



ALL BOTTLED UP

Nestlé's Pursuit of Community Water

food&waterwatch



About Food & Water Watch

Food & Water Watch is a nonprofit consumer organization that works to ensure clean water and safe food. We challenge the corporate control and abuse of our food and water resources by empowering people to take action and by transforming the public consciousness about what we eat and drink. Food & Water Watch works with grassroots organizations around the world to create an economically and environmentally viable future. Through research, public and policymaker education, media and lobbying, we advocate policies that guarantee safe, wholesome food produced in a humane and sustainable manner, and public, rather than private, control of water resources including oceans, rivers and groundwater.

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Executive Summary

Nestlé^{*} takes water from U.S. communities for cheap, bottles and sells it — for billions of dollars in profit — and then dumps the environmental and other costs onto society.

In some cases, the company refuses to listen to citizens who don't want their water taken. For example, in Maine, the town of Shapleigh denied Nestlé permission to take water. However, residents fear that the company, which already removes hundreds of millions of gallons of groundwater from the state each year, may now try to take water from a wildlife preserve. In response to Nestlé's activities, a campaign is underway to limit water mining statewide.

But Nestlé is on the hunt for water across the country, not just in New England. And in some cases, it tries to get groundwater for less than local residents pay.¹ In McCloud, California, for example, Nestlé tried to engineer a deal in which it would have paid about one cent to mine and then bottle every 123 gallons of the area's groundwater — \$0.000081 per gallon. By comparison, the average state rate for municipal use of groundwater is one cent per 40 gallons.² Meanwhile, Nestlé can sell the cheaply acquired water in a 16-ounce bottle for around \$1.29, or \$10.32 per gallon.³ *That pencils out to Nestlé making more than 127,000 times as much money selling a gallon of water compared to what it paid for the right to the water.***

Too often, Nestlé's gain — its profit — is a community's loss. Removal of large amounts of groundwater from a region or community, such as Mecosta County, Michigan, can alter the level and flow of springs, lakes, rivers and drinking water wells. That, in turn, can harm the environments and economies that depend on the water.^{4,5,6}

Nestlé does more than just take water out of communities. It contributes to the toll of plastic trash on the planet. For example, despite publicity about its new, lighter plastic bottles, the company might, via its U.S. bottled water brands, be contributing hundreds of millions of pounds of plastic to U.S. landfills each year.⁷

This report, *All Bottled Up: Nestlé's Pursuit of Community Water*, looks at the economic and environmental trouble that Nestlé's bottled water business has caused nationally and in particular communities across America. It also offers recommendations to consumers and communities about what they can do.

Key Findings

- Nestlé extracts hundreds of millions of gallons of water, often for very low fees, that it bottles to sell for thousands of times more than the cost of tap water. Had Nestlé not pulled out of a contract with one California community, it could have made, in sales of the bottled product, more than 127,000 times its water extraction investment.
- As the top company in the bottled water industry, Nestlé is contributing to the pollution associated with plastic bottle production and with the processing and distribution of bottled water.
- Nestlé has greenwashed the environmental effects of its new, slightly lighter plastic bottle. Of the billions of empty plastic bottles that end up in landfills every year, Nestlé's brands may be responsible for hundreds of millions of them.

Key Facts About Nestlé's Bottled Water Business

Worldwide (2007)

- 10.4 billion in sales in Swiss francs (\$9.93 billion in 2007 dollars) in worldwide sales
- Market share: 19.2 percent
- Employees: 33,500
- Factories: 100
- Producing countries: 38

United States

- 30 percent to 32 percent share of the U.S. bottled water market
- Average consumption of bottled water per capita: 97.5 liters/year
- \$4.3 billion in North American sales
- Nestlé Waters has bottling facilities in 15 states

See Appendix 4 on page 18 for more information.

^{*} Nestlé, a transnational corporation based in Switzerland, is the parent company to Nestlé Waters North America, the focus of this report. For reasons of brevity, this report often will refer to Nestlé Waters simply as Nestlé.

^{**} Nestlé's estimated revenue of \$10.32 per gallon of water would be 127,407 times the \$0.000081 it paid for the gallon of water. This does not include the company's other costs to mine the water and bring it to market.



History

Nestlé S.A., based in Vevey, Switzerland⁸, is the world's largest purveyor of bottled water.* The company was founded in 1866⁹ by Henri Nestlé, a pharmacist who developed baby food formula for infants unable to breastfeed. At the turn of the century, Nestlé merged with its competitor, the Anglo-Swiss Condensed Milk Company, and began operating factories to produce formula and other products in the United States and across Europe.¹⁰

Throughout the 20th century, Nestlé acquired more companies in the food industry, developed more of its own products, such as Nescafé, and began diversifying with acquisitions outside the food industry.¹¹

The company has placed 49 of its total 481 factories in places that are “extremely water-stressed.”¹²

According to *The Economist* magazine: “JPMorgan ... reckons that five big food and beverage giants — Nestlé, Unilever, Coca-Cola, Anheuser-Busch and Danone — consume almost 575 billion litres of water a year, enough to satisfy the daily water needs of every person on the planet.”¹³

A Nestlé management report stated that its “factories worldwide had cut water use to 155 billion litres in 2006, from 218 billion litres in 1998.”¹⁴ However, that's still a lot of water. Converting those numbers to gallons shows that Nestlé's global food and beverage factories used more than 40.946 billion gallons of water. That translates to 125,658 acre-feet of water. One acre-foot is defined as the amount of water required to cover one acre to a depth of one foot. That acreage is equal to more than 95,000 football fields.**

According to the same article, Nestlé Waters used 40 billion litres of water in 2006, or nearly 10.82 billion gallons. Half of that was to produce bottled water at its 105 water bottling plants for sale in 130 countries.¹⁵ The other half was for “operational processes and cleaning.”¹⁶ In other words, it was wasted.

