

For Texas Now, Water and Not Oil Is Liquid Gold

April 16, 2001

By Jim Yardley

New York Times

Texas .- The dirt road winds through the gray hills of T. Boone Pickens's sprawling Mesa Vista Ranch when an unlikely swath of green grass appears like an emerald in a sandbox. It is a lushly irrigated two-hole golf course, a playpen for a wealthy man, and a reminder that beneath this bleak, isolated terrain lies one of the prime untapped reserves of water in Texas.

And Mr. Pickens, the former oilman and corporate raider whose takeover bids once struck terror in boardrooms, has more in mind for the Mesa Vista than golf. At a time when nearly every major city in Texas is desperate for more water to meet runaway population growth, Mr. Pickens is proposing to pump tens of billions of gallons Ñ to the highest bidder.

"Water is the lifeblood of West Texas," said Mr. Pickens, 72, who is courting Fort Worth, Dallas, San Antonio and El Paso as potential customers and estimates that a deal could reap \$1 billion. "They've got to get it somewhere."

For decades the gold beneath the ground in Texas was oil. But if oil built modern Texas, water is now needed to sustain it.

Water has become so valuable that a complicated scramble is under way for the rights to underground aquifers, reminiscent of the days when "land men," among them a young George W. Bush, solicited rural landowners to drill for oil. There are even "water ranches" popping up around the state.

The unanswered question is whether all this activity will skew who gets water and who does not in the future, or influence how much it will cost. In many parts of the country, water is considered a life-sustaining public resource. So there are already public policy concerns about whether pumping water for profit could threaten supply in some areas. Rural officials fear that large cities could simply outbid them in a profit-driven market. And Texas law offers few restrictions; groundwater is considered private property, and any landowner

can pump the water out even if it leaves neighbors high and dry.

"You're going to devastate a large part of the state of Texas," said Tom Beard, a rancher who said he feared that arid West Texas could be pumped dry by water ranches owned by distant cities. "I'm not sure we can afford to treat water like cotton or cattle. And certainly not like oil. The approach to oil was to pump it up, use it up and do something else. We can't do that with water."

Throughout the country, drought and population growth have placed a premium on water. Such demand is amplified in Texas after four droughts in five years. The state's population is 20.8 million, second only to California's, and demographers predict that it will double in 50 years. Already, El Paso must find new sources of water or it could run out in 20 years. The Rio Grande, a primary water source for counties along the Mexican border, is so dry that this month it failed for the first time in 50 years to reach the Gulf of Mexico, stopping 50 feet short.

Until now, Texas has largely avoided the contentious political fights over water familiar to Western states like Arizona. But the Texas Legislature is considering a sweeping piece of legislation known as Senate Bill 2 that could determine how water is regulated and what is done to meet demand in the state for the next half-century. Regional water planning groups have proposed \$17 billion in public works projects, conservation efforts and irrigation improvements. Lawmakers say it could cost at least \$80 billion to upgrade the state's aging municipal water systems.

The political debate is complicated. Environmentalists want more conservation and tougher regulation, as opposed to new dams and aggressive pumping of groundwater. There are the competing demands of agriculture and urban areas. There are also differing needs and climates in the state's various regions, some of which depend on reservoirs and other surface sources while others depend on underground aquifers. The divide is starkly rural versus urban, particularly over who should have priority in times of drought when a water source is shared.

A major sticking point in planning is the difficulty in passing taxes to pay for any major water projects.

Legislators have already stripped Senate Bill 2 of a tax increase on water and sewer bills that would have raised several hundred million dollars a year. This lack of political will is one reason some lawmakers say water marketing — essentially allowing private companies to sell and move water like electricity — is the best solution.

"We can't pay for all of it — the state," said State Senator J. E. Brown, the influential Republican who is sponsoring the water legislation and who favors encouraging private efforts. "Either you've got to let the price of water go up, or we're going to have to collect fees."

State Senator David E. Bernsen, a Democrat who represents Beaumont, agreed that a fund-raising mechanism was needed for future water projects. But he warned of the potential consequences of privatization in a state where nearly 55 percent of the population depends on groundwater for drinking.

"It's kind of like the golden rule: those with the gold make the rules," Mr. Bernsen said. "If individuals like T. Boone Pickens are going to control groundwater, and water is already more valuable than oil, then they will set the economic policy for where Texas is going to grow. And that is a dangerous situation."

