the Cutter-Carr Airport and Cutter-Carr Flying Service. In the 1930s, the Board of Trustees signed right-of-way easements for telephone and telegraph lines and quitclaimed five-acre plots to certain heirs who sold them for the construction of Highway 66,²⁵³ through which modern I-40 runs west of Albuquerque.

The new trend of leasing land to outside interests drew concerns among heirs to Atrisco. In October 1935, James M. Hubbell filed suit asking that all legal heirs entitled to share in profits and benefits of the Town of Atrisco be identified. One criteria used the list of original owners and incorporators of the Town of Atrisco in 1892; the second criteria required that direct descendants of those Atrisqueños named on the 1892 list prove their relationships. Four months later, in February 1936, the presiding justice in *James M. Hubbell v. the Town of Atrisco* (1935), Judge Fred E. Wilson of the District Court approved the list. Subsequently other heirship petitions were presented to the court resulting in an amended list. The last heirship petition related to the *Hubbell* case was made in 1952.²⁵⁴

Concern that common lands could be sold or alienated without the approval of heirs, Antonio J. Carabajal and other Atrisqueños sued, in 1940, the Board of Trustees of the Town of Atrisco in District Court. Charging mismanagement and violations of state law regarding the sale of land grants, the plaintiffs demanded the removal of trustees involved in illegal practices and an accounting of the Town of Atrisco's monies and budget. Anticipating a judicial order, the president and secretary-treasurer resigned the day before the court's pronouncement. Barring any

²⁵³Metzgar, "The Atrisco Land Grant," *NMHR*, 52:282.

²⁵⁴Metzgar, "The Atrisco Land Grant," *NMHR*, 52:282-83.

new business until a new board could be elected in January 1941, Judge George W. Hay, ordered all corporation funds impounded.²⁵⁵

In the election, David J. Armijo was elected president, and Jake Armijo as secretary. The court maintained general supervisory control over the Town of Atrisco business dealings. The board was made accountable to the court by fulfilling requirements in which the president of the board post a \$1000 surety bond, maintain a set of books, record minutes of all board meetings, and file an annual audit report by a certified public accountant.²⁵⁶ The court appointed Attorney Gilberto Espinosa to investigate illegal disbursements and misappropriations cited originally in the *Carbajal* suit of 1940. Finally, the court ordered that no common lands belonging to the Town of Atrisco could be sold or alienated without the approval of the court.²⁵⁷ The Town of Atrisco would remain under that court order throughout its existence.

Atrisco's tax exemption status was another problem area that resulted in the New Mexico Supreme Court decision on that issue. In *Town of Atrisco v. Monahan, et al. (1952)*, the court entertained whether the Town of Atrisco could claim *res judicata* from a 1920 *Roehl* case, and whether the Town of Atrisco could permanently restrain and enjoin the taxation of its common lands. Finding no basis for Atrisco's tax exemption, the court ruled negatively on both issues. Of the case, Atrisco Historian Metzgar writes: "This decision by the New Mexico Supreme Court in 1952 settled once and for all the question of the Atrisco grant's tax status and stimulated a more determined search by Atrisqueños for more monetarily advantageous policies in using their common lands."²⁵⁸

Meanwhile, Albuquerque's westside was undergoing development. The rapid construction of homes in that area caused Atrisqueños to rethink how the development of the area could benefit them. Hoping to redefine their proprietary status, Alfredo Armijo filed suit in district court against the Town of Atrisco. The case went to the Supreme Court of New Mexico on appeal. The issue revolved around the age-old question: did the heirs own the grant lands in fee simple as tenants in common? Or, did the Town of Atrisco hold the lands in trust for them? If the first question was affirmative, then the parties to this suit hoped that the lands could be divided among them so that they could dispose of them as they wished. As decided upon by the Court of Private Land Claims in the nineteenth century, and as shown by the patent of 1905, the historical grant had been declared a community grant which would be

²⁵⁵Metzgar, "The Atrisco Land Grant," *NMHR*, 52:283.

²⁵⁶Metzgar, "The Atrisco Land Grant," *NMHR*, 52:283.

²⁵⁷Metzgar, "The Atrisco Land Grant," *NMHR*, 52:283.

²⁵⁸Metzgar, "The Atrisco Land Grant," *NMHR*, 52:286.

incorporated under the Town of Atrisco. In *Armijo v. the Town of Atrisco* (1952), the court reviewed the entire history of the Atrisco Land grant from its earliest times toward defining whether it was a community land grant. The court recognized the authority of the corporation to form “a body politic and corporation under the corporate name to the Town of Atrisco” with all powers and authorities to administer, convey, lease, mortgage, or otherwise dispose of so much of the land grant or real estate described therein.²⁵⁹ In its conclusions, the court declared:

The plaintiffs claim that they either own the lands in question in fee simple as tenants in common or that the Town of Atrisco has been holding said lands in trust for them and that the lands should now be divided among them. It is my opinion, however, that title to said lands has been vested in The Town of Atrisco for over fifty years in fee simple and that the plaintiffs have no interest in said lands except that they do have the right as set forth in our State Statutes to participate in the affairs of the corporation, as they and their predecessors have been doing for fifty years.²⁶⁰

Thus, the New Mexico Supreme Court upheld the decision of the lower court. The decision, in effect, prevented individual ownership of the land as administered by the Board of Trustees of the Town of Atrisco. The quest continued, nevertheless, for a way to allow the commercial development of the land that would be equitable and profitable for the Atrisqueños.

