

E. MOUNTAINS WATER WARS



a.k.a. Who is Aquifer Science
and Why Are They Trying to Take
Our Water?

- Aquifer Science LLP is a partnership between Campbell Corp (5%) and Vidler Water Co., Las Vegas, NV (95%).
- Vidler owned by Pico Holdings, Inc., La Jolla, CA [NASDAQ: PICO].
- Vidler's stated business: "acquiring and developing water resources and water storage operations in the southwestern US."

TIMELINE – HISTORICAL (PHASE 1)

- June, 2009 – Aquifer Science files application to appropriate 1500 acre ft. of water annually (AFY) from Campbell Ranch (E. side of Hwy. 14). *See slide 15 for calculation of the amount of water.*
- Fall, 2009 – San Pedro Creek Estates HOA (“SPCE”), Bernalillo County, the No. 14 Deep Well Protest Group **and** many individuals register as protestants to the application. [1]

[1] A formal process that required a timely filing with the Office of the State Engineer.

TIMELINE – HISTORICAL (cont'd)

- Spring, 2010 – Process starts on scheduling, etc. for **Application Protest Hearing** before the Office of the State Engineer (“OSE”).
- Over the next 2 ½ years motions, rebuttals and other legal steps occur, leading up to hearing.
- March, 2013 – Hearing before the OSE commences, held over 12 days between March and Sept, 2013.

TIMELINE – HISTORICAL (cont'd)

- OSE decision from hearing ***expected*** mid-to-late Fall, 2013. 2 +/- mos. after hearing concluded.
- Nov., 2014 – Decision ***rendered***: OSE denies Aquifer Science's application.
- Nov., 2014 – Aquifer Science files notice of appeal of OSE decision. (*anticipated*).
- Between Nov. 2014 and Nov. 2015 parties gear up for start of pre-appeal-trial process* .



TIMELINE – PHASE 2 (current)

- Nov., 2015 – Scheduling Conference held in Second Judicial District Court Albuquerque to establish timetable for pre-trial process, leading up to trial.
- End of 2015 to April, 2017 (*15 months*) - motions, rebuttals, discovery and other steps occur, as run-up to the commencement of appeal trial.
- Part of the discovery process is the deposition of each party's expert witnesses – hydrologists, geologists, climatologists – by opposing party's →

- attorneys.
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TIMELINE GOING FORWARD - PHASE 3

- August 7-18th, 2017 – Trial on Aquifer Science's appeal in 2nd Judicial District Court, Albuquerque.
- Decision expected ??

BREAKING NEWS



Two new motions filed in April, one by the Protestants (for Summary Judgment) the second by Aquifer Science to amend the amount of water applied for.

RELATED INTERVENING OCCURRENCES

in more-or-less chronological order

- August, 2010 – No. 14 Deep Well Protest Group (“Deep Well”) formed – local grassroots group organized “to challenge the Aquifer Science application to drill deep wells and draw 1500 acre feet of water per year in E. Mts”.
- Deep Well forms strategic alliance with SPCE to coordinate opposition efforts to Aq. Science application.

RELATED INTERVENING OCCURRENCES (cont'd)

- SPCE and Deep Well engage *non profit* NM Environmental Law Center (“NMELC”) to represent the two organizations jointly in the protest effort.
- Many people, including some residents of SPCE, elect to be represented *individually* by NMELC.
- Other individuals elect to represent themselves – “Pro Se” Protestants.

RELATED INTERVENING OCCURRENCES (cont'd)

- Pro Se protestants continue as part of the process, including defense in the Appeal trial.



***** There Are 4 Decision Criteria the OSE Uses for Deciding Water Applications *****

- 1) The availability of water.
- 2) Whether granting the application would result in impairment to existing water rights.
- 3) Whether granting the application would be detrimental to the public welfare of the State.
- 4) Whether granting the application would be contrary to the conservation of water within the State.

- All of these were presented during the original OSE hearing.
- However, the OSE Hearing Officer made his finding **on only one of these 4 criteria** - the absence of unappropriated water in the Sandia Underground Water Basin. On that basis he recommended that Aquifer Science's application be rejected. The previous state engineer issued the denial based on that one issue.

- In the appeal, Aquifer Science wanted all four of the criteria to be heard, *not just the one on which the State Engineer's decision was based.* The Protestants position was that the trial should address ONLY the one criterion on which the original denial of the application was based.
- The OSE (by now headed by a new State Engineer) concurred with Aquifer Science's position.

