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The Court of Private Land Claims and the Petaca Grant Case Study Summary NSF CNH

By Marcos A. Roybal | February 2012

The Petaca land grant of Rio Arriba County in many ways typifies the patterns of settlement, adjudication, and contemporary issues that characterize New Mexico's land grants. Though it was originally established as a community land grant for agricultural purposes, Petaca's natural resource-rich lands quickly garnered the attention of speculators and investors when New Mexico was acquired by the United States in 1848. This, coupled with national manifest destiny aspirations, resulted in over a quarter century of legal battles and the ultimate dispossession of tens of thousands of acres of common lands. The following is a synopsis of the history of the Petaca grant with an emphasis on land use and contested boundaries.

Petaca was first viewed for settlement in 1824, when a petition was made for lands along the banks of the *Río de la Petaca* (now the Rio Tusas) north of Ojo Caliente.¹ However, this petition was never acted on.² Then, in January 1836, José Julian Martínez, Antonio Martínez, and Francisco Antonio Atencio filed a second petition for the Petaca tract on behalf of themselves and 33 others.³ On March 25, 1836, following approval by territorial governor Abino Pérez, the *ayuntamiento* of Ojo Caliente formally awarded the grant, distributing land in 150 vara-wide tracts along the Rio Petaca to each of the 36 settlers. An additional 250 *varas* were set aside for a plaza, "women's gardens and ingress and egress," and a separate 50-vara

¹ April 1824 petition for lands near Petaca. Twitchell Collection: Spanish, Mexican and American Manuscripts and Autographs. No. 109. New Mexico State Records Center and Archive (NMSRCA), Santa Fe, NM.

² 22 Feb. 1836 opinion of José Antonio Martínez. Court of Private Land Claims (CPLC) Files #153, Reel 49, Frames 268-269. New Mexico State Records Center and Archive (NMSRCA), Santa Fe, NM.

³ 29 Jan. 1836 petition for the Petaca land grant. CPLC Files #153, Reel 49, Frame 268. NMSRCA, Santa Fe, NM.

tract was designated as a common watering place.⁴ The *ayuntamiento* stipulated that “the pastures, forests, waters, and watering places [surrounding the private parcels and specific common tracts] are in common, and... he who fails to occupy and cultivate the land granted, within the term of five years, in order to acquire title” could not transfer the land.⁵ The *ayuntamiento* then delineated the boundaries of the grant, which were listed⁶ as “on the south the entrance of the Cañoncito, and lands of José Miguel Lucero, on the north the hill commonly called the Tío Ortiz Hill, on the east, the creek of the Aguaje de la Petaca, and on the west, the boundary of the Vallecito grant.”⁷

The original settlers of Petaca were typically younger members of families from the communities surrounding Ojo Caliente who set out to make their own livelihood, but in some cases they came from more distant locales such as Abiquiú, La Puente, Tierra Azul, and El Duende.⁸ These settlers engaged in agriculture and ranching (particularly sheep). On several occasions early in the grant’s history, Ute, Apache and Navajo raided the area and killed people from Petaca, forcing residents to retreat to nearby settlements.⁹

On March 20, 1848, shortly after the signing of the Treaty of Guadalupe Hidalgo, the *alcalde* of Rio Arriba County redistributed lands on the Petaca grant, assigning 39 individuals 150 vara-wide tracts along the river. He also designated common parcels for a plaza and

⁴ 18 Feb. 1875 translation of Spanish petition for the Petaca land grant. Surveyor General Case Files (SGCF) #105, Reel 23, Frame 249. NMSRCA, Santa Fe, NM.

⁵ 25 Mar. 1836 allocation of Petaca Grant. CPLC Files #153, Reel 49, Frames 270-273. NMSRCA, Santa Fe, NM.

⁶ The validity of these boundary calls is later brought into question, particularly regarding the northern and eastern boundaries.

⁷ 18 Feb. 1875 translation of Spanish petition for the Petaca land grant. SGCF #105, Reel 23, Frame 249. NMSRCA, Santa Fe, NM.

⁸ Gallegos, J.H. 2009. The Petaca land grant of Rio Arriba: An historical and genealogical review. *New Mexico Genealogist* 48(3): 111-120.

⁹ 20 Mar. 1896 testimony of Jesús María Lucero, CPLC#99, Reel 44, Frames 231-232. NMSRCA, Santa Fe, NM.

watering places.¹⁰ Little is known about the land use patterns in Petaca between 1848 and the 1870s. As Indian raids decreased, permanent settlements became more viable along the lower Rio Chama valley and its tributaries.

The adjudication process began for Petaca in the early 1870s with attorney Samuel Ellison petitioning Surveyor General James K. Proudfit to confirm the grant to the individuals named in the original document.¹¹ Proudfit heard testimony from two witnesses and produced a sketch map of the grant, estimating its size at approximately 57,600 acres (Figure 1). Proudfit recommended that the grant be confirmed to nine individuals,¹² but Congress did not act.

¹⁰ 27 Mar. 1848 order by the prefect of Rio Arriba. CPLC Files #99, Reel 44, Frames 238-240. NMSRCA, Santa Fe, NM.

¹¹ Early 1875(?) letter from Samuel Ellison to James K. Proudfit, SGCF#105, Reel 23, Frames 234-236. NMSRCA, Santa Fe, NM.

¹² 20 Feb. 1875 opinion by James K. Proudfit. SGCF#105, Reel 23, Frames 260-262. NMSRCA, Santa Fe, NM.

