

## **Top of the World transfer spurs worries, plans**

**By Cody Hooks**

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What's going on at the Top of the World?

That's what folks wanted to know when 50 farmers and acequia users from Northern Taos County gathered in Questa, Thursday (June 25) to hear from Santa Fe lawyers and water managers about the Top of the World farm and the 1,752-acre-feet of water rights that will likely be transferred downriver.

The answer, however, wasn't so simple.

John Utton, an attorney representing Santa Fe County, made one thing clear — if folks don't want water leaving the county, don't let it happen again.

Utton said focusing on the Top of the World is a distraction, suggesting those water rights are as good as gone. Instead, people should be looking to protect what water rights they actually own.

Elmer Salazar, president of Petroglyphs on the Rio Grande, a firm helping to shape an economic development plan for the area, said he called the meeting "so once and for all our community can figure out what's going on."

The water rights from Top of the World are the last piece of a very large puzzle in the Aamodt Settlement. When all is said and done, it will create a domestic water system north of Santa Fe for four pueblos and thousands of Santa Fe County residents. The settlement came about to protect "existing water uses" because, should the pueblos need to, they could pull rank and leave the rest of the surrounding communities dry.

Instead, transferring the Top of the World rights would prevent future irrigation in that location.

The parties to the Aamodt settlement would have preferred to buy more senior water rights, but the Taos County water rights were legal, available and on the market.

As Claudia Borchert, utilities director with Santa Fe County, said after the meeting, "Tough decisions have to be made. It never feels good, but we do play by the current rules."

The rights from Top of the World now sit in front of the state engineer, who will ultimately decide whether the rights can be transferred downriver.

On April 21, the Taos County Board of Commissioners voted to protest the transfer. Any additional protests (which must be submitted before July 12) could come from individuals or a party of complainants.

Borchert laid out the three criteria the state engineer uses to evaluate water-transfer protests in hopes the community could determine the usefulness of an official, collective protest.

The first criteria for a protest is that the transfer would “impair existing water rights,” something Taos County residents would have a hard time proving, as most of the scientific studies of the area suggest that by ceasing all pumping at Top of the World, levels in the water table beneath Questa and Sunshine Valley would actually increase.

(Not everyone agrees with that science. A few people at the meeting offered anecdotal evidence from their Sunshine Valley properties to the contrary.) The second criteria for protesting — that it would be “contrary to water conservation” — probably wouldn’t stand up to scrutiny either, Borchert said, as studies have shown people use less water when it is metered than when it’s free from a well. The Aamodt Settlement would require residents near the four pueblos to transition from domestic wells to a metered system.

But the third criteria — that it would be “detrimental to the public welfare” — is “where your opportunity lies,” Borchert said.

Utton said the state engineer would evaluate all protests, even those from traditional water users in the North. Still, he said, “I personally think the state engineer will approve the transfer.”

Utton suggested acequia users in Northern Taos County protect the rights they actually own by putting them under conservation easements and other legal protection.

But that suggestion was met with a salt-of-the-earth counter-argument. Shirley Romero Otero, an acequia user from San Luis, Colorado, said even if water rights are put under some form of easement, it still costs too much money to actually defend “protected rights” from legal and corporate challenges.

“Instead of spending money on lawyers, they ought to be spending money on acequia infrastructure,” Otero told *The Taos News*. “They are Goliath. These people have deep pockets, but we have deep hearts.”

And while the public was notified in various ways throughout the Aamodt Settlement process and water rights purchase, many “traditional users” of the acequias from Northern Taos County said they still felt left out of the whole process — one that’s been going on, in one form or another, for nearly 50 years.

“Things in that matter don’t happen over night,” said Juan Cisneros, a resident and seventh-generation farmer from the Questa area. “What we’re the angriest about is it was done under the table, under the radar.”

“This is what happens when water’s a commodity,” said Malaquias Rael, chairperson of the Questa Economic Development Fund board.

Salazar told *The Taos News* Friday (June 26), “we’re going to have to get ourselves organized. A lot of people think we need to stop these transfers, but it’s up to the community to do just that.”

Residents have to be their own watchdogs. And one thing to watch is Chevron.

Salazar said it’s up to Chevron to determine what it will do with its “nice stash” of land and water rights — supply them to Questa and the surrounding communities for economic development, or sell them to another corporate or governmental player.

Tommy Lyles, the policy, government and public affairs manager at Questa’s Chevron site, wrote in an email to *The Taos News* June 29, “We understand that there is much interest in water and land rights throughout Northern New Mexico ... We are working internally to determine exactly what water rights we have and what our short and long-term needs will be for ongoing operations. We are working with the State Engineer’s Office to understand the process for any potential water rights transfers. We will then be in a position to evaluate any water rights requests. Once we have that understanding, we’ll work with the village of Questa, the State Engineer, Taos County and other stakeholders to determine the most beneficial use of the surplus water.”

Cisneros said Chevron has “a moral responsibility to turn this back into an agricultural town. The people who live in Questa built that mine. And the mine helped build this town.”

“What I’m more worried about is economic opportunities for my kid,” Cisneros said.

Salazar is helping to craft a proposal for Chevron that would demonstrate how the company’s stockpile of water rights would be effectively put to use for economic development. That proposal is still a few months coming.

The expected finality of the Top of the World transfer and Santa Feans’ suggestions did little to quell suspicions the transfer would set a dangerous precedent.

“What pisses me off is they come into these Hispanic communities and say this won’t impact us,” Otero said. “Anytime you take our water, it’s going to negatively effect us. That’s common sense.”