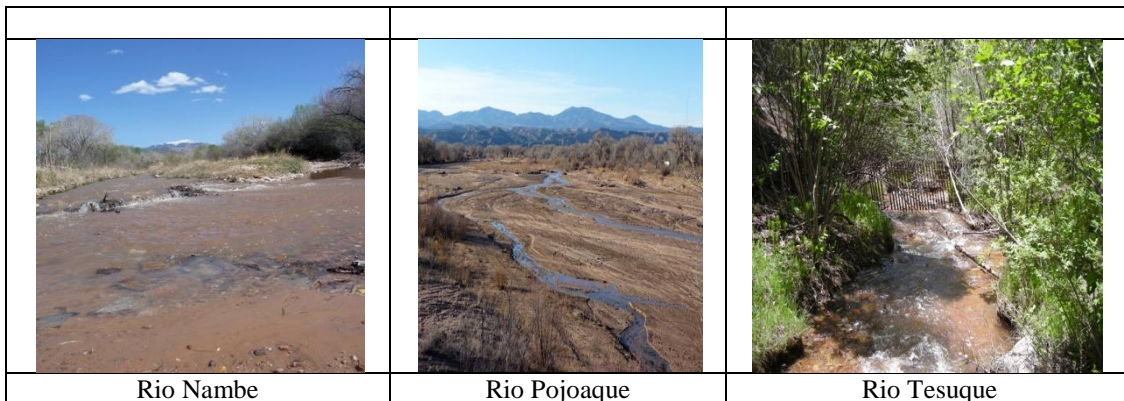


# AAMODT SETTLEMENT OUTREACH REPORT



Darcy S. Bushnell, Program Director  
Joe M Stell Ombudsman Program  
Utton Center, UNM - School of Law  
MSC11 60701 University of New Mexico  
Albuquerque, New Mexico 87131-0001  
505-277-0551 Toll Free 1-877-775-8333  
[bushnell@law.unm.edu](mailto:bushnell@law.unm.edu) Fax 505-277-3319  
<http://uttoncenter.unm.edu/ombudsman.html>



## Joe M Stell Ombudsman Program 2010 Aamodt Settlement Outreach Report

The Joe M Stell Ombudsman Program submits this Report to the County of Santa Fe Board of County Commissioners and County Manager. The Report summarizes the activities and results of outreach to the Pojoaque/Tesuque/Nambe/El Rancho communities about the Aamodt Settlement.

The water rights case of State of New Mexico v. Aamodt has been active for forty-four (44) years. After thirty (30) years of litigation, the parties were nowhere near a resolution for the water rights of the Pueblos of Nambe, Pojoaque, Tesuque and San Ildefonso. The parties agreed in 2000 to try to settle the Pueblos' entitlement. By 2008, the current Settlement Agreement had been reached after a significant adjustment to accommodate community concerns in 2006.

The building of a regional water system was a significant component of the Settlement Agreement. The County of Santa Fe (County), a non-party, was designated as a major player in that regional system. In 2009, the Settlement Agreement went to Congress for consideration and action.

The Office of Representative, Ben Ray Lujan, Jr. requested that the County conduct public outreach to inform the Valley community about the Settlement. The County sponsored and paid for the meeting through a contract with the Joe M Stell Ombudsman Program (Program), a neutral adjudication information organization at the University of New Mexico School of Law, to perform the outreach. Darcy Bushnell, the program director, organized and held public meetings, attended community organizations' meetings, prepared and distributed a handbook and arranged material for websites.

**The Meetings:** The Program conducted ten (10) community meetings on the Aamodt Settlement Agreement in February and March, 2010. The meetings, on the whole, were well attended and well received. One hundred sixty-seven (167) persons<sup>1</sup> signed in, with twenty-one (21) of those attending more than once, resulting in a total audience of two-hundred and five (205). Based on informal headcounts, this number under-represents the number of people who actually attended. Congressional staffers, interested onlookers, and candidates for public office also attended. Three (3) meetings had low attendance: 2/24, 3/10 and 3/16/10. The first is attributable to late advertising, the second to threatening snow and the third is unknown.

2/24/10 Satellite	2/25/10 Nambe HS	3/2/10 Parish Hall	3/3/10 El Rancho	3/9/10 Parish Hall	3/10/10 Satellite	3/16/10 Nambe HS	3/17/10 Satellite	3/23/10 El Rancho	3/24/10 Satellite
11	19	19	29	29	10	14	30	20	27

The Program and Settlement Judge Michael Nelson lead the meetings. Between seven (7) and twelve (12) Settlement parties, attorneys, technical staff and community leaders attended each

<sup>1</sup> These numbers do not include Darcy Bushnell, the Settlement Judge, Michael Nelson and the Settlement Parties.

night. They occupied the back of the room, moving forward when responding to questions. Collectively, they committed a total of 73 evenings to the project.

