

City gave ranch million-dollar water discount, documents show

Written by By Joey Peters NM Political Report
Friday, 23 September 2016 03:01



This story was reported in partnership with the Jal Record, a weekly newspaper based in southeastern New Mexico.

JAL - Like many areas in New Mexico, water is in short supply in this southeastern oil patch town of 2,500 people.

In the past few years, city officials have tried to address the matter by limiting water use, including barring businesses from buying city water for industrial use in the summer of 2013.

But between 2012 and 2014, the city gave one ranch an unusual perk—a more than \$1 million discount on its water bills. On top of this, Jal continued to sell industrial water to Beckham Ranch, Inc. for six months after the ban went into effect.

Public records indicate that the city gave Beckham Ranch \$1.2 million in credits for water billed and charged to this ranch between August 2012 and April of 2014, during an oil boom in southeastern New Mexico.

Shortly after the city stopped giving credits to the Beckham Ranch, Jal borrowed \$6.2 million from the federal government for water and sewer improvements. The terms of the loan require the city to pay \$260,000 every year for a 40-year period.

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Legal questions

During those months, Beckham Ranch used 105 million gallons of water, enough to rack up a bill of nearly \$2.3 million from the city utility. But when factoring in the seven-figure credit, city records show that Jal only charged about \$1.1 million—less than half the total cost.

How the arrangement between the city and Beckham Ranch came about is unclear, as multiple Jal officials interviewed for this story gave different versions while others, including Jal City Manager Bob Gallagher, declined to comment.

Beckham Ranch's arrangement with the city also raises legal questions. The anti-donation clause of the New Mexico State Constitution prohibits public institutions from giving public resources to "any person, association or public or private corporation."

"If any local government in New Mexico gave away public resources, it would raise serious concerns for taxpayers and possibly violate our state's constitution," New Mexico State Auditor Tim Keller told the *NM Political Report* in a statement.

To date, the city has been unable to recover a written agreement detailing the arrangement with Beckham Ranch.

Brad Beckham, who is listed in state business records as president, agent and one of the directors of Beckham Ranch, limited his comments on the arrangement in a short interview with *NM Political Report*.

He denied that he ever received credits for his water use with the city, an assertion that contradicts city utility records obtained for this story.

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“I was charged what the mayor and the city manager at the time said the charges were,” Beckham said in an interview. “The city manager set the price. They told me the price.”

He would not comment further.

Prices go up for some businesses

Other Jal businesses that bought industrial water didn’t get the same treatment.

Public records show that at least five other area businesses—Cuatro Trucking, Quality Transport, Basic Energy, Lea Energy Services and Rapid Transport—paid for industrial water at the city’s normal rates. None of these companies received credits or discounts, according to city records.

It’s a setup that Cuatro Trucking owner Daniel Baeza said is wrong.

“If they’re going to help one man and leave the rest of us hanging, I don’t think that’s fair,” Baeza said in an interview.

Jal continuously raised rates to deal with its water problems even as Beckham Ranch continued to get its deal.

Jal city councilors, for example, increased the industrial water price from \$8 per 1,000 gallons to \$18 per 1,000 gallons in July 2012.

That same month, the city charged Cuatro Trucking \$10,000 for using 596,000 gallons of water. This was more than twice the amount Cuatro paid the month before.

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Similarly, the cost for 171,000 gallons of water for Rapid Transport in June 2012 amounted to nearly the same cost for 70,000 gallons in July, the month the increased price went into effect.

For Beckham Ranch, the city charged \$190,000 for 10,675,000 gallons of water that month, amounting to the new \$18 per 1,000 gallon charge enforced by the city. But one month later, the city gave Beckham Ranch a credit worth more than \$98,000, enough to bring his price back down to the old \$8 per 1,000 gallon rate.

This trend continued through the summer of 2013, when Jal officials once again raised the price of industrial water to \$24 for every 1,000 gallons used.

Beckham Ranch's credits kept flowing in, continually bringing its cost down to \$8 per 1,000 gallons while other businesses paid the increased rates.

Meanwhile, water issues continued to dominate Jal's government.

