

Real work starts for Abeyta Settlement parties

By Meg Scherch Peterson

For The Taos News, 3/9/2017

Fielding questions for more than four hours about a range of concerns — from airplane exhaust pollution to water contamination — hydrologist John Shomaker and attorney Rebecca Dempsey explained the ins and outs of the complex Abeyta Settlement agreement to about 100 people in each of two separate meetings March 4.

The Taos Valley Acequia Association (TVAA) organized the meetings. The negotiated agreement settled the long-standing water rights claims of Taos Pueblo.

The parties in the negotiations, which began in 1989, included Taos Pueblo, the town of Taos, El Prado Water and Sanitation District, TVAA and its 55 member acequias, along with 12 mutual domestic water consumers associations.

Facilitator Olivia Romo, a staff member at the New Mexico Acequia Association, opened the meetings with an appeal to the audience for *respeto* (respect). She paused for a moment of silence to honor those who had worked on the agreement and to offer them kudos that “[the TVAA] is still alive.”

And although emotions ran high at times, the proceedings never grew contentious.

The first meeting focused on the acequia storage and recovery (ASR) wells and the second on the mitigation wells, two proposed projects in the agreement.



Community members gathered to learn about the Abeyta Settlement at the Juan I. Gonzales Agricultural Center in Taos March 4.

Katharine Egli

ASR wells are unique to the Acequia del Rio Lucero y del Arroyo Seco. They represent one of two options available to store water from the Rio Lucero. The alternative is surface reservoirs. The ASR wells would inject surface water into the deep aquifer and then re-pump it back to the surface as needed. The water would be treated for any contaminants both before injection into and after recovery from the aquifer.

Each of the five mitigation wells, located throughout the valley, would be individually operated: three by mutual domestics, one by the town and one by the Rio Chiquito acequia.

Mitigation wells would pump water from deep aquifers and then allow that water to flow into streams or domestic water lines as needed. Since the water would be pulled from deep aquifers that feed the Rio Grande, any offsets would be calculated from the Rio Grande main stem instead of from valley tributaries, thus reducing reliance on acquiring and retiring water rights from acequias.

About 30 community members asked questions about water quality, loss of natural habitat, well casings on proposed deep wells, watershed management and the effect of production wells on water levels in acequias, streams and domestic wells.

Some voiced fears that the wells were “outside the norm,” especially as the community didn’t know how the deep aquifer water would be treated before entering streams and ditches. Shomaker continually referenced water quality standards of the New Mexico Environment Department.

Shomaker also explained how water moves underground and why pumping from deeper underground layers helps avoid water depletion in the shallow aquifer, streams and acequias.

A landowner in El Salto worried about what would happen to the habitat if a pipe replaced the earthen ditch from Rio Lucero. Shomaker replied, "It will change."

Bill Woodall, a retired general contractor, said, "These are big construction projects." He pointed out that the Bureau of Reclamation would make the decision about whether an environmental assessment or a full-blown environmental impact statement would be required.

Hydrologist Mustafa D. Chudnoff, who was a member of the technical committee that worked on the hydrologic flow model for the agreement and now represents some landowners on the Arroyo Seco Abayo, said his clients supported some form of water storage from the Rio Lucero. He also pointed out that any water stored in the winter would need to take into account water needed for livestock.

One commenter wondered whether water rights could be leased from Taos Pueblo to avoid the need for water to be stored in surface reservoirs or aquifers. Dempsey replied, "I was told recently by the lawyer for Taos Pueblo that they are not interested in leasing any of their water."

Mary Humphrey, attorney for the mutual domestics, said the wells were a good thing for the mutual domestics and they "keep the streams whole." Robert Martinez wanted to know how sites for the mitigation wells had been chosen. Shomaker said there may be some flexibility as to where the final sites are located.

Fabi Teeter, of Arroyo Hondo, expressed concerns about costs and said, "There has not been sufficient input from the people."

John Miera expressed frustration at the lack of an implementation plan. Dempsey responded that the settlement parties "are going to have to continue to be engaged" in the implementation process. She said an operating agreement needed to be developed that could provide guidance during the implementation phase.

"The parties can get back together at any time for continued dialogue, but they are bound to move the settlement agreement forth in good faith and not try to drive a stake into it," she said.

Dempsey said the mitigation wells were the "lynchpin" of the agreement and that all the parties would have to agree to any decision about their feasibility. She read language from "Article 13.3 — Project Modification or Failure" and explained that no single acequia or other entity could undo the projects.

"The time for appeal has past," she said.

Romo ended the meeting with a challenge for those in attendance: "Now the work is going to start."