



RESOLUTION NO. 2013-04

A RESOLUTION ADDRESSING THE USE OF DOMESTIC (72-12-1) WELLS FOR WATER SUPPLY FOR SUBDIVISION OF LANDS FROM WHICH WATER RIGHTS HAVE BEEN PREVIOUSLY TRANSFERRED OR SEVERED

WHEREAS, the Estancia Basin Water Planning Committee (EBWPC) was formed by Memorandum of Understanding by the Counties of Bernalillo, Santa Fe, and Torrance; and the EBWPC was assigned the responsibility to recommend water resource management policies for consideration by the various governments within the jurisdiction in the Estancia Basin, and;

WHEREAS, the New Mexico Office of the State Engineer (OSE) declared the Estancia Basin fully appropriated and closed the basin to new appropriations on 4 July 2001, and the OSE recognizes nearly three times the amount of permitted water rights than the amount of water actually pumped throughout the basin; and the OSE currently administers the Estancia Basin under guidelines approved in June 2002; and the OSE has not proposed, nor has any immediate plans, to adjudicate the water rights within the basin, and;

WHEREAS, both permitted water rights and physical pumping of water far exceed the amount of annual recharge occurring to the basin, and whereas historic and current pumping has resulted in significant decline in water levels, and continuing declines in water levels are an on-going concern in the basin, and;

WHEREAS, there are no provisions in State law or in the OSE Estancia Basin guidelines to prevent redevelopment of land from which water rights have been transferred or severed, and such redevelopment could present a plan to the respective member Counties or other governmental entities for utilizing the existing domestic well (NMSA 72-12-1) statutes for an intended water supply for a proposed subdivision, and that the 72-1-1 statute currently requires the issuance of such permits by the OSE without further consideration of the impact or impairment caused by issuance of such permits, and;

WHEREAS, the provisions of NMSA 47-6-9 require the Board of County Commissioners to regulate subdivisions within the County's boundaries, including requirements to quantify the maximum annual water requirements of subdivision and to assess the water availability to meet the maximum annual water requirements of each new subdivision or development, and;

WHEREAS, the provisions of NMSA 47-6-9 does not limit the authority of Counties to adopt subdivision regulation with requirements that are more stringent than the requirements set forth in the New Mexico Subdivision Act, and NMSA 4-37-1 grants to Counties the same powers as granted to Municipalities which includes limited powers to regulate the drilling of domestic wells;

BE IT RESOLVED:

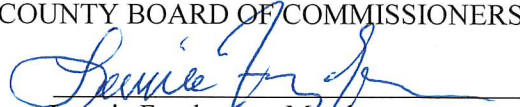
1. It is this policy of this County Commission that subdivision of lands within the Estancia Basin from which water rights have been previously severed, transferred, or have any way undergone a change in place or purpose of use (i.e. subject lands) shall

not subsequently be developed based on the use of domestic wells issued under provisions of NMSA 72-12-1, unless sufficient water rights were reserved for such development.

2. It is the County Commissions policy that development plans without reserved water rights are considered contrary to providing for the safety, preserving the health, and promoting the prosperity of the county and its inhabitants.
3. It is the direction of this County Commission to the County Manager and to the EBWPC that the proposed amendments allow for development utilizing domestic wells permitted under 72-1-1 provisions only if (a) water rights were severed from the land prior to effective date of the proposed amendments, (b) for lands in which a portion of water rights have been retained in an amount consistent with County ordinance requirements and that also meet or exceed the amount that would be assigned to the domestic well 72-1-1 permit(s) as issued by the OSE for subdivided property at the time of the subdivision application, and (c) for lands without prior rights assigned or declarations having been made as of the effective date of the proposed amendments.
4. It is the direction of this County Commission to the County Manager and County staff and to the EBWPC that redevelopment of land from which water rights have been severed must obtain water from a source other than domestic wells, for example, from a community water system (either existing or created) that has documented access to water rights and productive wells sufficient to meet the longevity and quality requirements of the County code.
5. It is the direction of this County Commission that the County Manager, in consultation with the EBWPC, develop and submit for approval proposed amendments to land use plans and Subdivision Ordinances to implement the above stated policy. The effective date of the amendments shall be no sooner than the date of the adoption of the amendment.

PASSED, APPROVED AND ADOPTED this 23rd day of January 2013.

TORRANCE COUNTY BOARD OF COMMISSIONERS



Lonnie Freyburger, Member



Leanne Tapia, Member



LeRoy M. Candelaria, Chairman



ATTEST:



Linda Jaramillo, County Clerk

Date