Meanwhile, a new plan was afoot. In 1953, John N. Brunacini, an attorney for the Town of Atrisco, requested the District Court to distribute 10,000 acres of land to certain Atrisco heirs. Brunacini argued that in the past, boards of trustees had distributed land to certain heirs causing an inequitable circumstance for those who had not been favored. The District Court approved the plan. However, Jake Armijo and other heirs asked the District Court for a stay of proceedings regarding the distribution of land. They then appealed to a higher court. Meanwhile, 70 tracts of land had been distributed under the plan.

Four years later, Brunacini stood before the New Mexico Supreme Court explaining the proposal once again. Accordingly, the court asked Brunacini to affirm the following understanding of his proposal that the Board of Trustees proposed that “they will sell to each heir who applies ten acres of land, at \$10 per acre except those heirs who previously received five-acre allotments and to them they will sell only five acres; that before the sale is consummated, the Board wishes to quiet title to approximately 10,000 acres and give each person title according to that survey, after application is approved. Approved applicants will be matched each to the surveyed

²⁵⁹*Armijo v. the Town of Atrisco*, 56 N.M. 2, p.6.

²⁶⁰*Armijo v. Town of Atrisco*, 56 N.M. 2, p.8.

tract on the basis of a jury wheel or similar to a rotary system, is that your plan in substance?" Brunacini acknowledged affirmatively.²⁶¹ Assignment of land in terms of its location, would be made by lottery from the list of names determined by the *Hubbell* case of 1935 and its amended lists. Having advertised the plan, Brunacini stated that 2,134 persons had applied for the lottery of which 1,800 had been approved.²⁶² After discussing the plan further, the Supreme Court had a better idea about the proposal.²⁶³

On May 29, 1957, the New Mexico Supreme Court rendered its decision reversing the decision of the lower court. In writing the Court's opinion, Justice Sadler pointed out that the means to distribute the land violated state law prohibiting lotteries; that the distribution of land would result in the dissipation of the Town of Atrisco's assets, also a violation of state law regarding land grants; and, that the plan ignored elemental concepts of due process under the Fourteenth Amendment of the Constitution. Sadler also observed that many heirs ("in excess of 2,000") were not heard before the Court. And so, the Town of Atrisco narrowly escaped placing itself on the road to oblivion with Justices Sadler's words "reversed and remanded."

Meanwhile, Albuquerque's expansion to the westside continued to bring tempting opportunities to Atrisqueños. Under approval of the District Court in 1959, Hoffman Homes purchased 4,000 acres in the subdivision known as Westgate. It was the first major housing development on the west mesa. Of the event, in which the land was purchased for \$1,250,000, Metzgar wrote, "Most heirs, however, gained no direct benefit from the transaction."²⁶⁴

In the meantime, Atrisqueños sought the remedy Justice Sadler had recommended in his 1957 decision. He had suggested that change could be achieved through the legislature. Lobbyists had been hard at work to achieve that change. They focused on laws permitting corporations established under the 1891 act to reorganize under the general corporation laws of New Mexico. In 1967, a law permitted community land grant corporations to change their legal status to one of domestic stock corporation. The law not only allowed flexibility in land transactions with non-Atrisco interests, it also permitted heirs to be receive stock dividends.

²⁶¹*Jake Armijo, Benjamin Benavidez, David J. Armijo, Trinidad Lovato, Ufella Gomes, Marcelino Saavedra, Manuel Garcia, Tranquillino Barela, Roman Salas, Samuel Garcia, Carlos Gomes, Rumaldo Garcia, Filemon Chavez, B.W. Sloan, Arturo Gonzales, Max Griego, in their own behalf and in behalf of others similarly situated, Petitioners-Appellants, v. Town of Atrisco, a corporation, Respondent-Appellees, No 6145, 62 N.M. 440, p.446.*

²⁶²*Armijo v. Town of Atrisco* (1957), 62 N.M. 440, p. 445.

²⁶³*Armijo v. Town of Atrisco*, 62 N.M. 440, p. 448.

²⁶⁴Metzgar, "The Atrisco Land Grant," *NMHR*, 52:289.

To that end, in July 1967, a lawful number of owners and heirs submitted articles of incorporation leading to the creation of the Westland Development Company. By 1969, the Westland Development Company had supplanted the Town of Atrisco. Through a court order, District Judge Edwin L. Swope ordered the Board of Trustees of the Town of Atrisco to transfer all books, records and land to Westland. On November 15, 1969, the Town of Atrisco trustees executed a quitclaim deed to the Westland Development Company.

Although Westland remains firmly in control of the fate of the Atrisco Land Grant, it is not without opposition from certain Atrisqueños who formed the Atrisco Land Rights Association. Still, all Atrisqueños can look upon their past with great pride, for they are truly History's children. Like their ancestors, they have taken on, and continued to take on, all comers, including their own. Don Fernando Durán y Chaves would similarly be proud.

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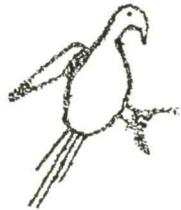
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Petroglyph National Monument





*Presented with the compliments of Petroglyph National Monument to
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