

HISPANO FORESTRY, LAND GRANTS AND THE U.S. FOREST SERVICE IN NORTHERN NEW MEXICO

John B. Wright

Jack Ward Thomas is a renowned wildlife biologist and was appointed as Chief of the United States Forest Service for President Clinton's first term. He resigned in January of 1997. His appointment to lead an agency widely criticized for its relentless pursuit of logs was extraordinary. Biologists get to be Chief about as often as Halley's Comet slashes a swath across the heavens. And in that fact lives both irony and hope.

Thomas said some astonishing things at his first press conference. He leaned into a battery of microphones and spoke plainly - "the new rules are simple - don't lie, obey the law and listen to biologists." Thomas felt compelled to publically acknowledge that the Forest Service often acted as a deceitful bureaucracy which ignored the warnings of environmental scientists and the needs of local people. The agency formed by Gifford Pinchot and Teddy Roosevelt to be a steward of public lands, had devolved into a monoculture of road-building and commodity extraction. Thomas was hardly the first to come to this conclusion. However, as Chief, his words heralded the arrival of changes which could greatly improve the management of federal lands nationwide; as well as the lives of poor, rural Hispanos of Northern New Mexico.

New Forest Service Perspectives

The restructuring of the Forest Service has been called "New Perspectives" whose emphasis is on "Ecosystem Management (EM)." The essential goals of EM are to pursue true "multiple use" of the National Forest system and to return timber harvesting programs to a "sustained yield" basis. As part of this, Jack Ward Thomas has called for a 70% reduction in forest clearcutting and an increased emphasis on smaller-scale selection logging - the kind practiced by generations of New Mexico Hispanos. Yet, many agency employees

and conservationists remain highly skeptical that this will occur. Timber sale provisions which call for the use of "the best available silvicultural practices" and liberal interpretations of "seed tree" cuts, such as leaving only two trees per acre, are widely seen as loopholes from Thomas' mandates.

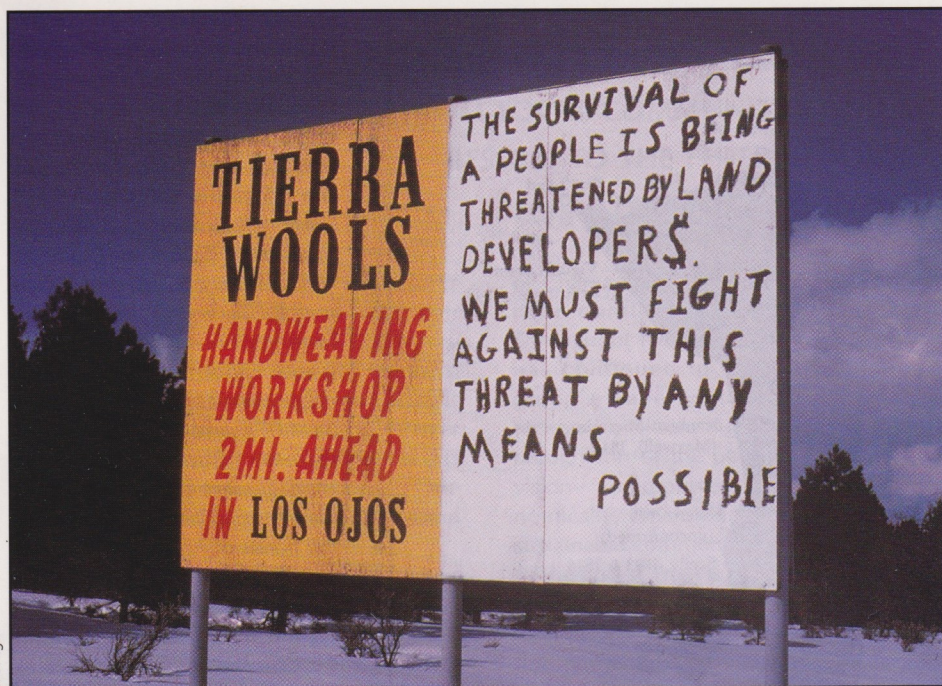
Regardless of harvesting methods employed, a more fundamental problem remains. The Department of Agriculture (of which the Forest Service is a part) continues to set unrealistically high figures for "The Cut" based on political economy and not ecology. In 1940, the total harvest from federal land was 3.5 billion board feet. Today, this has more than tripled to between 11 and 12 billion board feet. Each of the 156 National Forests within the 191 million acre Forest Service domain receives a mandate from Washington D.C. to produce a certain volume of timber annually. The total is then divided up among 650 Ranger Districts for implementation. This "top-down" management approach severely limits the roles of biology and cultural geography in the decision-making process. It also creates an atmosphere where clearcutting becomes the most expedient harvesting technique and decent people are forced to break the law. Throughout the 1980s, life in the Forest Service meant "get 'The Cut' out or risk losing your job." Just prior to Thomas's appointment, John Mumma, a well-respected 32-year employee of the Forest Service in Montana, refused to produce the board feet he was ordered. He said it could not be done without violating the National Forest Management Act, the Clean Water Act, the Endangered Species Act and other federal statutes. Mumma was publically chastised by Forest Service officials and forced to

