



Watch Your Assets

Exposing the misuse and abuse of the public commons

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T is for 'Taking': Did Texas Sell T. Boone Pickens Powers of Eminent Domain?

A political shopping spree may have accelerated the efforts of Dallas billionaire T. Boone Pickens to hijack sweeping government powers of eminent domain. The tycoon wants these extraordinary powers to benefit his private utility companies: Mesa Water and Mesa Power. The \$1.8 million that Pickens spent on Texas' last two elections made him the state's No. 5 individual donor—up from No. 12 in 2002. Pickens wants condemnation powers to lay 320 miles of utility lines from suburban Dallas to the Texas Panhandle—with or without the approval of the owners of the private land that he would excavate.

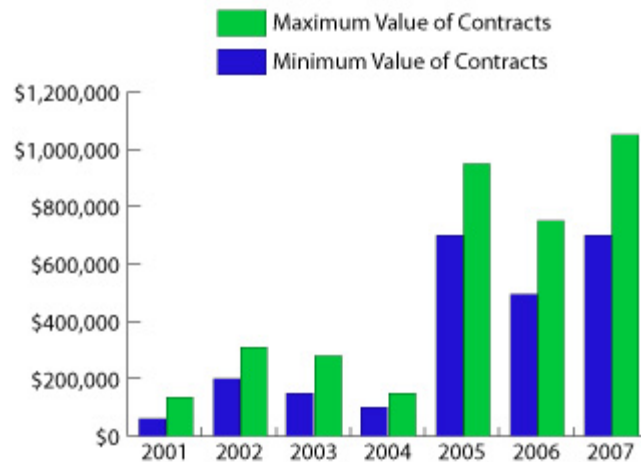
Pickens Becomes Texas' No. 5 Individual Donor

Election Cycle	Total State Donations	Pickens' Rank
2000	\$104,000	NA
2002	\$385,503	No. 12
2004	\$636,500	No. 5
2006	\$1,206,348	No. 5
	\$2,332,351	TOTAL

Such a power grab by a single entrepreneur would be stunning in a conservative state. As recently as 2005 Texas' Republican leaders appointed an interim legislative committee to study the abuse of eminent domain to promote economic development.¹ When appointed co-chair of this committee, Rep. Beverly Woolley (R-Houston) issued a stern warning in a House media release. "I believe it is important that private property be protected," Woolley said in the statement. "Eminent domain should be used in limited circumstances for necessary, traditional, public uses."²

In their very next session, however, lawmakers enacted legislation that helped put these expansive powers in Pickens' hands. With Pickens spending up to another \$1 million on state lobbyists this session, not a single lawmaker of either party voted against the legislation, which now is the law of the land.

Pickens Floods the Texas Lobby



See Appendix for lobby spending details and a listing of all Pickens' lobbyists (Tables 1 and 2).

Pickens made an initial fortune through his Mesa Petroleum, which expanded through aggressive buyouts of other energy companies—including those much larger than Mesa. Pickens later founded BP Capital, a hedge fund specializing in energy trades. His most recent venture, Mesa Water, seeks to make a fortune off the “new oil” through water rights he has purchased in the Texas Panhandle.

The vehicle for Pickens' related land grab is a state water law that allows a handful of people to form a so-called “fresh water supply district.”³ These districts wield the power to condemn private land for infrastructure far beyond their own borders. In this way, a Pickens-controlled district covering eight square miles in the Panhandle is on the verge of acquiring the power to condemn private land for a pipeline all the way to Dallas. Such districts also are authorized to raise cheap money by issuing tax-exempt bonds.

Although the legal requirements to form such a water district already were minimal, this year the legislature watered them down further. Going into the 2006 election that preceded this legislative fix, Pickens personally contributed \$1.2 million to state candidates and political committees. Recipients of his largesse included each of the 16 senators who faced election in 2006 and one-third of the 150-member House.⁴ Republicans received 94 percent of all the money that Pickens doled out to state candidates (see Pickens' contributions in the appendix, Table 3).

