

# Protecting acequias in court

(continued from cover)

rights to the water used from the acequia.

## Acequia History and Culture

The first acequias were dug when New Mexico was a Spanish colony. They survived intact when an independent Mexico ruled the land. When the territory was ceded to the United States in 1848, the Treaty of Guadalupe Hidalgo protected the acequias. (See time line on page 15 for details.)

For four hundred years, the acequia has been the social, economic, and political core of village life. The acequia is run democratically; each shareholder in the acequia (called a *parciante*) owns one water share and has one vote in the annual meeting, where water rates and rations are set. The acequia is run by an elected commission of three landowners and a mayordomo or manager. The commission sets policy. The mayordomo is paid a monthly salary to organize work crews for annual cleanings and needed repairs, to watch the ditch for problems, to collect rates, and make sure rations are honored. In addition to attending the annual meeting, *parciantes* are expected to help in the annual cleaning. At the end of the winter, the ditches are cleaned. The crew, as many as one hundred workers, gather with picks and shovels and, section by section, clean the ditch, trimming and cutting back the banks and scraping

the silt and debris off the bottom. When the acequia is clear, the gate is opened and the water flows to irrigate the crops.

## Changing Cultures, Clashing Rights

Every *parciante* is a steward of the land and water. According to Geoff Bryce, program director of the Taos Valley Acequia Association (TVAA), "here, attachment to the resource is personal; it's part of the acequia tradition."

But the modern concept of water is in conflict with that tradition. U.S. law and current state practice is that water is a commodity to be bought and sold. In New Mexico, the small holders along the

*"If the water ceases to flow in our acequia systems, the land itself will die."*

*Ernesto Montoya,  
parciante  
Water Rights*

acequia find themselves in competition for water with growing cities, industries, water and sanitation districts, well owners, the Bureau of Land Management, U.S. Forest Service, and Indian tribes.

Who gets the water? That proves to be an easy question to ask, and a tough question to answer. "There's nothing more complicated than water disputes in the West," says TVAA's Geoff Bryce, who should know. The TVAA represents the 64 acequias of the Taos Valley in water rights adjudication and at the legislature. "Four of the five oldest cases in the U.S. district court system today are New Mexico water rights cases," he explains. "And the most complex is the Taos Valley case, which involves 4,000 individual surface water claims, as well as the towns, well owners, water and sanitation districts, and the Pueblo." New Mexico water rights cases tend to drag on for years. They are complex not only because of the number of claimants, but because water rights are covered under at least three separate water regimes – state, federal and Indian,

and acequia law. Acequia law itself draws on Spanish and Mexican law as well as local custom. "These regimes are not only different, they are mutually incompatible," says Bryce.

If history is a judge, then the outcomes of the cases are uncertain. It is difficult to trace title back to the land grants guaranteed by the Treaty