resign under charges that suddenly he had become a "poor manager." It seems clear that "New Perspectives" will not be easily accepted in this secretive agency with a tradition of closing ranks against change.

The U.S. Forest Service reports that it produces some \$3 billion in economic benefits annually. Actually it loses nearly \$1 billion each year. If heavy Congressional subsidies were removed, the agency's timber harvest, grazing and other extraction programs might cease to exist. In 1985, the Forest Service received \$85 per thousand board feet of timber but spent \$89 getting it to the sawmill - a net loss of \$44 million. The disparity between the market value of trees and the costs of road building, timber cutting and log transport continues to widen. In Colorado, timber sale losses now represent an annual subsidy of \$5,400 per forest products job. The Forest Service even has an official name for taxpayer subsidized cuts - "deficit sales." Deficit sales are now the norm in most of the National Forest system. Only three regions have tended to show a positive economic return: the Southeast's fast-growing pine plantations, Northern Arizona's vast ponderosa pine forests, and the old growth ecosystems of the Pacific Northwest. Environmental conflicts over such issues as watershed deterioration, fisheries declines, and the spotted owl are now slowing the cut in even what a retired U.S.F.S. employee calls, "our cash register forests." Were the costs of "economic externalities" such as soil erosion, increased flooding, degraded wildlife habitat and lost recreation and scenic resources factored into the matrix, all timber harvests conducted by the agency might be in the red. The Forest Service acknowledges the widespread existence of deficit sales yet

defends them as promoting "community stability." Conventional wisdom holds that taxpayer support of federal timber programs provides jobs for rural people at "family-supporting

"TIERRA O MUERTE"—
LAND OR DEATH



In Tierra Amarilla, New Mexico, several methods are being used to bring economic growth to people who feel that their land was unfairly confiscated.

wages." But is this really so? In Northern New Mexico, where the U.S. Forest Service functions in a region of Latin America shaped by a singular historical geography, it is clearly untrue. But to understand this troubling fact, we have to recall how the National Forests were assembled in this culturally fractious landscape and determine why rural Hispanos have received so little economic benefit from the forest lands around them.

Land Grants and the National Forests

A regional land ownership map can start a bar fight in Northern New Mexico. Large blocks of green reflect where the Santa Fe and Carson national forests are, but do not reflect local opinion about who truly owns them. Close inspection of a map of "Forest Service lands" reveals underlying mysteries of toponymy etched in small print - "Las Trampas Grant", "Francisco Montes Vigil Grant", "Juan De Gabaldon Grant", "Tierra Amarilla Grant" and scores of others. History insists we remember that major portions of the National Forests of the Sangre de Cristo and Jemez mountains were formerly owned and depended on by rural Hispanos.

