

2015 Water Grab Summary

1/15/2015

Bruce Frederick left the Environmental Law Center. The application filed by Augustin Plains Ranch LLC early in 2014 was denied but a new application was filed with the State Engineer on 23 Dec 2014.

1/32/2015

The State Engineer has the application, but is not publishing it as he must do before it can be acted upon. He can sit on it indefinitely (and maybe hope we'll go away?) and until it is noticed in local papers we cannot take any action. So here's what we have to do: 1) watch the local papers for an announcement of the new application and 2) protest at that time.

6/11/2016

A motion has been filed in the seventh Judicial District "Motion to Remand for the Appellant to File a Withdrawal of the Application". That seems to mean that if the earlier application is withdrawn (the one we have defeated), "Bruce's concern is that we do not want to facilitate returning the matter to the State Engineer Office because that Office seems to want the application to move forward." (From Doug Meiklejohn, June 9, 2015.)

6/28/2016

Hello All,

Many of you already know that the Bernalillo County Commission has approved the Santolina Master Plan, Level A (Level B and Level C will refine the general provisions in the plan). Subsequently the Commission also approved the Development Agreement. As all of you know, the Augustin Plains Ranch LLC has been defeated twice on the basis of no "beneficial use". Santolina could easily become beneficial use.

For anyone interested in a description of what happened here is a link to the story: <http://nmpoliticalreport.com/4284/santolina-master-plan-approved-legal-challenges-ahead/> The New Mexico Environmental Law Center is fighting the Santolina decision in court, and they are also fighting to stop the Augustin Plains Ranch LLC's attempt to mine water.

Carol Pittman

Below for those interested is a well-written description of the water situation in the Middle Rio Grande written by the leader of the opposition to the Santolina project. Keep in mind that the State Engineer has designated the Augustin Plains as part of the Middle Rio Grande basin.

Santolina Master Plan: The water battle continues

By Dr. Virginia Necochea, Director, Center for Social Sustainable Systems (CESOSS)

The entire state of New Mexico should be concerned about what the Santolina Master Plan represents - a disenfranchising of the larger public in issues that will directly impact them. Almost two years have passed in this process and it has been evident at every hearing that the community, especially those connected to agricultural and acequia traditions, have remained largely opposed to this development. One of the main reasons is and will continue to be regarding the question of water.

The Santolina developers, the Albuquerque Bernalillo County Water Utility Authority (ABCWUA), and including some of the commissioners themselves have publicly stated that the 14,380 acre feet per year of water that would be required to support Santolina is not a concern.

First of all let's put this amount of water into perspective. The amount of water needed by Santolina at build-out would be the equivalent to a new Rio Rancho, 150% of Santa Fe's water supply for an equivalent population, or 300% of Intel's water supply during its peak period[1].

During the May 28th hearing, Norm Gaume testified and submitted an insightful report regarding continued water concerns with Santolina. In his report Mr. Gaume states, "Santolina's additional depletions would substantially increase the difficulties of New Mexico's Rio Grande Compact compliance, the risk of non-compliance, the ABCWUA's associated risk of curtailment of its junior water rights, and the impact of such a curtailment on ABCWUA's existing customers. Others in the Middle Rio Grande also would be adversely affected." It doesn't take a water expert to realize that the impacts from Santolina would be greatly felt by especially those whose livelihoods depend on water.

[1] This information was taken from Norm Gaume's presentation and report to the BCC. Contact info@cesoss.org for an electronic copy of Norm Gaume's report.

7/19/2016

Official: New Mexico water debate to be shaped by transfers

(This is copied from the Washington Times (on-line) from the AP wire service.)

By SUSAN MONTOYA BRYAN - Associated Press - Monday, June 1, 2015

ALBUQUERQUE, N.M. (AP) - Drought has eased its grip on New Mexico, but the arid state still will be faced with having to weigh proposals that call for transferring water across basins to where it's needed most, a top water official said Monday.

State Engineer Tom Blaine told members of a legislative committee focused on water and natural resource that inter-basin transfers are going to become a hot topic.

He pointed to a plan to pipe billions of gallons of drinking water from rural western New Mexico to more populated areas.

