



# THE TAOS NEWS

In 2007 Voted Best Weekly Newspaper in the U.S. by the National Newspaper Assoc.

## Laymen objectors enter debate over Abeyta pact

By J.R. Logan

*The Taos News*, 12/12/2013

Gail Viola lives on Hondo Mesa and uses a private well for drinking, bathing, and for doing some outdoor watering. Her well gives her underground water rights recognized by the state, and she has some concerns that the massive Abeyta Water Settlement could impact those rights.

“There’s no protection for private wells,” Viola said in an interview Wednesday (Dec. 11).

Viola is among dozens of Taos Valley residents objecting to the Abeyta — also known as the Pueblo Indian Water Rights Settlement. The group, comprised mostly of laymen, got its first real taste of federal court procedure at a hearing in Taos Monday (Dec. 9).

Monday’s hearing at R’o Grande Hall was intended to figure out how and when objectors would make their case against the water deal. While the hearing was meant to be strictly procedural, it was dominated by questions from objectors about how to make court filings, the meaning of legal terminology and larger questions regarding the settlement provisions.

The settlement has been in the works since 1969 and is meant to adjudicate the water rights of Taos Pueblo. The Pueblo’s aboriginal water rights are the most senior in the valley, and if the Pueblo were to use what it considers its full amount, it would likely leave other water users with scant supply.

Rather than fight for its full claim in court, the Pueblo entered into private negotiations in the mid-’90s with the town of Taos, El Prado Water and Sanitation District, the Taos Valley Acequia Association and area mutual domestic water users associations. The idea was to meet everyone’s water needs without resorting to litigation.

Under the settlement, made public in 2006, the Pueblo has agreed to not exercise the full water rights to which it claims it is entitled. In return, the town and other domestic water providers have agreed to reduce well pumping near the Pueblo.

Congress approved the settlement as part of a larger Indian water rights bill in 2010, but included a deadline: The Pueblo’s final water rights must get the blessing of a federal judge by Dec. 31, 2016 or the whole deal is nullified.

Supporters of the settlement argue that the agreement is a useful foundation for future water debates in the Taos Valley. They say the deal avoids costly litigation in which a judge could award the Pueblo a lot more water rights than it has agreed to settle for. Proponents also note that the deal brings about \$150 million in state and federal dollars for infrastructure and water rights purchases.

This May, the negotiating parties jointly asked the court to approve the settlement. In turn, notice was sent to all property owners in the R'o Pueblo de Taos and R'o Hondo watersheds, alerting them that the Pueblo's water right could be approved per the settlement. Anyone who believed the deal would affect their water rights could file an objection by Oct. 28.

More than 60 people filed official objections and instantly became parties to the case. The 40 objectors who showed up to Monday's mandatory hearing will be allowed to proceed.

Objectors will now be asked to file briefs in the case, following very specific rules for federal court, outlining what rights they own and why they believe their water rights will be affected if the Pueblo receives the rights outlined in the settlement.

But Monday's hearing ended with no clear explanation of exactly how that would happen. Vickie Gabin, the special master overseeing the hearing, hoped to balance the rights of objectors to factual information without burdening attorneys for the settlement parties with laborious and time consuming requests for discovery.

Attorneys for the settlement parties proposed that objectors be given 45 days to review briefs and technical information in the case and formulate a response.

Taos lawyers Sue McDowell and Robert Crollett, a married couple objecting to the settlement, argued that the objectors were being asked to review mountains of technical information provided by the settlement parties, then draft a response, all while trying to familiarize themselves with the federal court procedure.

"They're held to the same standard as an attorney," Crollett said.

Gabin said she would have to think about the issue and asked that attorneys and objectors offer suggestions on how best to move forward.

An answer on how objectors will be asked to outline their case is expected sometime early next year.