During the Spanish (1607-1820) and Mexican (1821-1846) eras, some 35 million acres in Northern New Mexico were distributed to individuals and communities as land grants. Spain initially bestowed *mercedes reales* on Indian nations as a peace offering following the Pueblo Revolt of 1680. Over the next 130 years, the King

gave land grants totalling 8 million acres to Hispano settlers as part of a homesteading system. These grants were instruments of colonialism designed to claim the landscape from Indian people, assist in the diffusion of Christianity, develop resources to generate wealth for the Crown, and organize New Spain into a "civilized society." Land grants were given to individuals such as decorated conquistadors and prominent merchants and to communities of ten or more families. Community grants consisted of a central settlement where each family could build a house and farm a small plot irrigated by an *acequia* (ditch). This core was surrounded by a large *ejido* (common area) where all villagers could harvest timber, graze livestock and communally utilize other natural resources. Following Mexican independence from Spain, 27 million acres of *sitio* (ranch) grants were distributed in New Mexico. The two largest grants, the Maxwell (1,714,764 acres), and the Sangre de Cristo (1,038,195 acres), embraced immense expanses of forested mountain terrain.

The American era began in New Mexico with the signing of the Treaty of Guadalupe Hidalgo in 1848. This peace accord between the United States and Mexico contained many real estate policies for the Rio Grande country. Article 8 of the treaty promised that all land grants would be honored:

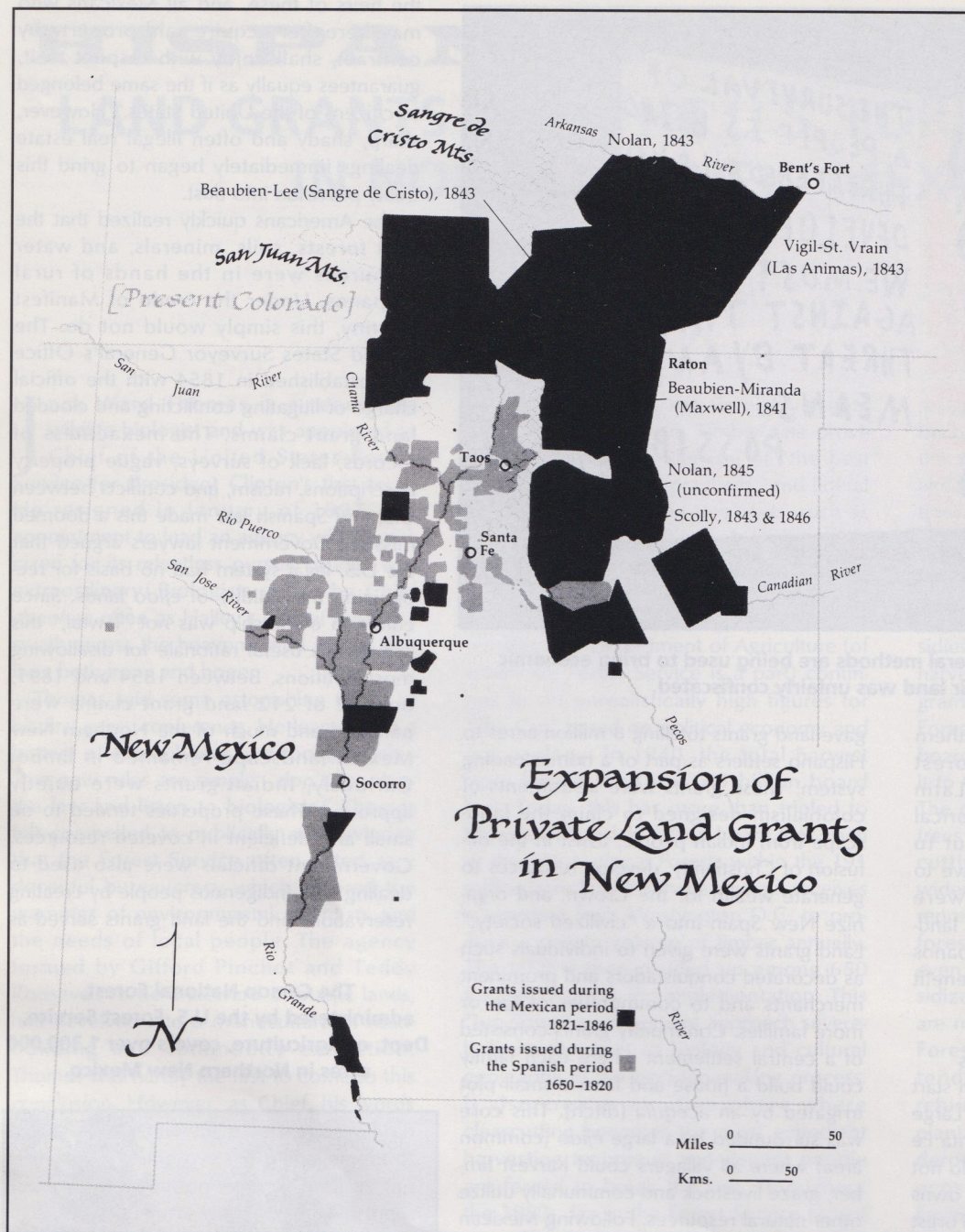
"In the said territories, property of every kind, now belonging to Mexicans...shall be inviolably respected. The present owners,

