

Water Transfers and Water Banking Workshop

New Mexico Acequia Association

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By Janice Varela

On May 17th over 60 acequia leaders came together to learn more about New Mexico water law, specifically on water transfers and water banking. Acequia attorney, David Benavides of New Mexico Legal Aid, presented a customary view of water in the Spanish and Mexican era and the New Mexico Constitution and statutes. David covered the 2003 laws (of which NMAA was instrumental in passing through the legislature that year) that help acequias protect their water rights from being lost to their acequias and communities from forfeiture and from water transfers. The Water Transfer Law (73-3-4.1) spells out Commissioners duties and responsibilities if the acequia chooses to adopt this language into their bylaws. Prior to 2003 (and still in effect if an acequia does not have this language in their bylaws) a willing seller or applicant would go to the Office of the State Engineer for approval of their water transfer and follow the OSE process.

This dramatic shift in the law offers an acequia community an opportunity to decide for themselves if a water transfer in or out of their acequia would be beneficial or cause detriment. David further explained the roles of the Commissioners once a water transfer application is received. Commissioners must conduct a membership meeting within 90 days of receiving the application and

render a decision no later than 120 days. Commissioners must handle each request on its own merits and remain unbiased. It is important that Commissioners contact the NMAA office at 505-995-9644 or NM Legal Aid 505-982-9886 as soon as they receive a request for transfer to make sure that they are compliant with state laws.

Water Banking was the other topic covered at this workshop. NMAA staff and David Benavides offered Commissioners advice on how to approach parciantes who are risk for losing water rights for extended periods of non use. Those who don't irrigate over a period of time run the risk of losing their water rights at the time of adjudication. Water banks are set up by the Acequia and usually Commissioners keep records of who is using and not using their allocated water. Some attendees suggested that a volunteer parciante can assist the Commissioners with the task of setting up the water bank, doing research and keeping records or whatever else may be needed to make the water bank successful. NMAA is aware that Water Banking is great tool but often not fully understood. Perhaps this is the biggest challenge, understanding the real benefits of water banking and explaining this to parciantes, especially those who are most at risk. We learned that certain acequias have adjusted the water banking language and operation in the bylaws to fit their needs. If you have questions or want to set up an acequia water bank contact the NMAA office at 505-995-9644.

The wonderful thing about this and other NMAA workshops is that we all share experiences stories and learn from each other. Es la escuela de las acequias y de la vida.