

Critics voice opposition to transfer of Taos-area water rights

By J.R. Logan

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Commissioners of a Questa acequia say they are against a proposed transfer that would move water rights to an acequia in Arroyo Seco.

That board was joined by the majority of the Taos County Water Advisory Committee, which voted 6-2 Aug. 19 to recommend that the county commission protest the transfer.

Opponents say the move would hurt irrigators in the northern part of Taos County, but supporters say it is needed to satisfy the fragile terms of the \$150 million dollar Abeyta Water Settlement.

The settlement is a complex agreement between acequias, Taos Pueblo and domestic water providers that was hashed out over decades and approved by Congress in 2010.

The settlement was meant to resolve long-standing feuds over water in the immediate Taos area without resorting to litigation. But Abeyta-related transfers have already prompted outcry from a handful of critics who say the deal comes at the expense of water users who didn't have a seat at the bargaining table.

Under the current proposal, the Acequia Madre del Rio Lucero y del Arroyo Seco is seeking permission to move 183 acre-feet of water rights from the Llano Community Ditch in Questa to the Acequia del Madre del Rio Lucero y del Arroyo Seco. The additional rights are meant to resolve a dispute between Arroyo Seco irrigators and Taos Pueblo.

The estate of Bernabe Ortega has agreed to sell the rights, which were once tied to 79 acres near Questa. County records show the rights were severed from the property in 1965.

In response to a public records request filed by The Taos News earlier this month, Taos Valley Acequia Association President Palemón Martínez provided several documents, including a 2005 contract stating the association would buy the rights from Bernabe Ortega for \$500,000.

Martínez is also secretary of the Acequia Madre del Rio Lucero — the ditch that would receive the additional rights. Under the Abeyta Settlement, the acequia is allocated up to \$2 million for the purchase of water rights.

Martínez has repeatedly said there is no connection between his role in the Abeyta negotiations and the money specifically awarded to the Rio Lucero acequia.

The contract with Ortega stipulates that the sale is contingent on the transfer getting approval from the State Engineer.

Documents show the purchase contract has been extended three times, costing the acequia association an additional \$4,000, plus a \$20,000 down payment. The parties agreed to extend the contract until the State Engineer makes an unappealable decision on the transfer.

The estate is being handled by Bernabe's son, Lawrence Ortega, but five of his relatives signed a letter dated Aug. 16 claiming a share in the ownership of the rights.

The county commission canceled a hearing Tuesday (Aug. 27) meant to hear the water advisory committee's recommendations. Deputy County Manager Rick Bellis wrote in an email that there was no plan to hold a meeting before the protest deadline this week. Bellis said state officials have already said it is an "expensive but pointless exercise" to challenge transfers related to the Abeyta Settlement.

In a letter dated Aug. 5 and presented to the Taos County Water Advisory Board, Llano commissioners Lupe Young, Moises Sánchez Jr. and Jeannie Masters signed a letter that said they had "recently been notified" of the transfer and were protesting the move because it would be "extremely detrimental" to the ditch.

A spokesperson to the State Engineer did not confirm if the office had yet received any official protests to the transfer before press time.

The letter from the Llano ditch comes nearly a year after Martínez sent a letter by certified mail to Llano commission president Young, notifying him of the transfer and asking if the board had bylaws that would allow it

to deny the proposal. Martínez included an affidavit in the transfer application stating that he never received a response to the letter.

All of these documents are available for download by finding this story at taosnews.com.