the heirs of these, and all Mexicans who may hereafter acquire said property by contract, shall enjoy with respect to it, guarantees equally as if the same belonged to citizens of the United States." However, sharp, shady and often illegal real estate dealings immediately began to grind this treaty provision into dust.

The Americans quickly realized that the best forests, soils, minerals, and water resources were in the hands of rural Hispanos. Under the credo of Manifest Destiny, this simply would not do. The United States Surveyor General's Office was established in 1854 with the official charge of litigating conflicting and clouded land grant claims. The inexactness of records, lack of surveys, vague property descriptions, racism, and conflicts between U.S. and Spanish law made this a doomed mission. Government lawyers argued that the U.S. legal system had no basis for recognizing the validity of *ejido* lands. Since common ownership was not "lawful," this provided a useful rationale for disallowing most petitions. Between 1854 and 1891, only 22 of 212 land grant claims were patented and much of the Northern New Mexico landscape remained in limbo. Curiously, Indian grants were quietly approved. These properties tended to be small and deficient in coveted resources. Government officials were also used to dealing with indigenous people by creating reservations and the land grants served as

The Carson National Forest, administered by the U.S. Forest Service, Dept. of Agriculture, covers over 1,300,000 acres in Northern New Mexico.





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an expedient solution to the Indian "problem." In 1891, the Court of Private Land Claims replaced the Surveyor General's Office in contending with the mass of unresolved title disputes. Instead of clarifying matters, the process became an even more corrupt administrative quagmire. Poor, uneducated Hispanos were preyed upon by unscrupulous Anglo lawyers and realtors and by local *ricos* (wealthy people) willing to collaborate. Huge *ejido* acreages were stripped from local communities and sometimes resold to the Federal government at

fantastic profits. Land was taken using various techniques. Direct theft occurred when Hispanos were told to sign documents written in English verifying their ownership. Many later found out they had deeded their land away. Lawyers typically ran up huge imaginary bills for "filing the paperwork." The only way Hispanos could pay was by deeding over part or all of their land. Numerous individuals and communities were also forced to sell off lands to pay extortionate property taxes. *Ejido* ownerships became fractured when lawyers coerced

individual villagers to sue for their "share". This necessitated the sale of the entire common area. The result of this epically scaled real estate chicanery was that only about 4 million of the 35 million acres in land grants were ever patented by the United States government. Most of this consisted of Indian pueblo lands and the small village cores of community grants. *Ejidos* and many individual properties resurfaced as the Santa Fe and Carson national forests, Bureau of Land Management holdings, State of New Mexico lands or slipped into the hands of Anglos through various homesteading bills and direct sales.

