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ORIGINALLY THE MAGDALENA MOUNTAIN MAIL, THE NEWSPAPER WAS FOUNDED IN 1888, AND SERVES MAGDALENA, AND SOCORRO AND CATRON COUNTIES.

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THURSDAY, AUGUST 26, 2010

Mountain Mail Files Motion To Drop Lawsuit

By John Severance

SOCORRO – Through its attorney Roscoe A. Woods, the Mountain Mail filed a motion to have the Socorro Electric Cooperative lawsuit dismissed against the unnamed members, Charlene West, the Mountain Mail et. al.

In his complaint filed Aug. 22 in Thirteenth Judicial District Court in Valencia County, Woods writes the suit should be dropped because the co-op attorney Dennis Francish failed to state a claim upon which relief can be granted.

Woods cites the New Mexico Rural Cooperative Act, saying bylaws shall be adopted, amended or repealed by the majority of the members present at any regular annual meeting or special meeting called for that purpose with a quorum present. Two other sections of the law say that bylaws can be adopted, amended or repealed consistent with the Rural Electric Cooperative Act. And a cooperative shall have the power to “transact any lawful business in aid of governmental policy.

Woods points out the SEC held its annual meeting on April 17 and members voted to enact several bylaw changes.

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Francish, meanwhile, filed a suit on behalf of the co-op trustees to test three of those amendments.

1. Abide by the New Mexico Inspection of Public Records Act and the New Mexico Open Meetings Act;
2. Permit the press and the members to participate in and be present during regular and special Board of Trustee meetings.
3. Guarantee transparency of actions with open access to SEC books, records, audits to members for a proper non-commercial purpose except those which would violate the Privacy Acts.

Woods also cited the 1997 case *Schein v. Northern Arriba Electric Cooperative* in which the Supreme Court addressed the issue of what constituted improper purpose in requesting corporate information.

Schein, a newspaper reporter and a member of the Northern Arriba co-op, requested different types of information. And the co-op refused.

The case went all the way to the State Supreme Court which ruled that “in New Mexico, shareholders have the right to inspect, at reasonable times and places, a corporation’s books and records for proper purses.

“And this right generally extends to members of nonstick, nonprofit corporations.” In addition, Woods writes the Mountain Mail is entitled to reasonable attorney fees “for maintaining its opposition in this frivolous cause of action.”

Woods also claims the venue within Valencia County 13th Judicial District is improper because the Mountain Mail’s principal place of business is within Socorro County and the co-op’s principal office and place of business are also within Socorro County.

Woods also argues that the Valencia County court lacks jurisdiction over the Mountain Mail.



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