

Supreme Court side-steps water grab issue

Nov 6, 2014

http://www.dchieftain.com/news/supreme-court-side-steps-water-grab-issue/article_6194b413-5e9e-51d4-99f5-a8ce03ee9939.html

The New Mexico Supreme Court last week chose not to consider a petition filed by Ray and Carol Pittman of Datil to order the Office of the State Engineer to dismiss an application from San Augustin Plains Ranch LLC.

As outlined in its application, the company's plan is to pump 54,000 acre-feet of water per year from the San Augustin aquifer and transfer it by pipeline to sell to communities as far north as Rio Rancho.

The Pittmans had asked the Supreme Court to determine whether public water shall remain open to appropriation for beneficial use or whether public water can be monopolized by speculators, not for their own use, but for profitable sales in future markets.

The petition for the writ of mandamus was filed by New Mexico Environmental Law Center attorney Bruce Frederick for the Pittmans on Sept. 22.

In the petition, the Pittmans argue that a second application filed by the company this summer is "identical in all material respects" to its original application filed in 2007, which was denied by the state engineer.

Frederick said the court may have rejected it because of a separation of powers issue.

"We're still in limbo," Frederick said. "The application is still sitting there in the state engineer's office."

Frederick said the state engineer must reject the 2014 application for the same legal reasons that he denied the 2007 application.

Carol Pittman said she and her husband still have recourse.

"We are going to back to the court of Judge Reynolds, who has already denied the current application, and ask him to enforce it," Carol Pittman said. "We won't give up until we absolutely have to."