



Sangre de Cristo Acequia Association

# El Parciante

PO Box 721 San Luis,  
CO 81152

## Water Rights and Governance

Acequias are unique and longstanding cultural and legal institutions in Colorado. Spanish and Mexican farmers and ranchers who settled here long before Colorado became a state created these systems for irrigation and water sharing that ensure sustainable use of water, and create important community bonds. Despite their long history which includes acknowledgement in the session laws of the Colorado Territory, it was not until 2009 that acequias received recognition in Colorado state statutes. The 2009 Acequia Recognition Law, which was amended in 2013, allows acequias to continue to exercise their traditional roles in governing community access to water, and also strengthens the ability to protect their water. For acequias in Colorado to take full advantage of the statute, it is necessary to have a set of written bylaws that formalize existing customs and adopt the recently recognized powers. The Sangre de Cristo Acequia Association developed the Colorado Acequia Handbook to highlight the opportunities presented by the Acequia Recognition Law, the basics of Colorado water law for acequia members and those who work with acequias.

**Water Rights:** Colorado Law governs all water rights of acequias described in the handbook. Under Colorado Law, a water right is legally defined as a right to divert a set amount of water that must be put to a beneficial use. The water must be used for the purposes and at the locations intended by the original user at the time of appropriation unless subsequently changed by the water court. In short, a water right is a right to take water from a natural stream and then use it for a specific purpose, at a specific place and time without unnecessary waste. It should be noted that even if a water decree does not list all these, they are still part of the restrictions on the water right.

**A. Elements of a water right:** Generally the elements listed in a water right include 1) the point of diversion 2) the type of diversion 3) the amount of water 4) the time of use. These elements are often included in the court water decree. However, in older decrees the quantity, place, and time of use are often specified. Even if these elements are not listed in the decree, the water right is limited by the intent of the original user as to these elements. If you go to water court to

change your water right or because you are sued, the court will likely try to determine what the missing elements in your decree should have been.

**B. The priority system:** The priority system of water law was developed in the nineteenth century American West to meet the practical demands of miners and farmers. It is also known as the prior appropriation system because when it applies, water rights are granted based on time. Once a person appropriates water and applies it to a beneficial use, they have a superior right to the water against any future water users. This leads to the common phrase, "first in time, first in right."

"Historical Perspective" before statehood, other water rights systems were in use. The Spanish "right of thirst" doctrine used by the acequias in southern Colorado was recognized in territorial session laws from 1868, 1872 and 1874. But, in 1891, the Colorado Supreme Court held that prior appropriation is the only recognized system in Colorado. The prior appropriation system is part of the Colorado Constitution.

For more information on Colorado Acequia Handbook go to; [www.coloradoacequias.org](http://www.coloradoacequias.org).

### El Parciante



#### Sangre De Cristo Acequia Association Mission Statement

**To Preserve Acequias, Their Traditional Governance And Water Rights**

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## WATER STORAGE The Key to Our Future Water Supply?

The lack of water this season provoked considerable discussion among the local farmers and ranchers about the possibility of new storage. Despite such well-known obstacles as the difficulty of securing suitable locations, one area of Colorado that has succeeded in storing water for future use is the Upper Arkansas Water Conservancy District (UAWCD).



Private Reservoir near Buena Vista

The UAWCD protects, owns, and stores water and operates several reservoirs within the Arkansas River Basin. The reservoirs provide economic, environmental, and community benefits including, recreational opportunities, flood mitigation, flow enhancement, and wildlife habitat. The ability to store water when it is abundant also allows the district to carry water over from one year to the next for use in times of scarcity.

During a recent tour of the Arkansas River basin we explored the Voluntary Flow Management Program (VFMP) which has 25 years of suc-

cessful collaboration between local, state and federal organizations to maximize the beneficial uses of water in the Arkansas River Basin. Given the voluntary nature of the program, VFMP commitment to achieve flow objectives depends on water availability and water managers ability to move or store water when and where it is needed. The program is made possible by reservoirs at the upper and lower reaches of the river. The VFMP benefits the Turquoise and Twin Lakes reservoirs in the upper Arkansas River

Basin and the Pueblo Reservoir in the Lower Arkansas River basin.

The VFMP is also contributes to privatization of smaller reservoirs on private land, pictured above is one that was completed by a private owner in order to irrigate his crops when water is scarce. The also purchased water augmentation from the district under a the blanket augmentation plan.

