THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

RESOLUTION NO. 2013-57

A RESOLUTION DIRECTING STAFF TO INVESTIGATE AND DETERMINE IF THE CITY OF SANTA FE'S APPLICATION TO RE-PERMIT ITS NORTHWEST WELL AS A PRIMARY PRODUCTION WELL IS A BREACH OF AGREEMENTS WITH THE COUNTY AND OTHERS CONCERNING SUSTAINABLE MANAGEMENT OF GROUNDWATER SUPPLIES IN THE SANTA FE BASIN AND THE N-P-T BASIN; DIRECTING STAFF TO REPORT ITS FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS; PROVIDING FOR OPTIONS AND REMEDIES IN THE EVENT OF A BREACH.

(INTRODUCED BY COMMISSIONER MAYFIELD AND COMMISSIONER ANAYA)

WHEREAS, the City of Santa Fe has filed an application with the Office of the State Engineer to convert its Northwest well from temporary use to a permanent source of supply for the City of Santa Fe water system, rather than as a back-up or supplement to other sources of supply;

WHEREAS, pumping of the Northwest well as a supplemental well under a previously-granted permit affected groundwater supplies to those in the Tano Road and Tesuque Pueblo areas and has had broader impacts on the Santa Fe Basin, the N-P-T water system and La Cienega, which leads to concerns that even greater effects on County residents and the general groundwater system will be experienced if the new application is granted;

WHEREAS, a consolidated group of persons and organizations have protested the City's application, consisting of seventeen different organizations, 1,000 to 2,000 households, and 6,000 or more individuals;

WHEREAS, the consolidated group reports that wells in the Tano Road and Tesuque Pueblo areas have experienced aquifer decline as a result of historical pumping from the Northwest well, and that the decline rates in wells less than one mile from the Northwest Well have doubled resulting in a reduction in the useful life of wells some of which will go dry within forty (40) years at present rates of decline;

WHEREAS, the same consolidated group of persons reports that negotiations were held with the City concerning its application and possible ways to reduce the impact of the City's continued pumping of the well in the Summer of 2012, but that the City ceased negotiations before water level data was gathered to assess the impacts of the application;

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WHEREAS, the development of a new groundwater resource also leads to concerns about two agreements in place between the City, County and other parties concerning use of groundwater;

WHEREAS, the City and County agreed in paragraph 8 of the Water Resources Agreement Between the City and County of Santa Fe (2005) "… to implement conjunctive use management by relying on surface water when it is available and using groundwater only as necessary …";

WHEREAS, in the Cost Sharing and System Implementation Agreement in the case of *New Mexico ex rel. State Engineer v. Aamodt*, the City agreed to "… reduce and mitigate the effects of groundwater pumping by the City of Santa Fe …" and to "… utilize[] surface water supplies to the maximum extent feasible in a manner which minimizes effects on the ground and surface water supplies … and … otherwise utilize[] both surface and groundwater in a manner which minimizes effects on the ground and surface water supplies …";

WHEREAS, these seemingly unambiguous contract terms should apply to the City's use of the Northwest well, and the permitting decisions of the Office of the State Engineer should mirror these concepts;

WHEREAS, to the extent that the City plans to rely on the Northwest well for primary water supply rather than backup supply, the contract language is inconsistent with the goals of the application, and these contradictions should be addressed; and

WHEREAS, the Board desires to direct staff to work with the City of Santa Fe and others to determine whether the application is consistent with the contract language referred to above, and report back to the Board when the information is developed.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. County staff and the legal department shall work with the City of Santa Fe and others to determine whether the application for re-permitting of the Northwest well is consistent with public welfare and conservation. County staff and the legal department shall also research and determine whether the City's application seeks to re-permit the Northwest well as a direct source of supply or as a back-up source of supply. If the City intends to re-permit the well as a direct source of supply, the legal department shall report to the Board whether such an objective is a violation of the Water Resources Agreement and the Cost Sharing and System Integration Agreement and, if so, the available options, consequences and remedies for such a breach. These factual findings shall be reported no later than the Board's September, 2013 administrative meeting.

2. If a breach is determined to exist, the Board of County Commissioners shall direct staff to take any and all action deemed necessary to bring the County's concerns to the attention of the Office of the State Engineer, to directly address the breach through appropriate legal action, and to take other actions deemed necessary and proper concerning the pending application.

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3. County staff shall also undertake further hydrologic studies of the Northwest well to determine the potential effects of the well on the local and regional aquifer as well as the affects the proposed use of the well will have on County constituents. This report shall be made no later than the Board's September, 2013 administrative meeting.

APPROVED AND ADOPTED this 11th day of June, 2013.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By: _____
Kathleen Holian, Chair

ATTEST:

_____
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

_____
Stephen C. Ross, County Attorney

SFC CLERK RECORDED 06/12/2013

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for Record On The 12TH Day Of June, 2013 at 02:18:10 PM
And Was Duly Recorded as Instrument # 1708657
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy _____ County Clerk, Santa Fe, NM