



Aamodt Settlement: Water Master Rules and Well Election Order

Santa Fe County,
Board of County Commissioners

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February 28, 2017

Over View

Seeking Policy Guidance on:

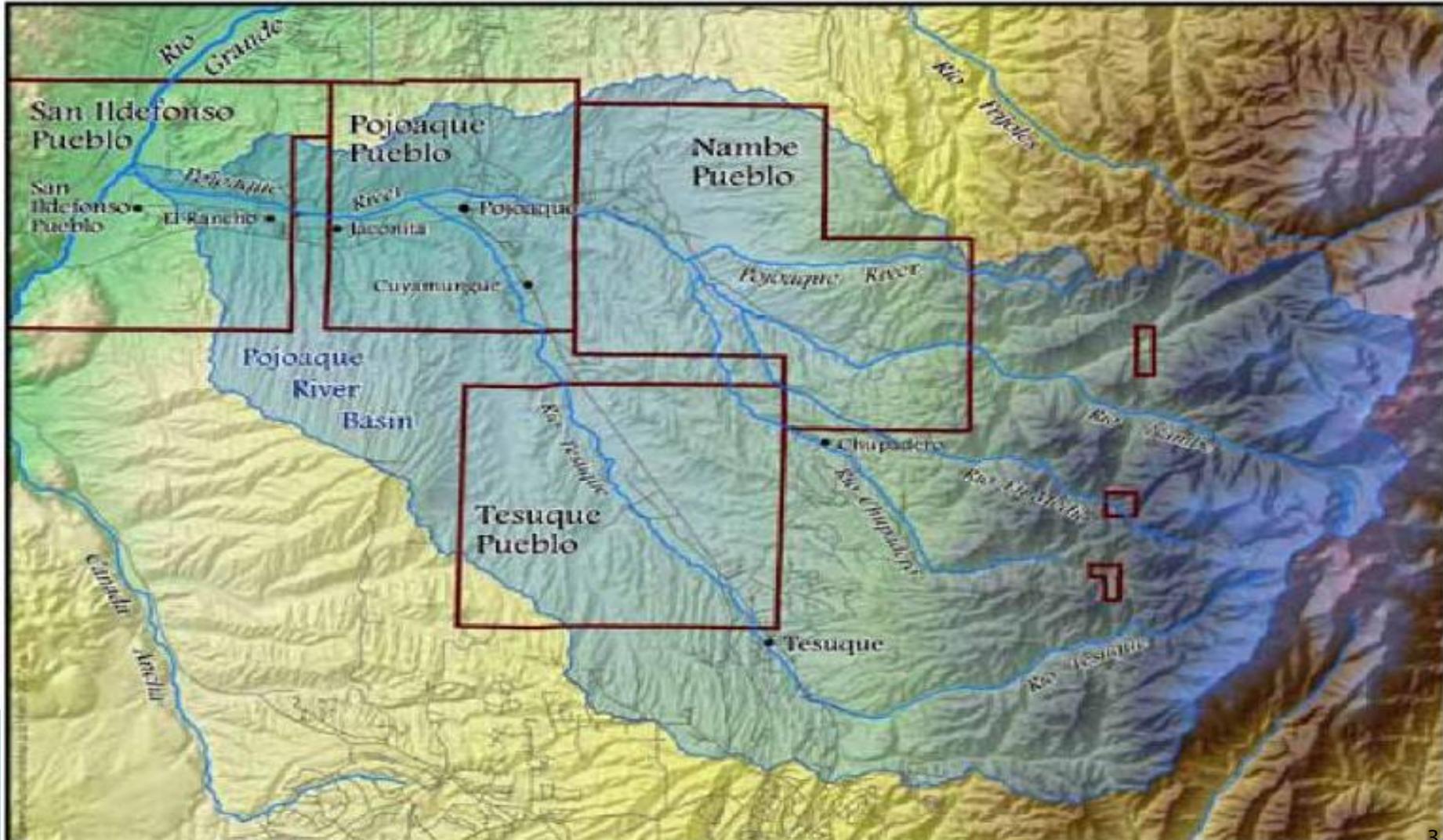
- ▶ **Water Master Rules**

1. Water Rights Transfer
2. Pojoaque Basin Connection Fee Fund

- ▶ **Well Election– Order to Show Cause**

1. Opt Out Provision
 2. Default for Non–Responder Water Rights Owners
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Pojoaque Basin and Area of Aamodt Settlement Agreement