## The SdCAA Delegate Membership Closes on September 30, 2018

In May the Sangre de Cristo Acequia Association (SdCAA) sent out a Delegate Enrollment Form to each individual acequia president or contact person. The SdCAA is conducting a delegate drive and would like each acequia to appoint a member who will represent the acequia during the annual meeting which will be held during the Congreso on January 26, 2019.

Assigning a delegate lets your

acequia guide the SdCAA as it works to fulfill its mission to protect and preserve the viability of all Culebra basin acequia's. As a member you will have a vote to elect the next board members at the annual meeting.

As a Member, you will help ensure all Colorado acequias are recognized and supported, as well as having the opportunity to attend workshops hosted, by the SdCAA. Your participation will helps

strengthen acequia governance through community education, technical assistance and legal assistance.

To become a delegate, fill out the Delegate Enrollment Form from our website [www.coloradoacequia.org](http://www.coloradoacequia.org) or to request a form call the SdCAA office @ 719-672-0810.

### Calendar

- Rio Grande Basin Roundtable Meeting — September 11, 2018 at 2:00 pm SLVWCD Office in Alamosa.
- SdCAA Monthly Meeting— September 11, 2018 at 7:00pm at the CCEDC Conference room.
- Culebra Watershed Planning Meeting — September 20, 2018 at the CCCD Office in San Luis.
- SdCAA landowner Outreach meeting September 25, 2018 at the Parish Hall from 6:00 to 8:00.

Have a an event you want readers to know about? Please send the information to Mathew Valdez at [mathewvaldez.sdcaa.ed@gmail.com](mailto:mathewvaldez.sdcaa.ed@gmail.com).



Sangre de Cristo Acequia Association

## 2018 Landowner Workshop & Tour Series

On Monday June 25, the SdCAA, Colorado Open Lands (COL), and Natural Resources Conservation Service (NRCS) held the first of three gatherings in the 2018 Landowner Workshop & Tour Series. Judy Lopez of COL and Ron Riggensch of NRCS discussed grazing conditions on La Sierra and effects of the ongoing drought in the San Luis Valley and the Culebra River Basin. During the tour participants saw that Culebra Creek had only a small stream of water and there was very little grass due to the exceptionally dry conditions.

On Thursday August 23, the second of the 3 workshops was



Meadow on Salazar Tract

held. Ronda Lobato Costilla presented the Watershed Plan. The plan will address Forest health, grazing, stream health and water flows, wildlife, emergency management and area geology.

Ron Riggensch, NRCS gave a slide presentation on practices that are available to farmers and ranchers in the upcoming RCCP. As part of that presenta-

tion he explained the benefits of installing solar powered water tanks. The group also toured the burned areas of Forbes Park, where James Fischer explained how the fire developed and what issues the land owners are dealing with, such as, hydrophobic soils. We also saw the devastation caused by a firenado, along with new growth of aspens and grasses, and effects of debris flows. Judy Lopez emphasized the importance of preventing fire damage to the Culebra due to its alluvial geology.



Forbes Park Burned Area

## What you should know about the Hallett Decrees

On April 5, 1851, San Luis was established. By 1852, the parciantes had constructed the first Rio Culebra acequia, "the San Luis Peoples Ditch." By the time Rio Culebra became part of the newly formed Colorado Territory in 1861, more than 1700 people lived in the Rio Culebra watershed and the parciantes had constructed several additional acequias. Not long after the parciantes established the original acequias on the Rio Culebra, Americans with different development ambitions began to buy land in the area. One of these companies was the Freehold Development Company.

By the 1870's, San Luis and the surrounding villages were already established. Freehold's plan for Costilla Estates was to build a community and to begin to challenge the claims of the parciantes. The

parciantes had settled on the best farmlands and irrigated them with appropriated water supplies. The Freehold challenge pitted the parciantes water rights legitimately acquired by using the water of the Rio Culebra and its tributaries. And recognized in 1889, by the Colorado Court applying the prior appropriation doctrine against Freehold's assertion that it's ownership of the Costilla Estates gave it the right to control the Estate waters. After ten years in the courts, Freehold's lawsuit was resolved by a series of consent decrees between Freehold and the parciantes on each acequia. In the decrees, the parciantes agreed to give Freehold a portion of the water rights they had obtained under state law in 1889. These decrees are commonly known as

the "Hallett Decrees." After the Hallett Decrees were entered in 1900, Freehold and its successors and the parciantes on the original Rio Culebra acequias fought over whether the decrees were valid, how they should be interpreted, and whether or how Colorado water officials could enforce them. Today, Freehold no longer exists, and the status of the water rights it acquired through the Hallett Decrees is unclear. Some of the acequias affected to name a few are the San Luis People's Ditch, San Pedro, Montez, Cerro, San Francisco, Vallejos, Guadalupe Vigil and Guadalupe Sanchez.

