

STATE OF NEW MEXICO  
SEVENTH JUDICIAL DISTRICT  
COUNTY OF SOCORRO

**No. D-725-CV-2012-89**

**Judge: Matthew G. Reynolds**

**CHARLENE WEST,  
CAROL PITTMAN, and  
SARA ROBINSON,**

Petitioners,

v.

**SOCORRO ELECTRIC COOPERATIVE, Inc., a  
New Mexico Non Profit Corporation, and  
Its BOARD OF TRUSTEES, COLLECTIVELY, and  
JOSEPH HERRERA, in his capacity as its MANAGER,**  
Respondents.

**SECOND ALTERNATIVE WRIT OF MANDAMUS**

TO:

**SOCORRO ELECTRIC COOPERATIVE, Inc., a  
New Mexico Non Profit Corporation, and  
Its BOARD OF TRUSTEES, COLLECTIVELY, and  
JOSEPH HERRERA, in his capacity as its MANAGER,**

WHEREAS this matter has come on before the undersigned judge of the District Court, and it appearing by a verified petition that:

- 1) Respondents Socorro Electric Cooperative, Inc., (SEC hereinafter) is a non-profit corporation, and its Board of Trustees collectively, and SEC manager Joseph Herrera, have the statutory obligation to provide SEC's members relatively equal representation in SEC affairs, as well as access to its corporate books and records, including the list of members' names and addresses, pursuant to Chapter 53, Article 8, Section 27 of the New Mexico Statutes:

**“ Books and Records:**

...Each Corporation shall keep at its registered office or principal office in New Mexico a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time.”

- 2) This act of providing members reasonable access to SEC's membership names and addresses and its books and records for any proper purpose is a non-discretionary responsibility.

- 3) Petitioner Charlene West, through counsel, has repeatedly requested SEC to provide reasonable access to its books, records and members' names and addresses, as shown by documents previously filed and in the court file in this action, and which are hereby incorporated herein by specific reference.
- 4) Her purpose in seeking such access is to exercise her constitutional rights of free speech and free association with the other members of SEC for the purpose of improving the management and administration of the Co-op and the services which it provides.
- 5) SEC has repeatedly refused to provide to requesting members full and complete access to SEC corporate books and records, including a complete list of members' names and addresses, when requesting same for a proper purpose.
- 6) Petitioners CAROL PITTMAN, and SARA ROBINSON are represented by their duly elected Trustee Charles Wagner, who currently is the sole representative for SEC's members in SEC District Two and District Five.
- 7) The other Trustees and manager have repeatedly denied Petitioners' fair and equal representation on the Board of Trustees by discriminating against, and failing to afford to, Petitioners' duly elected representative all of the rights, accommodations, and privileges of office due him as the duly elected Trustee representing SEC members in SEC Districts Two and Five, including but not limited to:
  - A. Refusing him admission to Meetings and Executive Sessions of the SEC Board of Trustees;
  - B. Refusing him any and all Committee positions;
  - C. Refusing him authorization for attendance and reimbursement for out-of-pocket expenses at national and regional meetings and conferences of Electric Co-ops when

such has been routinely and historically authorized to all other Trustees without exception;