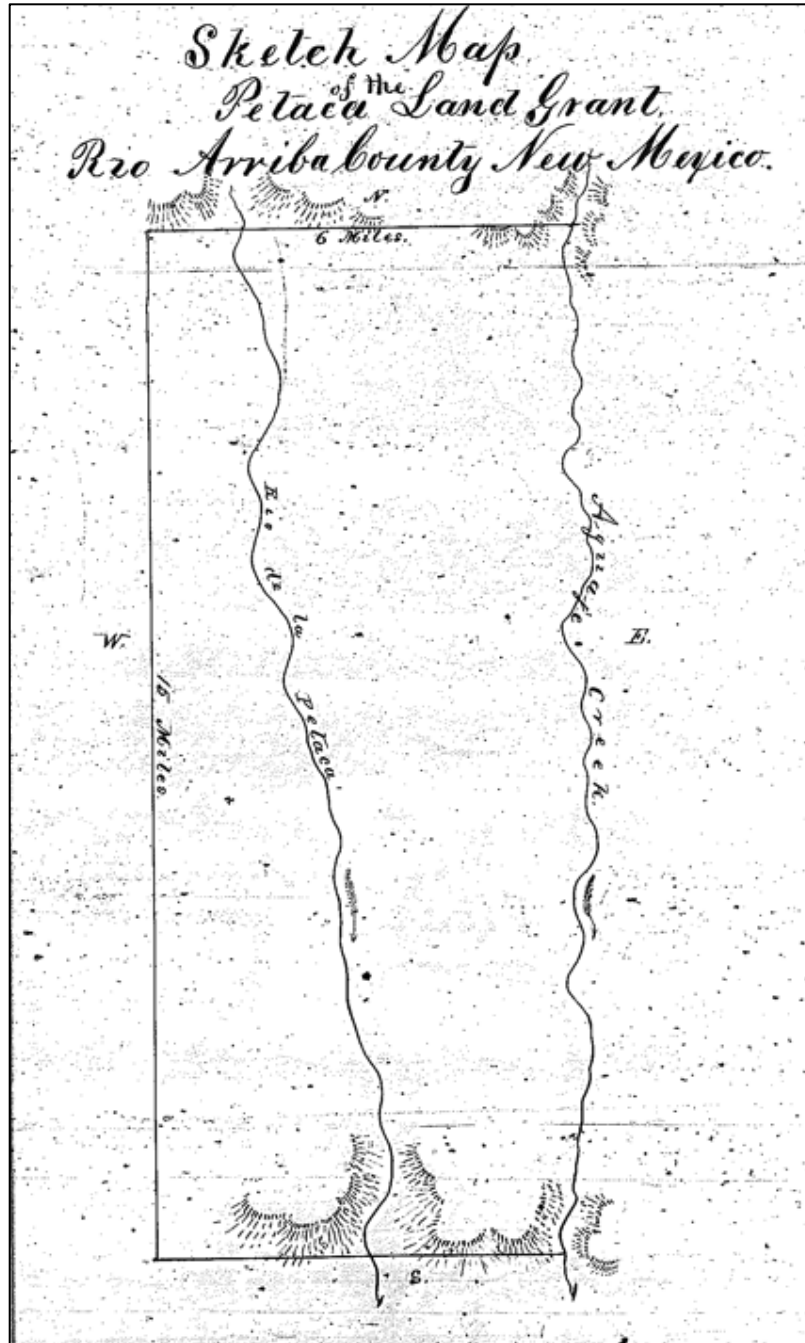


Figure 1. Sketch map of the Petaca grant produced by Surveyor General James K. Proudfit, 1875. Grant area approximately 57,600 acres.¹³

Questions about the location of the grant’s northern boundary soon surfaced, and in June 1877 Samuel Ellison requested that Henry Atkinson, Proudfit’s replacement as Surveyor

¹³ 1875 sketch map of the Petaca grant. SGCF#105, Reel 23, Frame 238. NMSRCA, Santa Fe, NM.

General, hear additional testimony regarding its location.¹⁴ Proudfit's map placed the boundary roughly 6 miles north of the town of Petaca, which aligns with later testimony by various witnesses that Tío Ortiz Hill corresponds with what is known today as Kiowa Mountain. However, additional testimony by the two witnesses Atkinson agreed to hear indicated that Tío Ortiz Hill was actually 15 miles further north, near San Antonio Mountain, corresponding with a hill now known as South Cerrito de la Cruz.¹⁵ The grant was re-surveyed in 1878, expanding it to 186,977 acres (Figure 2).

¹⁴ 4 June 1877 letter from Samuel Ellison to Henry Atkinson, SGCF#105, Reel 23, Frames 264-265. NMSRCA, Santa Fe, NM

¹⁵ 27 June 1877 testimony before Henry M. Atkinson. SGCF#105, Reel 23, Frames 267-275. NMSRCA, Santa Fe, NM.

determined that, despite poor record keeping, the grant was valid, but that the courts should decide who should receive title to the grant. Regarding the accuracy of the surveys, Julian noted a “uniform policy... in New Mexico of enormously stretching grants by extravagant surveys” and suggested that the 1878 survey map of the grant fit this pattern, thereby excluding large acreages from the public land base of the United States.¹⁷

Despite the uncertainty surrounding the grant, in 1885 Farwell arranged a \$5,000 contract with the Bacheldor brothers to cut 100,000 narrow gauge railroad ties on the Petaca grant. Farwell and the Bacheldors negotiated similar contracts in 1888, 1891, and 1892, which together allowed for the harvest of an additional 130,000 ties at \$0.04 each. However, in 1893, Farwell sued the brothers for cutting in excess of their contracts, failing to pay for their contracts in full, and continuing to harvest trees after expiration of the final contract. Farwell received an injunction against the Bacheldors in June 1893, but they continued cutting timber and selling it to the Denver and Rio Grande Railroad, which had received right-of-way through the grant in 1877.¹⁸

Meanwhile, the Petaca case was brought before the newly formed Court of Private Land Claims (CPLC). In 1893, George Hill Howard, on behalf of 33 of the petitioners for the grant, petitioned the CPLC to decide the grant’s validity, arguing that it was a community grant and the entire acreage should be confirmed to all parties named in the original document.¹⁹ In return for his services, Howard was to receive “one-third part to the rights and interests of the grant... as compensation...”²⁰ Subsequently, L.Z. Farwell, M.Z. Farwell (the latter being S.S. Farwell’s son

¹⁷ 17 April 1886 opinion of George W. Julian, SGCF#105, Reel 23, Frames 296-305. NMSRCA, Santa Fe, NM.

¹⁸ Correia, D. 2008. Land grant speculation in New Mexico during the territorial period. *In* Benavides, D. and R. Golten. 2008. Report to the New Mexico Attorney General—A response to the GAO’s 2004 report “Treaty of Guadalupe Hidalgo: Findings and possible options regarding longstanding community land grant claims in New Mexico.” (p. 90).

¹⁹ 17 Feb. 1893 petition to the CPLC, CPLC#99, Reel 44, Frames 007-016. NMSRCA, Santa Fe, NM.

²⁰ Correia, (2009: 100).

and joint owner of the grant) filed suit in the CPLC asking for confirmation of the Petaca grant to the three petitioners named in the original document. In 1894, the United States filed its answer to the three suits brought against it.²¹ With a hearing pending, M.Z. Farwell encouraged Edward L. Bartlett, his lawyer, to contact George Hill Howard if he thought the location of the Tío Ortiz hill would be an issue. Making his intentions clear, Farwell noted,

“Of course it is to the contesting claimant’s interest as well as our own to have the grant confirmed for as large an acreage as possible. The hill the government will try to prove to be the Tio Ortiz hill is called Kiowa Mountain by all the natives... All the timber cut since we owned the grant has been cut north of this mountain, and I would not give \$25.00 for the entire portion of the grant lying south of that point.”²²

The CPLC heard testimony regarding the Petaca grant in June 1895 and again in March 1896. The testimony generally focused on whether the boundary descriptions in the title papers had been altered and the location of the boundaries of the grant, particularly the Tío Ortiz Hill. Most of the testimony regarding the title papers indicated that, after the document had been drafted, the eastern boundary had been changed from “La Mesa de la Petaca” to the “Arroyo de los Aguajes de la Petaca” so as to expand the size of the grant. Testimony about the location of the Tío Ortiz Hill was mixed, with witnesses claiming that it was either located near San Antonio Mountain or much closer to Petaca, in the vicinity of the community of Las Tusas (making it Kiowa Mountain; Figure 3). Most notably, several witnesses testified that in the past they had known only of the southern Tío Ortiz Hill, but in recent years had begun hearing of one of the Cerritos de la Cruz near San Antonio Mountain referred to as Tío Ortiz Hill.²³ Despite misgivings about the prospects for his case in light of this evidence, in July 1895 Farwell sold a ten-year grazing lease on the Petaca grant for 27,000 cattle to a rancher from Las Vegas, NM.²⁴

²¹ 1 Mar. 1893 petition filed in the CPLC, CPLC #153, Reel 49, Frames 275-276. NMSRCA, Santa Fe, NM.