Pickens spokesperson Jay Rosser said in an interview that there is no connection between his boss's political activity and the recent changes to water-district law. “We weren't behind the changes in legislation,” he said. Rosser said the increase in Pickens' Texas political contributions mirrors an increase in Pickens' net worth that also has been accompanied by major increases in his charitable contributions. In May, for example, UT Southwestern Medical Center in Dallas and the M.D. Anderson Cancer Center in Houston each received \$50 million checks from the recently formed T. Boone Pickens Foundation.

Rosser did not dispute, however, that the water district that Pickens is seeking in the Panhandle would not have been viable without the recent legislative changes. Until last month, petitions to create a water district required the support of a majority of the registered voters within the proposed district's borders. Changes enacted this year dropped this electoral requirement for a

more feudal one. Now a district can be formed with the backing of whoever owns the majority of the appraised land value within its proposed borders.⁵ Similarly, the 2007 legislature revoked a requirement that only local registered voters could serve on the boards of these water districts. Now any Texas resident who owns property in the district can sit on the board.⁶ The newly relaxed requirements for board members seem particularly advantageous to Pickens.

Six weeks after Governor Rick Perry signed the new water-district rules into law, Pickens sold a total of eight acres of his sprawling Mesa Vista Ranch in the Panhandle to five people who depend on him for their livelihoods.⁷ Three of these buyers are Pickens company executives who live hundreds of miles from the Panhandle parcels that they bought from Pickens. The only local buyers were Alton and Lu Boone (no relation to T. Boone Pickens), who manage Pickens' ranch near the town of Miami in Roberts County.

Jive Five:

The Owners of Pickens' Proposed 8-Acre Water District

Landowner	Residence	Pickens Link
Robert L. Stillwell	Houston, TX	General Counsel, BP Capital
Ronald D. Bassett	Granbury, TX	COO, BP Capital
G. Michael Boswell	Dallas, TX	Vice President, Mesa Power
*Alton Keith Boone	Miami, TX	Manager, Mesa Vista Ranch
*Lu G. Boone	Miami, TX	Alton Keith Boone's wife

*Listed in Pickens' petition as "electors" who presumably will vote on the creation of the district on November 6, 2007.

A Pickens attorney then filed a petition with Roberts County Commissioners on August 6 to create a fresh water supply district to be confined to the eight acres of land that Pickens sold to his associates three days earlier.⁸ Although this petition was filed before the weaker rules governing water-district *petitions* took effect on September 1, this petition would not be viable without the legislature's recent changes affecting water-district *boards*.

Fresh water supply districts previously had to be governed by boards that consisted of five locally registered voters. Pickens' pending petition boasts only two people who meet these qualifications: Alton and Lu Boone. Thanks to the legislature, however, these qualifications for board members changed on September 1. Now any state resident who owns property within the district can serve on the board. This opened the door to the three Pickens executives who recently bought land within the proposed district but live hundreds of miles away.

Acting on Pickens' petition on September 4, Roberts County Commissioners voted 4-1 to hold an election on November 6 on whether or not to create the proposed water district. Apparently, the only people who will decide the outcome of the upcoming water-district election—that could affect millions of Texans—will be Alton and Lu Boone.⁹ Such a democratic farce could make a tinhorn dictator blush. (Will the county hold a runoff in the unlikely event that either Alton or Lu Boone vote against the express wishes of their patrón?) Yet this farce allows Pickens to leverage broad governmental powers—condemning land and issuing municipal bonds—without any semblance of governmental accountability.



The Ogallala Aquifer covers parts of eight states.

Pickens' ranch and the proposed water district sit on the vast Ogallala Aquifer, which covers parts of eight states. Since electric irrigation pumps became widespread in the late 1940s, the Ogallala has lost an estimated 11 percent of its total volume.¹⁰ Due to its notoriously slow recharge rate, little of its water is replenished. Most of the aquifer's water has been there since the last ice age.

Pickens caught the water bug in 1997, when the Panhandle's Canadian River Municipal Water Authority bought the rights to water under land near his ranch to supply Amarillo and Lubbock.¹¹ The oil tycoon knew that tapping the aquifer from neighboring properties would draw down water under his land, too. So he organized some of his neighbors, bought up vast water rights and sought a way to sell aquifer water himself.