Land tenure conflicts cannot be dismissed as colorful tales from Northern New Mexico's remote history. The restoration and return of the grants still remains a goal of many Hispanos. In the mid-1960s, a wealthy Anglo developer began eyeing the private and public lands around the small town of Valdez lying north of Taos, for the construction of a massive resort complex. This set off the so-called "Valdez Condo War" which served as the basis for the book (written by John Nichols) and film "The Milagro Beanfield War". In 1967, the Alianza Federal de Mercedes (Federal Alliance of Land Grants) began protesting the Court of Private Land Claims' 75-year old ruling which honored only 1,423 acres of the 500,000 acre San Joachim del Rio de Chama land grant. In June of that year, 20 Alianza members hefting rifles and pistols raided the Rio Arriba County courthouse in Tierra

Amarilla. Bullets flew for two hours. When it ended a deputy lay near death and two hostages were driven deep into the contested shade of the Carson National Forest. The uprising was organized by a radicalized evangelist named Reies Tijerina. Under martial law, the National Guard, state and local police, and Apache sheriffs used jeeps, tanks, armored personnel carriers, and aircraft to track down the *valientes* (militants). Eventually, Tijerina and other land grant soldiers were captured. Yet, state-wide sentiment ran so strongly in

Reprinted with permission from p. 12 of Westphall, Victor. 1983. *Mercedes Reales: Hispanic Land Grants of the Upper Rio Grande Region*. Albuquerque: University of New Mexico Press.

favor of La Raza (the people) that no one was ever convicted of any charges. The issue did not go away. In 1989, Amador Flores barricaded himself into a heavily-armed camp outside Tierra Amarilla to protest the loss of his land through a "quiet title" action filed by an Anglo Arizonan. The standoff ended with Flores receiving a portion of his land back after serving a short prison sentence. Today, driving through the poor villages of Northern New Mexico, handmade signs and scrawls of graffiti vividly reveal that disputes over the ownership and use of National Forests and other lands are far from resolved. One sign says simply "Tierra O Muerte" - Land or Death.

Resource Cooperatives and the Forest Trust

Increasing numbers of rural Hispanos are translating land grant rhetoric into action by forming forest products and grazing cooperatives. These groups are seeking expanded economic opportunities, improved access to local resources, and the resolution of land tenure cases. Many Hispanos believe that their survival as a culture depends on gaining greater use of the National Forests.

In Taos, Hispanos have formed La Comunidad as a socio-economic organization promoting local stewardship of federal land and improved health care programs. In the tiny hamlet of Vallecitos, west of Tres Piedras in the southern San Juan Mountains, family logging companies have created La Madera Forest Products Association to build and market vigas, latillas and kiva ladders for the region's expanding "adobe chic" housing market. Outside of Tierra Amarilla in the village of Los Ojos, Ganados del Valle (Livestock Growers of the Valley) employs 36 people as sheep raisers and master weavers. Blankets, jackets, pillows and wall hangings are sold in the co-op's branch known as Tierra Wools. Traditional arts, books, lamb and sheep pelts are available next door at their subsidiary business, Pastores Feed and General Store. However, the group continues to struggle to secure grazing leases for their flocks of rare churro sheep. National Forest lands (formerly part of the Tierra Amarilla and other land grants) are fully controlled by powerful ranchers. Ganados cannot gain entry. The group has been forced to truck their animals to the Jicarilla Apache Reservation and as far north as the San Luis Valley in Colorado. Efforts to gain grazing rights on the State of New Mexico's Sargent Wildlife Area north

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of Chama were thwarted due to concerns over conflicts with big game herds. Throughout these trials, Ganados del Valle has continued to expand. One of the group's leaders, Maria Varela, recently received a MacArthur Foundation grant in recognition of the power of the Ganados vision - "to empower people to create economically, environmentally, and culturally sustainable communities."

The Forest Trust is the group most directly concerned with Northern New Mexico's forest lands. This Santa Fe based organization has land trust, land stewardship, community forestry, and National Forest programs. Their land trust efforts have permanently protected 3,000 acres from development through the use of conservation easements and placed another 20,000 acres under conservation agreements prohibiting clearcutting. The group's land stewardship branch directly manages 50,000 acres of forests and rangelands and serves as an advisor on 400,000 additional acres.