In 1969, Nestlé ventured into the bottled water business in Europe by purchasing a 30 percent share in Vittel — Société Générale des Eaux Minérales de Vittel (SGEMV), which at the time was the third largest mineral water company

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** One acre-foot equals 326,851 gallons. So, 40.946 billion gallons is equal to 125,658 acre-feet. One acre = 43,560 square feet and a football field (including end zones) = 57,600 square feet. 125,658 acres X the 43,560 square feet in an acre is 5,473,662,480 square feet. Dividing that number by the 57,600 square feet in a football field gives an answer of 95,028 football fields. The source for the size of an acre compared to a football field is www.infoplease.com/askeds/big-acre.html.

in France. In the 1970s, Nestlé acquired “several German springs via Rietenauer and Blaue Quellen AG.”¹⁷ In 1992, Nestlé bought the entire French water bottler Perrier.¹⁸

Nestlé's international water operation accounted for almost one-third — \$8.83 billion — of total global sales in 2007. (The company had 10.4 billion in sales in Swiss francs in 2007, which was converted to U.S. dollars using the exchange rate of 1.17764 on Dec. 12, 2008.)^{19,20} Its 100 factories produce 72 brands of water in 38 countries.²¹

Nestlé has expanded into the United States, as well. (See text box on page 15, “**Nestlé's Buying Spree.**”) Through its multiple U.S. brands, including Arrowhead, Perrier and Poland Spring, Nestlé is the number one water bottler in the United States. Nestlé Waters North America accounted for nearly one-third of the bottled water sold by volume in 2006.²² The company achieved \$4.3 billion in U.S. sales in 2007.^{23,24}

With its control of between 30 (30.4 percent in 2006)²⁵ and 32 percent²⁶ of the U.S. bottled water market, Nestlé's North American bottled water brands contribute to the pollution, energy and climate change trouble associated with bottled water production and distribution. However, the company tries to mask its role through clever greenwashing. For example, it has touted its lighter-weight single-serve bottled water products as an example of the way to go green.²⁷ In reality, many of Nestlé's empty bottles are still ending up in the trash.



Consider the following information arrived at from Food & Water Watch calculations: U.S. consumers disposed of some 30.08 billion bottles in 2006. That year, Nestlé controlled 30.4 percent of the U.S. bottled water market, measured in volume of water sold. Assuming that market share in volume roughly equates to the market share in the number of single-serve PET plastic bottles sold, that means 9.14 billion of those bottles could have been a Nestlé brand. Given that about 86 percent of plastic bottles end up in landfills rather than being recycled, 7.86 billion of the empty PET plastic water bottles in the trash could have come from one of Nestlé's nine domestic bottled water brands. That pencils out to more than 491,250,000 pounds of Nestlé plastic in the trash, rather than being recycled, or, better yet, never produced in the first place.²⁸

Case Studies

Nestlé is prospecting for water in communities across the country. The case studies here document citizen challenges to the company's search for cheap water.

California water in Nestlé's sights

McCloud

With Mt. Shasta towering in the background, northern California's tiny town of McCloud was transformed into a major player in the fight against water mining and bottling. The community of 1,300 people has long been renowned among tourists and trout anglers for its pristine waters. But in 2003, the Squaw Valley Creek watershed that envelops McCloud drew the attention of a much bigger player — Nestlé Waters North America.

Nestlé moved in slowly. Much as Wal-Mart and other giant corporations do when they want to invest somewhere, Nestlé consultants cased McCloud, “joining the right clubs and becoming a part of the community” without properly identifying themselves.²⁹ They focused on evaluating the community's feasibility for water mining.

Nestlé quietly negotiated a contract with the McCloud Community Services District (MCSD) for the rights both to extract and bottle 500 million gallons (1,600 acre-feet) of spring water annually from the area *and* to use *unlimited* amounts of groundwater in its operations.³⁰ In exchange, the company would pay McCloud approximately \$350,000 per year and build a one-million-square-foot water bottling facility — the largest such plant in the United States — that supposedly would employ up to 240 people.^{31,32}

However, the deal-making had been done secretly. The people's representatives on the McCloud Community

Services District had not told their constituents what was happening.

Instead, only a flyer announced a meeting to unveil the Nestlé plan. More than 100 surprised residents, their heads full of questions, turned up to see what it was all about. They assumed the public session would involve a lot of discussion.³³ Instead, residents got a slide presentation by the Nestlé representative and the McCloud town manager. And then it came: A quick, unanimous vote by the elected officials to accept the Nestlé contract.

Residents were furious. Upon careful reading of the contract, they felt that the town had written Nestlé a blank check.³⁴ It was time to organize.

The group Concerned McCloud Citizens was formed and sued Nestlé and the McCloud Community Services District because their contract never included an environmental impact report, a violation of the California Environmental Quality Act.³⁵

In March 2005, the Siskiyou County Court ruled in favor of Concerned McCloud Citizens. Nestlé appealed and was victorious in an appellate court. This round of legal sparring ended in April of 2007 when the state Supreme Court decided not to hear the case.³⁶

That battle may have been lost, but it was only the beginning of a longer, bigger fight. Both the Concerned McCloud Citizens and another group, the McCloud Watershed Council, continued working against the deal.

They brought in scientists to help the community understand the hydrology of the region, talked to activists fighting the mining of water in other parts of the country and, most importantly, commissioned an independent economic analysis of the Nestlé plan. Their efforts held up the execution of plant construction for almost five years. They found problems with the deal on multiple fronts:³⁷

- The 100-year contract made no provision for inflation, change of water flow or value.
- Compared to other community ratepayers, Nestlé would pay less than its share for water.
- Most of the jobs at the proposed plant would not pay a living wage.
- Environmentally, the deal would reduce flows to various rivers, streams and creeks in the watershed; it would put fisheries at risk.



- Trucks traveling to and from the plant would affect traffic on the main highway, hurting tourism. There would be 600 one-way truck trips going to or from the plant daily.³⁸

Too much water, too cheap

ECONorthwest consultants produced an analysis for the McCloud Watershed Council. They looked hard at the proposed deal and found problems.

The company would have purchased the community's groundwater for a song: about \$0.000081 per gallon (\$26.40 per acre-foot).³⁹ Consider that a person who goes into the store and buys the equivalent of one gallon of water in 20-ounce bottles likely will pay anywhere from \$8 to \$10. That's a profit-generating deal for Nestlé, but a raw deal for both the community where Nestlé gets the water and for the consumers who buy the product. Meanwhile, in California, municipal users pay more than three times Nestlé's rate — \$0.0002945 per gallon (\$96.26 per acre-foot).⁴⁰

Empty Job Promises

Nestlé promised to employ 240 people at the McCloud bottling plant. But the ECONorthwest report revealed that such a number would be not reached until four to 10 years after construction, and then only during peak season.⁴¹

What's more, in 2005, "a Nestlé representative suggested that 30 to 40 percent of the jobs would be entry-level positions with starting wages of \$10 per hour. In 2002, the average wage of production workers at bottled-water facilities



(workers up through the line-supervisor level) was about \$11 per hour in California and about \$13 per hour in the United States. These data indicate that production wages at the McCloud facility likely would not climb much above this level.”⁴²

