

**Acequia del Caño
Minutes
Annual Meeting
January 31, 2005**

Members present:

Edwardo Archuleta, Ramos Archuleta, Robert Baran, Jack Blum, Peter Buehner, Gary Clark, John Gutting, Lany Berger, Erlinda Key, Laura Leitner, John Zubchek, Bruce Lewis, Victoria DeVargas, Marlene & Charlie Lujan, Meade Martin, Roberta Martinez, Allen McNown, Tim Merrigan, Joseph Montes, Jim Rogers, Dolores Romero, Donaldo Roybal, Robert Salazar, Julia Takahashi, Herman Gonzales, Joel Serra, Erin Wade, Anthony Whitman

Robert introduced special guest Victor Lujan, a grant-writing consultant to the commission. Victor explained that he was invited by the previous commission to inquire about funding sources for improvements to the acequia. Victor explained that there have been problems finding funding for a permanent diversion at the river as the NRCS had proposed a combined project with some of the other acequias.

As a result his efforts have been focused on securing funding from the NRCS and the Army Corps of Engineers to improve and repair the ditch.

Victor was also instrumental in helping to draw up the three bylaws presented for consideration at this meeting.

He gave his Phone # as 455-3223 and said to please call if we had questions.

Victor excused himself to attend another meeting.

President called the regular meeting to order at approximately 6:55 pm.

Quorum count = 63 votes in person and 27 by proxy for a total of 90 votes, constituting the quorum.

Robert Baran then presented excerpts from his written report to the members, which is included in full in these minutes.

**Acequia del Caño President's Report
January 31, 2005**

I am pleased to make this summary report to the parcientes of our Acequia, following the completion of our first year serving as your Commissioners. It has been a hectic time, particularly since three of us (myself, Jack Blum and Joe Montes) have never served before. We had a lot to learn and still do. We appreciate all of your patience and support while we have

learned about our jobs. I also appreciate the patience and dedication of Meade Martin, our Secretary, as he has helped all of us learn about our responsibilities.

We had a good watering season this past summer. The schedule that Jack Blum, Joe Montes, Gloria Vigil and Meade Martin put together was a great success. Jack did a great job of coordinating the efforts to get water to all parciantes that wanted to water.

The main ditch was washed out several times above the head gate and, with the help of several parciantes; we repaired the ditch each time. Water interruptions were kept to a minimum. We need more members to be on-call so that, when the need arises, we know who we can contact to help perform ditch repairs. Jack has arranged a short list of people on whom he can depend at a moment's notice.

Earlier this year, we helped parciantes on the upper Ortiz Lateral to obtain water by supporting them in their efforts to install a pipeline. The cooperation between the commissioners, the mayordomo, and the shareholders on this lateral made this effort a success.

We notified all parciantes by letter once our scheduled water had been completed. Please keep in mind that, whenever there is unscheduled water available in the river, you can arrange to utilize some of the available water by calling the Mayordomo. Remember, that no one may remove water from the ditch without the Mayordomo's permission; to do so is against our bylaws. Poaching is very disrespectful of the other parciantes and will tarnish your reputation with the commission and the rest of the association.

Earlier this year, the commissioners investigated a newly installed electrical conduit attached to a fence crossing the main ditch at the 503 lateral. This situation was brought to our attention by one of our parciantes. After carefully examining the installation and consulting with the Pojoaque Valley Irrigation District, it was determined that the electrical conduit had to be removed due to safety concerns. To avoid having a similar situation happen to you, please remember to notify the Mayordomo or one of the commissioners before installing anything that may encroach on the right of way of the main ditch, or that might otherwise be a deterrent to water flow or safety. We will help evaluate what you want to do and ensure that it is done the right way the first time.

During the past year, several of us have attended a variety of additional meetings concerning water rights banking and transfers that gave us better insight to how we need to modify our By-Laws to help protect our Acequia. Tonight, we will be asking you to vote on approving the addition of some new language to our Acequia's By-Laws. This has become even more important because the State Engineer's Office now has a water master for our area and he is evaluating surface water use so that water rights that are not being used can be declared abandoned.

We also need to bring our acequia into compliance with the Open Meetings Act and you will be asked to approve that amendment tonight as well.

Our Acequia is an old one and its infrastructure is in need of repair and improvement in a number of locations. We have worked this year to identify needed improvements and to prioritize the projects to ensure we tackle the most critical tasks first. The commissioners have asked Mr. Victor Lujan to assist us with obtaining funding from a variety of sources to support

our repairs, maintenance and upgrades projects. Thus far, we have paid him five hundred dollars to help us in this area and we feel it has been money very well spent.

As a result of the efforts of your commissioners during the year, we have a very full agenda this evening with a lot of topics that require your consideration and approval. I appreciate your interest in our Acequia and your attendance this evening.

Treasurer's Report

Joe Montes reported that we had taken in more money this year than last.
Total income was \$7,687

Last year's cleaning was \$3,600
Repairs to the repairs to the Luis Ortiz lateral; \$4,088.
Other expenses were \$582.76
Postage was 235.56

Balances at the time of the meeting were:

Checking \$4,012.60
Savings \$ 563.76

Total \$4,576.36

Minutes

The next order of business was to approve the minutes as submitted by the secretary.

