

EL RITO DITCH ASSOCIATION

AMENDED BY-LAWS

These By-laws were originally approved by a unanimous vote at the annual meeting on December 8, 1984. Section XI. "Division of Water" was amended by a unanimous vote at the March 13, 2000 annual meeting.

Section I. Officers

The El Rito Ditch Association will be managed by a publicly elected Board of Commissioners. The board will be composed of a president, vice-president, secretary, treasurer, and a member.

Section II. Election

If the Board of Commissioners deem it necessary, primary elections shall be held on the first Saturday of each December. The community shall elect officers to serve on the Board of Commissioners.

Section III. Membership

The membership of the El Rito Ditch Association shall be composed of properly registered and legal users of water. Officers will be elected from among the membership only. Only paid-up members in good standing may vote.

Section IV. Term of office

1. Each officer will be elected for a 12-month period, beginning the second week of December and ending the second week of the following December.
2. The commission shall hire a Mayor-domo and pay him from April 1 through the month of August.
3. The commission has the authority to hire and pay help for emergency situations and/or to avoid public damage.

Section V. Meetings

1. The Board of Commissioners will meet on a quarterly basis. The Board has the authority to call additional meetings whenever they deem such meetings necessary. All meetings must conform to the N. M. Code of Meetings and Open Meeting Laws.
2. Ten members in good standing shall constitute a quorum.

3. Suggested meeting dates are: Annual and Election: December; quarterly meetings: January, April, July and October.

Section VI. Water Rights

1. Only those people in the community who have legal adjudicated water rights and *tiempos* may be considered as users for irrigation purposes. The adjudicated rights and *tiempos* must be registered with the New Mexico State Engineers Log of Rights. The *tiempos* must be registered with the El Rito Ditch Commission.

2. Users not owning adjudicated rights and *tiempos* are in violation of New Mexico law and subject to New Mexico statutes.

Section VII. Headgates

1. Landowners will be responsible for installing and maintaining a headgate where their ditch meets a main ditch. Said headgate shall meet standards set by the commission.

2. Landowners shall use their own headgate only.

Section VIII. Fees/Assessments

1. All fees shall be paid to the treasurer and the payer shall receive an official and numbered receipt.

2. All fees and assessments (including delinquent accounts) shall be paid by March 1 each year. No water will be distributed to a landowner or anyone irrigating for him until his fees are paid to the treasurer.

3. The treasurer shall be bonded for twice the amount of money on the books at the annual meeting.

4. Work needing to be done on ditches will be done by assessing the landowners. The assessment shall be according to adjudicated acreage of the affected ditch. Effective 1985 all *limpias* will be deleted and the fee paid to the treasurer for contract work or ditch maintenance.

5. The fees for use of the water shall be set by the commission at the January meeting and billed to consumers by March 1.

6. Persons serving on the commission will receive their water fees free for the year in which they serve.

Section IX. Diversion Dam Design and Construction

The diversion will be designed and constructed for maximum efficiency and

durability. Dams will meet the specifications as deemed by state and federal authority, design and construction of said structure will be in accordance with the Board of Commissioners and whatever authority and agency they select for such purpose. Dams and construction thereof are subject to the availability of funds.

Section X. Livestock Water Use

1. Unless an Act of God prohibits sufficient water, the ditch commission will ensure that each ditch will allow sufficient water to maintain livestock usage.
2. Anyone diverting water from a main ditch for livestock purposes will contact water commissioners first.

Section XI. Division of Water.

1. The Ditch Commission shall decide when the water will be divided. The Commission will divide the water by the custom of *tiempos* and water sharing as described by the sixteen points enumerated in Appendix A. The sixteen points outline the customary practices, as documented in a report entitled "Summary of Documents and Fieldnotes Regarding the Custom of Tiempos and Water Sharing in the Community Acequias of El Rito, New Mexico" prepared by Dr. Frances Levine, which is hereby incorporated by reference.
2. No one will receive water until his fees and assessments are paid.

Section XII. Violations

1. Whosoever violates the association by-laws, special rules of management, county rules and regulations, state rules, regulations, codes or statutes, federal rules, regulations, codes or laws will be subject to fines and penalties as deemed by law.
2. The Board of Commissioners will turn all activities of violation over to each respective authority, be it the State Engineer or the District Attorney, or in some instances, for a dual violation, to both authorities.
3. Penalties are identified by state code and statutes. The Board of Commissioners may elect to establish further penalties within their rules of management.
4. Trash shall not be dumped into ditches or into areas where it may end up in ditches. The fine for this offense is \$15.00. Drainage of septic tanks into any ditch is strictly prohibited and subject to prosecution and fine.
5. Any person taking water illegally will be fined and deprived of the water until such fine is paid. The first offense penalty shall be a fine of \$20.00; the second \$30.00, and the third, \$50.00. All money collected from fines will be accredited to the general ditch fund.

6. Changing water direction an any diversion dam of the ditch association, or otherwise tampering with the dam, by any person without the authorization of the entire ditch commission is punishable by fine: 1st offence -\$50.00; 2nd - \$75.00; 3rd - \$100.00 or imprisonment.

Section XIII. Miscellaneous

1. All minutes of meetings and transactions will be documented and signed by authority of the Board of Commissioners.

The Association accounts will be audited annually by the commission and two members in good standing.