But those sad employment numbers are not exclusive to McCloud. Research has shown that highly automated bottled water facilities often are not job or wage bonanzas. In 2006, the nation’s 628 water-bottling plants employed fewer than 15,000 people, meaning that each plant averaged only around 24 employees.⁴³

When a new bottling plant comes to a town, the few dozen jobs it does bring mostly benefit people from outside the community, not the residents who gave up control over their water for the promise of jobs.⁴⁴ In the long term, one study said, a town’s residents occupy only 10 to 40 percent of all new jobs created by overall employment growth.⁴⁵

Local residents who do secure jobs at bottled water plants likely will earn low wages. A bottled water employee’s annual earnings fall more than a thousand dollars short of what the average U.S. worker makes. Compared to a typical manufacturing job, bottled water workers are losing out — to the tune of \$10,000 each year.⁴⁶

Hydrology Headaches

The ECO Northwest report also found that the Nestlé plant could alter the hydrology of the area and thus the watershed environment. According to the report:

“Should periods of prolonged drought arise in the next 50 to 100 years, MCSD, its ratepayers, and nearby landowners may bear the costs of acquiring new water supplies, including deepening wells or drilling new wells.”⁴⁷

McCloud Pushback Against Nestlé

Nestlé disputed each point in the ECO Northwest report, but in February 2008 it did agree to make some concessions, “based on feedback from the community.”⁴⁸ The company agreed to eliminate from the project description the potential use of groundwater wells by the bottling facility and to conduct additional stream flow and habitat monitoring studies. It also agreed to a cap on the overall water use — for both bottling and for other purposes — at the facility to 1,600 acre-feet per year.⁴⁹

But opponents weren’t satisfied. They wanted to see more.⁵⁰ That included asking for Nestlé to “initiate a meaningful open public process to reconsider the terms of the contract

that would include ... addressing the size of the proposed plant, the compensation structure for the use of McCloud's water, the length of the contract, and protection against the possibility of future groundwater use ..."⁵¹

On May 12, 2008, Nestlé announced that it would drastically scale back its plans for the bottling plant, shrinking it to 350,000 square feet from the previous 1 million square feet. The company also said it would pump only 200 million gallons of water per year, rather than the 521 million gallons detailed in the original contract. Citing soaring fuel and transportation costs, the company said it wasn't economically feasible to build the bigger plant. Nestlé also agreed to monitor a nearby trout stream for two years.⁵²

Less than a month later, Nestlé Waters North America issued a news release with more details about its plans for "community forums, scientific studies and new contract negotiations..."⁵³

Apparently, someone was listening in Sacramento, the state capital. In July 2008, California's attorney general sent a letter to the county's planning director citing the inadequacy of Nestlé's environmental impact report on the project.⁵⁴

Clearly under pressure, the company stepped out of the contract in early August 2008.⁵⁵

However, Nestlé has not been defeated. At a September 24 meeting of the McCloud Community Services District, Nestlé said it does intend to build the plant once the two- to three-year environmental impact study is complete and a new contract can be negotiated between the company and the MCSD.⁵⁶

While the MCSD voted to allow the company to "simulate 'low flow' conditions on the Squaw Valley Creek for 4 to 8 weeks by diverting water into Mud Creek," it then voted to table action on correspondence from Nestlé until its December 2008 meeting.⁵⁷

Florida Fights Back

In October 2008, Nestlé threatened to sue the Miami-Dade County Water and Sewer Department over its radio commercials promoting the healthful attributes of the city's tap water, according to the *Miami Herald* newspaper.⁵⁸

Although the company denied its threat was motivated by the slowdown in the growth rate of U.S. sales, market data show that Florida is right behind Texas and California in bottled water sales, accounting for the consumption of more than 575 million gallons of bottled water a year.⁵⁹

In addition to a large sales base, Nestlé operates bottling plants in Zephyrhills and Madison County. It can draw about 2.5 million gallons a day from four springs.⁶⁰

Nestlé's lawsuit threat against the utility, combined with the relatively minimal fees it pays for groundwater, have been too much for many Floridians already strongly opposed to the company's mining and bottling operations.

Linda Young, director of the Florida Clean Water Network, told the *Miami Herald*: "Tap water is superior in some ways. It's right there in your house. If these companies think they're going to come into Florida and threaten citizens or governments when we give an opinion, that's another reason to make them leave."⁶¹

Nestlé purchased Zephyrhills, a regional company that gets water from privately owned Crystal Spring in Pasco County, in 1987. In 1996, the owner of the spring blocked public access to the park around it, a popular destination point for swimming and picnicking. In 1997, on Nestlé's behalf, the owner of the spring requested an increase in the amount of water withdrawals from 301,000 gallons to 1.8 million gallons a day. The community responded by forming an advocacy group called Save Our Springs (SOS). SOS, along with the Southwest Florida Water Management District, filed suit against Nestlé and the spring's owner to stop the boost in pumping. SOS prevailed and in 1999 the permit was denied. An appeal by Nestlé also was rejected.⁶²

Efforts in New England

New Englanders are right to be concerned about water, especially given that some 40 percent of them depend on wells for their drinking water.⁶³ Some states in the region have passed legislation to deal with the issue.

In 1991, New Hampshire's legislature passed the state's Groundwater Protection Act, RSA 485-C. It was intended to enable local governments in the state to protect their groundwater from contamination, which usually happens because of surface activities. To address concerns about water withdrawals, the legislature amended the law in 1998 so that the Department of Environmental Services could regulate withdrawals of more than 57,600 gallons in a 24-hour period.⁶⁴

Lawmakers in Vermont followed suit. According to *The New York Times* in its August 2008 coverage of the issue, "once-reliable well-water supplies have become intermittent in recent years, with homeowners blaming local developers or mining operations or a bottling operation. In March, the town of East Montpelier postponed any bottling for three years. Three months later, in a move that put

Vermont in the company of a growing number of states, the legislature approved a measure making the state's groundwater a public trust. Beginning in 2010, anyone seeking to pump more than 57,600 gallons a day will need a permit, with exceptions for farms, water utilities, fire districts and some geothermal systems."⁶⁵

But laws and regulations can always be changed or challenged. Nestlé tries to do this by influencing state and local policymakers. For example, when the groundwater protection law went into effect in New Hampshire, lobbyists from the International Bottled Water Association and Nestlé Waters North America showed up to influence lawmakers in Concord, the state capital, said Denise Hart, a board member of Save Our Groundwater, a New Hampshire-based nonprofit organization dedicated to protecting water in the public trust.⁶⁶ (Note: Hart became deputy director of the water program at Food & Water Watch in December 2008.)