To deliver the water to a lucrative, big-city market, the Pickens camp first applied to form a fresh water supply district in 2002. It abandoned this effort when it ran into serious challenges.¹²

This round Pickens is better positioned. In addition to benefiting from the legislature's newly weakened requirements for water districts, Pickens has sweetened the deal by promising a substantial public benefit. The new plan calls for investing \$10 billion to build the world's largest wind farm in the Panhandle.¹³ The 320-mile water pipeline that Pickens has proposed building over private land would include power lines to transmit clean wind energy to the smog-covered Dallas area. "At some point, portions of Texas—such as the Dallas Metroplex—will face critical shortages of energy and water," says Rosser. Pickens' project is a way to meet these critical public needs.

Yet Mesa Water also has said that the pipeline will allow it to legally extract up to 200,000 acre-feet a year from the Ogallala Aquifer. The indulgent pumping limits set by the Panhandle Groundwater Conservation District would permit the loss of half of the aquifer's remaining waters by 2050 in order to feed the metropolitan area that leads the state in per-capita water consumption.



Aerial view of houses in the Dallas area. Getty images.

Texas has an urgent need to develop clean energy sources such as the wind farm that Pickens has proposed. Yet other companies are pursuing wind projects here and other tycoons—including Warren Buffett and the Hunt family of Dallas—want to string new transmission lines across the state.¹⁴ Texas can offer private investors a solid return on clean-energy investments without

granting broad powers of eminent domain to a water district in a tycoon's pocket and without gutting one of the world's largest aquifers. Texas can make better deals on much better terms. It should.

NOTES:

¹ This followed the Texas Legislature's passage of SB 7, which sought to reverse the effect of the U.S. Supreme Court's controversial 2005 decision *Kelo v. City of New London*.

² "Speaker Craddick appoints Rep. Beverly Woolley as co-chair to the Interim Committee to Study the use of the Power of Eminent Domain," Texas House news release, October 14, 2005.

³ This authority stems from a 1919 statute created to finance drainage projects.

⁴ Pickens also gave money to most of the 16 senators who did not face a 2006 election. The all-Republican exceptions were: Robert Duncan (Lubbock), Troy Fraser (Horseshoe Bay) and Kel Seliger (Amarillo). Seliger's district includes Roberts County, where Pickens seeks to create his water district.

⁵ See HB 2983 by Rep. Brandon Creighton (R-Conroe) and the identical SB 1179 by Sen. Glenn Hegar (R-Katy). The law also requires the backing of at least 50 people owning land inside the district *if* there are 50 landowners there. This is *not* the case in the district Pickens is pursuing in the Panhandle's Roberts County.

⁶ See HB 2984 by Rep. Brandon Creighton (R-Conroe) and the identical SB 1178 by Sen. Glenn Hegar (R-Katy).

⁷ *The New York Times* reported in 2003 that Pickens owned 121,685 acres of rural land in Texas and Oklahoma and that his Mesa Vista home covered 22,000 square feet. "A Takeover Artist's New Target Is Land," *New York Times*, October 5, 2003.

⁸ The so-called "Roberts County Fresh Water Supply District No. 1." See "Pickens proposes Roberts County water district," *Amarillo Independent*, August 30, 2007; "Kaufman County won't vote on Pickens' pitch for freshwater district," *Dallas Morning News*, September 5, 2007; "Billionaire's Power Play," *The Bond Buyer*, September 9, 2007.

⁹ While T. Boone Pickens himself is registered to vote in Roberts County, he no longer owns land within the proposed water district. A month before the election, Roberts County officials said they had determined that Alton and Lu Boone were eligible to vote but they had not decided if T. Boone Pickens himself would be eligible. Pickens spokesman Jay Rosser said that his understanding is that just Alton and Lu Boone would vote.

¹⁰ See "Water in Storage and Approaches to Ground-Water Management, High Plains Aquifer, 2000," U.S. Geological Survey, Circular 1243, pages 32-34. <http://pubs.usgs.gov/circ/2003/circ1243/pdf/C1243.pdf>

¹¹ The City of Amarillo separately bought rights to 72,000 acres of water in 1999 from Roberts County landowners led by Mood Land & Cattle Co.'s Salem Abraham.

