

STATE OF NEW MEXICO
COUNTY OF CATRON
SEVENTH JUDICIAL DISTRICT COURT

FILED
7th JUDICIAL DISTRICT COURT
Catron County
12/14/2018 4:50 PM
CLERK OF THE COURT

Stephanie Vega

AUGUSTIN PLAINS RANCH, LLC,

Applicant/Appellant,

v.

D-728-2018-00026
Judge Matthew G. Reynolds

TOM BLAINE, P.E.,

New Mexico State Engineer/Appellee,

Appeal from a decision of the
New Mexico State Engineer
in OSE Hearing #17-005

and

CATRON COUNTY BOARD OF COUNTY
COMMISSIONERS, *et al.*,

Protestants/Appellees.

**THE COMMUNITY PROTESTANTS'
MOTION FOR SUMMARY JUDGMENT**

The Protestants represented by the New Mexico Environmental Law Center (collectively “the Community Protestants,” who are listed on page 3 *infra*) hereby move the Court for summary judgment dismissing the Augustin Plains Ranch’s (“APR’s”) Corrected Application¹ to Appropriate Ground Water from the Rio Grande Underground Water Basin (the “Current APR Application”). This Motion for Summary Judgment (“Motion”) is made on the following grounds, which are explained in more detail in the Memorandum in Support of Motion for Summary Judgment that the Community Protestants are filing with this Motion.

¹ APR and the State Engineer refer to the APR Application as “Corrected” because it changed inaccurate descriptions of the locations of proposed wells in an earlier version of the Application, not because it addressed any of the substantive issues that are the bases of the Community Protestants’ Motion for Summary Judgment.

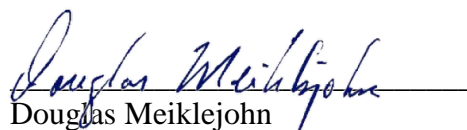
The first basis for the Community Protestants' Motion is that the Current APR Application should be dismissed because it is invalid on its face for the reason that it does not set forth the information that is required for an application to appropriate ground water.

The second ground for this Motion is that there is no merit to the allegation made by APR in the proceeding before the State Engineer below that APR was entitled to an evidentiary hearing before the State Engineer but was inappropriately denied such a hearing.

The third basis for the Community Protestants' Motion is that the substance of the Current APR Application has already been determined to be facially invalid, and the doctrine of collateral estoppel indicates that the Current APR Application should be dismissed. The determination that the substance of the Current APR Application is invalid was made by this Court in 2012 in case number D-728-CV-2012-00008. That case addressed the APR Application that was filed in 2007 and 2008, which is materially identical to the Current APR Application.

Dated: December 14, 2018.

NEW MEXICO
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CERTIFICATE OF SERVICE

I certify that on December 14, 2018, copies of the foregoing Motion for Summary Judgment and the Community Protestants' Memorandum in Support of their Motion for Summary Judgment (with attached exhibits) were sent by electronic mail to the following parties entitled to notice:

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