



Mark Reynolds

IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

AQUIFER SCIENCE, LLC,

Applicant-Appellant/Cross-Appellee,

v.

No. A-1-CA-39080

**SCOTT A. VERHINES,
New Mexico State Engineer,**

Appellee-Appellee/Cross-Appellant,

and

COUNTY OF BERNALILLO, et al.,

Protestants-Appellees/Appellees.

**ORDER DISMISSING THE CROSS-APPEAL AND APPEAL OF THE
STATE ENGINEER AND GRANTING APPELLANT LEAVE TO FILE AN
AMENDED BRIEF IN CHIEF**

This matter is before the Court on the State Engineer's motion, filed April 4, 2021, to dismiss its appeal and cross-appeal in this consolidated case. Having considered that document, along with Aquifer Science's response, filed April 27, 2021, this Court concludes that the motion is well taken and should be granted.

We note that as a result of this dismissal, Aquifer Science, who opposes this dismissal, will not need to file an answer brief in the State Engineer's cross-appeal. To the extent that Aquifer Science wishes to assert any matter that might have been asserted in that answer brief, and which is relevant to the matters still pending on

appeal, it would be appropriate to allow Aquifer Science the opportunity to assert any such matter by filing an amended brief in chief. *See* Rule 12-401(B)(2) NMRA (authorizing this Court to fix the terms of a voluntary dismissal where the parties are not in agreement).

Accordingly, **THE COURT ORDERS** that the State Engineer’s appeal and cross-appeal are **DISMISSED**, the State Engineer’s motion for leave to file a reply in support of voluntary dismissal is **DENIED** as moot, and Aquifer Science is **GRANTED LEAVE** to file an amended brief in chief within thirty (30) days of the entry of this order, if it chooses to do so. The remainder of the briefing in this appeal shall proceed pursuant to the schedule provided for in Rule 12-210(C) NMRA based upon the filing of Aquifer Science’s brief or the expiration of time for doing so.



J. MILES HANISEE, Chief Judge



JANE B. VOHALEM, Judge