Attorneys argue for and against Augustin Plains Ranch application

Ranch proposes to drill up to 37 wells near Dilat

By T.S. Land
El Defensor Chieftain

Secore

An Office of the State Engineer hearing began arguments over whether the application to pump 54,000 acre-feet of water per year from the San Agustín Basin should be approved, during a hearing at the Secor-Chieftain Courthouse on Tuesday.

After hearing arguments on two motions to dismiss the application, Hearing Examiner Andrew Coree said he would submit his report, "failing that," to State Engineer Scott Verhoes, who will make the final decision. He said he is due to complete his report within 90 days of receiving Coree's report.

If approved, the OSL would have to further review whether the project should be approved.

The application was initially filed more than two years ago by Augistin Plains Ranch LLC, which is proposing to drill as many as 37 wells up to 3,000 feet deep in an area north and south of U.S. 60, near the Seco-Chieftain town limits. The water was to be used for irrigation or transported to the Rio Grande Basin for a water right of unspecified use. The amount of water is about 1.2 million gallons a day in an area of 1,000 acres or more.

The application was initially presented by more than 100 residents, ranchers and several municipalities, including the state engineer and state legislature. More than 200 testimony requests were made to be heard by the public on the proposed project.

To Whose Benefit?

Fredrick Fredrickson, an attorney with the New Mexico Chapter of the Environmental Defense Center, representing about 88 of the participants, said that the application should be denied.

"The application doesn't comply with the law, and the state engineer has no authority to approve or even consider it," he said. "The proponents have not presented the necessary information that the state engineer should be allowed to review." "The application does not comply with the law, and the state engineer has no authority to approve or even consider it," he said. "The proponents have not presented the necessary information that the state engineer should be allowed to review." "The application does not comply with the law, and the state engineer has no authority to approve or even consider it," he said. "The proponents have not presented the necessary information that the state engineer should be allowed to review." "The application does not comply with the law, and the state engineer has no authority to approve or even consider it," he said. "The proponents have not presented the necessary information that the state engineer should be allowed to review."

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A Moving Target

The application, Fredrickson said, is subject to change without notice, and more than 200 people attended the hearing, which lasted about 70 minutes.

"The application should be denied because it is not based on sound science," he said. "The application should be denied because it is not based on sound science," he said. "The application should be denied because it is not based on sound science," he said. "The application should be denied because it is not based on sound science," he said. "The application should be denied because it is not based on sound science."
Today’s water grab may be tomorrow’s deliverance

Newly appointed State Engineer Scott Verhines just made his first big decision, denying an application to Augustin Plains Ranch to draw 37 wells across and 3,500 feet deep, and pump 54,000 acre-feet of water a year for 30 years. That’s a breath-taking amount of water — enough to supply half of Albuquerque’s needs. In fact, the Rio Grande Valley would be the market.

The 900-plus opponents are relieved, temporarily. You can be sure that APR will appeal and it knows it. It is challenging the decision and hired big-name hydrologists, engineers, lawyers and PR people, and has probably settled into a legal campaign.

What’s the bigger issue here, who’s not among the opponents — communities along the Rio Grande, commercial interests and big irrigation organizations. The live on a thirsty, dry landscape. For them, Verhines or an additionalDesert Ranch Rancho, you might consider less orthodox sources of water.

If you lived in Catron County, 54 percent of water comes from wells, you’d fight it, too.

APR doesn’t see itself as the bad guy here. Owners have explained that in the process of developing wells for ranch use, they found an unused new source — every developer’s dream.

In the world of water use, we talk about diversions — moving water from one use to another. APR claims this is the “first new supply of potable water to enter the New Mexico water system since the Office of the Territorial Engineer was formed in 1907.”

APR would “solve supply water problems in New Mexico while managing this scarce resource for the common good.” It would deliver its water to those who need it most, a decision to be made with elected officials, water managers and end users. And the project wouldn’t hurt the supplies of its neighbors.

The lead attorney representing opponents was Bruce Frederick, a New Mexico-based hydrologist who says the project boils down to speculation. Other opponents have said water would go to the highest bidder.

Disclaimer: After deciding to write about this, I learned that I not only know the hydrologist and the engineering and PR firms, but had previously worked for all of them. It doesn’t make me instantly sympathetic — if I lived in Dalt, I’d still be worried — but my exposure to them taught me something about population growth, supply and demand, and the short-cuts of oil and water law.

That said, if the decision were mine, I would have tried a pilot project and not scared everyone to death with plans of this magnitude.