The Outreach meetings occurred twice a week for five (5) weeks. They were held between 6 pm and 8 pm to accommodate work schedules without running too late in the evening. They were held at local venues in the Pojoaque Basin: Nambe Head Start, Pojoaque Parish Hall, El Rancho Community Center and the County of Santa Fe, Pojoaque Satellite Office. Snacks, water and coffee were served. Unsuccessful attempts were made to secure a Tesuque venue. Subsequent meetings were held during a Tesuque ditch cleaning and at the Rio En Medio Community Center. (See Exhibit A - Maps.)



The meetings were intended to have small audiences, about twenty (20) community members each night, with the goal of encouraging participation. The audience numbers ranged from eleven (11) to thirty (32) participants. When polled, some repeat attendees said they were community leaders while most said they had more questions and wanted more clarification. The audiences ranged from those who were highly educated about the Settlement to those who lacked basic understanding about water rights. With rare exception, audiences were attentive, cooperative and eager to learn more.

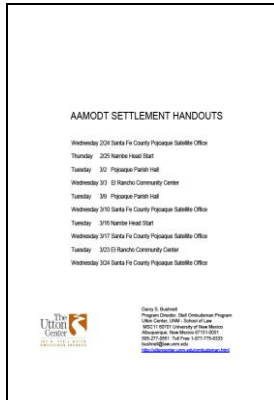
The venues were located in the Basin communities. Three venues were smaller, one larger. Past experience in the Valley showed that larger meetings could quickly become contentious and unwieldy. In this instance, the smaller meetings went more smoothly. The meetings at the fourth, larger venue had a more contentious air. Whether this result was due to the larger space, the local community or other factors is not known. The little controversy that arose seemed to be based in equal parts on long-standing arguments between individuals or entrenched opposition to the Settlement.

**The Preparation:** The design, content and venues for the meetings were developed during meetings with community leaders from the Pojoaque Basin Water Alliance (Alliance) and the Pojoaque Valley Irrigation District (PVID), the Settlement parties and the County. Since participation, balance, clarity and completeness were the goals of the meetings, the Program focused on getting the participation of the community leaders up front and frequently.

Getting the word out for Aamodt/OSE events in the Valley has proven difficult in the past. Therefore, notice for this project was sent out broadly and frequently. (See Exhibit B - Advertising.) County staff emailed press releases to all media, twitter accounts and Facebook. Articles appeared in the Santa Fe New Mexican, Pojoaque News blog and La Jicarita News. Calendar entries were placed in the three local newspapers: the Santa Fe New Mexican, the Albuquerque Journal North, and the Rio Grande Sun. One radio interview was given on KRSN AM 1490 and a second spot appeared on KRZY FM 105.9. Community organizations circulated announcements through their email lists. Flyers were placed at local community establishments. Meetings were attended to promote the event. Attendees were encouraged to tell family, friends and neighbors about the meetings. The advertising was successful, but did not start early enough. The delay was brought on by lingering attempts to find a venue in Tesuque. The delay

likely resulted in a low attendance at the first meeting. Other challenges resulted from calendaring mistakes in the media.

In January, 2010, Judge Nelson, several Settlement parties, community leaders and the Program put together a handbook entitled the “Aamodt Settlement Handouts”. (See Exhibit F - Educational Materials.) The handbook was distributed at the beginning of each meeting and was used to illustrate and guide the information presented. It was also mailed to people who signed up but were unable to attend. Originally intended to be about five (5) pages, it grew to twenty-six (26) pages. The contents included eight (8) “chapters”:



1. Aamodt Water Rights Adjudication Flowchart
2. Aamodt Settlement Frequently Asked Questions
3. Aamodt Settlement, Domestic Rights & Surface Rights Under the Settlement
4. Aamodt Settlement Considerations For Non-Pueblo Water Right Owners
5. Aamodt Case Timeline
6. Aamodt Settlement Negotiations History
7. Aamodt Settlement: A Journey Through Congress
8. Aamodt Settlement: After Congress is Done
9. Aamodt Settlement and the Pueblo Communities
10. Aamodt Settlement: Pueblos’ Water Rights

The handbook also contained an exit survey which the participants were asked to fill out. Thirty-nine (39) surveys were handed in. Questions from the community were collected from these and audience participation. (See Exhibit C - Audience Questions.)

The Frequently Asked Questions section was assembled from questions collected during meetings with the Alliance and the PVID, a doctoral student’s<sup>2</sup> research and interviews in the Valley, and the Office of the State Engineer’s website. The draft list ran on to several pages, so it was submitted to Dick Rochester of the Alliance and David Ortiz of the PVID for editing. Answers to the resulting, shorter list were fleshed out by the Program and a core group of Settlement parties. The FAQ document was reviewed by Messrs Ortiz and Rochester for balance and clarity.

