

NM farmers selling water to oil and gas developers

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CARLSBAD, N.M. (AP) — With a scant agriculture water supply due to the prolonged drought, some farmers in Eddy County with supplemental wells are keeping bill collectors at bay by selling their water to the booming oil and gas industry.

The industry needs the water for hydraulic fracturing, known as fracking, the drilling technique that has been used for decades to blast huge volumes of water, fine sands and chemicals into the ground to crack open valuable shale formations.

In recent months, more legal notices have been appearing in the Current-Argus informing the public that a water-right holder with a supplemental well has submitted an application to the state engineer's office seeking to change the purpose of use from agriculture to commercial, or transferring the right from one location to another.

"A lot of folks are doing that," said New Mexico Interstate Stream Commissioner Jim Wilcox, an Otis resident and president of the Otis Mutual Domestic Water Association. "I can't blame them. The Carlsbad Irrigation District doesn't have the water the farmers need, and our farmers have to have some income coming in."

Wilcox said farmers in the Carlsbad Irrigation District can't sell their primary water source they receive via the irrigation system because the CID is a government project. However, if they have a supplemental well, they can apply for a change of use permit that gives them the right to sell their well water for commercial use.

"They can do a temporary or permanent move. But they have to go through the process with the State Engineer's Office," he said.

Jim Davis has been selling water commercially from his wells in Black River for about seven years and says he's seeing more of his rural farming neighbors selling water to the oil and gas industry to keep financially afloat.

Davis said he sees no problem selling water to the industry, but the current drought conditions are having an impact on the amount of water that is being sold. He believes there has to be some personal accountability on how much is pumped out of the aquifer.

Davis alleges that some well owners are finding ways to apply for a commercial permit that allows them to pump up to 9 acre-feet for the year without advertising their change of use and advertising it in the legal section of the newspaper.

He said it is "grossly unfair" to those who follow the law.

"In some areas, we are over-appropriating. We are in a drought and the water table has dropped drastically and there is no recharge," he said. "There are some people who have legal water rights and they are over-pumping. The public doesn't know about it. As private individuals, we have to raise Cain about it."

In Lakewood, north of Carlsbad, more than a dozen water well owners are seeking compensation from the state after their wells dried up. They claim the New Mexico Interstate Stream Commission's augmentation wells nearby are the cause of the dry wells. But the state says only a handful of wells have been impacted by the augmentation wells. Many of the well owners in the area have been selling their water commercially and have over-pumped with no recharge in the aquifer.

The state built the augmentation wells under a settlement agreement that would provide CID farmers water in times of water shortage. But the wells, which pump into the Pecos River, have not been able to meet the demand due to the drought.

When Davis started selling water seven years ago, the going rate for a 42-gallon barrel was 25 cents. Today, the rate is \$1 a barrel.

“The city of Carlsbad did the right thing. It raised its commercial rate to \$3 a barrel. It cut down on the amount of water the industry was buying,” Davis said.

Davis, who has eight metered wells, said he works hard to follow the state’s water laws, as do his neighbors.

“Black River is at its lowest level ever. It’s lower than it was in the 1950s when we had a long drought. I make my living from selling water, but at the same time, I think it is important to protect our precious water supply. I try to do things the right way and above board,” he said.

As president of the Otis Mutual Domestic Water, Wilcox said the current trend to sell water to the oil and gas industry is causing its water managers some concern.

“Farmers right now are having to pump their supplemental wells, and we understand that. It’s their livelihood,” he said. “But the supplemental wells are drawing from the same water table we provide potable water to our customers (from).”

“The oil and gas industry is requiring a lot of water and our concern is the effect it’s having on our aquifer,” he added. “We are concerned about losing water that can’t be recovered. Hopefully, we will get through this drought and everyone will be intact.”