In May 2013, Midland, Texas—a city of 130,000 people located an hour and a half east from Jal by car—tapped into the aquifer that is Jal's only water source. At the time, Jal's then-city manager Curtis Shrader told KOAT-TV that he was “begging to the city of Midland to try and consider our needs as well as theirs.”

By August 2013, Jal stopped allowing businesses to buy water for industrial use.

Once the ban went into effect, Baeza said his business “was a struggle for a while.”

“They just came and told me, ‘We’re closing, we don’t have enough water in the water wells,’” Baeza said. “I had to find water elsewhere.”

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Not so for Beckham Ranch. Between September 2013 and February 2014, the city sold it more than 37 million gallons of city water. The city also continued to give Beckham Ranch credits through April 2014, the month it received its last bill for industrial water use.

It's unclear what Beckham Ranch used the water for. But its arrangement came during a period of boom for the oil fracking business in the area.

Baeza, for example, sells water to oil companies. His trucking company continues to transport water to oil rigs for use.

Credits came after a meeting

At the time Beckham Ranch's credits began, Shrader was city manager of Jal.

In an interview, Shrader said the deal between the city and Beckham Ranch stemmed from negotiations between Brad Beckham and a city council subcommittee made up of himself, Mayor Cheryl Chance* and City Councilor and then-Mayor Pro Tem Duane Jennings in 2012.

During this meeting, according to Shrader, they "came to an agreement" to give Beckham Ranch favorable water rates in exchange for Beckham Ranch providing the city right-of-way access through its property to water wells.

Shrader, who left Jal in December 2013 after the city council declined to renew his contract, emphasized he doesn't recall using the term "water credits."

"His rate would increase over a certain time period to be comparable to what other bulk rates were for other bulk rate users," Shrader said of Beckham Ranch.

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Jal's city council approved the arrangement with Beckham Ranch, according to Shrader. Yet neither Chance, Jennings or City Councilor JoAnn Chessser recall ever voting on the arrangement. Nor can anyone, as of press time, locate documentation of the arrangement.

"Was there an agreement and was it voted on? I can't seem to find anything," Chance said.

Chance's recollections of the 2012 meeting differ from those of Shrader. For one, she says it involved no official subcommittee of the city council.

"There wasn't ever any committee pulled together that I'm aware of," Chance said.

Chance said she couldn't recall many details of the meeting, though she does remember discussing the right of way through Beckham Ranch. To her, such an exchange, "didn't make sense to me because those water wells have been there since at least the 1980s."

In other words, the city had already accessed water through Beckham Ranch for decades.

Chance said she raised concerns with Shrader about the deal right after the meeting, but added that Shrader assured her it was OK.

Jennings said he doesn't remember attending the meeting with Beckham.

"I don't remember the city ever voting on it," he added.

Nor does Chessser, who said she was unaware of the city's arrangement with Beckham Ranch.

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“I think it’s against the law to do that,” Chesser said. “I don’t think we could do that, it would probably be a problem if it happened.”

Jim Ellison, another city councilor, refused to answer questions about the Beckham Ranch deal and hung up on *NM Political Report* during a brief phone conversation. City Councilor Mike Orr didn’t return multiple voicemails left on his phone over several days seeking comment for this story.

No comment from the city

Gallagher, who took over as Jal’s city manager in 2014, declined to comment on the matter, citing “threatened or pending litigation” from Gregg Fulfer. Fulfer is part owner of Desert Town Investments, the company that owns the *Jal Record*.

The *Jal Record* has no threatened or pending litigation against the city. Instead, it filed two public records requests on the matter. Barry Crutchfield, a Lovington-based attorney, sent the two public records requests.

The first netted Beckham Ranch’s water bills. The second, sent to Gallagher on August 20, asked for records of written contracts between Beckham and the city, among other documents related to the arrangement. As of press time, the second records request is still pending.

Crutchfield, however, said the city has since not been able to locate written contracts with Beckham.

In his second public records request sent to Gallagher, Crutchfield cited state constitution provisions that ban “any public officer using public money for [purposes] not authorized by law.”

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“Accordingly, I believe the serious nature of this matter is evident,” Crutchfield wrote.

**Chance is the sister of Gregg Fulfer, who is part owner of Desert Town Investments, LLC. Desert Town owns the Jal Record newspaper.*

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