

BEFORE THE NEW MEXICO STATE ENGINEER

**IN THE MATTER OF THE APPLICATION BY
CITY OF RIO RANCHO AND BOSQUE DEL
SOL, LLC., FOR A PERMIT TO CHANGE
PLACE AND PURPOSE OF USE AND
CHANGE POINT OF DIVERSION FROM
SURFACE WATER TO GROUNDWATER IN
THE MIDDLE RIO GRANDE WATER BASIN
IN THE STATE OF NEW MEXICO**

Hearing Nos. 17-015 & 17-016
OSE File Nos. SD-08707 into
RG-6745, *et al*
RG-6745 *et al* into SD-08707

**ORDER DENYING MOTION TO DISMISS OR FOR SUMMARY JUDGMENT BUT
GRANTING MOTION TO LIMIT ISSUES FOR HEARING**

This matter came before Uday V. Joshi, the State Engineer's designated Hearing Examiner, upon the City of Rio Rancho's Amended Motion to Dismiss or For Summary Judgment or, In the Alternative, Motion to Limit Issues for Hearing (Motion), filed March 20, 2018.

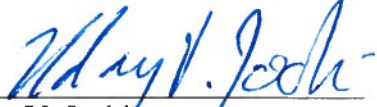
Having considered the matter, the Hearing Examiner finds the following:

1. The City of Rio Rancho's (City) groundwater permit(s) (OSE Groundwater Permit No. RG-6745 through RG-6745-S-34) is a final non-appealable Permit.
2. That Permit was the product of an extensive hearing before the State Engineer and is final and should not be subject to collateral attack in this hearing which is intended to implement and exercise the City's prior, validly granted Permit.
3. The issues in this matter should be limited to prevent re-litigation of the City's groundwater permits.
4. In this matter, the Parties should not re-litigate issues of impairment, public welfare or conservation as exhaustively analyzed and decided upon in the granting of the City's 2003 Permit. *See* 19.25.2.24 (G) NMAC.
5. Efforts to re-litigate a previously granted permit and circumvent this Order are strongly discouraged and will be considered as a disruption to the Proceeding. *See* 19.25.2.22 (H) NMAC.
6. Evaluation of issues of impairment, public welfare and conservation should be limited in this case to *this* application and the respective water rights intended to be transferred to offset the City's groundwater pumping under its existing permit.

7. No documentary evidence or testimony related to cumulative effects of prior permits transferring surface water rights to offset groundwater pumping should be permitted in this proceeding.

THEREFORE, the City of Rio Rancho's Motion to Dismiss or For Summary Judgment is denied. The Motion to Limit Issues for Hearing is granted.

DONE this 30th day of May, 2018



Uday V. Joshi
Hearing Examiner

PARTIES ENTITLED TO NOTICE

Hearing Nos. 17-015 & 17-016
(Consolidated)

WATER RIGHTS DIVISION

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I certify that a copy of the foregoing Order was *electronically issued* to all the above-listed parties on the 30th day of May, 2018.



Irma E. Corral, Law Clerk
Hearing Unit Administrator