The Forest Trust has also established the Mora Forestry Center on the east flank of the Sangre de Cristo Mountains. The center serves as a tree nursery and job training facility. Hispanos are taught selection logging methods, reforestation procedures and trail and road building. The Mora Forestry Center also houses a forest products brokerage cooperative with annual receipts of more than \$100,000. A "Good Wood" certification system is being put in place to assure customers that their lumber does not come from old growth forests.

The National Forest program is the Forest Trust's most ambitious undertaking. The Santa Fe and Carson national forests lose about \$2.5 million each year on their timber sales. Environmentalists charge that these deficit sales are creating widespread ecological damage. Hispanos look up at former *ejido* lands and shake their heads. As a solution, the Forest Trust advocates a reduction in the total cut on federal land and greater reliance on selective harvesting done by local loggers. Their mission is not to return land grants to Hispano ownership but to their environmentally rational management. Staff members have prepared a map of remaining old growth forests and designated several "threatened watersheds" considered vital for *acequia*-based

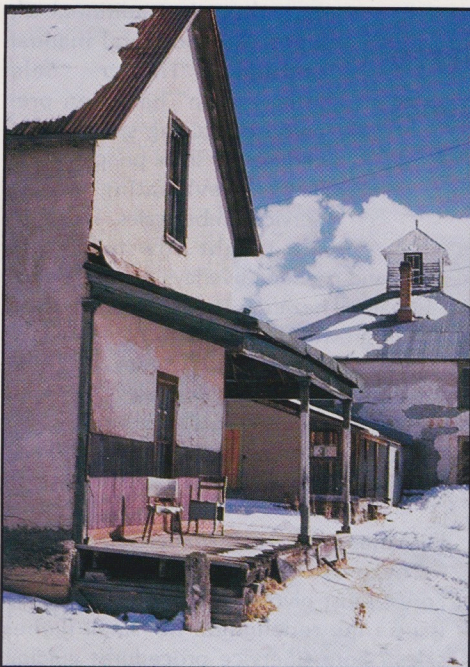
agriculture in traditional villages. A procedural manual entitled "Timber Sale Intervention" has been prepared containing specific procedures for local people to follow in evaluating Forest Service timber sales. Hispanos are taught how to: 1) use

maps and produce overlays of soils, slopes and natural hazards, 2) determine if a stand is "old growth" according to Forest Service criteria, 3) double check agency facts, and 4) write letters challenging sales. The intervention process is meant to reduce the use of legal appeals by systematically including Hispanos in Forest Service decision making.

Hispanos and "Small Timber Sales"

The most revolutionary goal of the Forest Trust pivots on a seemingly arcane issue - the redefinition of "small timber sales." Forest Service procedures guiding timber harvest vary tremendously depending on the size of the cut. Small "Ranger" sales can be sold to local loggers with a minimum of paperwork. Hispanos often compete successfully for these contracts since large commercial companies require mass quantities of timber to justify entering the woods. A "small sale" to a family operation is around 100,000 board feet. This is the amount of timber which they can selectively cut, mill and market efficiently while properly tending to site cleanup. However, the Forest Service typically defines "small" sales as those containing around 500,000 board feet. Using this federal definition, only 15% of all sales in Northern New Mexico are "small." If the Hispano definition is applied, less than 5% of all timber sale offerings are realistically available to local people.

This occurs for a number of reasons. Large sales are subject to a complex bidding process and Hispanos are usually out-competed by Anglo companies from Espanola and Albuquerque. Hispanos often lack fluency in English and do not have sufficient expertise in forest economics to prepare sound bids for large volumes. In addition, local logging enterprises have only 6-8 employees (who also work at other jobs) and lack the heavy equipment needed to remove huge amounts of timber as quickly as the Forest Service demands. Perhaps the biggest obstacle for Hispanos is the need to post a substantial performance bond before harvesting a "large" sale. This must be in the form of cash, which Hispanos do not have, or land, which they would never risk when memories of land grant losses remain indelible. Villagers must find what temporary work they can, usually on the



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In Tierra Amarilla, New Mexico, signs of poverty resulting from land grants lost to the U.S. government.

tree-thinning and road-building crews of Anglo logging companies. Thus far the Forest Service has not measurably changed its definitions or policies. In effect, Hispanos have had the forests taken away twice - first by land swindles and then by federal bureaucracy.