²² Text of 20 Feb. 1895 letter from Farwell to Bartlett. Appendix 1 of Correia (2008).

²³ 7-8 June 1895 transcript of hearings in the CPLC. CPLC#99, Reel 44, Frames 99-180. NMSRCA, Santa Fe, NM.

²⁴ Correia, 2008

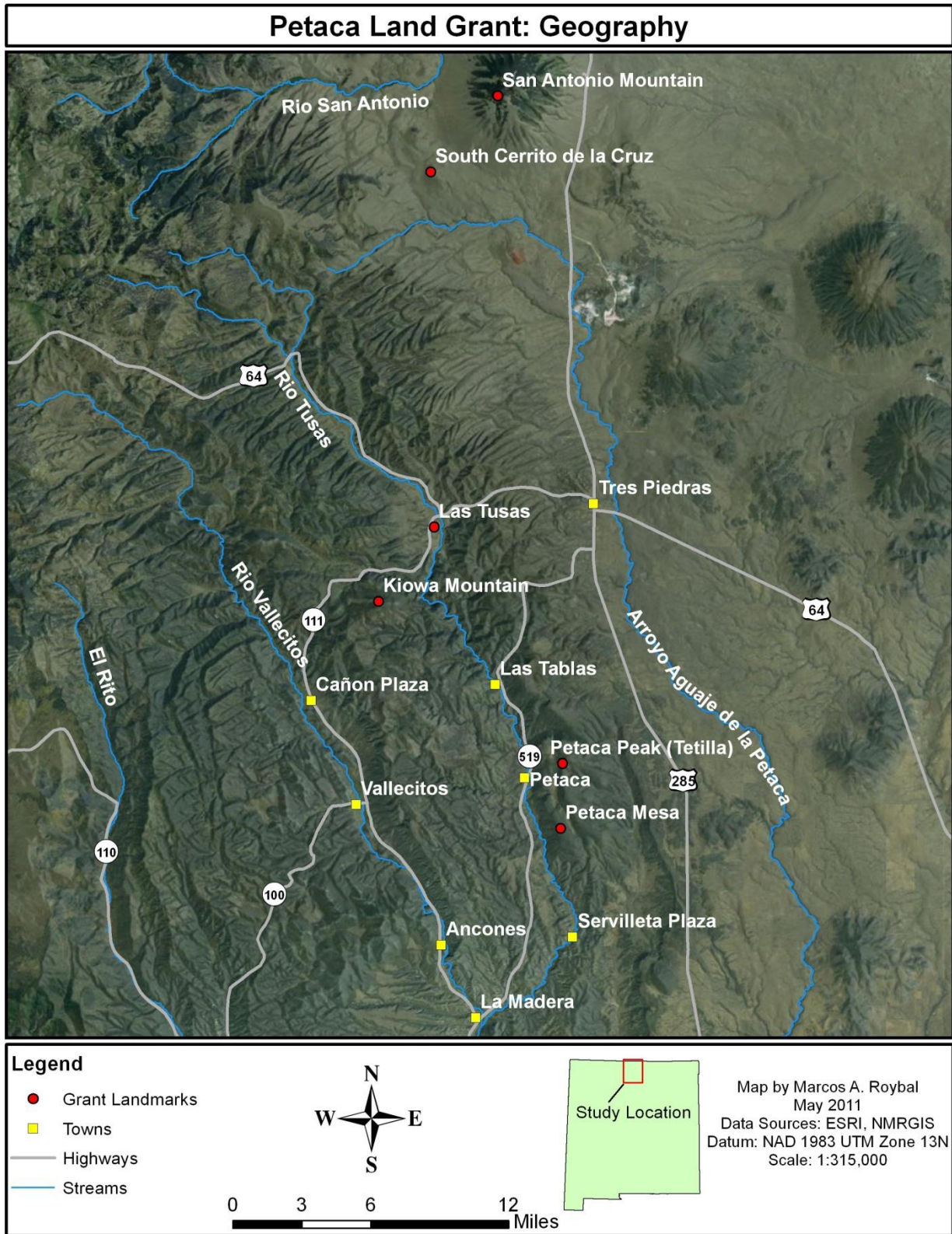


Figure 3. Landmarks and physical features associated with the Petaca land grant.

In September 1896, the CPLC issued its opinions regarding the Petaca case. Associate Justice Sluss delivered the majority opinion, stating that the grant was originally vested in 36 individuals but should be confirmed to those named in the redistribution of the grant in 1848 and that, despite temporary abandonment due to “Indian hostilities” and poor record keeping of Spanish and Mexican documents, the claim had been settled in good faith and not abandoned. Finally, the Court noted that the only boundary of the grant in dispute was the northern boundary (having already concluded that the eastern boundary was fraudulently altered). It conceded that, had the true eastern boundary of the grant been the Aguaje de la Petaca, the northern Tío Ortiz hill would have been a logical landmark on the northern boundary due to its proximity to the headwaters of the Aguaje. However, because the “true” eastern boundary was the Mesa de la Tetilla de la Petaca, the northern Tío Ortiz hill had no connection to the other boundaries. The southern hill, however, stood between the Rio Tusas and the Rio Vallecitos watersheds (the drainage divide of which formed the grant’s western boundary), and was therefore contiguous with the other boundaries. The Court thus concluded that the southern Tío Ortiz Hill (Kiowa Mountain) marked the true northern boundary (Figure 3).²⁵

In a dissenting opinion, Associate Justice Murray argued that the grant was void because proper procedure outlined in Mexican law for awarding land grants had not been followed, and that there was no evidence of the Petaca grant on file with the government. Furthermore, he noted that, “the east boundary of the grant had been changed evidently with a view of enabling the claimants to obtain title from the government to one hundred and fifty thousand acres of land not embraced within the boundaries of the grant.”²⁶ Chief Justice Reed offered an additional

²⁵ 5 Sept. 1896 majority opinion of the CPLC regarding the Petaca grant, CPLC#99, Reel 44, Frames 054-067. NMSRCA, Santa Fe, NM.