In response to community requests for more information, the County and the Ombudsman Program posted the handbook, groundwater contamination maps for both the Tesuque drainage and the Pojoaque drainage, HKM Engineering Report, Bureau of Reclamation’s Design, Estimating and Construction (DEC) Review Report and the HKM Review of the DEC Report on the websites of the Santa Fe County,<sup>3</sup> and the Ombudsman Program.<sup>4</sup>

<sup>2</sup> Melanie Stansbury, PhD Candidate, Cornell University, Ithaca, New York.

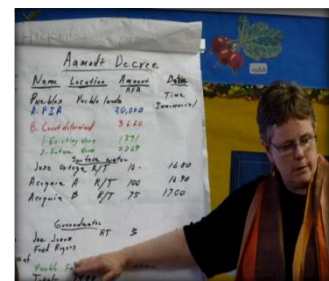
<sup>3</sup> [http://www.santafecounty.org/county\\_commissioners/harry\\_montoya/aamodt\\_public\\_outreach\\_meetings](http://www.santafecounty.org/county_commissioners/harry_montoya/aamodt_public_outreach_meetings)

<sup>4</sup> <http://uttoncenter.unm.edu/ombudsman.html>

**The Meeting Content:** The meetings opened with an introduction by Program director, Darcy Bushnell, followed by a brief presentation by Judge Michael Nelson. The Judge's presentation covered the history of the Aamodt adjudication, the basis for the Pueblos' water rights, both in court rulings and in the Settlement, and the high points of the Settlement. The floor was then opened to questions. Settlement parties, including Doug Sayre and Martin Martinez of the County, fielded many of the questions. The Program director facilitated the discussion and interpreted legal responses.

**The Things That Worked:** As the meetings progressed, the success increased as the presenters learned how to approach the audience. Several factors contributed to the success of the meetings. These included:

1. Focusing the meetings on the audience and their questions after opening with a brief background. Many people said that they appreciated not having a lecture.
2. Consistent attendance by Settlement parties, County technical staff, and Judge Nelson. People were impressed that the Judge and Pueblo representatives were present at each meeting. Everyone's commitment to the process was remarkable.
3. The Settlement handbook. The handbook was very helpful as a guide and illustrative tool for the meetings. People reported that the materials clearly answered questions presented. Two hundred and seven (207) copies were distributed or mailed during the formal outreach period, and additional copies continue to be distributed.
4. Holding the meetings in small, intimate venues located in the affected communities.
5. Locating the attorneys and technical staff at the back of the room, and moving each one forward when it was time to answer a question.
6. Concerted efforts by the lawyers and the technical staff to speak in clear, understandable terms.
7. Focusing presenters' answers on the question asked and coaching them to answer yes or no before explaining.
8. Checking with the audience to make sure questions were answered and understood.
9. Using visual aids such as charts, maps and a flip chart to explain complex issues and to keep the audiences' attention. Incorporating suggestions from the audience for additional visual aids and notifying them after the meeting of where the additional materials could be found.
10. Being flexible about the content and presentation to meet the needs of the audiences. At the first meeting, it became apparent that the audience was very hazy on basic questions about water rights, the case and the Settlement. The format was altered thereafter to accommodate these needs.
11. Providing snacks and beverages. Some people did not have time to eat ahead of time and snacks help people feel better about something that might be viewed as a chore.
12. Requesting that people reserve a place ahead of time. This was done, in part, to be able to contact attendees in case of snow. Talking with people ahead of time, established rapport with them and strengthened their commitment to show. Of the 71 who called in a reservation, 10 did not show up. Each person who made a reservation but missed the meeting, was called and most had simply forgotten. They were invited to attend another meeting and were mailed a handbook.



**The Things That Can Be Improved:** Lessons were learned as the meetings progressed such as:

1. Meeting Management:
  - a. Presenters did not always move to the front of the room. When this occurred, they could not be heard and the audience became physically uncomfortable.
  - b. At a couple of meetings, both the audience and the presenters either talked too long, or digressed too far. Maintaining a balance between allowing people to speak and be heard and preventing domination or digression is challenging.
  - c. In the earlier meetings, answers were not as concise or clear as needed and the attendees found that frustrating. As the presenters became more practiced, the delivery and content improved. A practice session with volunteer lay people may help, although the presenters were committing a lot of time to this effort and may not have been willing to do more. However, coaching after and before sessions, particularly about answering with a yes or no followed by a short explanation seemed to help.
  - d. In a related problem, some of the presenters appeared defensive and complaining. Once it became apparent that the audiences were not going to attack, this became less of an issue. Again, briefing and coaching helped, but could have been used more effectively.
  - e. People lack basic information on the nature of water rights. Presenters need to be alert for this issue and prepared to respond briefly to very basic questions.
  - f. More large visual aids such as maps and charts would help.
  - g. Two (2) hours was barely enough time to get through most of the material. However, people get tired if asked to attend much longer. A short break after the first hour might have been helpful so people could stretch and exchange ideas. When asked, audiences declined to take a break. Members of the audience often remained after the meeting ended to interact with presenters.
  