Here in Miami (pronounced my-AM-uh), which is tucked in a remote stretch of the Texas Panhandle, the equivalent of a water rush has been under way for more than year, though no major pumping has begun. Roberts County, which includes Miami, has fewer than 1,000 people and is hardly affluent. An acre of land costs only \$250 because the rugged terrain makes farming difficult at best. But it does sit atop a mostly untouched section of the immense Ogallala Aquifer, which stretches as far north as South Dakota.

On a recent Saturday afternoon, about 60 ranchers in dusty jeans gathered inside the Roberts County Courthouse as Mr. Pickens explained the latest developments in his deal. One rancher had already signed a contract to sell water to Amarillo. Another group was looking for a customer to lease water rights on 190,000 acres. The regional Canadian River Municipal Water Authority, which provides water for much of the Panhandle, will next month become the first to actually start pumping in Roberts County.

The flurry of activity can be traced to both profit and fear. While there is water farming in most Western states, the level of regulation is relatively tight. In Texas, all surface water is considered public, while groundwater is private. Under the "rule of capture" in Texas law, a landowner can pump without regard for his neighbors. This can create a race to pump water before the aquifer goes dry, particularly with so much demand for it.

"All of us in the back of our minds are asking, 'Is this the right thing to do?' " said Salem Abraham, the landowner who made the deal to sell water to Amarillo, albeit not for 25 years. "But you know you've got to do it or you'll get zero."

The safeguards to protect groundwater are local conservation districts, though their ability to restrict the pumping and export of water is limited. For example, Mr. Pickens's plan calls for building a pipeline and pumping enough water for a million people a year. Panhandle Ground Water Conservation District No. 3, which oversees Roberts County, initially tried to cut that volume in half. But Mr. Pickens prevented reduction by arguing that his proposed pumping level was the same as that already granted to the Canadian River authority, and that by law he should be treated equally.

C. E. Williams, manager of the conservation district, said the district's current policy allowed a landowner to pump the equivalent of 326,000 gallons annually for every acre. The Canadian River project controls 43,000 acres. Mr. Pickens controls 150,000 acres and is looking for 50,000 more, meaning that he could conceivably pump more than 60 billion gallons of water a year.

"We haven't ever seen any huge projects like this," Mr. Williams said, adding that the district could suspend pumping of all projects if the aquifer shows signs of undue depletion. "So it's kind of a fear of the unknown. If we make a mistake on this one, we affect generations to come for a long time. That's what makes me lay awake at night."

Mr. Pickens said his project would not endanger the aquifer. He noted that his proposal represented only a fraction of the amount of water already pumped by farmers in the Panhandle (more than 80 percent of the groundwater pumped in Texas is for agriculture). He also called his decision to sell a protective measure to ensure

that the Canadian River authority's deal did not pump the water from beneath his land.

"When you hear people say Boone Pickens is going to turn Roberts County into a Dust Bowl," he told the ranchers, "well, that's wrong. We're never going to be without water."

That is a matter of debate. Mr. Pickens's projections, which jibe with estimates by the local water district, show that his project would reduce the water in Roberts and three surrounding counties by 50 percent over the next 100 years. But state statistics show that the section of the Ogallala beneath the entire Panhandle is very stressed. There is little rainfall, and at the current consumption rate the Ogallala could be depleted in Texas in 70 years.

These sorts of regional water wars are percolating across Texas. El Paso has angered rural ranchers by buying or leasing several water ranches for possible future pumping. A private company, Metropolitan Water, is actively leasing water rights across central Texas. There are scores of such deals being cut or discussed. In response, at least 40 localities are asking the Legislature to create new groundwater districts.

"People are going after groundwater because it's a lot quicker and cheaper than having to develop a reservoir project, which can take 30 years," said Paul Sugg, a government liaison with the Texas Association of Counties, which represents all 254 Texas counties.

Mr. Sugg said some farmers in West Texas were talking about forming co-ops to sell water rights and, as a result, stop farming.

"What happens to land values, to local and regional economies that are often based on agriculture?" Mr. Sugg asked. "What happens to the tractor dealer and the local car dealer when a farmer says, 'Heck, I can make more money selling my water and stopping farming'?"