

What is the Abeyta Settlement, where is that well, why should I care?

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What is Abeyta Settlement?

The settlement is essentially a water-sharing agreement for the Taos Valley among the major water users and water rights holders. In 1969, New Mexico went to federal court to tally all the water rights in the local watersheds and establish who owns how much. To avoid the costly, ambiguous nature of a court battle over this, the major players came together to craft a solution.

Who are the parties to the settlement?

The town of Taos, Taos Pueblo, El Prado Water and Sanitation District, 12 mutual domestic water associations, and dozens of acequias, represented by the Taos Valley Acequia Association (TVAA). The state of New Mexico and the United States are also parties.

Why is it called that?

Eduardo Abeyta was the first name on the original case. The “Abeyta Settlement” is called in court documents the “Taos Pueblo Water Rights Settlement.”

When was it settled?

Here's a quick timeline.

1989 — TVAA proposed the negotiation with Taos Pueblo and the pueblo agreed

2004 — Parties approved the structure of the eventual settlement

2006 — Parties finish negotiations and release a draft of the settlement agreement

2008 — Congress approves funding and President Obama signs it 2013 — The settlement is finalized in the courts

2016 — A deadline makes the settlement enforceable and parties begin applying for public money to make it a reality

How much did Congress approve for the Abeya Settlement?

About \$150 million in federal and state dollars were set aside for the agreement. El Prado was the first to get money to plan and drill wells (about \$5 million for the first phase), while the town got a \$2.8 million grant from the Bureau of Reclamation (BOR) in September 2018 for the first phase of its projects.

Why is the Midway well on U.S. 64 being dug?

Under the terms of the settlement, El Prado Water and Sanitation District, which serves about 1,100 customers, must relocate some of its water pumping away from the religiously important Buffalo Pasture at Taos Pueblo because wells impact the shallow aquifer there. The district needs to dig two new wells somewhere along the highway – miles from the pasture.

How did they choose the location of the Midway well?

The settlement gave the district two general areas to dig its wells, both on the north side of the highway and between the Taos Pueblo Tracts A and B. Hydrologists have the leeway to pick the best spot in those areas. The Midway well is located on private land that – should the well prove successful – the district will officially purchase.

Didn't they have to do an environmental review of this?

Yes. The BOR came out to evaluate the Midway well site and granted the district a “categorical exclusion” in 2018, meaning no further environmental review needed to be done on that project. Each well that is part of the Abeya Settlement will have to go through a similar process, though a National Environmental Policy Act (NEPA) analysis is not required for the settlement overall. A computer model to estimate impacts of pumping that was developed as part of the settlement includes all the science and data about the hydrology of the Taos Valley.

Is this getting into the ‘deep aquifer’?

Not really. The well is 913 feet deep. Other domestic wells within a mile of the site range in depth from about 400 feet to about 900 feet. The deeper aquifer, as El Prado’s hydrologist describes it, starts about 65 feet below the lowest point of the Midway well.

Is the water contaminated?

According to El Prado, tests of nearby wells showed the water did not have levels of fluoride, arsenic or uranium above federal standards. Testing of the Midway well water can’t be done until the well is operational.

Is the water from the Midway well for existing customers or future growth?

Both. The well is being drilled to replace the pumping capacity that El Prado agreed to in the settlement, meaning the water will feed into the El Prado water system. However, if the district buys more water rights, it could pump more out of that well to accommodate future homes or businesses. Ground water pumping for municipal and domestic use roughly doubled between 1985 and 2000 in the Taos County area.

What's the status of that well after the protest?

The protest happened at a critical moment in the drilling process, when the contractor needed to immediately fill in part of the well shaft with gravel. That was delayed by four days. The district believes the well was compromised "to a certain amount," but won't know the full extent of the damage until a pump is installed.

What happened to the first well El Prado tried to dig?

That was the Río Grande well. That well was supposed to be drilled deeper and located farther west than the Midway well. They drilled it down to about 1,800 feet, the deep aquifer. But there wasn't much water and it was stuck in an ancient sand dune (think the Great Sand Dunes National Park in Colorado). "That aquifer is not being tapped at the present time and I don't think it ever will be," said El Prado's hydrologist Maryann Wasiolek. The district hasn't picked a new spot for the Río Grande well.

What's the difference between the Midway well and mitigation wells?

The Midway well is a "supply well," meaning it will supply El Prado customers with water in the same way its current wells do. Mitigation wells are another thing entirely. Because of the hydrology of the Taos Valley, any big well will have an impact on the local streams. The settlement uses a computer model to figure out what these impacts will be for each new supply well. Mitigation wells will be used to make up for those impacts to streams. The water will be pumped from underground and put into either streams or acequias.

What happens if the Midway well isn't completed or doesn't produce the water it should?

El Prado is entitled to two wells under the settlement. If the Midway well doesn't work they get to drill another one.

What happens if one of the parties doesn't abide by the settlement?

No one really knows. The issue would likely go back in court in some fashion, such as to transfer responsibility of a project to another party.