

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

FILED
7th JUDICIAL DISTRICT COURT
Catron County
1/17/2019 2:22 PM
CLERK OF THE COURT

AUGUSTIN PLAINS RANCH, L.L.C.,

/s/ Stephanie Vega

Applicant/Appellant,

vs.

Case No. D-728-CV-2018-00026

TOM BLAINE, P.E., NEW MEXICO
STATE ENGINEER, Appellee,

[Appeal of NM State Engineer
Administrative Proceeding Decision;
OSE Hearing No. 17-005]

and

CATRON COUNTY BOARD OF COUNTY
COMMISSIONERS, et al.,

Protestants/Appellees,

NOTICE OF FILING OF ADMINISTRATIVE RECORD

COMES NOW, Irma E. Corral, Hearing Unit Administrator for the Office of the State Engineer ("State Engineer"), and hereby gives notice to all parties herein that, pursuant to NMSA 1978 Section 72-7-2, the record of the administrative proceeding of the above-captioned matter has been filed with the clerk of the Seventh Judicial District Court.

WHEREFORE, the Hearing Unit Administrator for the State Engineer submits the foregoing Notice of Filing of Administrative Record with attachments, including an Audio Recording (1 CD) and Hearing Logs in Hearing No. 17-005.

Additionally, although not produced by the Hearing Unit, a video recording of the hearing is being submitted to accompany the record, given the inaudible quality of the audio recording.¹

¹ The Hearing Unit has viewed the video recording and asserts that it is a true and accurate account of the hearing held on December 13, 2017. The video is solely being submitted to provide the Court and the parties another instrument to catalog the proceeding. The video recording is available on the State Engineer's website for viewing.

Respectfully Submitted,

OFFICE OF THE STATE ENGINEER



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Filing of Administrative Record was electronically served via New Mexico Odyssey file and serve to parties registered in Odyssey or mailed via U.S. Mail to parties not registered in Odyssey, but entitled to notice (as listed below), on the 17th day of January, 2019.



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**ATTACHMENTS TO
NOTICE OF FILING ADMINISTRATIVE RECORD**

Table of Contents

| | <u>Page Number(s)</u> |
|--|-----------------------------------|
| <u>ATTACHMENT 1 - AFFIDAVIT OF HEARING UNIT ADMINISTRATOR</u> | PAGES 10-11 |
| <u>ATTACHMENT 2 - PLEADINGS INDEX - ADMINISTRATIVE CASE</u> Hearing No. 17-005 | PAGES 12-15 |
| <u>ATTACHMENT 3 - RECORD OF ADMINISTRATIVE PROCEEDINGS</u> Hearing No. 17-005 – Addenda 1-9 | <u>OSE HEARING</u> 00001-02276 |
| <u>ATTACHMENT 4 - NOTICE OF APPEAL</u> Filed October 3, 2018 - Addendum 10 | 02277-02279 |
| <u>ATTACHMENT 5 - HEARING LOG & AUDIO RECORDING</u> Log - Motion for Summary Judgment Hearing – December 13, 2017 Audio Recording (1 CD mailed to Court Clerk) | 02280-2293 |
| <u>ATTACHMENT 6 – VIDEO RECORDING</u> Motion for Summary Judgment Hearing – December 13, 2017 Video Recording (to accompany Record) (1 CD mailed to Court Clerk & available on OSE website) | |

Attachment 1:

Affidavit of Hearing Unit Administrator

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

AUGUSTIN PLAINS RANCH, L.L.C.,

Applicant/Appellant,

vs.

TOM BLAINE, P.E., NEW MEXICO
STATE ENGINEER, Appellee,

and

CATRON COUNTY BOARD OF COUNTY
COMMISSIONERS, et al.,

Protestants/Appellees,

Case No. D-728-CV-2018-00026

[Appeal of NM State Engineer
Administrative Proceeding Decision;
OSE Hearing No. 17-005]

AFFIDAVIT

State of New Mexico)
)
County of Santa Fe)

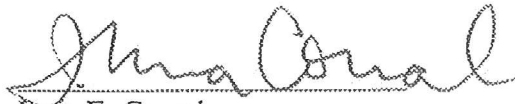
I, Irma E. Corral, am the Administrator of the Hearing Unit of the Office of the New Mexico State Engineer and the custodian of the Hearing Unit Cases. I attest that the attached is a true and correct copy of the original documents that have been filed with the Hearing Unit In the Matter of the Corrected Application Filed By Augustin Plains Ranch, L.L.C. for Permit to Appropriate Groundwater in the Rio Grande Underground Water Basin in the State of New Mexico, including the Record of Administrative Proceeding, Hearing Log and an Audio Recording (1 CD) in Hearing No. 17-005.