On September 25, 2018, Division Engineer Craig Cotten and Attorney Peter Nichols, will present information on the Hallett Decrees from 5pm - 8pm at the Parish Hall in San Luis, CO. To

### The Board & Staff

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reserve your spot please Call Mathew Valdez at the SdCAA office at 719-672-0810.

### SdCAA Meeting Dates

SdCAA Meeting are held the 2nd Tuesday of the Month in the Economic Development Conference Room.

The next scheduled meeting will be held on Tuesday September 11, 2018 @ 7 PM, CCEDC Conference Room.

## SdCAA Memorial Scholarship Applications Set To Open September 30, 2018

Following the sudden deaths in 2016 of two valued board members, the SdCAA established a scholarship fund in their honor. Felix Lopez and Joe Gallegos were devoted to acequia traditions and lifeways; they also recognized the importance of both academic and practical education in sustaining the acequia way of life under changing conditions. To continue their work, the scholarship fund will help defray the expenses of college courses for area students, as well as internships and practical training for acequia parciantes. The Acequia Association will offer a single \$500 scholarship for students and two

\$150 practical education grants each year as we are growing the grant fund.

The **College Scholarship Fund** will offer high school seniors in Costilla, Conejos, Huerfano and Las Animas counties an opportunity to receive a \$500-dollar scholarship to the College of their choice. Applicants must be accepted to a college or have applications in the review process. Scholarship applications will open September 30, 2018. If Interested please talk to your High School Counselor or come by the SdCAA office and pick one up! The application deadline will be December 31, 2018.

Scholarships will be awarded at our annual Congreso on January 26, 2019.

### PRACTICAL EDUCATION

**GRANTS:** This grant provides up to \$150 of reimbursement for parciantes to attend workshops and trainings to both deepen and broaden their agricultural skill sets. To obtain reimbursement interested parties will need to provide a brief overview of their workshop and expense receipts to the SdCAA board at their regular monthly meeting ( the second Tuesday of each month). For more information about these learning opportunities

please contact Mathew Valdez at 719-672-0810. |

### Interested in donating?

Contact the SdCAA office at 719-672-0180. Contributions can be addressed to the SdCAA Memorial Scholarship Fund, and mailed to PO Box 721, San Luis, CO 81152. We are a 501 c (3) non-profit organization so your donation is tax deductible. The Acequia Association will send you a return receipt acknowledging your donation.



## Rights to the Mountain Track Back in Court

In 2002, in a historic ruling in the Lobato v. Taylor land rights case, the Colorado Supreme Court settled a decades-long legal struggle by the heirs of the 1844 Sangre de Cristo Land Grant.

The 80,000-acre parcel is known locally as La Sierra (the Mountain Tract). It is vital to the Culebra River acequia villages in Costilla County which rely on these access

rights to sustain a robust and sustainable local agricultural economy. The ruling restored to the heirs and successors of the land grant rights to gather firewood and construction materials and to graze livestock.

In 2005, more than 350 families received keys for access to the land grant and the exercise of these rights.

On September 5 the San Luis Land Rights Council (LRC) and its supporters will have to return to the courts to defend these rights yet again. Shirley M. Romero Otero, the president of the LRC, expressed the view that the ability of the heirs to use La Sierra remains a vital part of the economic stability and cultural survival of a unique farming

community that is the living heart of the Sangre de Cristo National Heritage Area. The scheduled September 5, 2018 hearing is before the Colorado Court of Appeals in Denver.

The latest legal round was triggered by the new private owner of La Sierra (a.k.a. Cielo Vista Ranch), William Bruce Harrison, the scion of a wealthy Texas family.

### Water Use

Water in any stream, or river in Colorado is an adjudicated right . Therefore, it belongs to the water right holder, Acequia water is no different. The water that flows through the Culebra Watershed Acequias belongs to the parciantes (landowners) on the acequia, who use the water to irrigate their land. Using the water without this right is in direct violation of Colorado Water Law.



**What you should know**