

Water dispute has statewide implications

Kathy McCoy\Deep Well Protest, San Pedro Creek Neighborhood Association * Apr 1, 2018

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The trial in the battle for East Mountain water just concluded, but it could take months before a ruling comes down.

Nearly a decade ago, Vidler Water — a Nevada corporation — partnered with Campbell Farming to form Aquifer Science. Their objective was to draw water from the Sandia Basin to build a massive development on both sides of N.M. 14 across from the upscale Paa-ko development. The new “resort” would include 4,000 homes, two golf courses and commercial properties.

East Mountain residents — fearing the negative impact it would have on the already declining water wells in the community — formed a grassroots organization, Deep Well Protest, which later partnered with San Pedro Creek Estates’ Homeowners Association to address the issue.

When the Office of the State Engineer denied Aquifer Science’s permit application more than three years ago, stating that “there is no unappropriated groundwater available,” Aquifer Science immediately appealed the OSE decision to the 2nd District Court.

Deep Well Protest, SPCE and Bernalillo County opposed the appeal. In the meantime, a new State Engineer was appointed by the Governor and he changed direction by supporting Aquifer Science’s application.

Judge Shannon Bacon presided over the 10-day bench trial that concluded March 19th.

New Mexico Environmental Law Center represented the Deep Well Protest, SPCE and many individual protestants from the East Mountain community. Both Bernalillo County and OSE were represented by contract attorneys and Aquifer Science was represented by a Santa Fe law firm.

During the often complex and technical testimony, Aquifer Science asserted their hydrological model supported a formerly unknown and isolated body of water.

New Mexico Environmental Law Center expert witnesses and Bernalillo County disagreed, questioning the assumptions and methodology used to structure the model. Aquifer Science expert witnesses testified that only a dozen existing wells and San Pedro Creek would be impacted, however NMELC emphatically disputed their conclusion.

Throughout the trial, East Mountain residents attended every day. Many of us have taken part in Bernalillo County’s well monitoring program, which has shown strong evidence of wells declining. Additionally, SPCE — in Sandoval County — implemented a separate monitoring system with even more dramatic well declines.

On the final trial day, the judge allowed ten community people to make statements regarding their personal experiences with their wells declining. They also testified regarding drought conditions, wildlife impacts and personal observations of damage to trees and riparian areas.

The community’s financial and moral support for the last nine years shows how deeply concerned we are about the impact of this trial’s outcome on water sustainability in the East Mountains.

It’s our hope the judge’s ruling will reflect those concerns.

This case has statewide implications.

Other New Mexico communities are in similar positions and have been forced to organize to protect their dwindling water supplies, and by extension, their property values.

Inevitably when new development is proposed in existing communities with tight water supplies there will be conflict with those already invested in the community.

It is not fair that the only recourse for the community is either to surrender or find a way of bearing the enormous financial costs of a court battle.