

**Acequia del Caño
Minutes
Special Bylaws Meeting
March 28, 2005**

Members present:

Robert Baran, Jack Blum, Peter Buehner, Gary Clark, Loyola Garcia, John Gutting, Chuck Berger, Erlinda Key, Thomas Leitner, Philip Loomis, Ernie Lujan, Marlene Lujan, Meade Martin, Roberta Martinez, Virginia Martinez, Allen McNown, Joseph Montes, Jim Rogers, Dolores Romero, Robert Salazar, Gary Sanchez, Paula Roybal Sanchez, Julia Takahashi, Joel Serra, Jeff Vigil, John Zubchenok

Visitors:

David Benavidez, Paula Garcia.

Quorum: 52 votes were present in person and 57 votes were presented as proxies.

The meeting was called to order at 7:30 pm.

A motion to approve the minutes of the January 31, 2005 meeting was made by Gary Clark and seconded by Linda Key. Joel Serra noted that the minutes did not mention that he had objected to the language change to section three of article 7. The changes were noted and the minutes were passed unanimously.

The meeting took up the motion tabled on January 31, 2005. Article VII, Authorizing Commission approval of water rights transfers.

Quorum count, 109 votes present and by proxy.

Needed to adopt, 87.

Joel Serra raised a point of order. He challenged all the proxies due to a misleading statement in the meeting announcement.

Joel then referred to Duran vs. Reynolds. He stated that acequia water rights are diversion rights, and the owner can transfer the consumptive use rights which are about 62% of this value, the difference accounts for recharge. The membership discussed the recharge question.

Gary Clark stated that this amendment was just another stumbling block to slow down someone coming into the association just to take the water. He said we need as many safeguards as possible and it needs to happen now.

Meade Martin stated that there are remedies within this bylaw for anyone who thinks that the commission has overstepped its bounds. He went on to say that the bylaw recognizes the work of the ancestors of this valley and that as a community we see these as community water rights; that

these water rights were brought into being by the community. This is a moment to say whom we are and that we want to protect our water rights.

Joel Serra said that it seems like a lot of power to grant to the commission and how will the community develop the expertise to determine impairment?

Julia Takahashi said that the water is shared and the rights are protected by the use of water by the community.

Meade said that it would be up to the transferor to prove that there is no impairment to the community and it may require hydrological studies.

Joel said that the American system of property law is against this that the burden is on the party that challenges the property rights.

Jim Rogers said that the rights Joel Serra is referring to are monetary rights but that we are talking about water for the valley.

David Benavides, an attorney working with the New Mexico Acequia Association said that New Mexico case law makes it very clear that the State Engineer makes it a requirement that the applicant for a transfer show that it would not impair existing rights. For the first time this new law gives powers to the acequia association giving them a choice to allow a transfer. The State Engineer has to go along with the acequia.

A member asked if this new law had been challenged or ruled on by the State Supreme Court?

Gary Sanchez representing Rancho Las Lagunas asked if Joel was a resident of the Valley.

Joel replied that he was not and stated that his clients were not selling their water rights. He said that he is concerned that we are restricting our property rights.

Gary replied that the intent was to protect the neighborhood.

Paula Garcia of the New Mexico Acequia Association said that Acequia communities date back centuries and that the water rights were created by the community and were maintained year after year for such a long time. New Mexico and southern Colorado are the only areas in the United States where there is this (Acequia) system of democracy.

David Benavidez said that this is a decision that the acequia association is making because the power to do so was granted by the legislature. The acequias have a legal and cultural tradition that predates the USA. The legislature found it fitting to see the acequia associations as local governments. The State Engineer already has the power to rule on transfers but the State Engineer does not always take into consideration the local situation (impairment to the acequia) this is a supplemental authority a compliment to the State Engineer's powers and authority.

A parciante asked that if this is already a State law why do we need to change our bylaws. Paula Garcia answered that the law is written so that the acequias have to adopt the bylaw in order to decide on transfers. If the acequia says no then the State Engineer has to go along.

Another parcianta asked if the commission could use this bylaw for their own purposes. Paula Garcia said that it is a win/win situation. That democracy works as long as there is an active base.

Joel Serra noted that the law should have required that a transfer be applied for then requiring notice to the acequia association, which could then give comments.

Another parcianta observed that realtors are beginning to see them selves as water brokers.

Joel Serra added that water rights were selling for \$5,000 to \$18,000 per acre-foot but that in the Pojoaque Valley they were going for \$20,000 to \$25,000 per acre-foot.

Paula Roybal Sanchez said she saw in the room tonight the children of the people who have kept the acequia system going, and that she did not want it made into a political football.

The motion was called for and seconded.

The amendment passed with 99 votes in favor and 8 opposed, with two abstaining.

Meade said that there was lots of water in the river this year. The plan was to create a rotation schedule starting with the Poleo parciantes and working up. The rotation would start soon and be sequential.

Robert Baran asked to know the schedule ahead of water times.

Meade also said that there was a lot of water in the river and that we need to take care of the diversion. The irrigators need to watch the berm at the river.

Robert Salazar and Julia Takahashi offered to help the commissioners with the acequia map and phone list.

Ernie Lujan in reference to the voting asked if it would be appropriate to have the landowners sign their individual cards to see who voted.

Meade said for the record the intention of the cover letter was not to mislead any one but to make a statement about how the community feels about the issue.

Robert Salazar said in reference to his four proxies that he had spent two to three hours on the phone with his siblings and sharing with them different opinions. They did a lot of talking and decided that keeping the water in the community was more important than anything.

Gary Clark moved to adjourn.

Robert Baran seconded.

Respectfully submitted by Meade Martin from notes taken by Julia Takahashi