¹² Opponents challenged the first district that Pickens proposed by petitioning the county to form a rival, countywide district that would be democratically controlled. After this challenge, the Pickens group withdrew its first petition in 2003.

¹³ Pickens has proposed building up to 2,700 turbines over 200,000 acres to generate 4,000 megawatts of electricity.

¹⁴ See "Buffett, Gates, Pickens May Profit From Texas Power Shortage," *Bloomberg News*, September 17, 2007.

Appendix:

Table 1: Pickens Floods the Lobby

Year	Min. Value of Contracts	Max. Value of Contracts	No. of Contracts
2001	\$60,000	\$135,000	3
2002	\$200,000	\$310,000	3
2003	\$150,000	\$280,000	5
2004	\$100,000	\$150,000	1
2005	\$700,000	\$950,000	9
2006	\$495,000	\$750,000	7
2007	\$700,000	\$1,050,001	10
TOTAL:	\$2,405,000	\$3,625,001	38

**Table 2:
Pickens-Related Lobby Contracts, July 2007**

Client	Min. Value of Contracts	Max. Value of Contracts	Lobbyist
Mesa Water	\$200,000	\$200,001	Monty G. Humble
Mesa Water	\$150,000	\$200,000	Joe Bill Watkins
Mesa Water	\$100,000	\$150,000	J.E. 'Buster' Brown
Mesa Water	\$50,000	\$100,000	Bill Jones
Mesa Water	\$50,000	\$100,000	John L. Howard, Jr.
Mesa Water	\$50,000	\$100,000	Molly J. Cagle
Mesa Water	\$25,000	\$50,000	Brian F. Feld
Mesa Water	\$25,000	\$50,000	Darrick W. Eugene
Mesa Water	\$25,000	\$50,000	Nora Del Bosque
Mesa Water	\$25,000	\$50,000	Jennifer E. Brown
Boone Pickens	\$10,000	\$25,000	Bill Jones
BP Capital LP	\$0	\$10,000	Glen A. Rosenbaum
BP Capital LP	\$0	\$10,000	Monty G. Humble
TOTAL	\$710,000	\$1,095,001	

Table 3: Pickens' State Political Contributions, 2006 Cycle

Pickens			
Total	Recipient	Party	Lobbyist
\$500,000	Texans For Lawsuit Reform	NA	Promotes curtailing civil lawsuits
\$112,674	Greg Abbott	R	Attorney General
\$100,000	David Dewhurst	R	Lt. Governor
\$76,000	Republican Party of TX	R	Party PAC
\$75,000	Rick Perry	R	Governor
\$51,000	Jerry Patterson	R	Land Commissioner
\$25,000	Associated Republicans of	R	Pro-business Republicans
\$25,000	Elizabeth A. Jones	R	Railroad Commission
\$25,000	TX Opportunity PAC	R	Backed Craddick's GOP loyalists
\$20,000	Susan Combs	R	Comptroller
\$10,000	Mex.-Am. Legislative Caucus	NA	Promotes House Hispanic agenda
\$10,000	Wallace Jefferson	R	Supreme Court
\$7,674	Tom Craddick	R	House-82
\$6,000	Florence Shapiro	R	Senate-8
\$5,000	Kip Averitt	R	Senate-22
\$5,000	Ben Bentzin	R	House-48
\$5,000	Kim Brimer	R	Senate-10
\$5,000	John Carona	R	Senate-16
\$5,000	Bob Deuell	R	Senate-2
\$5,000	Kevin P. Eltife	R	Senate-1
\$5,000	†Craig Estes	R	Senate-30
\$5,000	Peggy Hamric	R	Senate-7
\$5,000	†'Mike' Jackson	R	Senate-11
\$5,000	Phil Johnson	R	Supreme Court
\$5,000	†Frank Madla	D	Senate-19
\$5,000	☼Jane Nelson	R	Senate-12
\$5,000	Steve Ogden	R	Senate-5
\$5,000	Don Willett	R	Supreme Court
\$4,000	John Davis	R	House-129
\$3,000	John Whitmire	D	Senate-15
\$2,500	Dan Branch	R	House-108
\$2,500	Glenn Hegar	R	Senate-18
\$2,500	†Juan Hinojosa	D	Senate-20
\$2,500	☼Eddie Lucio Jr.	D	Senate-27
\$2,500	Robert Nichols	R	Senate-3
\$2,500	TX Conservative Coalition	NA	Promotes conservative agenda
\$2,500	Royce West	D	Senate-23
\$2,500	Michael Williams	R	Railroad Commission
\$2,000	*Charlie Geren	R	House-99
\$2,000	Chris Harris	R	Senate-9
\$2,000	Sid Miller	R	House-59
\$2,000	Jim Pitts	R	House-10
\$2,000	†Robert Puente	D	House-119
\$2,000	☼Beverley Woolley	R	House-136

