

## **Texas needs real water plan**

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*The following editorial ran Oct. 16 in the Waco Tribune-Herald:*

After making a fortune as a corporate raider and an oil wildcatter, T. Boone Pickens has hit upon a new scheme to sell Texas' most precious resource - water - to the highest bidder.

Pickens' water wildcatting scheme was rebuffed by several potential municipal customers. Now Pickens is trying to draw up a deal with the Waco-based Brazos Rivers Authority.

Texas' groundwater resource should be controlled for the highest and best use of all Texans, not for a few high-rolling water entrepreneurs.

Gov. Rick Perry, who called three special sessions to ensure passage of an unpopular redistricting plan, should ask lawmakers in the next session to pass much-needed comprehensive water legislation that abolishes the state's outmoded "rule of capture."

Texas is one of only six states that still follow the wasteful and antiquated "rule of capture" principle that permits landowners to pump dry the aquifers under their land.

Texas is the only western state, where water shortages are acute and a matter of life and death, that has not outlawed water rights governed by the rule of capture - derived from an English common-law doctrine that gives unregulated impunity to landowners to exploit groundwater even if the wells of surrounding neighbors go dry.

Four years ago, the Texas Supreme Court urged the Texas Legislature to pass comprehensive groundwater legislation to handle issues concerning the exploitation of groundwater since Texas courts are not equipped to handle groundwater disputes on a lawsuit-by- lawsuit basis.

At issue before the court was a lawsuit against the Ozarka Natural Spring Water Co. that pumped 90,000 gallons a day from under leased land until the wells of petitioners who lived in the area went dry.

Texas' groundwater conservation districts offer only spotty control and do nothing to prevent Pickens or other water miners from sucking underground aquifers dry and selling the water to anyone for any use, which could be to cities on the other side of the state or even out of state in Oklahoma, California or anyplace.

The so-called water reforms passed in recent years only nibbled around the edges of a statewide problem. Still, people like Pickens who own the biggest pumps and carry the

fattest checkbooks can obtain the most access to the Lone Star State's limited groundwater supplies.

Considering the risks and rewards of making a deal with Pickens' Mesa Water Inc., the municipalities of Dallas, Fort Worth, San Antonio and Amarillo have said, "Thanks, but no thanks."

The Brazos River Authority should do the same.

Texas needs to join the rest of the nation by doing away with the rule of capture and passing a comprehensive water plan that prevents water speculators from getting rich by exploiting a natural resource needed by all Texans.