"We believe that Nestlé has a multifaceted legal and communications plan that it tries to implement in states where it operates or wants to operate," Hart said.⁶⁷

As of January 9, 2008, the lobbyist for Nestlé Waters North America in New Hampshire was George Dana Bisbee.⁶⁸ Before beginning his lobbying work, Bisbee served as the acting commissioner for the New Hampshire Department of Environmental Services. According to the website of the legal firm he works with:

"Among Dana's achievements at DES was the agency's renewed focus on strategic planning, performance-based management, the management of environmental information, and data quality. He worked closely with stakeholders on water law and policy — especially on large groundwater withdrawals, stream flow protection, and wetlands regulation."⁶⁹

Massachusetts

Nestlé wanted water from the Wekepeke Reservoir in Sterling, Massachusetts. In the 1880s, the nearby town of Clinton purchased the reservoir and the state legislature passed a law allowing the town to take water from the Wekepeke "to supply itself and its inhabitants with pure water to extinguish fires, generate steam, and for domestic and other uses, and ... establish public fountains and hydrants and to regulate their use."⁷⁰

However, reliance on the reservoir was short-lived. After the much larger Wachusett Reservoir was completed in Clinton in 1905, the town could supply both itself and neighboring Sterling. Gradually, Clinton reduced its draws from the Wekepeke until it stopped in 1964.⁷¹

Ironically, years of disuse may have made the reservoir an attractive target for Nestlé.

The company arrived in the spring of 2007 and, after conducting extensive hydrogeological tests, decided the old Wekepeke Reservoir would be a good source for its bottled water. Nestlé offered the town from \$200,000 to \$300,000 and wanted to pump 250,000 gallons per day from the reservoir.^{72,73} Some activists in Sterling charged that the plan would allow Nestlé to use 8,000-gallon tanker trucks making 60 trips per day on local roads. Nestlé disagreed.⁷⁴ While the town's leaders seemed interested, records from the 1880s revealed that Clinton had purchased only rights to surface water, not to the groundwater that Nestlé wanted to mine.⁷⁵ Logically, it didn't seem that Clinton could sell or transfer what it didn't own.

But the residents of nearby Sterling weren't going to rest their hopes on logic. They were restless and ready to challenge Nestlé, said Ruth Caplan, director of the Alliance for Democracy's Water for Life campaign. They formed the Committee for Informed Citizens.⁷⁶ Members of the committee first educated themselves about the issues and then passed on the knowledge to the entire Sterling community via town meetings. Residents deployed opposition letters and petitions to the town's select board to persuade it to oppose the project. Meanwhile, Clinton's town leaders pressed forward with opening the door to Nestlé by putting out a request for proposals in early 2008 for use of the Wekepeke.⁷⁷

But in the Spring of 2008, to the surprise and relief of Sterling citizens, the Clinton Select Board tabled the proposal, according to Clinton Town Clerk Phil Boyce.^{78,79}

However, succeeding events revealed that nothing is permanent. Nestlé still wants the water.

In September 2008, citizens learned that the company had hired the Rushing Rivers Institute in Amherst, Massachusetts, to collect data on the impact of withdrawing water from the Wekepeke watershed. The Institute claims it is doing a pilot project for Nestlé to use in countering widespread opposition the company faces in most of the communities it has approached about bottling spring water.⁸⁰

Unfortunately for all the people battling Nestlé in Sterling and Clinton, that grim news grew worse in November 2008.

In the wake of the Massachusetts state government's decision to cut \$250,000 intended to pay for repairs to the Wekepeke's earthen dams, the Clinton town selectmen discussed revisiting the proposal to sell water to Nestlé.⁸¹

However, selectmen Mary Rose Dickhaut, Kathleen A. Sheridan and James J. LeBlanc were against it. According to

the November 6 edition of the *Worcester Telegram & Gazette* newspaper: “‘I think there are too many consequences,’ Ms. Dickhaut said. ‘I thought we had put this to rest.’”⁸²

New Hampshire

In Barnstead, New Hampshire, many of the town’s 4,601 people decided they would proactively protect their water before Nestlé or some other company came knocking.⁸³

They learned about Pennsylvania towns that had enacted ordinances protecting people’s rights against pollution from large-scale hog farms. The Democracy School, run by the Community Environmental Legal Defense Fund, showed Barnstead residents how to draft their own rights-based ordinance to safeguard the community’s water.⁸⁴

It worked. In March 2006, Barnstead became the first municipality in the nation to protect its water by asserting community rights over corporate rights when its residents passed the “Water Rights and Local Self-Government Ordinance”⁸⁵ at their town meeting with only one dissenting vote. The measure regards water as essential for the functioning of the ecosystem and for the people of Barnstead. Furthermore, it bans corporations from “engaging in water withdrawals” and denies them court-conferred rights of corporate personhood and other Constitutional protections. Voters subsequently amended the ordinance to include the rights of nature.⁸⁶

Two years later, in the spring of 2008, Nottingham followed closely behind. Residents there stood up to the state and to USA Springs (which is not believed to be connected to Nestlé) by passing the “Nottingham Water Rights and Local Self-Government Ordinance,” including the rights of nature.^{87,88}

To date, there have been no legal challenges to these ordinances.⁸⁹

Maine

Nestlé gained a presence in Maine through its 1980 acquisition of local company Poland Spring, which is the fifth-ranked bottled water brand according to the most recent *Beverage World State of the Industry Report '08* (which cites 2007 data).⁹⁰ In October 2006, the town of Kingfield approved a new bottling plant, creating a platform for even more growth.⁹¹

Indeed, Maine features so much pure spring water that it has been referred to as the “Kuwait of U.S. water,” said Jamilla El-Shafei, a resident of Kennebunk and organizer with Save Our Water.⁹² Nestlé has exploited that reputation, mining some 700 million gallons a year.⁹³

In September 2008, activists called for an initiative to protect the state’s groundwater from “corporate exploitation.”⁹⁴ At a rally in Portland, state Rep. Rick Burns of



Berwick promised to introduce an “Act to Protect Maine’s Groundwater” in the 2009 legislative session.⁹⁵ Jonathan Carter, director of the Forest Ecology Network, added that “the bottled water industry is conducting a ‘greenwash campaign’ to try to convince the public it is a good environmental steward.”⁹⁶

“The time has come for communities in Maine to stop giving away their water to Nestlé,” said Jamilla El-Shafei of Save Our Water. The company often pays less for a gallon of water than a community’s residents do. Towns often go for these deals because they generate revenue for the local water district’s — not the residents’ — use. Unfortunately, the long-term costs and consequences, such as depleted aquifers and a damaged environment, often are not considered.⁹⁷

El-Shafei sits on the steering committee of the coalition that grew out of the call to action in Portland. The goal is to stop Nestlé’s water mining and testing long enough to learn which communities are located near aquifers and are therefore vulnerable to the company. Once they are identified, residents in those places could be educated about the issue and ballot initiatives launched to permanently shut down groundwater extraction.⁹⁸ She said this could include developing rights-based ordinances along the lines of the one in Barnstead.

