

by Eileen Dodds

The San Agustin Plains and its environs provide habitat for large herds of elk, pronghorn antelope, and numerous small game. Bear and cougar also call it home, and the southern Plains is part of the territory of the reintroduced Mexican grey wolf. Approximately 800 people live here as well.

Ghosts of ancient archaeological sites share space on this giant Pleistocene lakebed with the Very Large Array (VLA) radio telescope, where scientists listen to the cosmos.

Ranching took root in the 1870's, and descendants of those early families are still here, carrying on the traditions of their forefathers in this unforgiving land. Communities, too, have grown up on the edges of the Plains. People came here to be left alone, governing their lives according to their own individual ideas. Self-sufficiency was and is a way of life, but neighbors can be counted on to help each other in times of trouble. Politics are not always important, but water is.....

This way of life is now under siege. A speculator has come into our midst who is not planning to use the water on his land for his own use. He plans to sell it to third parties for profit, and pump it far away from the San Agustin basin. If he is successful in his efforts to pump huge amounts of water out of the San Agustin basin, lack of groundwater will destroy a way of life that has been carefully nurtured over the last century and a half.

The Augustine Plains Ranch, LLC (hereinafter APR) filed an application (#RG-89943) with the Office of the State Engineer (OSE) in October, 2007, to permit the appropriation of groundwater in the Rio Grande Underground Water Basin by drilling 37 wells to depths of 2000 feet "with the intent of diverting and consumptively using 54,000 acre feet of groundwater per annum for domestic, livestock, irrigation, municipal, industrial, and commercial purposes, to include providing water to the State of New Mexico to augment its capacity to meet the Rio Grande Compact deliveries to the State of Texas...at Elephant Butte dam...to offset effects of groundwater pumping on the Rio Grande in lieu of retirement of agriculture via pipeline to the Rio Grande..."

In an effort to put this water mining proposal into perspective, 54,000 acre feet is about 17.6 billion gallons of water to be removed from the ground and sent out of Catron County annually until it is gone. Albuquerque Public Works data showed 2008 usage for all of Albuquerque and greater Bernalillo County to be 32.3 billion gallons for its population of about 550,000. Therefore, the APR expects to mine, sell, and transport away

from the Plains enough water to supply half of Albuquerque. Every year. Until its gone.

This initial application drew over 500 protestors, including the Middle Rio Grande Conservancy District, the Interstate Streams Commission, the VLA, State and Federal agencies, the Pueblos of Acoma, Santa Ana, Isleta, Sandia, and San Felipe, the Navajo Nation Department. of Justice, and citizens of Catron and Socorro Counties, to name but a few.

APR filed an amended application in May, 2008, repeating the initial parameters, and adding possible use of the water for "environmental, recreational, subdivisions, and other related areas..." They also increased well depth to 3000 feet in an attempt to circumvent the then-existing State control of water below 2500 feet. This drew an additional 450 plus protestors from all over the state, making this the largest number ever to object to an application.

This water will be sent down the Rio Grande to Texas, or sold to developers or others, with little regard for the rural communities and wildlife habitat it will impact. Several attorneys representing the interests of the protestants have deemed this application vague and speculative, and have called for it to be denied. According to Bruce Frederick, staff attorney for the New Mexico Environmental Law Center, "by law, no corporation or any other person can monopolize or hoard an entire supply of free public water for the purpose of speculative future sales.." (*El Defensor Chieftain*, 2/23/11)

Mr. Frederick, who represents about 80 of the protestants, filed a motion to dismiss this application, as has Steven L. Hernandez and Samantha R. Barncastle, who represent the MRGCD. The APR has until April 15, 2011, to file written arguments with the OSE refuting the motion to dismiss, and replies to those arguments are due by May 15, 2011. Oral arguments before an OSE hearing officer are tentatively scheduled for the week of May 20, 2011 at a place not yet determined. Given the speculative nature of the application, there is a good chance the motion to dismiss will be granted as it was in the Berrendo application (see report on page ???).