The Augustin Plains Ranch application was first rejected more than two years ago after the previous state engineer determined the proposal was vague and its effects could not be reasonably evaluated. It was one of the most contested filings in the history of the state engineer's office.

A court battle ensued and a new application was filed in December. It will be up to Blaine's office to decide whether to clear the way for a hearing on the latest proposal.

"These are issues that really are concerning," he told lawmakers. "We need to develop some strong approaches on how we're going to address these and what are the impacts of taking (agriculture) water out of production. There are serious, serious questions that need to be asked."

Before the Augustin Plains proposal, another group of developers floated a plan to move water from eastern New Mexico to populated counties along the Rio Grande valley. That, too, was rejected by state officials.

Now, New Mexico has years of planning ahead of it as it tries to decide what to do with its share of the Gila River under a settlement with Arizona. Some proposals have called for piping water out of the basin to other thirsty areas.

Some lawmakers suggested New Mexico needs to take a look at decades-old laws that govern the reallocation of water rights and transfers as drought persists.

Sen. Joe Cervantes, D-Las Cruces, whose family irrigates hundreds of acres of farmland in southern New Mexico, said he misses the days of seeing water reach the lower stretches of the Rio Grande.

"The bottom line is we're moving water to various parts of the state. We're moving it here to Santa Fe, we're moving it to Albuquerque," he said. "We're going to have to figure out how to move water from places it exists to where it's needed."

After four straight years of severe drought, New Mexico has started to turn the corner. Late-season snowfall in the higher elevations, cooler temperatures and back-to-back spring storms have combined to make for the best conditions the state has seen since 2010.

Still, weather forecasters say it will take even more rain to erase the long-term effects of the drought.

Copyright © 2015 The Washington Times, LLC.

8/12/2015

A motion was filed by the Augustin Plains Ranches to deny the Abbe Springs Ranches request to stop their actions with the state engineer to drill wells. Abbe Springs Ranches were the specific protestant in the documents. A response was sent to them. Here is the email that came with the response:

From: Douglas Meiklejohn

Sent: Thursday, August 13, 2015 9:15 AM

To: Carol Pittman

Subject: Response to motion to dismiss and remand

Good morning Carol,

I have attached a copy of the final version of the response to the Augustin Ranch's motion to dismiss and remand that we filed yesterday.

I realize that it is changed from the earlier version that you saw, and I apologize for not running this by you before we filed it. I think that the arguments are essentially the same as the ones in the earlier version, and I hope that neither you nor any of the other people involved has concerns about the response. I also have attached for your information a copy of the response that was filed by the Cuchillo Valley Community Ditch Association. If it is not too much trouble, I would be grateful if you would forward these to the other people who have been involved in reviewing the earlier draft of our response.

The Augustin Plains Ranch, LLC now has 18 days in which to file replies to the two responses that were filed. I will of course let you know when we receive those replies. It is possible that the Judge will set a hearing to have oral arguments on the motion, but I do not know whether that will happen or when the hearing will be if one is scheduled.

9/26/2015

A hearing was set on 12 Nov 2015 on the motion to dismiss and remand.

11/12/2015

Judge Reynolds today ruled that his denial of the Augustin Plains Ranch's application stands!

This is big news as the APR tried to do an end run around that decision, claiming that the motion to return the application to the State Engineer was just good housekeeping, a need to clean up a decision that was sent to the Court of Appeals and then withdrawn by the APR. The judge, citing the law, pointed out that an appellant withdrawing an appeal left the decision of the lower court in place.

We have won this skirmish in the ongoing water battle, but we still must be vigilant, knowing that the international corporation controlling this process will probably be back. And when I say "we", I do mean "we". All of us together have done this, with the help of the New Mexico Environmental Law Center who represented us. All of us who have stayed with this fight for eight years have made this effort a success.

And it wouldn't go amiss if you wanted to send a note of thanks to Doug Meiklejohn, who led this fight in court today. Doug can be reached at dmeiklejohn@nmelc.org Both Doug, and Bruce Frederick -- when he was as the Law Center -- did so much for us.