In the face of criticism over Poland Spring mining 700 million gallons of Maine’s water each year, the company

said that is a small fraction of state groundwater. It said recharge from precipitation and runoff amounts to two trillion to five trillion gallons.⁹⁹

But there is no way to know whether this is accurate, said Mary Taylor, a resident of Shapleigh and organizer with Preserving Our Water and Wildlife Resources. According to Taylor: “No one really has any idea of the size of the aquifer. Let’s say Nestlé’s taking hundreds of millions of gallons of water out of an aquifer and that we have a winter and spring without snow or rain. Well, then it’s not being recharged and, at some point, the sinkholes start and the lakes and streams begin to go dry. We’ve got to dispense with this idea that Maine has ‘extra’ water to be shipped out. When you do that, the hydrological balance is upset.”¹⁰⁰

Research shows that withdrawing too much water from a single watershed can have myriad effects. According to a *New York Times* article: “A 2007 report by the Ground Water Protection Council, a nonprofit group, pointed out that, although much is not known about exactly how groundwater moves through geological formations, it ‘typically moves very slowly.’ Replenishment from rain or surface water, or ‘recharge’ as the experts term it, tends to be gradual. Extraction of groundwater tends to alter the pattern and speed of natural flows.”¹⁰¹

The *Journal of Land Use* found numerous issues with removing groundwater from an area. Allowing for mil-



lions of gallons of water from a community or region to be bottled “conflicts with the establishment of local water resource protection plans put in place to conserve local water resources. Many areas developed water resource plans in response to increasing populations, decreasing municipal water resources and several years of drought conditions. As a result, it is illegal for local residents to use water at certain times for specified activities, such as lawn irrigation. However, pumping gallons of water away to factories to be bottled and sold across the country directly conflicts with the goals of these programs.”¹⁰²

Extracting too much water from an aquifer can reduce its levels to such a degree that nearby water sources and wells cannot be replenished. This could include drinking water for a town or city.¹⁰³

The article goes on to state that some proponents of bottled water have maintained that extracting water for local use is no different than bottling it. But that’s not quite true. In many cases, irrigation and agriculture actually return much water to the aquifer, “while the removal of water for bottling simply acts to reduce the aquifer’s supply without replenishing it for use in the future.”¹⁰⁴

Allowing bottling companies to mine too much groundwater can actually lower the water table. That may lead to water wells drying up and requiring new, deeper wells and, of course, more energy to draw up the water. In short, regional drinking water suppliers, farmlands and wetlands feel the consequences of excessive water removal.¹⁰⁵

However, the environmental consequences of Nestlé’s water extraction go beyond¹⁰⁶ the 700 million gallons of groundwater it takes from the state.¹⁰⁷ Too much of that water — perhaps 200 million gallons — is wasted, according to Mary Taylor of Preserving Our Water and Wildlife Resources.¹⁰⁸

Fryeburg

In the tiny rural town of Fryeburg, a small water utility, Fryeburg Water Co., has served the area since 1883, providing spring water to more than 800 customers. In a complicated transaction, Nestlé’s Poland Spring gained exclusive rights to pump water from the main well house.¹⁰⁹

But the nearby town of Denmark passed an ordinance that banned the trucking of water through the town. So, Nestlé avoided the trucks by building a pipeline from there to a loading station 12 miles down the road in East Fryeburg. This didn’t go over very well: the Western Maine Citizens for Rural Living formed to oppose the station.¹¹⁰

In September of 2004, the town’s Board of Appeals ruled that the Fryeburg Water Company and Pure Mountain

Springs, another local provider of bulk water, did not have the proper permit to extract water. Then, in October, Nestlé’s Poland Spring said it had decided to put on hold its plan to build the plant, blaming a group that was proposing a statewide three-cent tax on individual-sized bottled water drawn from any Maine aquifer. At the same time, the town of Fryeburg began tests to determine how the pumping would affect the Ward’s Brook Aquifer.¹¹¹

In August 2005, Western Maine Residents for Rural Living started a petition drive to stop Poland Spring’s application for a truck-filling station outside of town, a plan formulated in lieu of building a bottling plant. At a special town meeting, residents voted for a six-month moratorium on issuing new water withdrawal permits. Despite the vote, the Fryeburg Planning Board approved the application, which in turn provoked the townspeople to start a petition to oust the board. That failed, so instead citizens filed an appeal in court to stop the application. That was in November of 2005; for more than two years it has gone back and forth through various courts.

A resolution as to whether Poland Spring will be granted a permit for the trucking station may now be in sight. On June 21, 2008, oral arguments were heard in a Maine Superior Court and a decision is anticipated in late 2008 or 2009.

Undeterred, Nestlé has set its sights on other Maine towns. In May of 2006, Poland Spring was granted the right to pump more than 185 million gallons of water a year from the Dallas Plantation, which borders the northern Maine town of Rangeley.¹¹² Residents there sued Maine’s Land Use Regulatory Commission after it approved the plan and the case has been argued before the Maine Supreme Court. A split decision upholding the LURC’s permit to Poland Spring was issued on July 16, 2008.¹¹³

Kennebunk-Kennebunkport-Wells

When residents of Kennebunk learned that their Kennebunk, Kennebunkport and Wells Water Board would be voting on a contract with Nestlé’s Poland Spring to allow it to pump more than 200,000 gallons of water per day from the Branch Brook aquifer^{114,115} beneath newly protected land in Wells, it was no longer just people from the three towns who mobilized. The rally held outside the Water Board office on the day of the scheduled vote drew citizens from many surrounding towns and from across the state. Local and state press carried the story. The *Lehrer News Hour* was there and aired the story several weeks later. The hundreds of residents who had turned up at the board meeting questioned a deal that would have sold the water to Poland Spring for less than a penny per gallon.¹¹⁶

Kennebunk resident and Save Our Water organizer Jamilla El-Shafei was one of those residents challenging Poland Spring. She helped to develop a referendum that voters approved on Nov. 4, 2008. It places a 180-day moratorium on large-scale water extraction and testing on state land in the town. This will give residents an opportunity to develop a comprehensive water extraction ordinance that will protect the community's groundwater from corporate exploitation.¹¹⁷ She anticipates that many of the ordinances will be rights-based and has participated in CELDF's Democracy School training program.

