

Acequia vetoes \$2M in federal funds for Penasco piping project

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A Penasco-area acequia has rejected more than \$2 million in federal funding over concerns related to a proposal to put a 3,200-foot section of ditch into a pipe.

The U.S. Army Corps of Engineers was poised to begin work on the Acequia del Llano de San Juan Nepomuceno, a 225-year-old irrigation ditch that diverts from the Rio Santa Barbara and serves about 220 parciantes just east of Penasco.

Proponents said the project was vital to repair a section of ditch that is prone to clogs from landslides and dumped garbage. But opponents argued the scale of the project was “overkill,” would have an environmental impact, and would create unnecessary expense and maintenance.

Volatile background

Members of the acequia commission approached the U.S. Army Corps of Engineers more than seven years ago asking for help. The Corps offered assistance, but was without funding until money was set aside late last year when the project was put on a fasttrack to completion.

The proposal led to significant discord among parciantes, who were divided on whether the project was appropriate and worth the cost. In an email, Mascare-as compared the situation to a “civil war,” and he said he had sheriff’s deputies on standby in case the meeting last weekend got out of hand.

Parciantes on the acequia voted overwhelmingly to stop the project at a meeting Sept. 11.

“It’s safe to say the project is dead,” said Ron Mascarenas, chairman of the acequia commission, in an interview Sept. 13.

As chairman, Mascarenas was careful not to take sides on the issue, but he did say that, like many other ditches, his acequia has a hard time finding people willing to work on the ditch. “Back when my grandfather was around, this was a way of life,” Mascarenas said. “They depended on agriculture. That’s how they made their living. Now it’s more of a hobby. The time and care that was taken back then is not the same that’s done now.”

'Felt it was overkill'

Piping the acequia through the problem section — which sits below a steep embankment — was meant to ensure a smooth flow of water with minimal maintenance requirements. The Army Corps said it had limited options to address the issue and felt a pipe was the best way forward. But others saw it as a waste of money that would do more bad than good. Some also said there were too many unanswered questions for a project of this size.

"I definitely felt it was overkill, and a lot of us felt that way," said Kristen Davenport Katz, the acequia's secretary, in an interview Sept. 13. "It was too risky. I think there was a real feeling of needing to keep autonomy over our water."

Davenport Katz said there were worries about going in to debt to pay for the project and concerns that water rights could be at risk in the case of a default. Instead, she said the acequia planned to approach the Taos Soil and Water Conservation District to come up with a plan that was less costly and better addressed the fundamental problem.

Easement rights

In addition to worries from parciantes, owners of properties through which the ditch passes had raised questions about whether the acequia had easement rights to do the work. In a letter, Eighth Judicial District Attorney Donald Gallegos concluded that the ditch did have adequate easement rights, but landowners had threatened to sue.

Patricia Phillips, program manager with the Army Corps of Engineers, told *The Taos News* Sept. 14 her agency was satisfied that the easement issue had been resolved and was ready to move ahead. But that issue became moot when the ditch voted last weekend to stop the project.

Phillips suspected the delay between when the project was first approved in 2009 and when it finally received funding last year may have led to the perception that people had not received adequate notice.

Unprecedented

Phillips said she had never seen an acequia reject money, but she said the agency would respect the decision, noting that she didn't want to be seen as the "big, bad Corps" imposing something on a local community.

"If they don't want it, we'll walk away," Phillips said. "We're not going to force it on them."

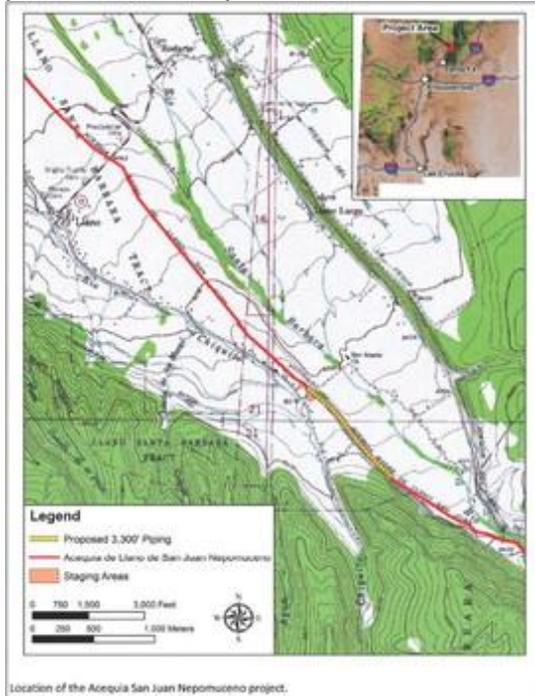
Even if the project is dead, the acequia may still have to cover some costs.

The Army Corps of Engineers had agreed to cover 75 percent of the \$2.7 million project cost. The state of New Mexico would cover another 12.5 percent, and the acequia members would be on the hook for the remaining 7.5 percent — around \$200,000.

The acequia was cobbling together grants and low-interest loans to cover its share, but the association was expecting to at least cover around \$100,000 of project.

Phillips said the acequia could still have to pay a portion of the design and engineering costs that had already been incurred, through she said it would be up to the state to go after those funds. The cost to the acequia would be around \$12,500.

Phillips said she wasn't certain where money that was set aside for this project would end up. She said members of the state's congressional delegation could bring political pressure to keep it in the state, but it's possible that the money would be clawed back.



An acequia near Penasco rejected more than \$2 million to fund a project that would have piped a 3,200-foot section of ditch that sits below a steep embankment (shown in yellow on map). Project supporters said it would have ensured a steady flow of water in an area prone to landslides and illegal dumping, but critics said the high-dollar project was “overkill.”

Courtesy U.S. Army Corps of Engineers