3. Excess funds will be maintained according to prescribed law and are subject to New Mexico law.

4. As soon as a shareholder of water receives his water at the headgate, he will be responsible for any damage caused by such water.

i. Section XI. formerly read. "The Ditch Commission shall decide when the water will be divided. Beginning in 1985 water will be given beginning with the top of the ditch system and work down. In 1986 it will begin at the main road in town on the Madre and Medie ditches and work down. All other ditches will start at the top and work down and will then follow that pattern. No one will receive water until his fees and assessments are paid."

which shortages will be dealt with. Today, water-sharing in times of shortage outlined in earlier agreements continues to be an important element in the local management of the water-supply

The Tiempos System—Summary of Oral Interviews

The *tiempo* system in use today in the community of El Rito seems to have been in place for a considerable length of time, although it is not identical to the systems of water sharing described in the historical documents. This is not unusual. The tradition of water-sharing has been modified through time to meet the social and economic dynamics of the community. The underlying traditions of sharing water, of rotating the water between the upper and lower *acequias*, and of requiring community labor to maintain the ditch continue to be the operating rules for the community ditch system (El Rito Ditch Association Bylaws 1984). In addition, the by-laws state that the ditches will provide water to maintain livestock, unless prevented by “an act of God” (Article X). The *tiempo* system, as described in oral interviews, and summarized in the affidavits of the ditch commission, is widely-understood to be how water is used and apportioned among the *parciantes*. Below is a summary of the *tiempo* system as described in composite from the interviews conducted with men and women who are currently *parciantes* on El Rito community *acequias*.

1. The *tiempo* system serves many functions: it is a book-keeping system to ensure the collection of adequate *acequia* dues; a means of determining the amount of water that each *parciante* is entitled to during times of shortage; and a system for assessing the labor each *parciante* is required to provide to the association for maintenance of the ditch. Labor assessments are called *limpías*.
2. When there is an abundance of water (*tiempo de abundancia*) water is not distributed on a rotation basis. *Parciantes* in good standing are allowed to use water as needed.
3. When, in the judgment of the elected ditch commissioners, the amount of water in the stream decreases, the *tiempo* system is implemented according to local custom.

4. There are eleven (11) *acequias* that serve El Rito community ditch system.
5. The community is divided into two plazas: Plaza Arriba and Plaza Abajo.
6. Plaza Arriba ditches include: Acequia Alires, Acequia Viterbo Alires, Acequia Duranes, Acequia Monte, Acequia Camino, Acequia Medio, Acequia Madre, Acequia Estero and Acequia Otra Banda (a.k.a. Acequia Trujillo).
7. Plaza Abajo ditches include: Acequia de la Plaza, Acequia Madre Abajo, Acequia Medio Abajo, Acequia del Alto and Acequia Jaral.
8. When the elected commission implements the *tiempo* system, *parciantes* receive water according to a system of rotation as follows:
 - a. Daytime *tiempos* run for six hours: from 6:00 a.m. to 12:00 p.m., or from 12:00 p.m. to 6:00 p.m.
 - B. Nighttime *tiempos* run for twelve hours, from 6:00 p.m. to 6:00 a.m.
9. The time that *parciantes* receive their water is determined by their place on the ditch and the flow of the stream.
11. *Parciantes* can own one or more *tiempos*:
 - a. *Tiempos* do not correspond to the number of acres owned;
 - b. Over the years, in some cases, *parciantes* have purchased and sold *tiempos* separately from the land for use within El Rito's community ditches;
 - c. *Parciantes* pay dues in accordance with the number of *tiempos* owned;
 - d. *Parciantes* cannot irrigate if they fail to pay dues or are otherwise not in good standing with the acequia as specified in the Association bylaws (Sections III and XII).
 - E. All *parciantes* in good standing are permitted one vote per member; the number of

tiempos owned does not determine the number of votes.

12. Historically, the number of days that the *tiempos* rotate between Plaza Arriba and Plaza Abajo ditches has changed. The Commission can elect to rotate the delivery schedule between the plazas according to their determination of available water.

13. The commissioners can alternate the rotation schedule, beginning either in the Plaza Arriba or Plaza Abajo.

14. The rotation is not necessarily completed in one plaza before the water is rotated to the other plaza. When water is returned to the first plaza, watering continues from the point at which it ceased on the previous rotation.

15. When the *tiempo* system is in place more than one *parciante* can irrigate at the same time, depending on how much water is available.

16. When the water is insufficient for irrigation, in the judgment of the elected commissioners, water is allocated for (a) small gardens, (b) orchards, (c) livestock use and (d) for other domestic use including recharge of community wells.

Conclusions

The *tiempo* system represents a community-based structure for water sharing and water distribution. The system does not anticipate that any ditch or user has priority over another. It is based on a logical and successive use of water usually beginning at the first diversion and continuing to the end of the ditch system. Association by-laws provide for years when the irrigation begins in the lower plazas, a scheme that allows for lower lands to be irrigated first in alternate years. The interviews indicate that the *tiempo* system is understood widely and generally accepted as local custom, with flexibility to meet variations in flow and quantity of water. The system does not attempt to fix quantity to a particular place, but anticipates that the available water will be shared by all *parciantes* making efficient use of water during the chronically short