

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

States of North Dakota, Alaska, Arizona,)	
Arkansas, Colorado, Idaho, Missouri,)	
Montana, Nebraska, Nevada, South Dakota,)	
and Wyoming; New Mexico Environment)	ORDER DISMISSING STATE OF
Department; and New Mexico State)	COLORADO, NEW MEXICO STATE
Engineer;)	ENGINEER, AND NEW MEXICO
)	ENVIRONMENT DEPARTMENT
Plaintiffs,)	AS PLAINTIFFS
)	
vs.)	
)	
United States Environmental Protection)	
Agency, et al.)	Case No. 3:15-cv-059
)	
Defendants.)	

Before the Court are motions by the State of Colorado, the New Mexico State Engineer, and the New Mexico Environment Department to withdraw as plaintiffs from this action. See Doc. Nos. 259, 260, and 265. The State of Colorado filed its motion on March 18, 2019, the New Mexico Environment Department filed its motion on March 21, 2019, and the New Mexico State Engineer filed its motion on April 9, 2019. Id. The Defendants have not filed responses to any of the motions.

The moving parties request to withdraw as plaintiffs from this action. There is no procedural rule permitting a party to withdraw as a plaintiff from a multi-plaintiff case; however, the Court treats the pending motions as motions for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2) of the Plaintiffs’ claims against the Defendants. Rule 41(a)(2) permits a court to order dismissal without prejudice of an action “at the plaintiff’s request.” See Fed. R. Civ. P. 41(a)(2). Further, pursuant to Local Civil Rule 7.1(F), the Court deems the Defendants’ failure to respond to the motion as “an admission that the motion is well taken.” D.N.D. Civ. L. R. 7.1(F).

The Court **GRANTS** the motions (Doc. Nos. 259, 260, and 265) and **ORDERS** all claims by the State of Colorado, the New Mexico State Engineer, and the New Mexico Environment Department against the Defendants be dismissed pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure without prejudice and without attorney's fees, costs, or disbursements to any party. The Court further **ORDERS** the preliminary injunction lifted as to the State of Colorado, the New Mexico State Engineer, and the New Mexico Environment Department because the Court previously limited the scope of the preliminary injunction order of August 27, 2015, to only those entities before the Court. See Doc. Nos. 70 and 79. The preliminary injunction remains in effect as to Intervenor-Plaintiff Coalition of Arizona/New Mexico Counties for Stable Economic Growth.

IT IS SO ORDERED.

Dated this 14th day of May, 2019.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court