

# Judge rules against Augustin Plains Ranch in water dispute

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By John Larson Jul 26, 2019 Updated Jul 30, 2019

“The people of New Mexico should not have their water tied up any longer with possibilities,” Seventh District Judge Matthew Reynolds wrote in a decision reached last week, essentially closing the door on a plan to divert 54,000 acre-feet-per-year from the Plains of San Agustin to entities along the Rio Grande. In other words, the most recent denial by the Office of the State Engineer (OSE) of an application for a permit by Augustin Plains Ranch LLC (APR) will stand.

The decision was hailed by opponents of the plan, as well as 49th District Rep. Gail Armstrong who said the judgment was “a victory for the farmers, ranchers, and communities surrounding the San Agustin Plains.”

“The proposal to mine the aquifer and sell it to communities outside of the basin was a bad deal from the start,” Armstrong said in a press release. “This ancient aquifer is part of a closed system, and once the water is removed from the basin, it can’t be replaced. Finally, the people living on the San Agustin Plains can rest easy knowing that our water and western way of life will be protected.”

Previous applications to allow APR to mine water from the plains had been denied by the State Engineer for essentially the same reasons; lack of specificity and beneficial use. APR didn’t like those decisions, so in December, 2018, its attorneys for filed an appeal in Seventh District Court.

The Italian-owned company first applied in 2007 to drill 37 wells on property it owns on the plains west of the Very Large Array. The original plan was to pump the water into the Rio Grande at Elephant Butte. That application was denied. The company then re-applied with a different plan; to construct a pipeline running north from Socorro to make the water available to municipalities and entities as far north as Rio Rancho.

At heart of the judge’s decision was the lack of a specific use for the water, and that the application was not for appropriation but instead for diversion of water. In other words, the end users – any entity along the proposed pipeline northward – would be the ones appropriating it. And those end users would be deciding how to use it, contrary to the New Mexico Constitution.