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1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico

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2 **WILDEARTH GUARDIANS,**

3 Petitioner-Appellant,



Mark Reynolds

4 v.

**NO. A-1-CA-37737**

5 **TOM BLAINE, in his capacity as**

6 **New Mexico State Engineer,**

7 Respondent-Appellee,

8 and

9 **MIDDLE RIO GRANDE CONSERVANCY**

10 **DISTRICT, and U.S. BUREAU OF**

11 **RECLAMATION,**

12 Real Parties in Interest.

13 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

14 **Francis J. Mathew, District Judge**

15 Samantha Ruscavage-Barz

16 Santa Fe, NM

17 for Appellant

18 Hector H. Balderas, Attorney General

19 Gregory C. Ridgley, Special Assistant Attorney General

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21 Santa Fe, NM

22 for Appellee

1 Law & Resource Planning Associates  
2 Charles T. DuMars  
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4 Albuquerque, NM

5 for Real Party In Interest

6 **MEMORANDUM OPINION**

7 **VARGAS, Judge.**

8 {1} Petitioner has appealed from an order denying its petition for writ of  
9 mandamus. We previously issued a notice of proposed summary disposition in which  
10 we proposed to affirm. Petitioner has filed a memorandum in opposition. After due  
11 consideration, we remain unpersuaded. We therefore affirm.

12 {2} The relevant background has previously been set forth. We will avoid undue  
13 reiteration here and instead focus on the content of the memorandum in opposition.

14 {3} First, Petitioner asserts that the district court’s denial of its petition for writ of  
15 mandamus should be reviewed de novo, because questions of statutory interpretation  
16 are presented. [MIO 2-3] We disagree. “Generally, the grant or denial of a petition for  
17 writ of mandamus is reviewed for an abuse of discretion.” *State ex rel. Stapleton v.*  
18 *Skandera*, 2015-NMCA-044, ¶ 5, 346 P.3d 1191. Although pure questions of statutory  
19 interpretation are reviewed de novo, *see id.*, “where, as here, the district court  
20 exercised its discretion to deny the writ petition for prudential reasons . . . we review  
21 the denial for an abuse of discretion.” *Fastbucks of Roswell, N.M., LLC v. King*,  
22 2013-NMCA-008, ¶ 7, 294 P.3d 1287. “A district court abuses its discretion if its

1 decision is contrary to logic and reason, or if it exceeds the bounds of reason, all the  
2 circumstances before it being considered.” *Id.* (internal quotation marks and citations  
3 omitted). For the reasons set forth at greater length in the notice of proposed summary  
4 disposition, we are not persuaded that this district court abused its discretion in this  
5 case.

6 {4} We understand Petitioner to suggest that concerns relative to the scope and  
7 nature of the authority of multiple federal and state governmental entities over the  
8 water rights and permits at issue should be disregarded, on grounds that those  
9 concerns were raised by only one of the parties, [MIO 3] and on grounds that those  
10 concerns are “extraneous” to the issue or issues that Petitioner seeks to narrowly  
11 define. [MIO 4-5] We disagree. The district court’s apparent recognition of the  
12 complexity of the situation was prudent, provident, and entirely permissible. *See*  
13 *generally id.* (recognizing that the district courts may exercise their discretion to deny  
14 mandamus relief for prudential reasons).

15 {5} Petitioner also continues to argue that the specific statutory provision invoked  
16 should be understood to establish a clear and undisputable duty on the part of the State  
17 Engineer. [MIO 6-12] Petitioner offers a plausible interpretation of the specific  
18 regulatory provision at issue; however, that is not the only possible interpretation. As  
19 described in the notice of proposed summary disposition, the relevant statutory and  
20 regulatory provisions are susceptible to one or more alternative interpretations which

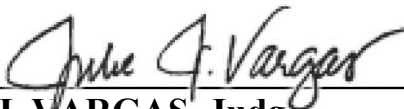
1 would permit the Office of the State Engineer to elect among a variety of options,  
2 apparently at his discretion. [CN 4-6] A mandamus action is not appropriate under  
3 such circumstances. *See generally Schein v. N. Rio Arriba Elec. Coop.*, 1997-NMSC-  
4 011, ¶ 22, 122 N.M. 800, 932 P.2d 490 (“Relevant rights and duties must be  
5 established before a writ of mandamus can issue.”); *El Dorado at Santa Fe, Inc. v. Bd.*  
6 *of Cty. Comm’rs*, 1976-NMSC-029, ¶ 5, 89 N.M. 313, 551 P.2d 1360 (holding that  
7 mandamus is not appropriate to “direct the performance of the particular act from  
8 among two or more allowed alternatives”); *Mimbres Valley Irrigation Co. v. Salopek*,  
9 2006-NMCA-093, ¶ 19, 140 N.M. 168, 140 P.3d 1117 (“[M]andamus is only  
10 appropriate to compel an official to perform a duty if the duty is clear and  
11 indisputable.”); *Brantley Farms v. Carlsbad Irrigation Dist.*, 1998-NMCA-023, ¶ 23,  
12 124 N.M. 698, 954 P.2d 763 (“Mandamus does not issue to control a discretionary  
13 duty.”).

14 {6} To be clear, we do not take a position on the proper interpretation or application  
15 of the various statutory and regulatory provisions that bear upon the underlying  
16 matter. We merely conclude that the district court did not abuse its discretion in  
17 denying the requested peremptory writ of mandamus, given the complexity of the  
18 situation and the lack of clarity relative to the duty to perform as alleged. *See State ex*  
19 *rel. Black v. Aztec Ditch Co.*, 1919-NMSC-057, ¶ 6, 25 N.M. 590, 185 P. 549 (“The  
20 duties which will be enforced by mandamus must be such as are clearly and

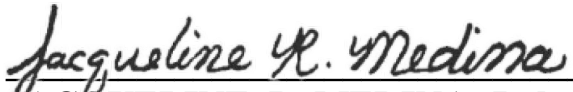
1 peremptorily enjoined by law, and where for any reason the duty to perform the act  
2 is doubtful the obligation is not imperative and the applicant must pursue other  
3 remedies.”).

4 {7} Accordingly, for the reasons stated above and in the notice of proposed  
5 summary disposition, we affirm.

6 {8} **IT IS SO ORDERED.**

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8 \_\_\_\_\_  
JULIE J. VARGAS, Judge

9 **WE CONCUR:**

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11 \_\_\_\_\_  
JACQUELINE. R. MEDINA, Judge

12   
13 \_\_\_\_\_  
ZACHARY A. IVES, Judge