

BEFORE THE NEW MEXICO STATE ENGINEER

IN THE MATTER OF THE)	
CORRECTED APPLICATION FILED)	
BY AUGUSTIN PLAINS RANCH, LLC.,)	Hearing No. 17-005
FOR PERMIT TO APPROPRIATE)	OSE File No. RG-89943 POD 1
GROUNDWATER IN THE RIO)	through POD 37
GRANDE UNDERGROUND WATER)	
BASIN IN THE STATE OF NEW MEXICO)	

Joinder in the Community Protestants' Reply to the Augustin Plains Ranch's Response in Support of their Motion for Summary Judgment and Catron County Board of County Commissioners' Reply in Support of Motion for Summary Judgment

COMES NOW, Protestant San Augustin Water Coalition ("SAWC"), by and through its attorneys, Simeon Herskovits and Iris Thornton, of Advocates for Community and Environment, and hereby joins in the Community Protestants' Reply to the Augustin Plains Ranch's ("APR's") Response in Support of their Motion for Summary Judgment and Catron County Board of County Commissioners' Reply in Support of Motion for Summary Judgment. For the reasons set forth in the Community Protestants' and Catron County's briefs, APR's application is, on its face, impermissible under New Mexico law. In particular, the information provided in APR's application makes it plain that APR's "Project" is nothing more than a proposal to engage in a nakedly speculative water sales program without any existing contractual or agency relationship in place with any actual prospective beneficial user of the groundwater to which APR seeks a permitted right. As such, APR's application is a textbook example of an application to engage in pure commercial water speculation of the sort that long has been prohibited under basic prior appropriation principles of New Mexico water law and the water laws of New Mexico's closest sister state, Colorado. *Millheiser v. Long*, 10 N.M. 99, 116-117 (N.M. S. Ct. 1900); *Cartwright v. Public Services Co.*, 66 N.M. 64, 107 (N.M. S. Ct. 1958) (Frederici, J., dissenting); *Augustin Plains Ranch, LLC, v. Verhines*, No. D-728-CV-2012-008, Memorandum Decision on Motion for Summary Judgment, at 23-30 (N.M. Dist. Ct. Nov. 14, 2012); *Colorado River Water*

Conservation Dist. v. Vidler Tunnel Water Co., 594 P.2d 566, 568-89 (Colo. S. Ct. 1979).

Accordingly, SAWC respectfully urges the State Engineer to comply with his obligation under the law to dismiss APR's application.

Respectfully submitted this 1st day of December, 2017,



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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2017, a copy of the foregoing was sent via U.S. Mail to all Parties Entitled to Notice as located on the Office of the State Engineer's website, <http://www.ose.state.nm.us/HU/AugustinPlains.php>, revised 11/17/17.

I further certify that on December 1, 2017, a copy of the foregoing was sent via electronic mail to the following parties:

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