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

2 **IN THE MATTER OF THE PROTEST**
3 **OF SAIZ TRUCKING AND EARTHMOVING,**
4 **TO ASSESSMENT ISSUED UNDER**
5 **LETTER ID. NO. L0680042816,**

6 **SAIZ TRUCKING AND**
7 **EARTHMOVING,**

8 Protestant-Appellant/Cross-Appellee,

9 v.

NO. 35,026

10 **NEW MEXICO TAXATION AND**
11 **REVENUE DEPARTMENT,**

12 Respondent-Appellee/Cross-Appellant.

13 **APPEAL FROM THE TAXATION & REVENUE DEPARTMENT**

14 **Dee Dee Hoxie, Hearing Officer**

15 Wayne G. Chew, P.C.

16 Wayne G. Chew

17 Albuquerque, NM

18 for Appellant/Cross-Appellee

19 Hector Balderas, Attorney General

20 Elena Morgan, Special Assistant Attorney General

21 New Mexico Taxation & Revenue Department

22 Legal Services Bureau

1 Santa Fe, NM

2 for Appellee/Cross-Appellant

3 **MEMORANDUM OPINION**

4 **KENNEDY, Judge.**

5 {1} The disposition in this memorandum opinion relates only to the cross-appeal
6 filed by New Mexico Taxation and Revenue Department (the Department). The
7 Department filed a cross-appeal from the hearing officer's administrative decision
8 denying the Department's motion to reconsider. Unpersuaded that the Department's
9 docketing statement demonstrated error, our notice proposed summary affirmance
10 relative to the Department's cross-appeal. The Department has not filed a
11 memorandum opposing summary affirmance, and the time for doing so has expired.
12 For the reasons in our notice, we affirm. Saiz Trucking and Earthmoving's direct
13 appeal, alone, will proceed to be decided on the general calendar.

14 {2} The Department's cross-appeal is **HEREBY AFFIRMED.**

15 {3} **IT IS SO ORDERED.**

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18 **WE CONCUR:**

RODERICK T. KENNEDY, Judge

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20 **JAMES J. WECHSLER, Judge**

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2 **J. MILES HANISEE, Judge**