

Keeping water in traditional communities

There's a movement afoot in the acequia community to keep water flowing for traditional uses. While it doesn't necessarily relate to environmental flows, the environmental community may find inspiration—or at the very least, better understand rural communities, the challenges they face, and their attempts at protecting the waters flowing through acequias and ditches.

Acequia communities have long struggled to hold onto their water rights. The issue is all the more complex today as fewer young people take over farms and fields from older irrigators. This demographic reality, combined with the difficulty of making a living off farming, means that some users are selling off their water rights to developments and municipalities. And while the sale of water rights might benefit one family, it can negatively impact the entire community: The less water in the system, the less push there is to move it to the furthest reaches of the ditch.

In 2003, the New Mexico state legislature passed a statute giving acequia associations the authority to evaluate water transfers before they reach the Office of the State Engineer. That law empowers acequia associations to keep water from leaving their communities, says New Mexico Legal Aid attorney David Benavides.

According to Benavides, the first step involves adopting that power into an acequia association's bylaws. Then, acequia commissioners set up hearings to evaluate water transfers. The hearing procedure must be fair and unbiased; for 90 days, they allow everyone involved to comment. After that, the commission can decide whether an individual transfer will have a negative impact on the acequia as a whole. If it will, the commissioners can block the transfer from taking place.

Most recently, in May, the commissioners of the Acequia del Monte del Rio Chiquito in Taos halted the proposed transfer of water from two tracts of land along the acequia to El Valle de Los Ranchos Water and Sanitation District. That's an example, says Benavides, of how the authority given to acequias by the legislature in 2003 is now playing out in reality.

In addition to maintaining control of water transfers, acequia associations can also adopt bylaws to create a water bank, into which members can deposit their water. Water banks allow members to maintain their water rights—which can be lost under state law if the water isn't being put to beneficial use—and keep water flowing through acequias.

Deposits into the water bank are considered temporary, and the acequia association must log them carefully. "In the future, someone could say that the water was not used because that land was not irrigated," said Benavides. "That log will prove that the water right wasn't abandoned, that it wasn't in non-use."

Benavides encourages people to set up water banks within their acequias. "All there is to water banking is paperwork," he says. "If you do it right, you will protect those rights."