²⁶ 2 Sept. 1896 dissenting opinion of the CPLC regarding the Petaca grant, CPLC#99, Reel 44, Frames 071-077. NMSRCA, Santa Fe, NM.

opinion, stating that the northern boundary should actually be the “upper” Tío Ortiz hill (South Cerrito de la Cruz) but that the grant should only be confirmed to the descendants and representatives of the three original petitioners for the grant.²⁷

In December 1896 the CPLC issued its decree regarding the grant, confirming it to the petitioners named in the 1848 act of possession. It declared the grant to be “bounded on the north by the Tío Ortiz Hill, which... is situated on the west side of the Petaca River, in the valley of Las Tusas and a short distance below the settlement of the same name; on the east by the ‘Mesa de la Tetilla de la Petaca,’ being the first mesa east of the Petaca River; on the west by the east boundary of the ‘Vallecito’ grant, and on the south by the entrance to the Cañoncito and the lands of José Miguel Lucero,” and noted that together the boundaries encompassed approximately 37,000 acres (Figure 4). The Court further stipulated that the grant should not, by any means, exceed 11 square leagues (48,712 acres).²⁸ However, the United States appealed the CPLC ruling in April 1898,²⁹ and the case was submitted to the Supreme Court in October 1899.³⁰

²⁷ 5 Sept. 1896 opinion of Chief Justice Reed, CPLC, CPLC#99, Reel 44, Frame 080. NMSRCA, Santa Fe, NM.

²⁸ 1 Nov. 1896 decree by the CPLC, CPLC#99, Reel 44, Frames 088-090. NMSRCA, Santa Fe, NM. A square league is assumed to equal 4,428.4 acres.

²⁹ 14 April 1898 appeal by the United States of the 1896 CPLC decree. CPLC#99, Reel 44, Frame 092. NMSRCA, Santa Fe, NM.

³⁰ *United States v. Antonio Serafin Peña, L.Z. Farwell and M.Z. Farwell, and José A. Garcia et al.* 175 U.S. 500, 44 L.Ed. 251, 20 S.Ct. 165. (1899).

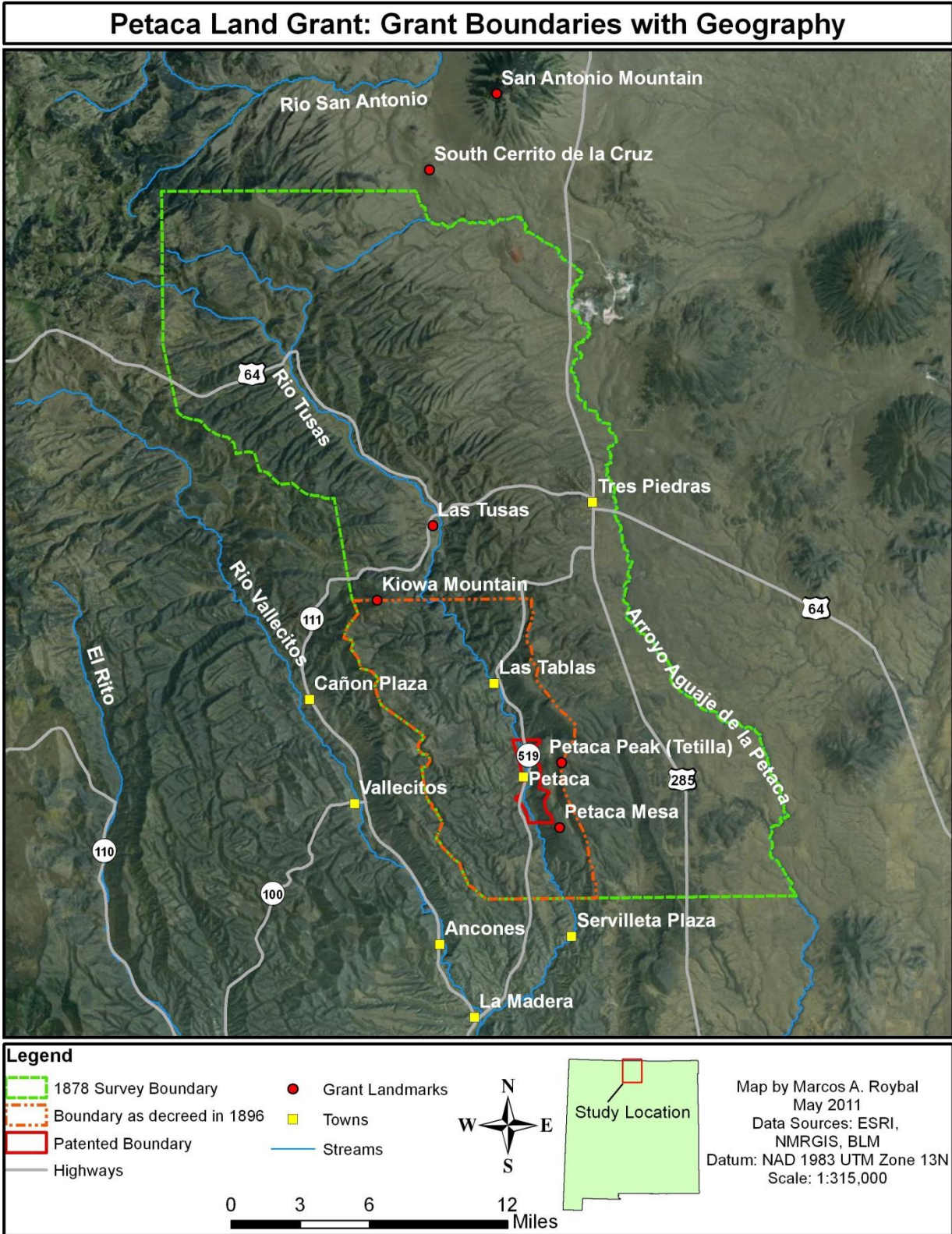


Figure 4. Boundaries of the Petaca land grant as depicted in Griffin and McMullen's 1878 survey, the 1896 CPLC decree, and the plat of the surveyed patented boundaries.

Again, despite the uncertainty surrounding his title to the Petaca grant, in October 1899 M.Z. Farwell sold nearly 4,000 acres of land on the grant for \$5,000 to the St. Anthony Crystal Mica Mining Co.³¹ Then, in an effort to ensure a continued stake in the grant, he purchased L.Z. Farwell's interests. Farwell observed, "it may have been a foolish move, but his deal lets me out of it all right even if the grant is knocked out. I now have a great deal at stake before the Supreme Court and I feel that if the government's appeal is dismissed I have a good show to make a nice thing out of the grant. I still have mica land to burn, and if this company creates any excitement I will profit by it."³²

In December 1899 the Supreme Court ruled on the case. First, it denied a petition by Farwell to dismiss the case on the grounds that the allotted time for the U.S. to appeal the confirmation had expired. Next, it ruled that the grant was "in severalty, and not one of a single large tract to several persons to be by them held in common or distributed among each other" and that "the only juridical possession which is shown to have been given is [that] in severalty [of the 150 vara tracts] to the parties named in the list. The original petitioners were never put, so far as the record shows, in juridical possession of the entire tract..."³³ The Court based this conclusion on its ruling in *United States v. Sandoval*, which determined that lands not actually allotted to settlers remained the property of the sovereign, and thus passed directly from Spain or Mexico to the United States.³⁴ Finally, it ruled that the *alcalde* had no power to distribute lands in 1848 to people not named in the original petition for the grant, and that the redistribution took place following the signing of the Treaty of Guadalupe Hidalgo, when New Mexico was in the possession of United States forces and the *alcalde* had no jurisdiction in the area. Given these

³¹ Correia 2008

³² Text of 14 Oct 1899 letter from Farwell to Bartlett. Appendix 1 of Correia (2008), pp. 107-108.