Verhines denied the application because it was “vague,” overly broad, lacked specificity, and the fees of granting it cannot reasonably be evaluated.

But the denial is “without prejudice,” meaning that APR can come back and try again in court.

He said no, but he didn’t slam his fist on the table.

“Just because society becomes increasingly dense in urban areas, we remain encouraging to innovations in water movement around the state,” Verhines said in his news release.

A reasonable application, he explained, would show demand and use for the water; plans that can be scrutinized, credible backing contracts, and proof that it won’t harm others in the process.

Flann is the biggest hurdle. APR insists its consultants have a good picture of the aquifer, but no one knows, if people in their gut, question how many anybody really knows.

It’s a contentious time. Water needs in the Rio Grande corridor will increase, the population of Catron County is growing. Ranchers have tradition and law on their side, the developers have money on theirs. In between is the State Engineer.

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Augustin Plains Ranch files appeal

Action contests decision made by state engineer

By John Fleck

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Santa Fe

A partnership that wants to pump groundwater from its high desert ranch in central New Mexico to the Rio Grande Valley went to court Monday to appeal a state decision to deny its water rights application.

“We believe this is a great project that deserves a hearing,” said Tom Carroll, spokesman for Augustin Plains Ranch L.L.C. in a statement issued Monday afternoon. “We would like to go forward and make our case to the state that we can deliver a large volume of new water in a sustainable manner, with no harm to the ranchers in the area.”

New Mexico State Engineer Scott Verhines last month turned down the Augustin Plains Ranch’s proposal to pump 50,000 acre-feet of water per year — an amount equivalent to the Albuquerque metro area’s entire annual municipal and industrial water consumption.

Verhines ruled the project violates state water law by not specifying where the water will go and who will use it.

The Augustin Ranch partnership’s proposal is one example of a trend in water supply management in the western United States, pumping groundwater from rural areas to population centers to meet growing demand, and it has drawn similar controversy.

In Nevada, a Western Nevada and the Las Vegas area have proposed a major pipeline from rural northeastern Nevada to meet the city’s growing needs. In California, a Mojave Desert ranch owner has proposed pumping groundwater for use in cities on Southern California’s coastal plains.

In all three cases, the proposals have run into the same complaint — that pumping water would hurt the rural areas that are losing the water supplies.

In New Mexico, however, Verhines appeared to short circuit that argument, saying that by not specifying the purpose of use, the application violates state water law. The Augustin Ranch partnership says that in general, the water would be used to sustain the Rio Grande Valley for use there, but the partnership refuses to name specific users.

Not ruling had the effect of throwing out the case before the state even considered complaints of Dalti area ranchers that the
State rejects Ranch’s water application

Decision could be appealed or proposal refiled

By T.S. Last
El Defensor Plus
plast@defensorplus.com

Santa Fe

An application for a permit to pump massive amounts of groundwater from beneath the San Augustine Plains in west-central New Mexico was denied by the New Mexico State Engineer’s Office in Santa Fe.

But it may not end there, as law firm Augustin Plata Ranch, LLC, which filed the application to drill 37 wells to pump 54,000 acre-feet of water per year from the basin in 2007 said the decision was issued without prejudice, meaning the Ranch could refile the application or appeal the state engineer’s decision in district court.

And on Monday, a spokesman for the Ranch said those options were being weighed.

“We think this is a great step toward the end of the process,” said Tom Carroll, who works for a New Mexican public relations firm representing the Ranch.

“We are looking forward to the opportunity to spend the next year or so explaining why it’s good and why it won’t impact water rights.”

application:

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Application:

...is taken, a commitment to proper planning and contractual arrangements must also be in place.

The decision was reached on Monday, according to a press release issued by the State Engineer Scott Verhines ruled against the application because it was vague, overly broad and lacked specificity. The wells were to be drilled on both sides of the Otay and Sante Fe counties line near Olds, north and south of US 60.

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“We are looking forward to the opportunity to spend the next year or so explaining why it’s good and why it won’t impact water rights.”

Still lingering

The decision was good news for those who opposed the application.

“I’m very happy about the state engineer’s decision,” said Bruce Forbes, an attorney with the Environmental Law Center who represented about 200 protesters. “We think it was justified by law and absolutely correct. We only wish that the application was thrown out a few years ago when the application was first submitted. There was really no legal way for them to do it then. They just wasted the opportunity to take a claim to a hearing.”

Roy Farr, chairman of the San Augustine Water Coalition, a grassroots group formed to protect water resources in the area, said he and others were elated when the news broke on Monday.