Background

- ▶ 2013: Board of County Commissioners (BCC) signed the revised Aamodt Settlement Agreement (Settlement) and Cost-Sharing Agreement.
- ▶ Staff have been working on implementing various elements of these agreements including:
 - Working with Reclamation re: design, construction and operation of the Regional Water System (RWS)
 - Water rights transfer from Top of the World farm
 - The Joint Powers Agreement
 - The Water Master Rules to govern the administration of the Settlement Agreement by the Office of the State Engineer (OSE)
 - The Well Election in which water rights owners in the basin elect to stay on their well or connect to the County Water Utility (CWU)

Water Master Rules

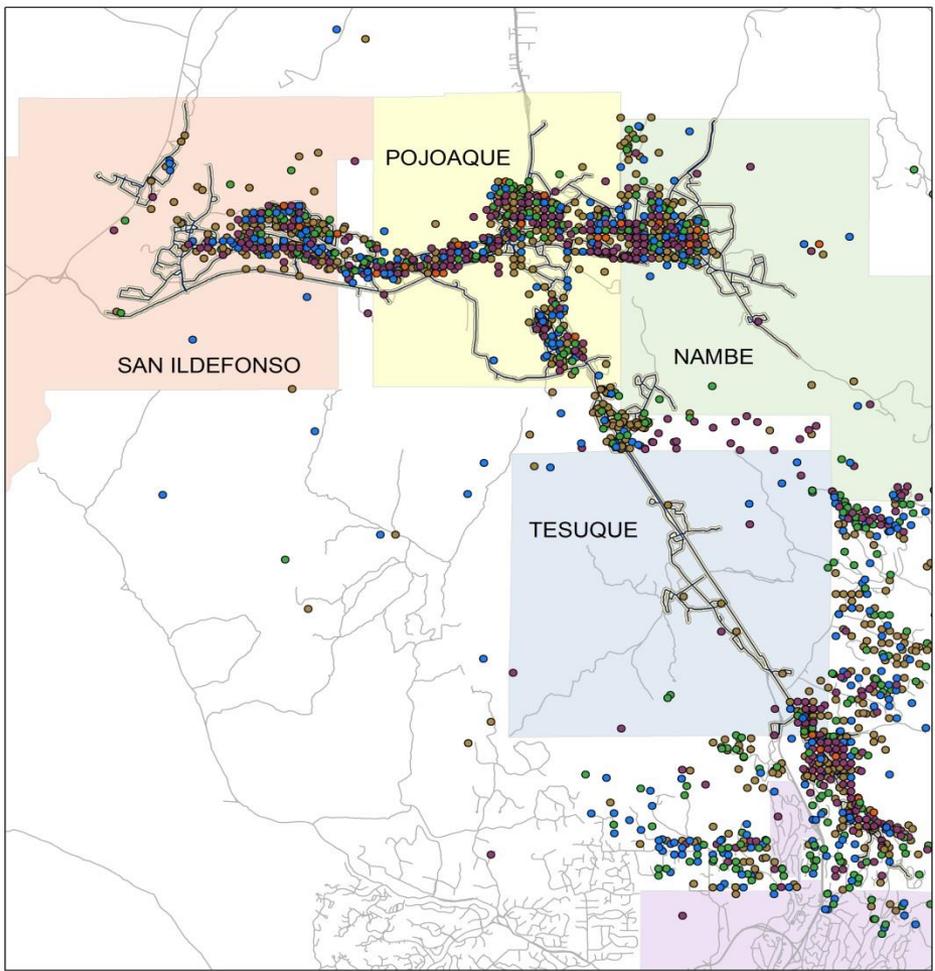
- ▶ The Settlement requires counsel for OSE, the U.S. and the Pueblos to consult with counsel for other Settlement Parties on the Water Master rules including County counsel
- ▶ Among other things, the rules will include:
 - Metering of Pueblo and non-Pueblo wells
 - Determining Historic Beneficial Use
 - Replacement well procedures
 - Transfer of water rights to the County Water Utility

Water Master Rules:

Water Rights Transfer to CWU

- ▶ The Settlement requires domestic well owners who elect to connect to the CWU to cease the use of their well and transfer their water rights to the CWU.
- ▶ The CWU will use the water rights to provide water to customers.
- ▶ Some residents are requesting the partial transfer of their water right to CWU, not the full transfer, to enable them to connect to the CWU and continue using their well.
- ▶ If a partial transfer is supported by the BCC, staff recommends the transfer of 0.3 afy to the CWU with the remainder available for outdoor use.
 - $0.5 \text{ afy} - 0.3 \text{ afy (to CWU)} = 0.2 \text{ afy (for outdoor use)}$.