³³ *United States v. Peña* (1899).

³⁴ *United States v. Sandoval*, 167 U.S. 278 (1897).

findings, the Court reversed the decree of the CPLC and remanded the case with instructions that the CPLC enter a decree “in favor of the original grantees or their successors in interest for the lands granted in severalty.”³⁵

The CPLC obliged, and in October 1900 decreed that the grant was to be confirmed to the “thirty-six allottees, their heirs, assigns and legal representatives... to hold and own in severalty the particular one hundred and fifty varas of which he was placed in possession on March 25, 1836... and title to the two hundred and fifty varas granted in common [is] to be held and owned by all of said allottees, their heirs, assigns and legal representatives as tenants in common.” The Court then outlined the grant’s boundaries:

“The south boundary and initial point was and is the entrance to the cañoncito of the Petaca River, being the place where the cañoncito first narrows going south from the plaza of Petaca and between one and two miles from said plaza and about one-fourth of a mile south of the house where Eusebio Giron now resides; thence northward along said river a distance of 5,650 varas to the north boundary of the last allotment, the said tract being bounded on the east by the upper edge of the bluff on the east side of the Petaca River and on the west by the upper edge of the bluffs or elevation first west of the Petaca River.”

According to the CPLC, “title to the remainder of the grant was reserved by the government of Mexico at the time of the said allotments in 1836 and passed to the United States by the Treaty of Guadalupe Hidalgo free from all claims on part of said allottees and their successors in interest.”³⁶

The grant was surveyed in June of the following year and estimated at 1,392.1 acres (Figure 5).³⁷ Although the United States objected to the locations of the boundaries (claiming they were still too generous), the U.S. Surveyor General for the New Mexico district

³⁵ *United States v. Peña* (1899).

³⁶ 10 Oct. 1900 decree of confirmation of the Petaca land grant, SGCF#105, Reel 23, Frames 307-309. NMSRCA, Santa Fe, NM.

³⁷ Map of Petaca land grant as surveyed by Jay Turley, June 11-14 1901. Image of map on file with Marcos Roybal. Image courtesy of New Mexico Land Grant Studies Program.

recommended that the CPLC approve the survey.³⁸ Finally, on September 15, 1910, President William H. Taft signed the patent for the Petaca grant. The patent confirmed the grant to the 36 original petitioners or their heirs, assigns, or legal representatives, with the individual 150-vara tracts to be held and owned by them in severalty. Furthermore, the 250-vara tract set aside for the plaza was to be owned by the confirmees as tenants in common.³⁹

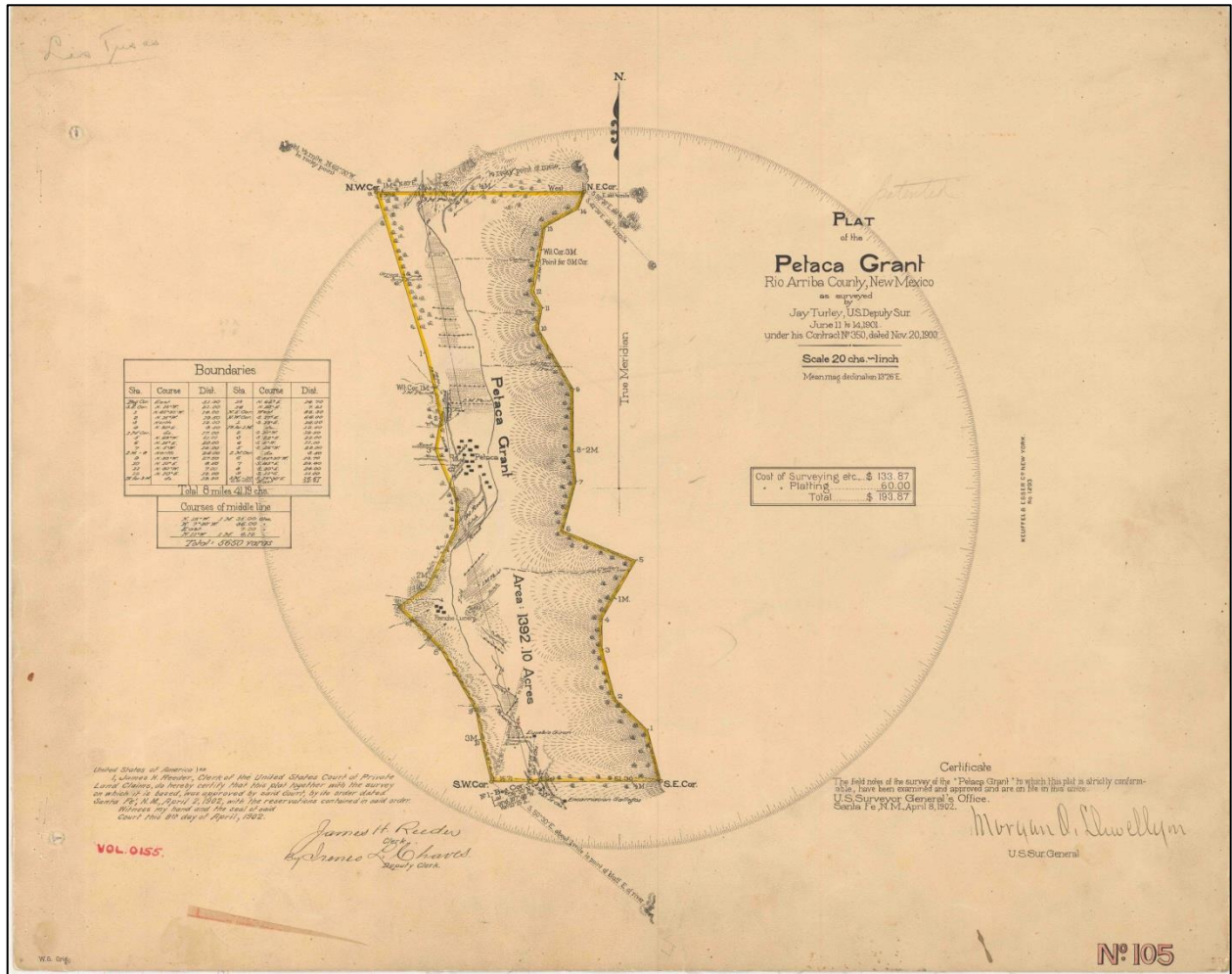


Figure 5. Patented boundaries of the Petaca grant as surveyed by Turley (1901). Grant area approximately 1,392 acres (map courtesy of Southwest Hispanic Research Institute).

³⁸ 19 Dec. 1901 report of the U.S Surveyor General for the District of New Mexico on the official survey of the Petaca grant, SGCF#105, Reel 23, Frames 335-339. NMSRCA, Santa Fe, NM.

