May 17, 2019 – update (051719-APR-v-Blain-update)

Hello Protestants and Community,
Motions in Response to various motions for Summary Judgment have been filed in the Augustin Plains case – four of them. Admittedly, although I am reading the motions, I don't know all the legal ins-and-outs, so I won't attempt to summarize these new motions. What I will do is inform you that the New Mexico Environmental Law Center has spent many hours on our behalf to refute the claims of the Augustin Plains Ranch LLC (APR) that they deserve an "evidentiary hearing". Others filing similar documents add to and complement the NMELC arguments against the APR's claim.

Remember that the Motions for Summary Judgment request the Court deny the application because it lacks specificity, that it is speculative.

From the Catron County filing: "APR has failed to provide an actual, specific plan to use water in a specific amount, for a specific purpose, at a specific location." ... "The Court also held that 'not only does the underground water permitting statute require specificity, the constitutional mandate of beneficial use as the basis of a water right requires specificity of the actual place and use of water, along with all the other definite elements required to create a right'." These two statements support the argument that the APR application should be denied, and that a request for an evidentiary hearing is also denied.

I am puzzled that the judge in this case has allowed this request to go forward. Why did he want to hear arguments about an evidentiary hearing when this is an obviously speculative application? What APR wants is a two-stage hearing, the first on the hydrology of the Plains basin, the second scheduled so as to allow them time to come up with contracts to sell water. They've already had 12 years to do that, and they have not succeeded!

A reminder: don't forget the hearing on June 26 in Reserve at the Courthouse, 10:30am. Your presence is essential and much appreciated.

Let me know if you want any of the documents just filed.