

Aamodt settled jurisdiction issues

In his March 11 column, “Court case poses threat to non-Indians,” Orlando Romero “guarantees” that the Aamodt Settlement will “be the first to suffer” from the state and county’s alleged lack of jurisdiction to enforce it. He is wrong.

Mr. Romero’s commentary is based on the premise that a ruling on a matter of criminal jurisdiction (in an unidentified case) can effectively undo a negotiated agreement that directly addresses matters of jurisdiction.

To be clear, parties need not distinguish case law referenced by Mr.

Romero based on its criminal context in order to enforce the Aamodt Settlement. Jurisdiction in Aamodt is a matter of agreement.

Under the terms, conditions and provisions of the settlement, the common law definition of “Indian Country” will in no way limit Santa Fe County’s nor the State of New Mexico’s ability to challenge alleged infractions of the settlement; nor will it impair the state engineer’s authority to administer a Pueblo’s compliance with settlement terms.

The settlement is subject to the continuing jurisdiction of the Decree Court, i.e., the Federal District Court.

A court with continuing jurisdiction maintains continuing oversight, interpretation and enforcement of the parties’ agreement.

Indeed, in Local Number 93 the United States Supreme Court states “A court that maintains continuing jurisdiction over a consent decree will have a more flexible repertoire of enforcement measures. ...”

The settlement provides: “The Final Decree entered by the Decree Court shall incorporate by reference this Agreement and the Decree Court shall retain continuing jurisdiction to interpret and enforce the terms, provisions, and conditions of the (settlement) agreement, the Interim Administrative Order, and the Final Decree.” (See Settlement 1.4.) Under this provision, the state engineer and Santa Fe County could challenge alleged infractions of the settlement by any settlement party, including a Pueblo. No “power over ‘Indian Country’ ” might undermine this right.

Mr. Romero further opines that the state engineer will have no jurisdiction to administer Pueblo water rights.

The settlement provides that the state engineer shall act as “water master” for the Pueblos.

In this role, the state engineer will be responsible for curtailing Pueblo surface and groundwater diversions to ensure compliance with the terms of the settlement. (See Settlement 5.2.) The state engineer could seek relief from the Federal District Court for suspected violations of the settlement because the court maintains continuing jurisdiction. No “power over ‘Indian Country’ ” shall undermine the state engineer’s authority as water master or the state engineer’s ability to bring an enforcement action.

The Aamodt Settlement is the product of long-term and intense negotiations between skilled attorneys and active clients in a politically charged climate.

Concerned individuals should read the Settlement and, if questions or concerns arise, seek the advise of counsel or their state representatives.

Misinformed speculation can cause unwarranted panic and undermine significant accomplishments made to date.

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