

8/23/24 - State Auditor Investigates CRRUA & Another Water Win on the Augustin Plains Ranch Case - NMELC Press Release

*Reserve, NM*—On Friday, August 23, Judge Roscoe Woods of the 7th Judicial District entered a final order that the New Mexico State Engineer was correct in denying an application to mine and hoard tens of thousands of gallons per year of San Agustin Plains groundwater.

The water transfer application was submitted by Augustin Plains Ranch (APR) LLC, a New York-based company owned by Italian billionaire Bruno Modena. **This is yet another water win for New Mexico.**

The judge's decision was based on the fact that the application is **speculative**—ruling that APR failed to point to any end users that would rely on the water. New Mexico state law does not allow anyone to hoard water for someone's hypothetical future use.

On April 5, in a standing-room-only courtroom, nearly one hundred community members heard the arguments of several attorneys awaiting a ruling on APR's request to pump 54,000 acre feet per year of groundwater from the San Agustin Plains, a closed groundwater basin (meaning the basin has no outlet ) and the basin is not recharged by perennial streams. A closed basin will not be recharged or replenished and once the groundwater is pumped out the basin will be dry.

The community members fighting against the water grab include small landowners, mostly from the Datil and Magdalena areas, who came together to protect the groundwater which they rely on for their homes, gardens and livestock from this request to pump massive amounts of groundwater.

**Ricky and Patty Lindsey**, adjoining landowners to the Augustin Plains Ranch, said after the April 5 hearing, "We were very relieved by Judge Woods' ruling and the knowledge that our groundwater is safe for now—and are hopeful that this will come to an end after all these years."

**Pattie and John Preston**, other members of the "Community Protestants" group, said, "This is a real win for our community, the local businesses and the ranchers."

Following the hearing, Judge Woods held a presentment hearing on August 23rd to hear additional arguments from the attorneys for the State Engineer and Augustin Plains Ranch about the specific wording to be included in the final order based on his oral ruling from the bench in April.

"Judge Woods entered the most complete and detailed form of final order, citing important New Mexico case law to support his ruling, and thus protect the groundwater," said **NMELC Staff Attorney Ann McCartney**. "The judge's final order keeps this precious water in the ground for now and upholds New Mexico law on beneficial use governing appropriation of water," said McCartney.

For 17 years, residents have been fighting against the removal of the fossil groundwater from the basin after APR filed its first application in 2007 to remove the water. The decision marks the third time the denial of APR's application by the State Engineer has been upheld by a Court.

"Community Protestants, year after weary year, have fought against the water speculation proposed by APR and are beyond ready for this to be over," said McCartney.

APR has 30 days after the entry of a written order to appeal Judge Woods' decision to the New Mexico Court of Appeals.