"The test wellheads are in Wells and Shapleigh, so if we can get moratoriums and ordinances passed, this will give us the chance to educate other communities to look out for Nestlé," she said.¹¹⁸

Shapleigh

In September 2008, Shapleigh voters approved "a six-month moratorium on testing or large-scale extraction of water" in the town, according to the Sept. 21, 2008 edition of the *Portland Press Herald* newspaper. This complicated Poland Spring's plans for a new water source in Maine.¹¹⁹

Quoting the *Herald* article:

"At a special town meeting, residents voted 204 to 38 in favor of the moratorium, which is intended to give the town time to work on an ordinance to regulate water testing and large-scale pumping. Selectmen can extend the moratorium for another six months if an ordinance isn't done by next March."¹²⁰

"Voters also shot down a proposal for an agreement between the town and Poland Spring that would have given the water bottler access to town land on Mann Road for

testing. That proposal was defeated 183-49, averting a confusing situation that could have developed if voters had approved both the moratorium and the agreement with the company ..."¹²¹

"Ann Winn-Wentworth, who has been actively opposing the deal, said the Mann Road site is near wildlife preserves that are managed by both Shapleigh and Newfield, where she lives. She said the area contains rare begonias and also attracts butterflies that might have been disturbed by Poland Spring testing procedures and extraction that would have involved large tanker trucks."¹²²

"Poland Spring had hoped to drill about a dozen test wells to determine whether a 150-acre site could be developed into a new water source. If it could, the company said it wanted to drill wells and a pipeline to a filling station on Route 11. That would require another vote by residents to approve that plan."¹²³

"Winn-Wentworth said Saturday's vote 'was quite resounding,' although she is worried that Poland Spring will continue to pursue plans for that area because of all the money the company has already spent on the effort."¹²⁴

Shapleigh resident Mary Taylor cautions that the fight is not over.

"Just because the moratorium was approved and testing voted down does not mean Nestlé has left Shapleigh," she said. On the contrary, "It hired a hydrogeologist to work for the town to write a water extraction ordinance. That's a blatant conflict of interest."¹²⁵

In response, POWWR will edit the drafts of the ordinance. And just in case there's funny business with a completely different final draft appearing the day of the vote on the ordinance, she said that town law requires that an ordinance must have two public hearings before it goes to voters.¹²⁶

Nestlé's persistence in trying to get Maine's water frustrates Taylor.

"We want to say no, but Nestlé will not allow citizens to say no." It keeps the issue bogged down in government bureaucracy and in the courts.

She thinks Nestlé is attracted to Maine's water not just because of its purity, but also because people don't think a lot about water. Most people have their own wells and septic systems, so they don't have to worry about public control being threatened by private interests.¹²⁷

She wants one thing to be clear: "Maine citizens have the right to their water and a right to say 'no' to selling it."¹²⁸





Working against Nestlé in Wisconsin

Arlene and Hiroshi Kanno were among the leaders in efforts to fight Nestlé's water extraction and bottling it as "spring water" across the road from their farm in the Dells region of Wisconsin in 2000 and 2001, said Arlene Kanno.¹²⁹ Perrier, which Nestlé owns, wanted to pump 500 gallons of water each minute from two springs in the town of New Haven, in Adams County, Wisconsin.¹³⁰ It would have then piped the water to a "one million-square-foot plant east of the Wisconsin Dells on Highway 23"¹³¹ (across the street from the Kanno farm, which they feared would have meant large trucks on the road throughout the day and night).¹³² In the opinion of Arlene Kanno, the project would have meant profits for Perrier as it sucked the water out of the aquifer that fed the local Big Springs complex.¹³³

She believes that Nestlé just wouldn't accept "no" for an answer from the people of Adams County.¹³⁴ For example, she pointed to the \$20,000 that the company paid to the town of New Haven in 2000 to hire legal and engineering consultants to oversee environmental testing and legal implications of removing water from the Big Springs area of southern Adams County.¹³⁵ And, she said, when the company finally had to publicize its intention at public hearings, Nestlé said it would leave if that was what people wanted.¹³⁶ That's what happened: In November 2000, the Adams County Board voted 14 to 3 for a resolution against the extraction of water in the county for bottling or bulk sale.¹³⁷ The resolution instructed the Board to "oppose any change in zoning for the installation or use of high-capacity wells to pump water for commercial bottling."¹³⁸ Nonetheless, a Perrier spokeswoman said after the vote that the company would go ahead with tests on the springs.¹³⁹

According to the Nov. 22, 2000 edition of the *Capital Times* [Madison] newspaper: "Don't they understand the meaning of the word 'no'?" asked Jon Steinhaus, a Perrier

opponent who lives near the proposed well sites. 'Now the town has told them and the county has told them. I think it is time for them to heed the will of the people.'¹⁴⁰

The Kannos helped spearhead grassroots opposition to Nestlé's proposed water mining and bottling plant. Residents from both counties responded to requests for time and money. Their small public relations campaign was effective, earning them time on nearby Madison television and radio programs as well as in newspaper articles, editorials and columns.¹⁴¹

Early on, the Wisconsin Department of Natural Resources struck a blow to the majority of residents¹⁴² by permitting two wells that would have supplied Perrier's proposed plant.¹⁴³ According to the *Wisconsin State Journal*, "Perrier tested temporary wells in November for 14 days at a rate of 1,000 gallons a minute to gauge the impact on local water levels."¹⁴⁴

At that point, the battle had to go the legal route, according to the same article: "Hiroshi Kanno, the Newport town clerk and a project opponent, said several lawsuits filed against the Department of Natural Resources and Perrier Group of America also could end plans for the plant."¹⁴⁵

But lawsuits require money. So, the Kannos took out a \$20,000 second mortgage on their farm and neighbors pitched in money to sue the state Department of Natural Resources on the grounds that it should not have issued a permit to pump water and should have done a much more comprehensive Environmental Impact Study instead of a more limited Environmental Assessment.¹⁴⁶ The Kannos were astounded that the DNR would grant permission to pump such a mega-volume of water since, in their opinion, it could have decimated the extensive wetlands and endangered scores of dependent plant and animal species, and very likely would have greatly diminished a shallow recre-

ational lake just downstream.¹⁴⁷ In 2002, a judge ordered the DNR to do a “more thorough environmental impact study” of the project.¹⁴⁸