Pojoaque Basin Regional Water System (proposed) and Pojoaque Basin Wells by Water Right Type

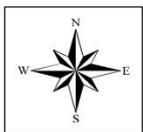


Water Right Type

- PB
- Pre-M
- Post-M SA
- Post-M
- Not Known

Legend

- Proposed Water Line
- 200 Foot Buffer
- Roads
- City of Santa Fe



**SANTA FE COUNTY
WATER RIGHT TYPE BY PUEBLO**

Miles

0 1 2 4 6 8



Water Master Rules: Water Rights Transfer to CWU, cont.

- ▶ Possible Outcome of Partial Transfer
 - More customers with the partial transfer of water rights than for the full transfer of water rights
 - Limited impact on the aquifer
 - A comparison of the full water rights transfer to the partial water rights transfer indicates that the hydrologic effect on the aquifer is small depending on the subscription rate.
 - The SLDC would need to be amended to allow County residents to use their well for domestic purposes on property supplied by the County water utility. (7.13.3.7)

Water Master Rules: Water Rights Transfer to CWU, cont.

- ▶ **Recommendation:** Staff propose language for the Water Master rules allowing for the partial transfer of water rights to the CWU and for the remainder of the water right for outdoor use. If the rules as promulgated by the OSE allow for the partial transfer of water rights, staff will develop for BCC consideration changes to the SLDC that are consistent with the Rules.
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Water Master Rules: Connection Fee Fund

▶ **Background:**

- Wells owners electing to connect to the CWU may utilize the Pojoaque Valley Water Utility Connection Fund (Connection Fund) to cover the cost of connecting to the CWU.
- The State will establish the \$4M Connection Fund.
- The Connection Fund will be administered by the County.
- Funds not needed for connecting to the CWU are available to pay for construction of the CWU.

Water Master Rules: Connection Fee Fund, cont.

- ▶ All well owners in the Pojoaque basin must install meters on their well. It is likely that OSE will require meter installation this year.
- ▶ If a partial transfer is allowed by the Water Master Rules, some well owners could connect to the CWU and continue the use of their wells for outdoor use.
- ▶ Placing AMI meters on partial transfer wells would better enable OSE to track the diversion of water.
- ▶ AMI meters would not be mandatory and would be installed after we know the type of AMI system to be used by the RWS. AMI meters would replace meters installed this year.

Water Master Rules: Connection Fee Fund, cont.

- ▶ Because of the added cost to purchase AMI meters, some Parties have proposed using the Connection Fund to cover the costs.
- ▶ Total costs for purchase and installation of 600 AMI meters wells is approximately \$300,000.

Recommendation: Staff not propose or support the use of the Connection Fund to cover the cost of AMI meters for well owners utilizing the partial water rights transfer. Staff may consider alternative mechanisms for paying for these meters including applying for and utilizing grant money.

Water Master Rules

- ▶ Next Steps
 - Continue to work with Parties on draft language
 - Publish Rules
 - Public Comment and Review Period
 - Rules Promulgated by July 2017
 - Rules Administered by the Office of the State Engineer

Well Election Order: Opt Out Provision

- ▶ The Parties will file a proposed Order to Show Cause (Order) with the Federal Court regarding the well election
 - ▶ The Settlement calls for a well election with the following options:
 1. Connect to the CWU
 2. Continue using the well and limit use
 3. Commit subsequent property owners to connect to the CWU
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Well Election Order: Opt Out Provision, cont.

- ▶ The Parties are considering language in the Order allowing well owners to elect to ‘opt out’ of the Settlement
 - ▶ Well owners that ‘opt out’ would not receive the benefits of the Settlement including priority protection
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Well Election Order: Opt Out Provision, cont.

- ▶ **Recommendation:** Staff advocate for language in the proposed Order to Show Cause allowing water rights holders in the Pojoaque Basin to ‘opt out’ of the Settlement. If the Pueblos, the U.S, and the State are unable to support the ‘opt out’ language, staff would propose it to the Court.
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Well Election Order: Default for Non-Responding Water Rights Owners

- ▶ The Settlement considers water rights owners that do not object to the Settlement and do not accept the Settlement and file a well election to be ‘non-responders’.
 - ▶ Non-responders will be deemed a Settlement Party and required to connect to the CWU.
 - ▶ Requiring non-responders to connect to the CWU could be problematic.
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Well Election Order: Default for Non-Responding Water Rights Owners, cont.

- ▶ **Recommendation:** Staff advocate for language in the proposed Order to Show Cause allowing non-responding well owners to keep their well and be deemed a Settlement Party. If the Pueblos, the U.S, and the State are unable to support the default language, staff would propose it to the Court.
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