2. Information Delivery:
  - a. Audiences were frustrated by “I don’t know” answers to basic questions. A plan, not yet fully fleshed-out is hard to explain; however, giving people an idea of when answers will be available and how to obtain them would be very helpful.
  - b. The handbook could have been improved by a different page numbering system and an index. It should have also been fully ready for distribution on the first night when most of the content was given out in the form of individual documents.
  - c. Participants requested adding more chapters to the handbook including: a list of contacts, contamination maps for each area, a better map or diagram of the water system, an explanation of the Regional Authority and distribution responsibilities, and water system fee chart.
  - d. Some of the answers offered by presenting parties seemed to conflict. These will need to be cleared up.
  - e. Some of the questions highlighted issues, such as the effect of the Settlement on water banking that will require more thought by the settling parties.

**The General Concerns:**

1. How can I sign an agreement if I do not know the terms such as how much the water system will cost me each month, whether the money will be there to build the system,

whether the studies will show that it is feasible, and whether the imported water will be available? There are too many unknowns for me to feel comfortable.

2. I do not want to bind my heirs or purchasers by my decisions.
3. I want the Settlement to guarantee that everyone will be subject to the same rules.
4. We want the congressional delegation to come and talk to the community.
5. I do not like that the negotiations happened behind closed doors.
6. Historic realities have not been addressed
7. Basic fairness was not addressed in the Settlement.
8. The federal Court will not be able to enforce the Settlement vis-a-vis the Pueblos.

**The Evaluations:** Attendees and the presenters completed exit surveys. The responses were compiled in Exhibit D - Attendee Exit Survey Results and Exhibit E - Settlement Parties' Comments. Thirty-nine (39) of one hundred and sixty-seven (167) attendees and five (5) of twelve (12) Settlement parties completed the survey.

**The Recommendations:** Ongoing access to information will also be helpful. Such access could include:

1. Website or Newspaper Column: Posting answers to questions on a website or in the newspapers. A significant number of people asked for this type of continued information flow. The questions listed below could be a starting place, but the website could have a contact point for additional questions. The format could be a "Dear Abby" type of column which could appear on the website or in newspapers.
2. Regular Meetings: Additional meetings should be held whenever something significant occurs, and in any event, annually. The audiences were hungry for information and wanted a resource for obtaining more.
3. A slightly expanded handbook.
4. Additional charts and maps for future meetings.

**The Follow-On Work:** The Joe M Stell Ombudsman Program held additional meetings with:

- The Acequia Medio members on their ditch cleaning day. Presented to fifty-five (55) attendees, forty-five of whom were members.
- An eleventh meeting at the Rio En Medio Community Center. Presented to twenty (20) attendees.
- Espanola Basin Regional Issues Form, a government-to-government advisory group. Presented to ten (10) attendees.
- Telephonic meetings with attendees and 'registered, but no-shows'.
- Meetings with individuals in informal settings.
- Emails with attendees and community leaders.

**The Conclusion:** The Aamodt outreach project was very successful as indicated by the steady numbers of attendees over five weeks, the receptiveness and participation by the audience, requests for additional meetings and information received by the Ombudsman Program even before the ten (10) scheduled meetings were completed and the remarks by the Settlement parties comparing these meetings to previous meetings. I recommend that outreach efforts continue through completion of the water system. The frequency of meetings should be geared to unfolding events, but there should be regular communication means established, such as

websites, press releases and opportunities for the public to participate in planning and development.

**The Acknowledgments:** The success of this effort would not have been possible without the continued participation by community leaders, Settlement participants, and the County. I want to give special thanks to Judge Nelson, John Gutting, Dick Rochester, David Ortiz, Peter Chestnut, Larry White, Mark Sheridan, Frank Demolli, Ted Bagley, John Utton, and county staff Doug Sayre, Marvin Martinez, Lisa Roybal, Ron Pacheco, and PhD candidate, Melanie Stansbury. Each of these people contributed meaningfully and made the process successful.

**The Photographic Credits:**

Cover: Rio Nambe, Rio Pojoaque, Page 3: Nambe Head Start, Page 5: Visual Aid  
by Melanie Stansbury, PhD Candidate, Cornell University, Ithaca, New York.

Cover: Rio Tesuque  
by New Mexico Environment Department