³⁹ 15 Sept. 1910 patent for the Petaca grant. Patent No. 152137. On file with Marcos Roybal.

The recorded history of the Petaca land grant since being patented by the federal government is spotty. However, mining, timber, grazing, and small-scale agriculture played central roles in the economy of the area at various points during the 20th century.

Petaca is located in a relatively geologically and mineralogically diverse area; so much so that it earned designation as a mining district (Figure 6). The primary mineral of interest in the Petaca district has historically been mica, which has been used for a variety of applications including insulation (particularly in electronics), lubrication, wallpaper, and windows in buildings, stoves and lanterns. Other important minerals in the Petaca district include small amounts of copper, silver, gold, molybdenite, kyanite, fluorite, and uranium.⁴⁰

⁴⁰ Jahns, R.H. 1946. Mica deposits of the Petaca District, Rio Arriba County, New Mexico. *Bulletin 25*. Socorro, NM: New Mexico Bureau of Mines and Mineral Resources. Prepared by the U.S. Department of the Interior Geological Survey. 294 pp. (11). Chenoweth, W.L. 1974. Uranium in the Petaca, Ojo Caliente, and Bromide districts, Rio Arriba County, New Mexico. *New Mexico Geological Society Guidebook*, 25th field conference.

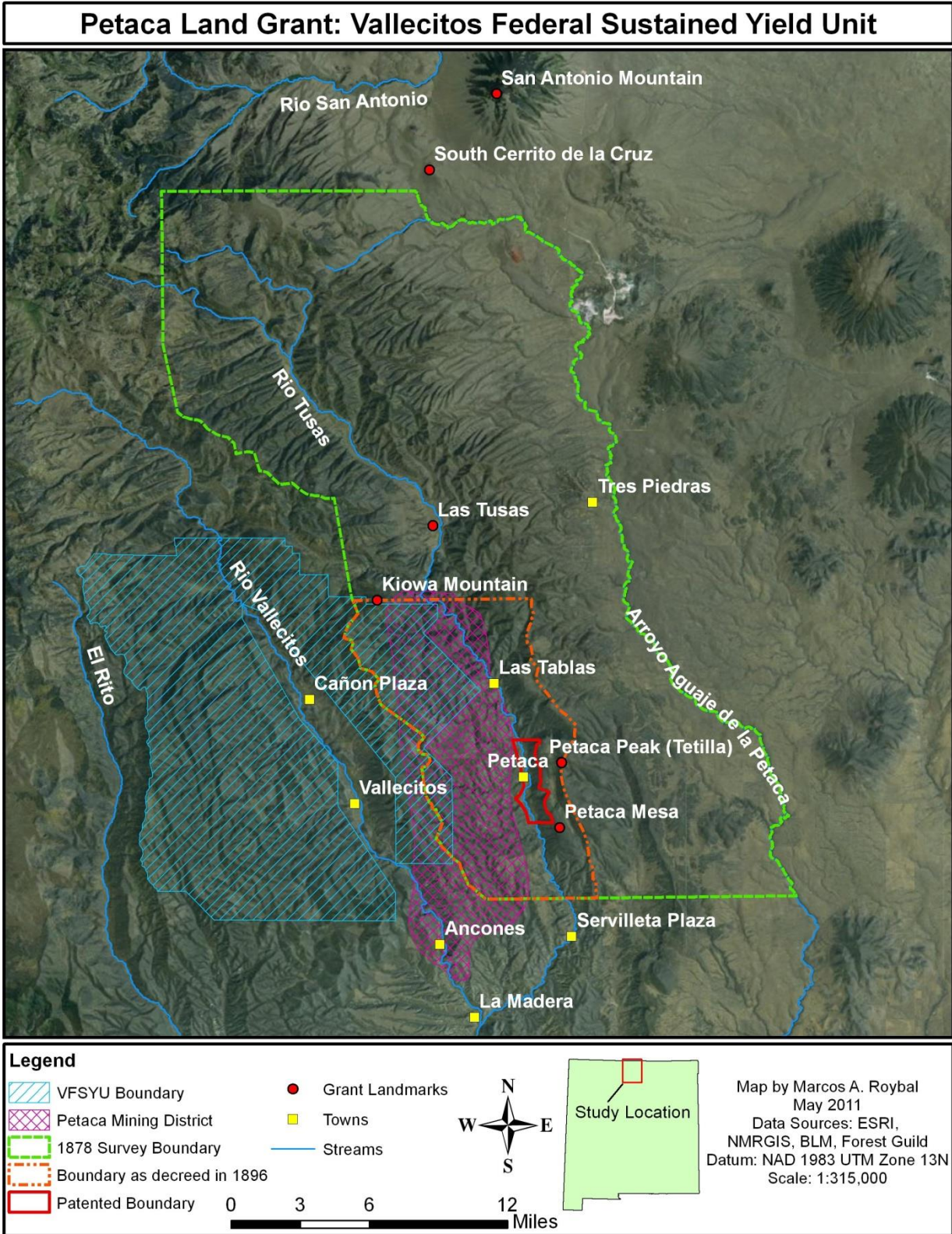


Figure 6. Boundaries of the Vallecitos Federal Sustained Yield Unit and Petaca Mining District in relation to the historic and patented boundaries of the Petaca land grant.

The Petaca district has been a source of commercial mica since the 17th century, with some of the mines in the area representing the “oldest systematic operations for sheet mica in this country.”⁴¹ “Modern” mining began in the district in the early 1870s, when commercial production primarily supplied mica sheets for stove doors. By the early 1900s, over 20 mines in the area were producing mica.⁴² Interest in sheet mica for stoves gradually decreased, but demand increased again in 1912 for electrical applications. General demand for mica dipped again following WWI, but rebounded in the 1920s. The period from 1923 to 1930 was the most productive in the history of the district, and at this time several mica processing plants were operating in the Petaca area. With the exception of a spike during the WWII years, most production ended by 1931 and subsequent mining was typically conducted on an individual basis by local inhabitants.⁴³ By 1945 production had virtually ceased, but small-scale mining and processing continued through the mid 1960s.⁴⁴ Today, little if any mining activity exists.

The timber industry has also played a role in Petaca in the last century. Following timber harvest for railroad ties associated with M.Z. Farwell’s claim to the grant in the late 1800s,⁴⁵ the Hallack and Howard Lumber Company processed approximately 100 million board feet of timber harvested in the vicinity of Petaca from 1914 to 1926.⁴⁶ This company established a mill

⁴¹ Jahns (1946).

⁴² Lindgren, W. 1913. Contributions to economic geology: Short papers and preliminary reports, 1911. Part 1: Metals and nonmetals except fuels. *Bulletin 530*. U.S. Geological Survey. Washington, D.C.: Gov’t Printing Office.

⁴³ Jahns (1946).

⁴⁴ Larry Roybal, personal communication, 3 May 2011.