Additionally, although not produced by the Hearing Unit, a video recording of the hearing is being submitted to accompany the record, given the inaudible quality of the audio recording.¹

¹ The Hearing Unit has viewed the video recording and asserts that it is a true and accurate account of the hearing held on December 13, 2017. The video is solely being submitted to provide the Court and the parties another instrument to catalog the proceeding. The video recording is available on the State Engineer's website for viewing.

Attachment 2:

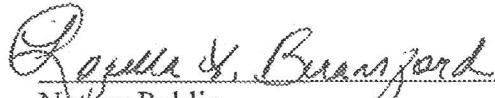
Pleadings Index



Irma E. Corral
Hearing Unit Administrator

SUBSCRIBED AND SWORN TO before me this 17th day of January, 2019 by
Irma E. Corral.

My commission expires: 9/27/2019


Notary Public

PLEADINGS INDEX

HEARING NO.: 17-005
OSE FILE NO.: RG-89943
APPLICANT: Augustin Plains Ranch, L.L.C.

| # | DATE | TITLE | PARTY |
|----|----------|--|---------------|
| 1 | 12/23/14 | Application | Applicant |
| 2 | 2/2/17 | Protests | Protestants |
| 3 | 2/2/17 | Request to Docket Application | WRD |
| 4 | 2/9/17 | Entry of Appearance obo Kokopelli Ranch, LLC | Protestant(s) |
| 5 | 2/16/17 | Withdrawal of Protest by Magdalena Schools | Protestant(s) |
| 6 | 3/1/17 | Request to Reinstate Protest by Magdalena Schools | Protestant(s) |
| 7 | 3/3/17 | Entry of Appearance by New Mexico Environmental Law Center | Protestant(s) |
| 8 | 5/3/17 | Docketing Order | WRD |
| 9 | 5/22/17 | Letter of Withdrawal of Protest (BOR) | Protestant(s) |
| 10 | 5/23/17 | Protest of Monte R and Shirley R Edwards (untimely) | Protestant(s) |
| 11 | 7/16/17 | Notice of Withdrawal of Counsel and Contact Information for Protestant Double H Ranch, Pro Se | Protestant(s) |
| 12 | 6/6/17 | Notice of Withdrawal of Counsel for Santa Teresita Ranch | Protestant(s) |
| 13 | 8/10/17 | Scheduling Order | HU |
| 14 | 9/14/17 | Notice of Change of Address for Socorro Soil & Water Conservation District | Protestant(s) |
| 15 | 9/18/17 | Entry of Appearance-Pecos Valley Artesian Conservancy District | Protestant(s) |
| 16 | 9/20/17 | Entry of Appearance-San Augustin Coalition | Protestant(s) |
| 17 | 9/22/17 | Entry of Appearance by Hennighausen & Olsen LLP | Protestant(s) |
| 18 | 9/26/17 | The Community Protestants' Motion for Summary Judgment-Redacted | Protestant(s) |
| 19 | 9/26/17 | The Community Protestants' Memorandum in Support of Motion for Summary Judgment | Protestant(s) |
| 20 | 9/27/17 | Entry of Appearance by Daniel Dougherty for Magdalena Area Community Development Corp | Protestant(s) |
| 21 | 9/28/17 | Entry of Appearance and Notice of Change of Firm | Protestant(s) |
| 22 | 9/28/17 | Entry of Appearance by Domenici Firm | Protestant(s) |
| 23 | 9/28/17 | Entry of Appearance by Jessica Aberly | Protestant(s) |
| 24 | 9/28/17 | Entry of Appearance obo Protestant Wild Earth Guardians | Protestant(s) |
| 25 | 9/29/17 | Partially Unopposed Motion Requesting an Extension of Time to File Response by WRD | Protestant(s) |
| 26 | 10/4/17 | Expedited Motion to Extend Briefing Deadlines on the ELC Protestants' Motion for Summary Judgment | |
| 27 | 10/5/17 | Entry of Appearance of Domenici Law Firm obo Catron County Board of Commissioners | Protestant(s) |
| 28 | 10/5/17 | The Community Protestants' Response in Opposition to Applicant's Expedited Motion to Extend Briefing Schedule Deadlines on Motion for Summary Judgment | Protestant(s) |
| 29 | 10/6/17 | Order Adopting Briefing Schedule | HU |

