

## **Transfer would move ag water to Santa Fe County**

**By J.R. Logan**

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A desolate patch of rocky dirt at 7,000 feet above sea level in the shadow of an extinct volcano is not the most obvious place to farm.

But starting in the early '50s, carrots, spinach, sweet corn, alfalfa, potatoes, barley, cabbage, lettuce, sugar beets and pinto beans all sprang from the alluvial plain of the Sunshine Valley in far northern Taos County. The tender sprouts thrived — despite the semiarid climate — thanks to more than a billion gallons of water pumped from just below the surface each year.

Top of the World Farm was among the biggest of these Norte-o Gardens of Babylon. In fact, Top of the World claimed at one time to have “the largest individually owned potato storage cellar in the world” able to hold 4.5 million pounds of spuds.

But today, Santa Fe County and four Indian Pueblos have spent millions to acquire the water rights that made those high desert harvests possible, and they'd like to use those rights to supply drinking water to thousands of people 80 miles downstream.

Santa Fe County and four Pueblos formally filed an application in January to move 1,752 acre-feet of water rights from the farm to serve faucets in the area north of Santa Fe.

To some Taos County residents, the proposal is the first skirmish in what they anticipate will be a long, inevitable war with thirsty urban interests downstream that are heading north in search of water. If Top of the World goes, they say, who's to stop the acequias from falling next?

But to those behind the plan, the transfer represents a logical re-prioritizing to meet modern demands while respecting traditional uses and tribal claims to water.

### **'Heavy withdrawals'**

Using groundwater to irrigate in the Sunshine Valley began in 1947 with a handful of wells dug by plucky farmers. It got pretty popular, pretty quick. The water was easy to find and easy to bring to the surface.

By July 1956, there were 44 irrigation wells in the immediate valley, with 35 on the New Mexico side of the state line.

During the 1955 growing season, an estimated 3,500 acre-feet of water was pumped from 18 wells on the New Mexico side of the valley to irrigate 2,200 acres.

Realizing that the newfound water bonanza might have an impact on river flows, the U.S. Geological Survey and the State Engineer teamed up on a study published in 1959. Specifically, the report sought to figure out what effect “heavy withdrawals of groundwater” by irrigation wells would have on the R’o Grande and nearby Red River.

The basic conclusion: Whatever groundwater gets pumped to the fields, the report found, is roughly equal to the amount of water that won’t end up in the R’o Grande.

In 1955, for instance, the report estimated well pumping reduced the amount of groundwater going into the river in the Sunshine Valley area by as much as one-fifth.

When the state finally came knocking to figure out who was using what water (a process known in legal jargon as an “adjudication”), farmers around Ute Mountain got water rights to whatever they had been pumping from the ground.

At Top of the World, that was a lot.

By 1979, things at Top of the World were still humming. Farm manager John Sonnier told a BLM employee the farm counted 11 circular fields irrigated with center-pivot sprinklers, and produced 2,100 acres of barley and 21 acres of alfalfa.

But at some point, that party ended. Production at the farm was sporadic. It changed hands several times, and at one point there were questions about who actually owned the land and, more importantly, the water.

By the mid-’90s, Top of the World was an obvious target for anyone looking to snatch up a big pile of R’o Grande water rights that lay upstream from just about everyone. Suddenly, Top of the World Farm, and its piggy bank of water rights, was attracting some well-heeled suitors.

## **Aamodt Settlement**

Water attorney John Utton is intimately familiar with the challenge of finding water rights in the R’o Grande basin. For more than a decade, the Albuquerque native and Stanford Law grad has represented Santa Fe County in the Aamodt Settlement talks as it tries to work out a deal with the Nambe, Pojoaque, Tesuque and San Ildefonso pueblos.

The dilemma in the Pojoaque Basin north of Santa Fe is that these tribes have an “aboriginal” right to a whole lot of water. If they were to ever exercise that right (state law gives tribes first dibs in times of shortage), it could leave non-Indian residents in the area dry. That includes not just drinking water providers, but acequia parcientes as well.

To complicate the situation, the number of private wells sipping from the shallow groundwater has exploded — Utton says there are about 3,500 at the moment — as the area between Santa Fe and Espa-ola continue to be developed.

In 2006, a grand compromise was struck: The tribes would refrain from exercising their senior right. But in return, the federal government would find a reliable supply of water for the pueblos, and non-Indian users would find a way to curb groundwater pumping.

The solution rests almost entirely on the construction of a \$177 million regional water system that would include 160 miles of pipeline and cover a nearly 24,000-acre area. At capacity, the

system will be designed to carry as much as 4,000 acre-feet (1.3 billion gallons) to homes and businesses.

But you can't just start pulling water — especially that much water — from the R'o Grande. In theory, the State Engineer has already decided how much water can be diverted from the river and its tributaries. This accounting is key to New Mexico meeting its obligations to water rights holders up and down the river, not to mention staying in Texas' good graces under a 1938 interstate water deal.

If the Aamodt's regional water system wants to serve future residents, it has to get someone upstream to stop taking water from the river first.

Cue lonely old Top of the World.

### **'Critical'**

"Water from Top of the World is critical for that water system, which is the heart of the Aamodt Settlement," Utton said in an interview Wednesday (March 25). "Without it, we would be fighting over the limited supplies in the basin and would not have the benefits for pueblo and non-pueblo users alike."

Here's the theory: If Top of the World stops pumping groundwater to grow alfalfa, it leaves more in water in the R'o Grande. That additional water then flows through the gorge, past Espa-ola, to be taken out above the Otowi Bridge on State Road 502 between Pojoaque and Los Alamos.

This kind of transfer has to be approved by the State Engineer, and state law allows protests from anyone who think the move is ill-conceived or would harm their right to water.

In the late '90s, Santa Fe County made its first foray into the Sunshine Valley when it bought nearly 600 acre-feet of Top of the World water rights. No land, just the water rights.

But when the county filed an application with the State Engineer to move those rights south, they met a hail of opposition.

Then in 2006, Santa Fe County went big and spent \$5 million to buy Top of the World and the 1,752 acre-feet of water rights that went with it.

Under the joint transfer application filed in January by Santa Fe County and the four Pueblos, that big pile of rights would all go toward the water system. The county would have 611 acre-feet to put toward new users. (Utton estimates it could allow for another 3,000 households). The remaining would be in the hands of the tribes.

Utton says the county's share of the water rights probably won't be needed for decades as new users come online. In the meantime, the county has agreed to lease the rights to a company owned by Taos County residents Ed and Trudy Healy, who this month bought the Top of the World property from the county.

### **'An illusion'**

But Kay Matthews, a Taos County water activist and longtime critic of the Top of the World transfer, argues the proposal is little more than a shell game.

“To think that, miraculously, as soon as those water rights aren’t used at Top of the World, they suddenly appear in Pojoaque,” Matthews said Wednesday. “It’s an illusion.”

For Matthews, drying up Top of the World would not only be the death knell for a once prolific crop producer in Taos County, it would kick open the door for any developers in need of water rights to come shopping up north.