

# Attorney: Water decision correct

By John Larson - El Defensor Chieftain Staff Writer Aug 27, 2018

[http://www.dchieftain.com/news/attorney-water-decision-correct/article\\_18dcf988-a634-11e8-b02f-8b9dcf6dc483.html](http://www.dchieftain.com/news/attorney-water-decision-correct/article_18dcf988-a634-11e8-b02f-8b9dcf6dc483.html)

The State Engineer made the right decision in denying Augustin Plains Ranch a permit to pump water from the San Agustin Plains to municipalities and businesses in the Rio Grande Valley, an attorney representing residents opposed to the project said.

It didn't take Augustin Plain Ranch LLC long to decide to appeal last month's decision by the State Engineer's Office.

According to a legal notice published in the Aug. 16 edition of El Defensor Chieftain, Augustin Plains Ranch will be appealing the Summary Judgment by the Office of the State Engineer.

The decision essentially negated the need to hold a full evidentiary hearing on APR's application for a permit to drill 37 wells to pump 54,000 acre-feet per year from the Agustin aquifer and offer the water – via a pipeline – to northern New Mexico entities and communities.

The appeal, Augustin Plains Ranch, LLC vs. Tom Blaine, et al. was filed August 13 in Catron County, Seventh Judicial District Court.

Blaine is the state engineer.

New Mexico Environmental Law Center's Douglas Meiklejohn, who is legal representation for some of the protestants, told the Chieftain he thought the matter was decided correctly.

"We thought the state engineer made the right decision and disappointed the ranch is appealing," Meiklejohn said. "We think the issue was decided correctly by the state hearing officer and that ought to be the end of it."

He said the court will call for a scheduling conference to decide when the appeal will be heard.

"Then we will enter our appearance," he said. "At this point we don't know why they appealed or what kind of arguments they will bring before the judge."

Regardless, Meiklejohn said, "We feel matter should be concluded with the state engineer's decision."

That decision was deemed final.

"In the absence of a specific plan to appropriate a specific quantity of water for specific identified beneficial uses, there is no showing of a non-speculative need, which is a requirement for the issuance of a permit under which a water right may be developed," the Hearing Officer wrote. "All of the findings of fact and conclusions of law set out above collectively support the conclusion that APR's Corrected Application is speculative and should be denied."

State Engineer Blaine signed off on the order, stating, “I accept and adopt the report and recommendation of the hearing examiner this day of July, 2018.”

Augustin Plains Ranch appealed a previous decision by the Office of the State Engineer, which was denied by Seventh District Court Judge Matthew Reynolds in 2016.