WRD = Water Rights Division
 HU = Hearing Unit

| | | | |
|----|----------|--|---------------|
| 30 | 10/6/17 | Order Dismissing Certain Protestants | HU |
| 31 | 10/10/17 | Change of Address of Protestant Ellen Soles | Protestant(s) |
| 32 | 10/10/17 | The Community Protestants' Supplemental Certificate of Service-Response in Opposition | Protestant(s) |
| 33 | 10/10/17 | Certificate of Service-Partially Unopposed Motion Requesting an Extension of Time to File Response | Protestant(s) |
| 34 | 10/13/17 | Joinder in Community Protestants' Motion for Summary Judgment by San Augustin Water Coalition | Protestant(s) |
| 35 | 10/16/17 | Catron County Board of County Commissioners' Motion for Summary Judgment and Memorandum in Support | Protestant(s) |
| 36 | 10/16/17 | Catron County Board of County Commissioners' Notice of Joinder | Protestant(s) |
| 37 | 10/16/17 | Cuchillo Valley Community Ditch Protestants' Joinder in Support of the Community Protestants' Motion for Summary Judgment | Protestant(s) |
| 38 | 10/16/17 | Joinder By the Pueblos of San Felipe, Santa Ana Sandia & Isleta in the Community Protestants' Motion for Partial Summary Judgment | Protestant(s) |
| 39 | 20/16/17 | Joinder in Community Protestants' Motion for Summary Judgment by Protestant Wildearth Guardians | Protestant(s) |
| 40 | 10/17/17 | NM Farm & Livestock Bureau and Catron County Farm & Livestock Bureau's Joinder in the Community Protestants' Motion for Summary Judgment | Protestant(s) |
| 41 | 10/19/17 | Entry of Appearance of Co-Counsel for the Navajo Nation | Protestant(s) |
| 42 | 10/19/17 | Navajo Nation's Joinder in the Community Protestants' Motion for Summary Judgment | Protestant(s) |
| 43 | 10/19/17 | Pecos Valley Artesian Conservancy District's Joinder in the Community Protestants' Motion for Summary Judgment | Protestant(s) |
| 44 | 10/19/17 | Protestants Hands' Joinder in the Community Protestants' Motion for Summary Judgment | Protestant(s) |
| 45 | 10/24/17 | Unopposed Motion for Extension of Deadlines | Protestant(s) |
| 46 | 10/5/17 | Order Granting Extension of Time | HU |
| 47 | 10/30/17 | Applicant's Consolidated Response in Opposition to the ELC Protestants' Motion for Summary Judgment | Applicant |
| 48 | 10/30/17 | WRD's Response to the NMELC Protestants' Motion for Summary Judgment | WRD |
| 49 | 10/31/17 | Errata Sheet | WRD |
| 50 | 11/6/17 | WRD's Response to Catron County's Board of County Commissioners' Motion for Summary Judgment | WRD |
| 51 | 11/7/17 | Protestants Hands' Joinder in the Catron County Board of County Commissioners' Motion for Summary Judgment | Protestant(s) |
| 52 | 11/8/17 | Response to Catron County Motion for Summary Judgment (APR Response) | Protestant(s) |
| 53 | 11/17/17 | Notice of Oral Argument | HU |
| 54 | 11/17/17 | Order Dismissing Certain Protestants | HU |
| 55 | 11/22/17 | Catron County Board of County Commissioners' Reply in Support of Motion for Summary Judgment | Protestant(s) |

