



TAOS PUEBLO WATER RIGHTS SETTLEMENT



OVERVIEW AND HISTORY

The Taos Pueblo Draft Water Rights Settlement Agreement is a proposed agreement among seven institutional parties, which when completed, will adjudicate Taos Pueblo claims and expedite the adjudication of non-Pueblo claims to water rights in the Rio Pueblo de Taos and Rio Hondo stream systems. The settlement arises from the comprehensive water rights adjudication suit that the State filed in federal court in 1969. (*State of New Mexico ex rel. State Engineer, et al. v. Eduardo Abeyta and Celso Arellano, et al.*, 69cv07896 BB-ACE and 69cv7939 BB-ACE, Consolidated.)

How was the settlement developed?

In 1989, the Taos Valley Acequia Association (TVAA) approached Taos Pueblo to propose a negotiated resolution to the Pueblo's claims. The two parties agreed to pursue that joint effort, and their negotiations grew to include the United States, the State of New Mexico, the Town of Taos, El Prado Water and Sanitation District (EPWSD), and 12 Taos-area Mutual Domestic Water Consumer Associations (MDWCA's).

Together, the seven parties completed detailed technical investigations that allowed them to gather critical hydrologic information and to develop surface and groundwater models that have been fundamental to developing workable settlement concepts.

In August 2003, the parties retained a professional mediator to assist in their negotiations. Through this process, the six local parties (the Pueblo, the State, TVAA, the Town, EPWSD, and the 12 MDWCAs) developed the Taos Pueblo Draft Water Rights Settlement Agreement that was released to the public on March 31, 2006. This draft agreement is an attempt to develop, through compromise, a means by which the various communities can enjoy a more cooperative coexistence and share the water of the Taos Valley into the future.

This document is provided for discussion purposes only, during and for compromise negotiations and, pursuant to Fed. R. Evid. 408, and court order, is not admissible evidence concerning the claims or defenses for any party. Neither the United States nor its representatives in these negotiations have approved the proposed settlement. Among other objections to this agreement, the United States has not agreed to waive its sovereign immunity. Further, the United States has not committed to provide any funding or any specific amount of water for the proposed settlement. The United States opposes any settlement proposal that does not require non-federal parties to pay costs proportionate to the benefits they receive under the settlement. The United States believes that the benefits received by the non-federal parties in this settlement are significantly disproportionate to their costs.

What are the next steps in the negotiation process?

Now that the work of the local parties at the negotiating table is completed, the Taos Pueblo Draft Water Rights Settlement Agreement was submitted to each local party's decision makers for formal review. The public disclosure process is part of that review. Once each local party has completed its review and authorized execution of the Taos Pueblo Draft Water Rights Settlement Agreement on its behalf, a formal signing ceremony will be organized at which all parties except the United States would execute the agreement.

Although the signing of the draft settlement agreement at the local level will be a monumental event and cause for celebration, it is not the end of the process. After the settlement is signed here in New Mexico, the negotiating parties will seek federal approval, including passage of settlement legislation by Congress and signing of that legislation into law by the President. Next it must receive the necessary federal and state funding before it can be implemented. Throughout this process, the parties will work closely with U.S. Senator Pete Domenici, U.S. Senator Jeff Bingaman, U.S. Representative Tom Udall, U.S. Representative Heather Wilson, Representative Steve Pearce, officials in the Bush Administration, New Mexico Governor Bill Richardson and members of the New Mexico State Legislature to craft the appropriate settlement legislation and obtain the necessary federal and state appropriations to bring the settlement to completion.

At this point, no party has formally bound itself to the Taos Pueblo Draft Water Rights Settlement Agreement or formally accepted any of its terms. The agreement reached is one at the table among the local negotiators. Among other issues, the amount of funding to be provided by the federal government for settlement implementation will be a central topic of negotiations in the Washington, DC, phase of this process.

Despite the federal work that lies ahead, execution of a local agreement will bring closure to years of technical assessment, dispute, negotiation, and compromise. Local execution of the Taos Pueblo Draft Water Rights Settlement Agreement will represent the collective decision of a large group of Native American, state, and local constituents concerning the proper allocation and use of water resources in the Taos Valley. Given the long, contentious, and disruptive history of the parties' disputes over those resources, completion of a local agreement will be of tremendous significance. With such an agreement in hand, the local negotiating parties look forward to building on the unity, cooperation, and good will established at the local level to resolve outstanding issues with the federal government.

Who Are the Negotiating Parties?

The Taos Pueblo Draft Water Rights Settlement Agreement negotiating parties represent the vast majority of Taos Valley water rights owners and water users. In addition to the United States and the State of New Mexico, those parties include:

- **Taos Pueblo**, a sovereign Native American community that has occupied its homeland at the headwaters of the Rio Pueblo de Taos and the Rio Lucero for hundreds of years. In 1992, the United Nations recognized the Pueblo's outstanding universal value by designating it a World Heritage Site, an honor shared with such sites as the Pyramids of Egypt, the Taj Mahal, and Machu Picchu in Peru. The Pueblo has more than 2,400 members.
- **The Taos Valley Acequia Association**, an organization that is comprised of the leadership of 55 historic community ditch associations and which represents, on common issues, over 7,000 non-Pueblo irrigators in the Taos Valley.
- **The Town of Taos**, a historic Northern New Mexico town that is presently home to about 4,900 people.
- **El Prado Water and Sanitation District**, a political subdivision of the State that provides domestic water supply and sewer services to about 1,200 people in and around the community of El Prado, north of the Town of Taos.
- **The 12 Taos-area Mutual Domestic Water Consumers' Associations**, community water systems that provide domestic water to about 5,000 people in 12 rural non-Pueblo communities in the Taos Valley.

How Much is the Settlement Going to Cost?

No Indian water rights settlement would be possible without adequate and fair federal and state funding. The Taos Water Rights Settlement is no different. The local parties preliminary estimate is that this settlement will cost \$133,814,020. Of that amount, \$100,000,000 will fund the Pueblo Water Development Fund and \$33,814,020 will fund joint use projects necessary to implement the settlement. The local parties are seeking at least \$14,486,503 of state funding for the joint use settlement projects.