

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CONSTRUCTION INDUSTRIES DIVISION OF
THE NEW MEXICO REGULATION AND LICENSING DEPARTMENT
AND
THE NEW MEXICO OFFICE OF THE STATE ENGINEER

THIS MEMORANDUM OF UNDERSTANDING is entered into among the parties who are signatories, including the respective representative of the New Mexico Regulation and Licensing Department, Construction Industries Division and the Office of the State Engineer. The purpose of this agreement is to clarify the status of a water well driller licensure by the Office of the State Engineer, as a statutory exception to the Construction Industries Licensing Act, Section 60-13-1 through Section 60-13-59, NMSA 1978.

WHEREAS, the Construction Industries Division of the New Mexico Regulation and Licensing Department is designated by statute as the agency to license “contractors”, as defined in NMSA 1978, Section 60-13-3, and is also the agency to prevent work by unlicensed contractors, and

WHEREAS, the Office of the State Engineer is designated by statute as the agency authorized to license water well drillers, as per Section 72-12-12 through 72-12-17 NMSA 1978, and the Office of the State Engineer is also the agency to prevent work by unlicensed well drillers, and

WHEREAS, one of the expressed purposes of the Construction Industries Act, pursuant to Section 60-13-1.1 (B) NMSA 1978 is to effect... “elimination [of] the wasteful and inefficient administrative practices of dual licensing, duplication of inspection, non-uniform classification and examination of closely related trader or occupational activities, and jurisdictional conflicts”, and

WHEREAS, the Regulation and Licensing Department and Construction Industries Division are in agreement with the Office of the State Engineer that Section 60-13-3 (D) (2) NMSA 1978 serves to exempt and exclude “water well” drillers from licensing requirements under the Construction Industries Act, and

WHEREAS, in the interests of preventing any “dual licensing” issues pertaining to “water well” drillers by and between the Office of the State Engineer and the Regulation and Licensing Department, and to clarify administrative and regulatory lines of authority between the two state agencies concerning “water well” drillers, furthering the interests of avoiding “duplication of inspection” and “non-uniform classification and examination of closely related trades or occupational activities, and jurisdictional conflicts”, by and between the herein referenced state agencies, and

WHEREAS, the licensing of water well drillers is an issue of concern to the public health, safety and welfare of the State of New Mexico, and

WHEREAS, the Construction Industries Division of the New Mexico Regulation and Licensing Department desire to clarify that well drillers duly licensed by the Office of the State Engineer are not subject to licensure by the Construction Industries Division of the New Mexico Regulation and Licensing Department and that well drillers duly licensed by the Office of the State Engineer are authorized to bid, contract, and subcontract work directly related to water well installations.

IT IS AGREED AS FOLLOWS:

1. The Construction Industries Division will recognize a water well driller licensed by, and in good standing with, the Office of the State Engineer, as an entity authorized to bid and contract work directly associated with water well installations for the purposes of the Construction Industries Licensing Act.
2. The Construction Industries Division retains jurisdiction over any “subcontractor” of a “water well” driller, as per Section 60-13-3 (B) NMSA 1978 of the Construction Industries Licensing Act. A water well driller properly licensed by the Office of the State Engineer may bid, contract and sub-contract to a properly licensed contractor for the following:
 - A. Work described as Fixed works pursuant to 14.6.6.9 B. (3) NMAC.
 - B. Only electrical work to install, maintain, repair or replace electrical equipment, wiring, and accessories used in connection with water well pumps and equipment from the pump motor up to and including the first means of disconnect for the water well equipment.
 - C. Only work to install, maintain, repair or replace plumbing equipment and appurtenances, used in connection with the water well and it’s piping and equipment, from the well head to a point five feet outside of the building or structure that houses the well equipment or to the fullway valve installed immediately downstream of the discharge piping from the water well equipment if located within the building or structure.
3. The water well driller licensed by the Office of the State Engineer may not self-perform any work listed above in Section 2(A) or 2(B) or any other electrical or mechanical/plumbing work to which Section 60-13-45 NMSA 1978 of the Construction Industries Licensing Act is applicable. In all instances, work listed under Section 2(C) above may be self-performed by a well driller duly licensed by the Office of the State Engineer.
4. As provided by Section 60-13-3(D) (2) NMSA 1978, a water well driller licensed by the Office of the State Engineer shall not be required to comply with the Construction Industries Act or rules and regulations promulgated thereunder.
5. The Office of the State Engineer is responsible for the licensing and oversight of the water well drillers, in accord with Section 72-12-12 through 72-12-17 NMSA 1978, at all times relevant.

TERMS OF AGREEMENT:

1. This Memorandum of Understanding shall become effective upon signature of all parties below and shall remain in effect until terminated by a written agreement of the parties. If the parties terminate this Memorandum of Understanding, the Office of the State Engineer shall give notice of such termination to the New Mexico Ground Water Association, at the following address, at least ninety (90) days before the termination becomes effective:

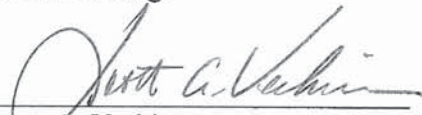
New Mexico Ground Water Association
PO Box 1556
Bernalillo, NM 87004

With a copy to counsel for the New Mexico Ground Water Association:

Taylor & McCaleb, P.A.
PO Box 2540
Corrales, NM 87048-2540

2. This Memorandum of Understanding may be amended at any time by the agreement of all parties. All amendments must be in writing and signed by all parties. If the parties amend this Memorandum of Understanding, the Office of the State Engineer shall give notice of such amendment to the New Mexico Ground Water Association in the same manner as notice of termination of this Memorandum of Understanding is to be given.

By the signature below of the authorized officers, the parties agree to this Memorandum of Understanding.

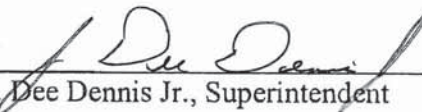


Scott A. Verhines, P.E.
New Mexico State Engineer

11.19.12

Date

New Mexico Regulation and Licensing Department

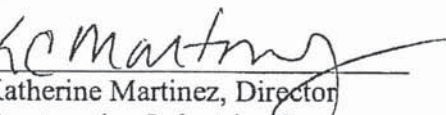


J. Dee Dennis Jr., Superintendent

11/14/12

Date

New Mexico Regulation and Licensing Department
Construction Industries Division



Katherine Martinez, Director
Construction Industries &
Manufactured Housing Division

11/13/12

Date