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| 83 | 8/31/18 | SAWC Joinder in Responses to APR Expedited Request | Protestant(s) |
| 84 | 9/4/18 | Pecos Valley Artesian Conservancy District's Joinder in CP's Response in Opposition to Applicant's Expedited Request for Evidentiary Hearing | Protestant(s) |
| 85 | 9/4/18 | Certificate of Service-Protestants Hands' Response to Applicant's Expedited Request for Evidentiary Hearing | Protestant(s) |
| 86 | 9/5/18 | Order Denying Applicant's Request for Hearing | HU |
| 87 | 10/3/18 | Notice of Appeal filed in the Seventh Judicial District Court; Catron County; Case No. D-728-CV-2018-00026 | Applicant |
| END OF RECORD | | | |

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| 56 | 11/27/17 | Protestants Hands' Reply to Applicant's Response to Catron County's Motion for Summary Judgment | Protestant(s) |
| 57 | 11/27/17 | WRD's Motion for Leave to Respond to Applicant's Response to Catron County's Motion for Summary Judgment | WRD |
| 58 | 11/28/17 | Applicant's Reply to WRD's Response to the NMELC Protestants' Motion for Summary Judgment | Applicant |
| 59 | 12/1/17 | Cuchillo Valley Community Ditch Assoc and Salomon Tafoya's Request the HE Consider Supreme Court Decision | Protestant(s) |
| 60 | 12/4/17 | Joinder in the CP's Reply to Applicant's Response in Support of their Motion for Summary Judgment & Catron County BCC's Reply in Support of Motion for Summary Judgment | Protestant(s) |
| 61 | 12/4/17 | Protestant Wildearth Guardians' Reply to Applicant's and WRD's Responses to the CP's Motion for Summary Judgment | Protestant(s) |
| 62 | 12/4/17 | The CP's Consolidated Reply to the Applicant's Response & the WRD's Response to the CP's Motion for Summary Judgment | Protestant(s) |
| 63 | 12/6/17 | Entry of Appearance-Chris Lindeen, WRD | Protestant(s) |
| 64 | 12/7/17 | Protestants Hands' Joinder in CP's Replies to Responses to Their Motion for Summary Judgment | Protestant(s) |
| 65 | 12/7/17 | Protestants Hands' Motion to Strike Applicant's Reply to WRD's Response to CP's Motion for Summary Judgment | Protestant(s) |
| 66 | 12/8/17 | Protestants unopposed joint motion for Telephonic Appearance at Oral Arguments | Protestant(s) |
| 67 | 12/11/17 | Applicant's Response in Opposition to the Hand Protestants' Motion to Strike | Applicant |
| 68 | 12/12/17 | Entry of Appearance by NMISC Chris Shaw | Protestant(s) |
| 69 | 12/12/17 | Notice Regarding Protestants' Motion for Telephonic Appearance | HU |
| 70 | 12/12/17 | Withdrawal of Counsel by NMISC | HU |
| 71 | 12/15/17 | Order Memorializing the Stay of Proceeding & Denial of Protestant Hand's Motion to Strike Applicant's Reply to WRD's Response | HU |
| 72 | 1/31/18 | Notice of Substitution of Counsel and Entry of Appearance by State Land Office | Protestant(s) |
| 73 | 2/6/18 | Joint Notice for Consent to Electronic Service | Protestant(s) |
| 74 | 7/30/18 | Substitution of Counsel by Navajo Nation | |
| 75 | 8/1/18 | Report & Recommendation Granting Motions for Summary Judgment | HU |
| 76 | 8/24/18 | Applicant's Expedited Request for Post-Decision Evidentiary Hearing | Applicant |
| 77 | 8/27/18 | Protestants Hand' -Response to Applicant's Exp Req Post-Decision Evidentiary Hearing | Protestant(s) |
| 78 | 8/28/18 | Catron County's Response to Applicant's Request for Post-decision hearing | Protestant(s) |
| 79 | 8/28/18 | The Community Protestants' Response in Opposition to Applicant's Expedited Request for a Post-Decision Evidentiary Hearing | Protestant(s) |
| 80 | 8/29/18 | NN Joinder in Hand's Response to Applicant's Expedited Request | Protestant(s) |
| 81 | 8/30/18 | Water Rights Division's Response to Applicant's Expedited Request for Post-Decision Evidentiary Hearing | WRD |
| 82 | 8/31/18 | Guardians Joinder to Response re Expedited Request | Protestant(s) |