

**STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT COURT**

**NO. D-101-CV-2015-00295**

**NORTHERN NEW MEXICANS PROTECTING  
LAND, WATER, AND RIGHTS,  
Plaintiff,**

**v.**

**POJOAQUE VALLEY IRRIGATION DISTRICT,  
Defendant.**

**POJOAQUE VALLEY IRRIGATION DISTRICT'S ANSWER  
TO PLAINTIFF'S VERIFIED COMPLAINT**

COMES NOW Defendant Pojoaque Valley Irrigation District ("PVID"), by and through undersigned counsel, EGOLF, FERLIC & DAY, LLC (Kate Ferlic, appearing), and, for its Answer to Defendant's Verified Complaint against it, states as follows:

1. PVID has insufficient information to form a truth as to the allegations in paragraph 1 and therefore denies same.
2. PVID acknowledges that it is situate in Santa Fe County, New Mexico but denies that it is a governmental agency or municipal corporation.
3. PVID acknowledges that Plaintiff has alleged claims under the Inspection of Public Records Act ("IPRA") and NMSA 1978 Sections 73-9-1 to 73-9-62, and seeks a writ of mandamus, but PVID has insufficient information to form a truth as to the remaining allegations in paragraph 3 and therefore denies same.
4. PVID acknowledges that the quotations and citation in paragraph 4 are accurate.
5. PVID acknowledges that the quotation and citation in paragraph 5 are accurate.

6. PVID acknowledges that Plaintiff submitted an IPRA request to it on December 8, 2014 as stated in paragraph 6.
7. PVID provided all records subject to disclosure under IPRA and acknowledges that it has not provided Plaintiff with the ballots from the December 2, 2014 election. PVID denies that said ballots are subject to inspection under IPRA.
8. PVID acknowledges that it has not provided Plaintiff with ballots in its possession, but denies that the ballots subject to inspection under IPRA. PVID denies that it denied the portion of the request for examination of registration cast in the election.
9. PVID acknowledges that it held an election on December 2, 2014 for a position on the board, but denies the remainder of the allegations in paragraph 9.
10. PVID denies the allegations in paragraph 10-12.
11. PVID admits it did not hold a meeting on the Monday following the election, but denies the remainder of paragraph 13 and it calls for a legal conclusion.
12. PVID denies the allegations in paragraph 14-15.
13. PVID has insufficient information to form a truth as to the allegations in paragraphs 16-17 and therefore denies the same.
14. PVID acknowledges that it is a “public body” as defined by Section 14-2-6 as alleged in paragraph 18, but denies PVID was created by statute.
15. PVID denies the allegations in paragraph 19.

**COUNT I: VIOLATION OF THE NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT**

16. PVID denies the allegations in paragraph 21; the records Plaintiff seeks are not subject to inspection under IPRA.
17. PVID denies the allegations in paragraph 22.

**COUNT II: DECLARATORY AND INJUNCTIVE RELIEF FOR IPRA VIOLATIONS**

- 18. PVID denies the allegations in paragraph 24; the records Plaintiff seeks are not subject to inspection pursuant to IPRA.
- 19. PVID acknowledges that the quotation and citation in paragraph 25 are accurate.
- 20. PVID denies the allegations in paragraph 26; the records Plaintiff seeks are not subject to inspection pursuant to IPRA.

**COUNT III: DECLARATORY AND INJUNCTIVE RELIEF FOR ELECTION VIOLATIONS**

- 21. PVID denies the allegations in paragraph 28.
- 22. PVID denies the allegations in paragraph 29.

**AFFIRMATIVE DEFENSES**

- A. Plaintiff has failed to state a claim for which relief can be granted.
- B. Estoppel.
- C. The ballots Plaintiff seeks are exempt from inspection under IPRA.
- D. Plaintiff's attempt to inspect ballots with individual voter identifying information is contrary to the public policy.
- E. The statute of limitations is expired.

WHEREFORE, PVID respectfully requests that the Court enter judgment in its favor on all claims or, alternatively, dismiss the claims with prejudice, award it its costs and fees to the fullest extent allowable, and for any other relief the Court deems just and proper.

Respectfully submitted,

EGOLF + FERLIC + DAY, LLC

By: \_\_\_\_\_/s\_\_\_\_\_

Kate Ferlic

128 Grant Ave., Third Floor

Santa Fe, NM 87501

(505) 986-9641

Kate@EgolfLaw.com

*Attorneys for Pojoaque Valley Irrigation District*

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 18th day of March, 2015, I filed the foregoing Answer through the Court's online filing system, which caused the below-listed parties to be served by electronic means, as more fully reflected on the notice of electronic filing.

\_\_\_\_\_/s \_\_\_\_\_  
Kate Ferlic