Pickens			
Total	Recipient	Party	Lobbyist
\$1,500	*Dennis Bonnen	R	House-25
\$1,500	*Bill Callegari	R	House-132
\$1,500	Dallas Co. Republican Party	R	Party PAC
\$1,500	☼Kyle Janek	R	Senate-17
\$1,500	Kirk Watson	D	Senate-14
\$1,500	☼Tommy Williams	R	Senate-4
\$1,000	Roy Blake	R	House-9
\$1,000	Warren Chisum	R	House-88
\$1,000	Robby Cook	D	House-17
\$1,000	☼Frank Corte	R	House-122
\$1,000	Dianne Delisi	R	House-55
\$1,000	Rob Eissler	R	House-15
\$1,000	Rodney Ellis	D	Senate-13
\$1,000	Mario Gallegos	D	Senate-6
\$1,000	Dan Gattis	R	House-20
\$1,000	Tony Goolsby	R	House-102
\$1,000	Kent Grusendorf	R	House-94
\$1,000	*Rick Hardcastle	R	House-68
\$1,000	†Harvey Hilderban	R	House-53
\$1,000	Bryan Hughes	R	House-5
\$1,000	James Keffer	R	House-60
\$1,000	Lois Kolkhorst	R	House-13
\$1,000	Mike Krusee	R	House-52
\$1,000	Edmund Kuempel	R	House-44
\$1,000	Brian McCall	R	House-66
\$1,000	Geanie Morrison	R	House-30
\$1,000	Joe Nixon	R	Senate-7
\$1,000	Rob Orr	R	House-58
\$1,000	John Otto	R	House-18
\$1,000	Dan Patrick	R	Senate-7
\$1,000	Allan Ritter	D	House-21
\$1,000	Patrick Rose	D	House-45
\$1,000	Gene Seaman	R	House-32
\$1,000	Eliot Shapleigh	D	Senate-29
\$1,000	Wayne Smith	R	House-128
\$1,000	Burt Solomons	R	House-65
\$1,000	Carlos Uresti	D	Senate-19
\$1,000	Corbin Van Arsdale	R	House-130
\$1,000	Leticia Van De Putte	D	Senate-26
\$1,000	Jeff Wentworth	R	Senate-25
\$1,000	Martha Wong	R	House-134
\$1,000	Judith Zaffirini	D	Senate-21
\$500	Leo Berman	R	House-6
\$500	Betty Brown	R	House-4
\$500	Carter Casteel	R	House-73

Pickens			
Total	Recipient	Party	Lobbyist
\$500	Norma Chavez	D	House-76
\$500	Joe Crabb	R	House-127
\$500	Dan Flynn	R	House-127
\$500	Helen Giddings	D	House-109
\$500	Patrick Haggerty	R	House-78
\$500	Fred Hill	R	House-112
\$500	Tracy King	D	House-80
\$500	Eddie Lucio III	D	House-38
\$500	Tommy Merritt	R	House-7
\$500	Dora Olivo	D	House-27
\$500	Larry Phillips	R	House-62
\$500	Joe Pickett	D	House-79
\$500	'Chente' Quintanilla	D	House-75
\$500	Elvira Reyna	R	House-101
\$500	Vicki Truitt	R	House-98
\$1,206,348 TOTAL			

☼ Sat on a 2005-2006 interim committee on eminent-domain abuse.

† Sat on Natural Resources Committee in 2005 *and* 2007.

* Sat on Natural Resources Committee in 2007.