⁴⁵ The United States contemplated suing the Farwells following the patenting of the grant since the timber harvest occurred on unconfirmed portions of the grant; Congress granted the Farwells relief (20 Feb. 1913 Report to the House of Representatives: “To Relinquish Claim of the United States for Timber Cut on Petaca Land Grant.” Report No. 1554, 62nd Congress, 3rd Session. In *House Reports (Public)*, Vol. 1, Washington, DC: Government Printing Office [1913].)

⁴⁶ Torres, L.S. n.d. Economic diversification study: Value-added processing of southwest style home construction materials.

nine miles south of Petaca in La Madera, where it employed nearly 300 people until a harvest-induced shortage of marketable timber forced it to close.⁴⁷

After the exit of Hallack and Howard, timber played a relatively small part in the economy of the region until the establishment of the Vallecitos Federal Sustained Yield Unit (VFSYU) in 1948. Based on the premise that sustained yield forest management principles could generate “community stability,”⁴⁸ the Forest Service created the 73,400-acre VFSYU on National Forest land that had once comprised the Petaca and Vallecitos land grants (Figure 6) with the intent of providing jobs for people in Petaca and nearby communities.⁴⁹ However, due to a combination of Forest Service policy, abuses by timber companies, and disagreement in the communities adjacent to the VFSYU, timber that was harvested from the Unit did little to increase the stability of Petaca or the nearby communities.⁵⁰ In the past decade the Collaborative Forest Restoration Program has provided for several small community-based forest restoration projects on the VFSYU, but lawsuits by environmental groups in the 1990s have virtually halted commercial timber harvest in the area.

Livestock ranching and agriculture have the deepest roots in Petaca as methods of subsistence. Throughout the 20th century many residents maintained small permits to run cattle and sometimes sheep on nearby National Forest grazing allotments. Although grazing permit numbers have decreased through the years, ranching persists as a way of life in Petaca today.

⁴⁷ Wilmsen, C. 1997. Fighting for the forest: Sustainability and social justice in Vallecitos, New Mexico. Doctoral dissertation, Clark University, Worcester, MA.

⁴⁸ For discussion of the difficulties application of sustained yield forest management principles in northern New Mexico and elsewhere has faced, see Correia, D. 2007. The sustained yield forest management act and the roots of environmental conflict in northern New Mexico. *Geoforum* 38: 1040-1051; Schallau, C.H. 1989. Sustained yield versus community stability: An unfortunate wedding? *Journal of Forestry* September 1989. 16-23; and Wilmsen, C. 2001. Sustained yield recast: The politics of sustainability in Vallecitos, New Mexico. *Society and Natural Resources* 14: 193-207.

⁴⁹ Scott, D.O. 1947. Sustained Yield Case Study. Prepared for the Vallecitos Working Circle, Carson National Forest, Region 3, March 20, 1947.

⁵⁰ See Correia 2007 for a synopsis of these issues.

Similarly, although it has dwindled in recent times, agriculture has been a mainstay in Petaca throughout the community's history. A short growing season limits the diversity of viable crops, but corn, beans, squash, peas, avas, carrots, apples, pears, peaches, apricots, cherries, and plums have been cultivated with varying levels of success. Additionally, potatoes and possibly beans were grown in unirrigated upland areas in the past. Meat was provided by livestock or hunting.⁵¹ Through the mid-20th century, local food production was supplemented by vendors from Velarde, Española, and Colorado,⁵² but these have been replaced by easy access to grocery stores in Española. Although several acequias remain active in Petaca, today far fewer people cultivate fruits and vegetables, and the irrigated fields are almost exclusively used for hay and pasture.

The Petaca case illustrates a common theme of dispossession during the land grant adjudication period in New Mexico in the late 19th and early 20th centuries, whereby the economic interests of individuals combined with colonial aspirations of the United States and conflicting legal frameworks and land use patterns to usurp legitimate land claims from rural Hispanos. In Petaca, this pattern was accentuated by the wealth of natural resources present in its *ejido*. In a paper summarizing the history of the Court of Private Land Claims, Justice Wilbur F. Stone addressed the Petaca grant specifically but in so doing articulated themes that can be applied more broadly:

“Another case was the Petaca grant. This was claimed to be about thirty miles long and twenty in width, embracing 100 square miles of pine forest. It had been bought by one of the Farwells of Chicago, who established sawmills and lumber camps in the pineries and for ten years shipped lumber by rail from Tres Piedras to the markets of Colorado and New Mexico, but had reserved the best portion of the pineries for future use. The court found that the original grant comprised only a paltry strip about five miles long and a few rods wide, embracing the little garden patches on the Cañon of Petaca Creek, belonging to some poor Mexicans, who were made all the poorer by having the ownership decreed to them by court. The great pineries yet untouched were turned over to the Public

⁵¹ Larry Roybal, personal communication, 3 May 2011.

⁵² Ibid.

Domain of Uncle Sam, to be gobbled up by lumber poachers, who will take care that they cut off the best part first.”⁵³

Author Bio

Marcos A. Roybal is currently a National Environmental Policy Act Specialist with the U.S. Forest Service on the Kaibab National Forest in northern Arizona. At the time of the NSF CNH project (Grant No. 101516 awarded to New Mexico State University with a subaward to the Center for Regional Studies, University of New Mexico), he served as a Research Assistant to a companion project, the New Mexico EPSCoR study on New Mexico’s Mountain Sources of Water (NSF Grant No. EPS-0814449). He graduated in May of 2012 with dual degrees, master of water resources and master of community and regional planning, at the University of New Mexico. His undergraduate studies were completed at Colorado State University where he majored in natural resource management with a minor in watershed science. This study of the Court of Private Land Claims and the Petaca Grant summarizes a more extended paper Marcos authored while he was an intern at the Land Grant Studies Program, Southwest Hispanic Research Institute, University of New Mexico titled: The Petaca Land Grant--A Case Study in History, Dispossession, and Opportunity.

⁵³ Bowden, J.J. 1969. Private land claims in the Southwest. A thesis presented to the faculty of the graduate school of Southern Methodist University in partial fulfillment of the requirements for the degree of Master of Laws in Oil and Gas. Volume 4: 1035-1046 (p. 1045-1046), citing Stone, W.F. (1904) A brief history of the Court of Private Land Claims. *New Mexico Bar Association Proceedings* 17.