- Aquifer Science prevailed – all 4 criteria will be considered in the appeal trial.
- ***Throughout the original OSE hearing the Water Rights Division of the OSE sided with Aquifer Science on virtually all issues.
??????***



HOW MUCH WATER DO THEY WANT?

(H₂O math)

- 1 acre foot (AF) is the amount of water that will cover 1 acre (208' x 208') 1 foot deep.
- 1 acre foot = 325,851 gallons
- 1500 AF = 488,776,500 gallons!!
- *That's per year!!!!*
- The average family of 4 uses btw. 320 & 400 gallons of water daily -> 131,400 gals/year.



HOW MUCH WATER DO THEY WANT? Cont'd)



PERSPECTIVE



- SPCE has 379 lots
- $131,400 \text{ gals} \times 379 \text{ (lots)} = 49,800,600 \text{ gals/yr SPCE use (when fully built out)}$.
- ***Aq. Sci's original application was for nearly 10 times the amount of water SPCE will use annually when it's fully built out.***

HOW MUCH WATER DO THEY WANT? (Cont'd)

- During the OSE hearing the original application was modified to 717 AF.
- Which is “only” 5X the annual estimated amount of SPCE’s full appropriation.
- What a deal!!

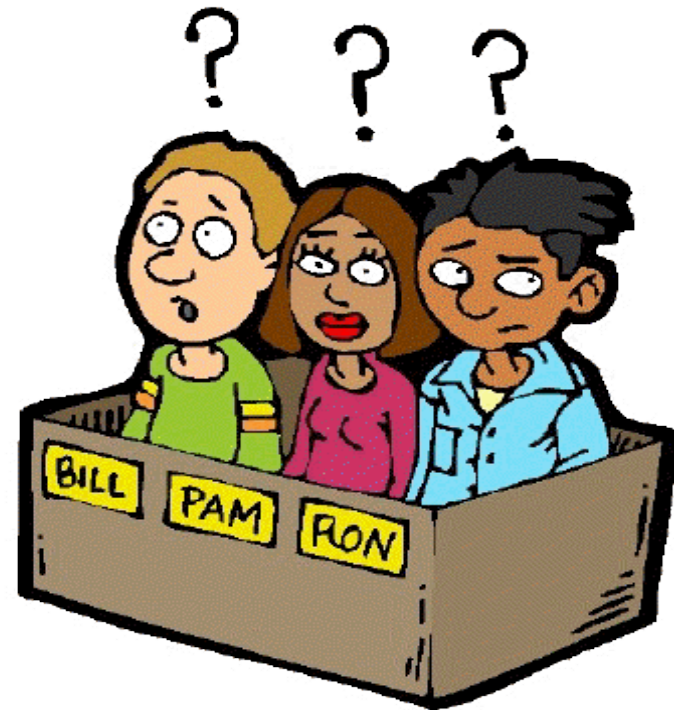


INFORMATION SOURCES

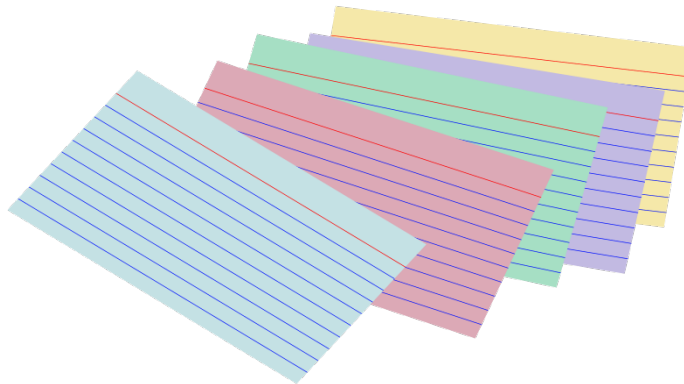
- deepwellprotest.org.
- www.nmenvirolaw.org/cases-water
- <http://www.ose.state.nm.us/WR/>
- <http://informationedgewood.blogspot.com/p/campbell-ranch-master-plan.html> -----



LIGHTNING ROUND



QUESTIONS?



A CORE VALUE PRINCIPLE:

WATER IS THE MOST ESSENTIAL ELEMENT OF LIFE.

**WITHOUT WATER YOU
CAN'T MAKE COFFEE.**



OR BEER !

