



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.

STATE ENGINEER’S MOTION FOR VOLUNTARY DISMISSAL

The New Mexico State Engineer (“State Engineer”), pursuant to Rule 12-401(B)(2) NMRA, submits this Motion for Dismissal of the State Engineer’s cross-appeal filed October 17 and 18, 2019 and appeal filed June 3, 2020 (“Appeals”).

The State Engineer offers the following grounds for this motion:

1. On October 3, 2019, Aquifer Science, LLC, as Applicant-Appellant, filed a Notice of Appeal, appealing the Final Judgment (dated September 3, 2019) entered in the Second Judicial District Court.

2. On October 17, 2019, the State Engineer filed a Notice of Cross Appeal,

appealing the Final Judgment. On October 18, 2019, the State Engineer filed an Amended Notice of Cross Appeal. Both Aquifer Science's appeal, as well as the State Engineer's cross appeal were docketed as A-1-CA-38539.

3. On June 3, 2020, both Aquifer Science and the State Engineer filed Notices of Appeal of the Order on Protestants' Bill of Costs ("Cost Order") (dated January 27, 2020), and the Order Denying Motions to Reconsider, entered on May 5, 2020. Later in the day on June 3, 2020, the State Engineer filed an Amended Notice of Appeal. The State Engineer's cost appeal was docketed as A-1-CA-39078. Aquifer Science's cost appeal was docketed as A-1-CA-39080.

4. On August 21, 2020, the Court entered an Order Consolidating Appeals. The Court ordered that all future filings shall be in case number A-1-CA-39080.

5. The State Engineer has resolved its disputes with Protestants-Appellees San Pedro Creek Estate Homeowner Association, Old Sandia Park Service Cooperative, and individual domestic well owners. As such, the State Engineer seeks to voluntarily dismiss its Appeals, as stated in its Notices and Amended Notices of Appeal. The parties shall bear their own costs relating to the State Engineer's Appeals that are the subject of this motion to dismiss.

6. The State Engineer will continue to participate as an appellee in Aquifer Science's pending appeals.

7. Pursuant to Rule 12-401(B)(2) NMRA, the State Engineer has sought the

parties' positions on the motion. Protestants-Appellees San Pedro Creek Estates Homeowners Association, as well as the individuals and entities listed on the certificate of service as represented by Durham, Pittard & Spalding, Douglas Meiklejohn and the New Mexico Environmental Law Center, and Paul Hultin, concur in the relief sought in this motion. Protestant-Appellee Bernalillo County concurs in the relief sought in this motion. Aquifer Science opposes this motion.

NOW THEREFORE, the State Engineer requests that this Court dismiss the State Engineer's cost appeal (A-1-CA-39078) and merits cross-appeal (a portion of A-1-CA-38539, not to include the merits appeal of Aquifer Science, which remains pending) in this matter.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the State Engineer's Motion for Voluntary Dismissal was served on the following counsel and parties, as indicated below on this 9th day of April, 2021.

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