



# THE TAOS NEWS

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## Abeyta transfer would shuffle acequia water rights south

By J.R. Logan

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A proposed water rights transfer meant to settle a dispute between Taos Pueblo and irrigators in Arroyo Seco could come at the expense of acequia users in Questa.

The Acequia Madre del Rio Lucero y del Arroyo Seco in El Salto hopes to transfer 183 acre-feet of water rights from the Llano Community Ditch in Questa. The transfer must be approved by the State Engineer.

To download a copy of the transfer application and related documents, find this story at [taosnews.com](http://taosnews.com).

The rights are owned by the estate of Bernabe Ortega and were once tied to 70 acres now partially occupied by the Cerro de Oro subdivision. A deed recorded with the county clerk shows that Ortega sold the land in 1965 but held on to the water rights.

Lawrence Ortega, Bernabe's son and executor of his estate, told *The Taos News* the rights have been leased to other parciantes on the Llano Ditch during the subsequent 48 years.

The proposed transfer is a small part of the Abeyta Water Settlement — a complex, \$150 million agreement between acequias, Taos Pueblo and domestic water providers that was approved by Congress in 2010.

The Acequia Madre del Rio Lucero has been in a century-long dispute with Taos Pueblo over water from the Rio Lucero, which originates on Pueblo land. Under the Abeyta Settlement, the acequia will divert water from the Rio Lucero for six months in the winter. The acequia will then use two wells to pump the diverted water 1,000 feet underground where it will be “stored” in the aquifer until it can be pumped back to the surface during irrigation season.

Palemòn Martinez, secretary of the Acequia Madre has been working on finding a resolution to the dispute with the Pueblo for nearly half a century. He has represented the Taos Valley Acequia Association in the Abeyta negotiations. The association includes acequias from Ranchos de Taos to Arroyo Hondo, but not as far north as Questa.

To make the compromise in the Abeyta Settlement work, the acequia needed to find 100 acre-feet of water rights to offset the additional diversion. Martinez said it's difficult to find sizable amounts of water rights for sale in the area. If the Ortega transfer isn't approved, Martinez said smaller water rights will have to be cobbled together.

Martinez shrugged off the suggestion that his acequia was plundering water rights from the Questa acequia to meet its own needs. “It's [the Ortegas'] property right,” Martinez said.

Ortega said he's heard of people who oppose moving water rights south, but he argues the transfer won't hurt the Llano Ditch. "We feel like nothing is being impaired," Ortega said. "The water that's available to Questa will be there. It's just that the right is being transferred to another ditch."

State law requires those who propose to transfer water rights from an acequia to give notice of the transfer to the commissioners of the acequia. An acequia must adopt specific language into its bylaws to give commissioners the power to deny a transfer if they feel it would hurt the ditch.

In August 2012, Mart'nez wrote a letter to Llano Ditch president Lupe Young describing the plan to move the Ortega rights and asking that the ditch whether it had adopted language in its bylaws to deny the transfer. Martinez swore in an affidavit attached to the transfer application that he did not receive a response.

In a separate affidavit, Lawrence Ortega affirmed that he was told by Llano Ditch commissioners Lupe Young and Moises Sánchez Jr. that the acequia had no language in its bylaws to allow it to stop the transfer.

Young and Sánchez did not return messages seeking comment. Jeannie Masters, the third Llano commissioner, declined to comment.

*The Taos News* has sent a public records request to Young asking to review copies of the Llano Ditch's current bylaws, any lease agreements related to the Ortega rights, the minutes of all acequia meetings in 2012 and 2013, and any records related to the sale of the Ortega water rights.

Martinez declined to disclose the purchase price and referred the question to Santa Fe attorney Rebecca Dempsey, who is acting as agent for both the Ortega estate and the Arroyo Seco acequia. Dempsey could not be reached for an interview before press time.

Ortega said the sale is contingent on the transfer being approved. He declined to say how much the acequia paid for the rights until the deal is closed.

The Abeyta Settlement says the state must provide up to \$2 million to the Acequia Madre del Rio Lucero for the purchase of water rights.

*The Taos News* has sent a formal request for public records to the Acequia Madre del R'io Lucero asking to review any documents showing the sale agreement and the price paid for the Ortega water rights.

State Sen. Carlos Cisneros, D-Questa, is a parciante on the Llano Ditch and an advisory member of the state's Water and Natural Resources Committee. Cisneros said in an interview that the increasing value of water rights means these sorts of transfers may become more common in the future. He said he's heard of offers as high as \$35,000 for a single acre-foot of water. "The temptation is there, and it is overwhelming in some cases," Cisneros said in an interview.

While Cisneros said the loss of water rights on any acequia threatens the viability of the entire ditch, he was encouraged that the Ortega rights would be going to agricultural use elsewhere. "The good thing is that it's going from an acequia to an acequia," Cisneros said.