

**F I L E D**  
United States Court of Appeals  
Tenth Circuit

**UNITED STATES COURT OF APPEALS**

March 16, 2007

**TENTH CIRCUIT**

Elisabeth A. Shumaker  
Clerk of Court

PUBLIC SERVICE COMPANY OF  
COLORADO,

Plaintiff - Counter-Defendant -  
Appellee,

v.

BOARD OF COUNTY  
COMMISSIONERS OF SAN  
MIGUEL COUNTY, State of  
Colorado; ELAINE FISHER, San  
Miguel County Commissioner in her  
official capacity; ART GOODTIMES,  
San Miguel County Commissioner in  
his official capacity; VERNON  
EBERT, San Miguel County  
Commissioner in his official capacity;  
THE SAN MIGUEL COUNTY  
PLANNING DEPARTMENT, State of  
Colorado; MICHAEL ROZYCKI, San  
Miguel County Planning Director, in  
his official capacity,

Defendants - Appellees,

PATHFINDER DEVELOPMENT,  
INC.,

Defendant - Counter-Claimant -  
Appellee,

WILLARD F. JANKE,

Intervenor - Appellant.

No. 06-1187

(D.C. No. 1:04-CV-1828-RB-CBS)  
(D. Colo.)

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**ORDER AND JUDGMENT\***

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Before **BRISCOE**, **HOLLOWAY**, and **LUCERO**, Circuit Judges.

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Willard F. Janke appeals the district court's denial of his motion to intervene in Pub. Serv. Co. of Colo. v. Bd. of County Comm'rs, No. 04-RB-1828 (D. Colo. Sept. 2, 2004). Because we determined that case is moot, we remanded with instructions to dismiss. Pub. Serv. Co. of Colo. v. Bd. of County Comm'rs, Nos. 05-1295 & 05-1321 (10th Cir. 2007). Accordingly, Janke's appeal is **DISMISSED** as moot.

ENTERED FOR THE COURT

Carlos F. Lucero  
Circuit Judge

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\* This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 (eff. Dec. 1, 2006) and 10th Cir. R. 32.1 (eff. Jan. 1, 2007).