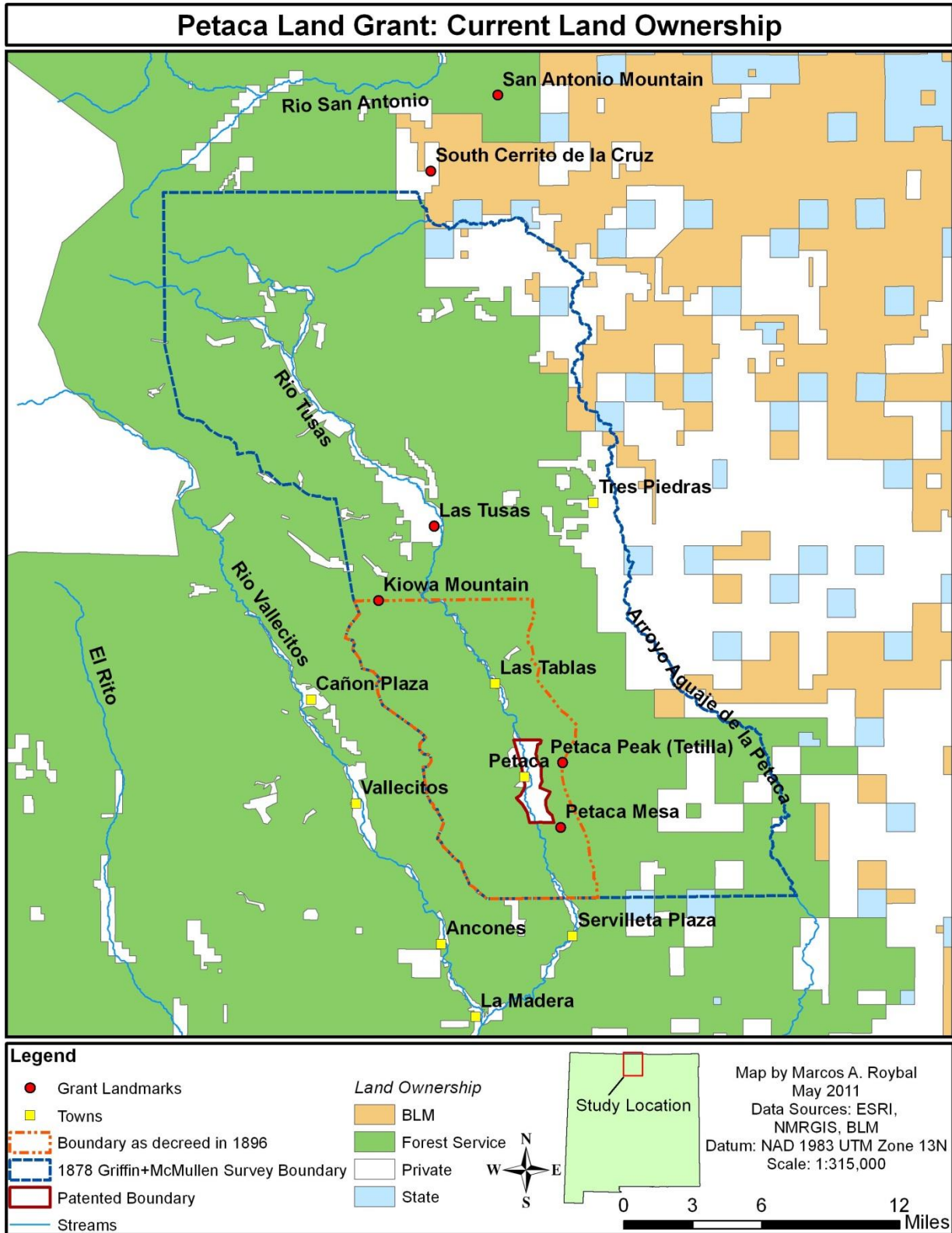


Figure 7. Current land ownership in the vicinity of the historic and patented boundaries of the Petaca land grant.

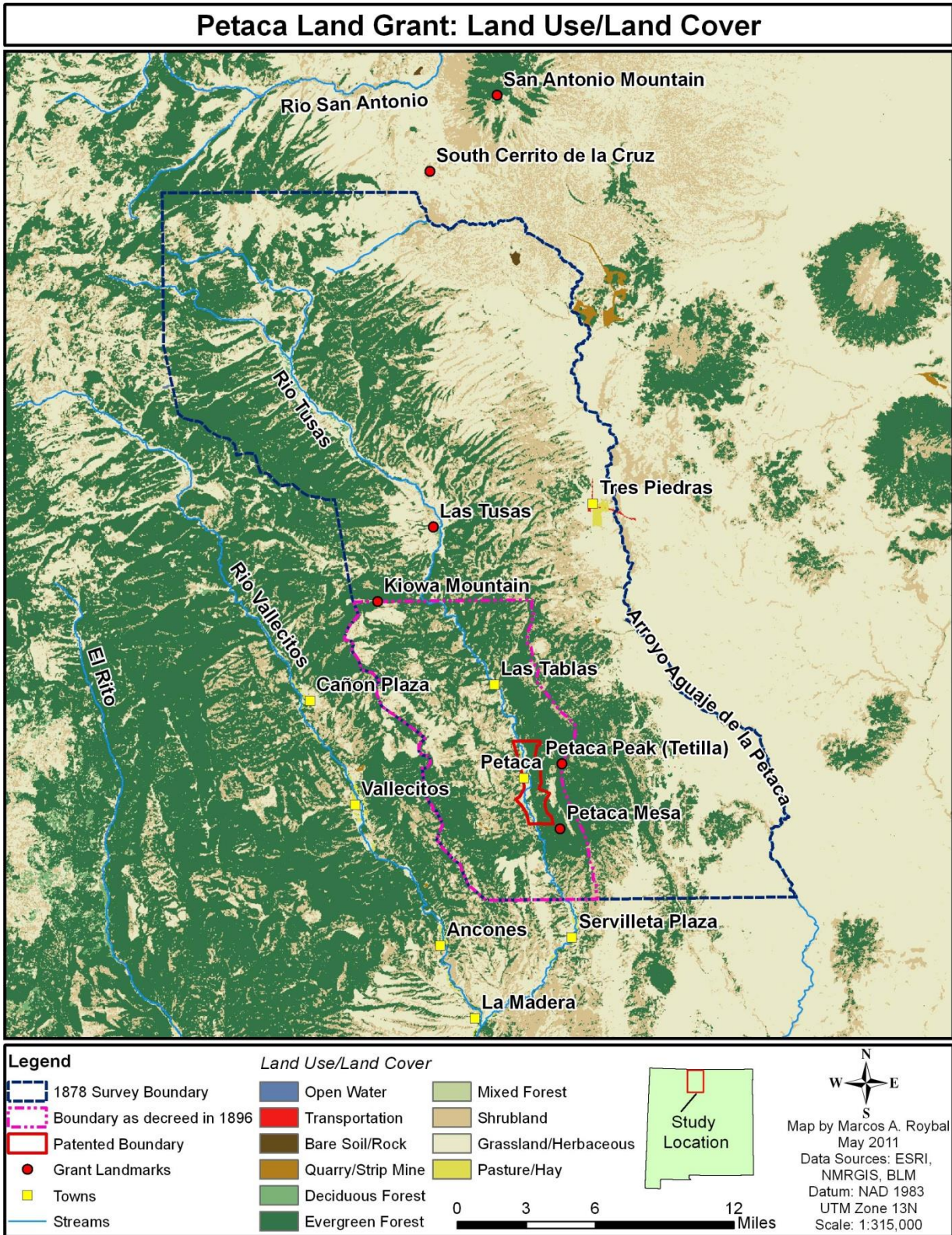


Figure 8. Land Use/Land Cover in the vicinity of the Petaca land grant.