Don Roybal moved and Ramos Archuleta seconded the minutes.
Jim Rogers moved and John Gutting seconded that the minutes be adopted by acclamation.
The minutes passed unanimously.

Amendments to the Bylaws

It was noted that in order to make changes to the Acequia bylaws a two-thirds majority of the acequia votes are needed or 83 of 129 votes. This applies to the following amendments to the bylaws.

Open Meetings Act bylaw Article V.

The next item on the agenda was adoption of the Open Meetings act bylaw.
This bylaw is required by the State of all public organizations and the Acequia Del Caño is a political subdivision of the State of New Mexico.

Julia Takahashi moved and Gary Clark seconded that the bylaw be adopted as presented.

There was a discussion of the news media publication requirements and how the meetings would be announced, by mail, posted in at least three locations, the most recent postings being Nambé drugs, Pojoaque Post Office, Kokoman, and Al's Liquors.

Don Roybal asked if we weren't redoing something that has already been done by the state. Meade Martin replied that the State requirements pertaining to open meetings need to be included in our by laws as they address the needs of people with impairments and how to handle emergency meetings. The open meetings act language is also a requirement to receive funding.

Jim Rogers called for the question, seconded by Gary Clark. The motion passed unanimously.

Water Banking By Law Article VI

John Gutting moved and Edwardo Archuleta seconded the adoption of the article.

Discussion:

The need for a water bank was emphasized because the State engineer's office has placed a water master into the Pojoaque basin. The water master will be checking water usage and it is assumed that the state engineers office will start moving to declare water rights abandoned if they are not put to use or into a water bank. Irrigated Acreage that has been built on may qualify for placement in a water bank.

The mechanics of the water bank were discussed and it was pointed out that there would be a water bank ledger and also a computer spreadsheet with the information. The acequia will contact owners of banked water rights only once a year and water rights placed into the bank will only be removed when the owner requests their removal.

Joel Serra called the Question and Julia Takahashi seconded.

The motion was past unanimously.

Transfers of water rights off the Acequia Article VII

Jim Rogers moved and John Gutting seconded that adoption of Article VII.

The history of the acequia was presented and an appeal to the parciantes to consider that transfers of water rights away from the acequia are lost forever.

Joel Serra brought up the questionable constitutionality of the state statute authorizing commission's approval of water rights transfers, as it impaired property rights. He cited George Duran vs. Reynolds case about changing the point and place of diversion within a watershed.

The article does not define impairment of rights.

It was argued that without the acequia water, the water table does not get recharged.

Only a portion of the water rights could be transferred to protect recharge of the aquifer.

Looser standard. (?)

The current system is to apply for a transfer to the State Engineer first. With this bylaw, transfer requests would first need to be approved by the acequia commission, then the state engineer.

The acequia has ten generations (25years)

The Poleo lateral has difficulty getting water

Will the acequia have the wherewithal to fight any legal battles that this bylaw may cause?
The acequia would use New Mexico Legal Aid, which assists acequias for free.

Erin Wade said that the bylaw would protect our environment and limit the off acequia use of our water rights.

An opponent stated that the bylaw politically devalues the property values and approaches an arbitrary control and conflicts would have to be resolved in court.

Question: Why not have the meeting of the parciantes vote on whether or not to allow a transfer? Answer was that the state statute clearly gives the decision making power to the acequia commissioners.

Allen McNown questioned the language referring to arbitration

Don Roybal moved and Richard Keys seconded a motion to table action on the bylaw so that people would have time to consider the ramifications.

Gary Clark moved to amend the motion to table the motion to include a time limit and to reconvene on March 21. This was adopted.

The question was called and only 44 votes were in favor of tabling the motion.
The motion failed.

Julia Takahashi moved to amend the language in sections 3 and 4. Seconded by Jim Rogers.
The amendment passed unanimously.

Allen McNown withdrew his comments referring to the arbitration clauses.

Jack Blum suggested an amendment that would require the commission to take a poll of the membership prior to the public meeting about a transfer. He withdrew his motion.

There was a new call to table the motion to adopt the water rights transfer language and reconvene no later than March 21, to give people time to get individual council and to talk to parciantes that were not present.

Joe Montes moved to table the motion and Robert Baran seconded it.

The motion passed unanimously.

Jack Blum said that he would make an acequia map with names.

The commission was urged to be sure that the new property owners properly transferred water rights.

Funding Application Initiative

Meade Martin read the funding application initiative.

John Gutting moved it be adopted, seconded by Joel Serra.

There were questions about how to set priorities for the improvements, to prevent seepage and also how to protect the large cottonwood trees.

Jack Blum requested that the language be changed to read “as needed “ to the section referring to from Las Acequias to the Siphon.

The acequia members will be responsible for a percentage of the costs of the improvements.

It was made clear that this resolution was to seek funding and engineering design work for improvements and not a commitment to do the work at this time. Another meeting will be needed to authorize the improvements.

The question was called and the initiative was past unanimously.

It was noted that the Acequia Del Caño Commission intends to protest the pending transfer off of the acequia of water rights owned by parciantes Soren and Erica Peters.

The Commission is also seeking bids for the annual cleaning.

Joel Serra moved and Edwardo Archuleta seconded the meeting be adjourned.

This was passed unanimously.