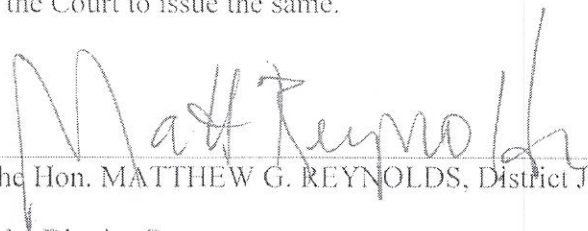
- D. Refusing him access to SEC's books, papers and records;
- E. Refusing him assistance from the SEC general manager, staff, and legal counsel, in carrying out the duties and functions of his office as Trustee.
- F. Failing to follow SEC's By-Laws and policies and procedures by:
  - (1) Violating the provisions of the New Mexico Open Meetings Act;
  - (2) Refusing to inform Petitioners' Trustee of requested information necessary for him to adequately represent their interests in SEC;
  - (3) Refusing to conduct meetings according to Robert's Rules of Order
  - (4) Refusing to provide Petitioners' Trustee with legal interpretations by SEC legal counsel of SEC Bylaw "*Article V Section 8 - Division Into Districts.*"
  - (5) Denying him registration and an advance to attend the Accounting and Finance Conference of the Cooperative Finance Corp, (SEC's lender).
  - (6) Refusing to provide a list of billings to SEC.
  - (7) Arbitrarily making retroactive deductions from Petitioners' Trustee's 2012 allowance for the EIB Meeting.
  - (8) Refusing to provide Petitioners' Trustee with minutes and the required list of members registered for the 2012 annual members meeting as required in the SEC bylaws.
  - (9) Refusing to authorize Petitioners' Trustee's registration and advance to attend NRECA Region 8 & 10 Meeting with enrollment in course 931.1 Cooperative Foundations.
- 8) Failing to follow the recommendations of the firm hired to direct fair District elections, and instead:

- A. Held District election meetings at the extreme south end of the district, instead of at a more central location, and, thereby arbitrarily and unduly burdened the members living at the North end of the district,
  - B. Substantially decreased the lead times recommended by the contractor for announcement and notice of election procedures to members;
  - C. Required unnecessary, time-consuming, additional and unnecessary steps to be taken by members wishing to vote by mail;
  - D. Significantly decreased the time for incumbent's opponents to get out the vote.
- 9) In so acting, Defendants have denied Petitioners Pittman and Robinson and other SEC members in Districts 2 and 5 their rights to fair and equal representation as members in the affairs of the SEC, under "one man, one vote."
- 10) Petitioners, through their Trustee, have repeatedly requested the Defendants to cease and desist their illegal behavior;
- 11) And FURTHER that it appears the Petitioners have no plain, speedy or adequate remedy in the ordinary course of law.

**NOW THEREFORE, IT IS HEREBY ORDERED THAT,** the Socorro Electric Cooperative, Inc., through its Board of Trustees, and Joseph Herrera, its Manager, or such other employees or agents as they may select, shall provide its members, including Charlene West, with reasonable and full access to its corporate books and records and to its members' names and addresses for any proper purpose on or before November 15, 2012, at 10:30 o'clock a.m. ~~p.m.~~ and at said date and time to then and there return this Writ with a certificate of having provided the necessary access to its requesting members;

**IT IS FURTHER ORDERED THAT**, the Socorro Electric Cooperative, Inc., through its Board of Trustees, and Joseph Herrera, its Manager, and such other employees and agents as they may select, shall one and all and immediately and permanently cease unlawful discrimination against Petitioners' duly elected Trustees in the performance of their duties on behalf of the Co-op, and shall henceforth provide all and every Trustee equal accommodation in their conduct of the affairs of SEC, or shall appear at the above set forth date and time and show cause before this Honorable Court why it has not done so.

**THE UNDERSIGNED** Judge of the District Court on this \_\_\_\_\_ day of \_\_\_\_\_, 2012, does hereby allow the above and foregoing *Alternative Writ of Mandamus*, and does designate the return time and date as set forth above, and allows the foregoing to be served upon the Socorro Electric Cooperative, Inc., by personally leaving a copy hereof with any office employee at the offices of Joseph Herrera in the Socorro Electric Co-operative Offices located at 215 Manzanares St., Socorro, NM, 87801 during normal business hours, and hereby directs the Clerk of the Court to issue the same.

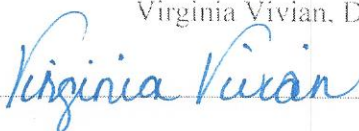
  
The Hon. MATTHEW G. REYNOLDS, District Judge, Division II

Issued under my hand and seal of the District Court;

Witness the Honorable Matthew G. Reynolds, Judge of the Seventh Judicial District this 6<sup>th</sup> day of ~~October~~, 2012.



Virginia Vivian, District Court Clerk

By  Deputy Clerk

Submitted by:  
Deschamps & Kortemeier Law Offices, P.C.  
By: Lee Deschamps, Attorneys for Petitioners  
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