

121923-Summary of December 15 filings

For your reference, here is the Summary of the arguments and judgments re Augustin Plains Ranch Limited and all of its machinations about getting around, the latest "Summary Judgment" (2022) by the NM State Engineer's Office, upheld by the District Court and the authorities of the State Engineer's Office. To wit:

<https://caselaw.findlaw.com/court/nm-court-of-appeals/2182695.html>

OPINION

{1} After reviewing the State Engineer's decision to deny Appellant Augustin Plains Ranch, LLC's (Applicant) application to appropriate groundwater, the district court dismissed with prejudice Applicant's 2014 Application to appropriate groundwater from the San Agustin Basin. We reverse and remand because we determine the district court erred in applying collateral estoppel.

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What Is Collateral Estoppel ?

Collateral estoppel, known in modern terminology as issue preclusion, is a common law estoppel doctrine that prevents a person from relitigating an issue. One summary is that, "once a court has decided an issue of fact or law necessary to its judgment, that decision... preclude[s] relitigation of the issue in a suit on a different cause of action involving a party to the first case".

All of this "hoorah," is about the Applicants' Augustin Plains Ranch Limited, desire to re-open the entire case by arguing for an "evidentiary hearing," on the merits of their 2014 Application (which was denied) and "dismissed with prejudice."

Applicant Was Not Entitled to an Evidentiary Hearing

{8} Applicant first argues it was entitled to an evidentiary hearing on the merits of the 2014 Application, and the failure to hold one requires this Court to reverse the district court's summary judgment determination and remand to the State Engineer with instructions to set such a hearing. Applicant grounds its argument in certain provisions in the water code, specifically NMSA 1978, Section 72-2-16 (1973, amended 2015)² and NMSA 1978, Section 72-2-17 (1965).

Background

{3} The district court affirmed the State Engineer's order regarding the 2007 Application. In relevant part, it determined that the 2007 Application was facially inadequate because it failed "to specify the beneficial purpose and the place of use of water, contrary to NMSA 1978, [Section] 72-12-3(A)(2),[](6) [(2001, amended 2019)].¹" It also determined the 2007 Application "contradict[ed] beneficial use as the basis of a water right and the public ownership of water, as declared by the New Mexico Constitution."

Money Talks...But Not In This Case....

{5} Multiple parties filed motions for summary judgment to the district court. Applicant, in its own summary judgment motion, again argued it was entitled to an evidentiary hearing and that it had demonstrated sufficient evidence of a specific plan to appropriate groundwater to survive summary judgment. Community Protestants and Catron County argued the 2014 Application should be denied on the basis of collateral estoppel, the facial inadequacy of the application, and because the application was speculative. The State Engineer's arguments focused on the speculative nature of the application.

Bottom-Line

The original application (2007) and subsequent application (2014) were all denied because they were "speculative," in nature and intent, and both applications failed to demonstrate, (and even contradicted) any meaning of "beneficial use" as the basis of a water right and the public ownership of water, as declared by the New Mexico Constitution."

Memo to the Applicant.... "Shut the hell up.."