In the end, the lawsuit against the DNR ended in a kind of a draw. Nestlé did not continue with the specifications that the judge decided were necessary; the corporation allowed its permit to expire, and it ultimately filled in its two test wells.¹⁴⁹

A new governor came into office and spurred action in the state legislature to address fragile headwaters of streams.¹⁵⁰ Although a bill was proposed to protect large springs with flows of greater than 10,000 gallons per minute, it did nothing for smaller springs, and if put to a legal test, might not protect the one in the Kanno's neighborhood.^{151,152}

By 2003, Nestlé was gone, but not far, Arlene Kanno said. While it had been fighting for a foothold in Wisconsin, the company also was searching for — and found — “spring” water¹⁵³ in Michigan.¹⁵⁴

Michigan water at stake

Mecosta County

The fight against Nestlé in Mecosta County, Michigan, has played out largely in the courtroom.

The story started with the grass roots. In 2000, news leaked that Nestlé was planning to build a \$100 million Perrier water bottling plant in the county. The company wanted to pump as much as 262.8 million gallons a year out of the Sanctuary Springs preserve.¹⁵⁵ Thus was born the Michigan Citizens for Water Conservation, a group formed to fight Nestlé and to “preserve, conserve, and protect Michigan's natural resources.”¹⁵⁶ The group was started by Terri Swier,



who had retired to the area in west central Michigan where her family had owned land for generations.

She had lived in the lakeside retirement community for only a little more than a year before she heard about Nestlé trying to come in. “We heard Nestlé was coming to a lake association meeting [in the area] so I went. I wanted to hear what they had to say.”¹⁵⁷ She learned that Nestlé had been around the area for the past two years, but apparently lying low. “None of us [who went to the meeting] is a hydrologist, but when Nestlé kept saying there would be no harm to the lakes or streams, we questioned it. That's when we decided to form a grassroots group to try and fight this.”¹⁵⁸

Similar to its operations in McCloud, California, Nestlé had been ingratiating itself in the community, but this time it used a real estate broker rather than a hired gun. The broker tried to persuade some local residents to sell their land. MCWC found out that local and state officials were working with the company on a deal.¹⁵⁹

“We went to local officials and said, whoa, stop this,” said Swier. “Put a moratorium on this.” The officials said they knew what was best for the township.¹⁶⁰

MCWC attacked the problem as a zoning issue. It organized a campaign to hold a referendum on zoning changes put in place that would have allowed Nestlé to build its water bottling operation. The citizens rejected the rezoning by a 2-to-1 margin.

Unfortunately, Nestlé maneuvered around the referendum defeat, so MCWC next filed a legal action for a temporary restraining order to stop construction on the plant. It alleged that Nestlé had failed to obtain the necessary permits.¹⁶¹ The next day the judge denied the restraining order but made it clear that if Perrier continued before the legality of its plan was determined, it did so at its own risk.¹⁶² With that, the court battle was underway.

In 2001, MCWC sued Nestlé, saying that its water use violated groundwater and riparian property rights and the U.S. public trust doctrine. Despite the suit, which was still pending, Nestlé opened its plant in 2002. On Nov. 25, 2003, the Mecosta County circuit court ruled in favor of MCWC and ordered Nestlé to stop all spring water pumping from Sanctuary Springs by December 16. A motion for a new trial filed by Nestlé was denied, so the company appealed and persuaded the appellate court to let it continue pumping 250 gallons per minute rather than the originally permitted rate of 400 gallons per minute.

In December 2005, the court ruled that harm was being done to the local watershed but refused to follow legal precedent that banned selling water from watersheds. Instead,



it ruled that jobs and the economy were more important. The court did order Nestlé to cut its pumping down to 200 gallons per minute and remanded the case to the trial court to establish pumping levels that assured adequate water supply for the riparian and public use of the stream.^{163,164}

In March 2006, the MCWC filed an appeal to the Michigan State Supreme Court. It sought a reversal of the Court of Appeals' new "balancing test" that allowed Nestlé to divert water as long it outweighed the harm. Nestlé cross-appealed to the state supreme court, saying citizens do not have the right to protect wetlands where their wells are located.^{165,166}

In July of 2007, the supreme court ruled 4-3 that the MCWC did have interests that were impaired and refused to overturn the lower court's finding of unreasonable use. However, the conservative court agreed with Nestlé's view that MCWC did not have standing to prevent harm to the wetlands and a lake on the Nestlé property.

It's important to remember that both the trial and appellate court agreed with the findings of a hydrogeologist who, after reviewing Nestlé's borehole test and monitoring results, found evidence to dispute its claims that bottling would not harm the environment.^{167,168} The trial court determined that Nestlé's mining resulted in more than a 28 percent drop in the flow and more than a two-inch drop in the level of a nearby stream.¹⁶⁹

"The issue," testified Swier, "has pitted neighbor against neighbor, friendships have been severed, and Nestlé has violated our lives either directly or indirectly with telephone polling, private investigators, the FBI going to our homes and a potential Strategic Lawsuit Against Public Participation against my son."¹⁷⁰

So the battle continues. Nestlé continues to pump water at high rates and is building another plant in nearby Stanwood. The MCWC continues in its mission to protect and conserve the environment.

Other communities resist Nestlé

Chaffee County, Colorado

Nestlé also is prospecting for water in the West. As of September 2008 it was working on an agreement with the town of Salida and the Upper Arkansas Water Conservancy District to remove up to 65 million gallons of water per year from a spring near Nathrop, north of Salida, and then ship it to Denver for bottling, according to an article in the *Pueblo Chieftain* newspaper.¹⁷¹ That's equivalent to 200 acre-feet of water. An acre-foot is the amount of water necessary to cover one acre to a depth of one foot.

According to the *Chieftain*: "Essentially, Nestlé would take advantage of the Upper Ark's augmentation plan to use Salida's water to replace the water it pumps from a well near a spring on property it is buying near Nathrop. Salida would sell the company excess water for 20 years, and the Upper Ark's augmentation plan would allow the water to be used to replace flows, since Salida's water cannot be used outside the city without a change in court decree."¹⁷²

Corporate Accountability International Fights Bottled Water Across the Country

Corporate Accountability International is a membership organization that protects people by waging and winning campaigns challenging irresponsible and dangerous corporate actions around the world. Thirty years ago, Corporate Accountability International organized the first successful worldwide boycott of a transnational corporation in protest of Nestlé's marketing of infant formula to women in poor countries. The Think Outside the Bottle campaign is a Corporate Accountability International initiative that challenges the abuses of the bottled water industry and builds support for strong public water systems.