Ecosystem Management and Social Justice

Forest Service Chief Jack Ward Thomas has called for Ecosystem Management and a move away from monolithic clearcutting. Hispanos in Northern New Mexico are

striving for responsible local use of federal lands which were once theirs. It is precisely the right time to connect these two eminently reasonable goals. This process is already off to a tentative start in the Carson National Forest within the so-called Alamo-Dinner "diversity unit" north of Chimayo. La Comunidad and Hispano families were consulted on management options and a number of sales under 200,000 board feet occurred. However, local people were still forced to appeal the unit plan due to the continued dominance of commercial clearcutting.

It is time for some clear thinking about the National Forests. Fifty "selection cuts" of 100,000 board feet done by Hispanos can replace five million board feet taken from corporate clearcuts. This will require less invasive road systems, mimic natural forest disturbance regimes, protect watershed quality, conserve biological diversity, and provide real economic return to rural communities. The Hispanos' long-term commitment to the landscape might also prove a powerful incentive for reforestation and responsible grazing stewardship.

The deficit sales problem may remain. However, those seeking the elimination of all deficit sales as a way to prevent the destruction of National Forests would be wise to turn their attention away from the dollars for a moment and back to the resource itself. Hispano small-scale forestry may not be purely "cost-effective" in the short term but will the land be better treated? It would seem so. And if the economic subsidy remains in place, might it be better used for regenerating forests and rural cultural landscapes than for encouraging commodity extraction and profiteering by a few

absentee corporate entities? Of course.

If Hispanos attain even a modest living from the woods they can pull back from their heavy dependence on social welfare programs and achieve true "community stability." Yet, for this overdue change to occur, the U.S. Forest Service under Jack Ward Thomas and his successor will need to do something bold and simply right. It must be acknowledged that social justice and ecological integrity would be best served by shifting to increased Hispano use of the National Forests - the lost land grants of Northern New Mexico. Perhaps historical geography could provide the most striking "New Perspectives" of all.

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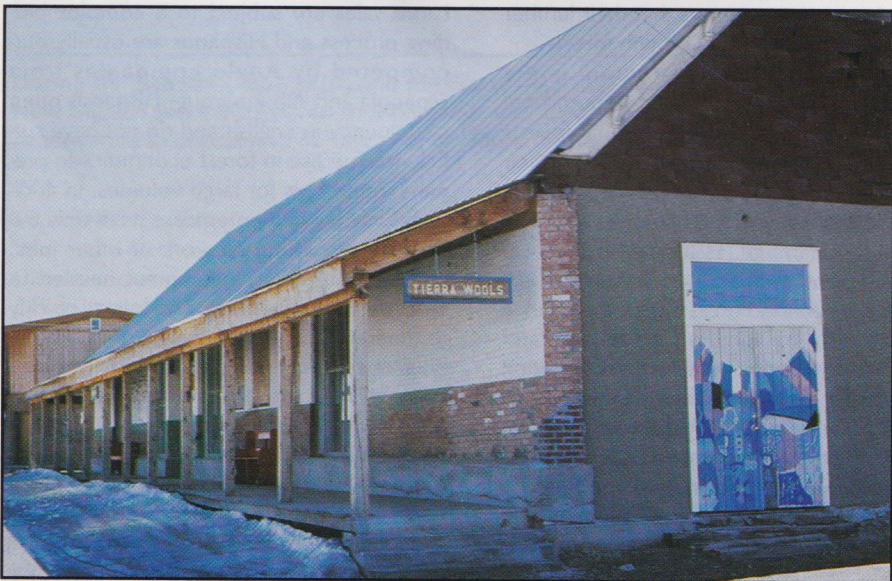
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Signs of economic development in Tierra Amarilla, New Mexico.



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