

Taos County takes water rights protest to court

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The Taos County Commission is taking its challenge of a controversial transfer of groundwater rights from the Top of the World Farm in Costilla to the next level: district court.

The water rights from the Costilla farm are intended for a domestic water project in Santa Fe that is central to the Aamodt Settlement, an agreement between four pueblos and non-Native American water users in Santa Fe County that was worked out in federal courts to resolve the decades-long dispute over water rights.

Taos County commissioners decided to protest the transfer before the New Mexico state engineer. The county's protest mirrored worries of lots of people in Northern New Mexico – irrigators and watchdogs alike – who thought such a large transfer out of the county could open the rest of the region's water rights to pillaging by urban water authorities and even commercial interests.

Arguments were heard last October, but it wasn't until July 18 that New Mexico State Engineer Tom Blaine signed off on the transfer of 1,752 acre-feet of water rights. (One acre-foot equals about 325,900 gallons, or the amount to cover a football field with water 1 foot deep.) In a vote Aug. 1, the commission decided to take the protest beyond the state engineer's office and into the court system.

Taos County Commissioner Tom Blankenhorn, whose district includes the areas around Arroyo Hondo, Arroyo Seco, Upper Ranchitos and El Prado, was the only elected official to vote against advancing the appeal.

"I have concerns about the cost/benefits," Blankenhorn said in an Aug. 2 email.

"The appeal may cost a lot of money and success is a long shot. I would rather focus our efforts on working with Chevron to keep their much larger supply of water rights in Taos County than continuing to fight a transfer that seems destined to go through," he said.

Chevron still holds a large amount of water rights from the shuttered Questa molybdenum mine.

Indeed, there could be substantial costs associated with continuing the protest, especially because Taos County has opted to use contracted water attorneys to navigate the appeal process.

To date, the administrative hearing stage of the protest has cost just a bit more than \$40,000, according to Taos County staff members. While there's no way to estimate the exact cost of a district court appeal, they said, going forward with the challenge could cost between \$50,000 and \$200,000.

But Commissioner Mark Gallegos, whose district includes the Top of the World Farm, thinks challenging the water transfer is worth the money. "It's going to cost us money to pursue this. If we can't pave a road because of it, I hope people think water is more valuable than that."

Taos County staff did not know which of New Mexico's 13 district courts would hear the appeal of the state engineer's decision. The county has until Aug. 18 to file its appeal.

Editor's note: Robin Martin, owner of The Taos News, is a party to the Aamodt Settlement.

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