

State engineer denies water speculator bid

Environmentalists cheer decision against company that seeks to tap billions of gallons of groundwater in Western New Mexico and pipe it to undisclosed areas

Santa Fe New Mexican · 7 Aug 2018 · A-6 · By Sarah Halasz Graham sgraham@sfnewmexican.com

In a move hailed by environmentalists and nearby landowners, New Mexico's top water-rights official has dismissed as speculative a company's application to tap billions of gallons of groundwater from a closed basin deep beneath the Plains of San Agustin in Western New Mexico.

The denial is the latest twist in the 11-year quest by Augustin Plains Ranch LLC to siphon off 54,000 acre-feet, or 17.6 billion gallons, of water annually and pipe it to as-yet-undetermined communities in Central and Northern New Mexico.

Douglas Meiklejohn, executive director of the Santa Fe-based New Mexico Environmental Law Center and a pro bono lead attorney for those opposing what they see as a speculative and potentially harmful project that includes international investors, says it is "by far the largest" groundwater rights request in state history, though a spokeswoman for the Office of the State Engineer could not confirm that.

By comparison, Albuquerque-area residents use about 30 billion gallons a year.

In his denial of the application, a hearing examiner in State Engineer Tom Blaine's office denounced the "striking absence of information" in the applicants' description of the water's end use, citing New Mexico law that prohibits water speculation and requires water rights be put to a beneficial use.

No municipalities in the seven counties listed as potential customers have signed contracts to purchase the water rights, and only one, the city of Rio Rancho, has indicated an interest in potentially striking a deal.

"All (the ranch) has established is that it wants to appropriate and convey water to uncommitted municipalities or entities in unknown quantities," the decision reads.

"That's backwards," said Michael Jensen, a spokesman for the New Mexico Environmental Law Center. "You're supposed to identify the buyer, then request the permit."

In an email statement to reporters, Michel Jichlinski, a Washington, D.C.-based investor and the ranch's project manager, bemoaned the decision as "short-sighted" and "a win for ignorance."

"The short-sightedness is driven by political expediency," he said. "While it will get some politicians more comfortably reelected, it is a continuation of decades of mismanagement which put the state way behind the rest of the country in terms of poverty, growth and job opportunities."

In a phone conversation several weeks ago, Jichlinski described the project as a public service and its corporate sponsors as a band of Robin Hoodesque advocates.

The public discourse was phrased "as if we were the ones stealing the water from the people of New Mexico, when in fact it's the exact opposite," he said.

Without the group's intervention, the water is "just sitting there" without a use, he said. It could be used to fill cities' water needs or replenish flows in drought-stressed streams.

Jichlinski is one of a handful of investors in the project. The company is majority owned by the land owners, the Modena family, originally from Milan, Italy. The family purchased the land, located in rural Catron County, in the 1970s. As the project has taken shape, investors have bought in, including a private equity company based in the United Kingdom, Jichlinski said.

This is the third time the ranch's application has been denied. The group's original application was filed in 2007.

The group has 30 days from the July 31 decision to either request the state engineer to reconsider, or to file an appeal. They also can file a new application.

If an appeal is requested and granted, the case will be heard in state district court in Socorro. Jichlinski said owners are weighing their options.

For residents of the plains, many of whom have invested money in fighting the ranch's proposed 37 wells, it's more than a question of speculation.

Carol Pittman and her husband moved to rural Datil, on the edge of the plains, in 1996, their sights set on a rural spot from which to enjoy retirement.

For Pittman, who has helped spearhead the nearly 1,000 opponents of the project, not only was the ranch's application speculative, it also could have had a devastating impact on local landowners' water access.

This particular battle is over, she said, but the fight against corporate water speculation still is raging.

"We have to be vigilant," she said. "Water is so important now, and profitizing water is a gold mine for [companies]. ... Who knows what the next scheme will be?"