"It's no coincidence that the Think Outside the Bottle campaign targets Nestlé, the world's largest food and beverage corporation. Nestlé is once again manufacturing demand for a product that is not only unnecessary, but also bad for our environment, bad for our pocketbooks and bad for our public health," said Gigi Kellett, director of the Think Outside the Bottle campaign.

For more information, visit www.StopCorporateAbuse.org or www.ThinkOutsideTheBottle.org.

Henderson County, Texas

The “rule of capture” allows private property owners to capture the groundwater beneath their property. In Texas, Nestlé exploited this law in Henderson County, a site of water mining for its Ozarka brand water. A few days after pumping began, a local landowner’s well was depleted. A subsequent lawsuit upheld the rule of capture law and found Nestlé was not liable. In 1999 this was reaffirmed by the Texas Supreme Court.¹⁷³

Nestlé's Northwest Adventures

In June 2008, Nestlé failed in its attempt to extract water from a spring that provides water to the town of Enumclaw, which sits at the base of Mount Rainier in Washington.¹⁷⁴

After having established plants in 26 towns across the country over the last several years, taking spring water and bottling it in Enumclaw represented a chance for Nestlé to set up shop in the Pacific Northwest, rather than continuing to truck bottled water from California.¹⁷⁵

According to *The Seattle Times* newspaper coverage of the issue, Nestlé proposed to: “Collect water from Boise Spring, one of four water sources for the city and surrounding area. Build a 250,000-square-foot bottling plant, possibly by the side of Highway 410 or tucked into an office park. Employ about 45 people.”¹⁷⁶

But the city calculated that with Nestlé taking water from the spring, by the year 2038 water would run too scarce to meet the needs of new users. Other concerns included increased truck traffic, Nestlé’s business practices and anti-corporate sentiment.¹⁷⁷

The *Times* spoke to an Enumclaw resident for its July 24, 2008 story about the issue:

“The other day, on Enumclaw’s main street, baskets of geraniums hung from lampposts. Bright-green benches lined the street blocks. This is the way Hillary Mitchell likes to see her town, a former farming community at the foot of Mount Rainier. If Nestlé barged in, it would change the whole feel of the place, she said. Big-box stores have already made their mark elsewhere in South King County, on what used to be fertile farmland.”¹⁷⁸

But despite its failure to get water from Enumclaw, Nestlé is still around in the Northwest. The company has been trying to tap into water supplies in at least two other Washington communities — Orting and Black Diamond.¹⁷⁹

Nestlé said its proposed water bottling plant in Orting, which gets water from three mountain springs, would gen-

erate \$375,000 in tax revenue from 2010 to 2011 and an additional \$2.1 million over 10 years mostly from development and utility taxes.¹⁸⁰

However, town officials are considering how such an operation would affect local roads, water supply and revenue.¹⁸¹

According to a *Tacoma News Tribune* article, residents and council members are questioning whether “the local water supply could support a two-line, 250,000-square-foot Nestlé plant. They also wanted to know what toll the plant would take on the environment.”¹⁸²

Nestlé must still complete environmental impact studies to get permits. Were the town to give its approval, the plant construction would begin in 2010 and then open in 2011.¹⁸³

At least one council member, Dick Ford, is skeptical of the proposal because it could amount to the town giving away too much of its spring water: “It was under our parents’ and our grandparents’ stewardship, and now it’s under our stewardship...It was passed to us, and we ought to protect it and pass it on.”¹⁸⁴

Discussions also are underway with the community of Black Diamond.¹⁸⁵

Conclusion

From Shapleigh, Maine, to the California coast and countless communities in between, Nestlé continues its efforts to remove hundreds of millions of gallons of groundwater — often at a low price — to turn into profitable bottled water. However, as we’ve seen in this report, ***All Bottled Up: Nestlé's Pursuit of Community Water***, citizens are standing up to Nestlé and standing up to protect their water from corporate exploitation.

What you can do

- Choose tap water over bottled water whenever possible.
- Contact Food & Water Watch at www.foodandwaterwatch.org to stay informed and get involved.
- Encourage your friends, family, university campus, city government and community groups to break the bottled water habit. Sign the Take Back the Tap pledge at www.foodandwaterwatch.org/water/bottled. You can get more involved in taking back the tap by contacting Food & Water Watch at 202-683-2500 or cleanwater@fwwatch.org

- Join Food & Water Watch’s campaign to urge local restaurants to stop serving bottled water. Find out how at www.takebackthetap.org/restaurants.
- Encourage your local government and businesses to repair and install water fountains.
- Support state legislation to prevent excessive removal of groundwater.
- Tell Nestlé to stop using its economic and political muscle to bully communities into bad water extraction deals. Tell Nestlé you are taking back the tap and that it should get out of the way. Do this at: http://action.foodandwaterwatch.org/t/5915/petition.jsp?petition_KEY=1427&track=waterhp
- Show a movie about citizens challenging Nestlé and other water bottlers.



As the world’s water supply dwindles, communities in the United States and all over the world are organizing to take public control of their water systems and defend their human right to safe, affordable and accessible water.

Sam Bozzo’s *Blue Gold*, Irena Salina’s *FLOW: For Love of Water*, Alan Snitow and Deborah Kaufman’s *Thirst* and Liz Miller’s *The Water Front* all document an array of characters — from activists to corporate CEOs — who are at the root of a growing

people’s movement to take control of water, a vital resource and a critical part of the public commons.

You can get involved by gathering groups of friends and neighbors to see these documentaries. You can also host a screening of one of many films available on loan from Food & Water Watch’s Water Film Library, available at www.foodandwaterwatch.org/water/films/library.

Blue Gold: www.bluegold-worldwaterwars.com/
FLOW: www.flowthefilm.com
Thirst: www.thirstthemovie.org/
The Water Front: www.waterfrontmovie.com/

Nestlé’s Buying Spree¹⁸⁶

In 1969, Nestlé made its first foray into the water business. The company purchased a 30 percent stake in Vittel, then France’s third largest mineral water company.¹⁸⁷ From there, it went on a substantial buying spree and is now the largest bottled water company in the world.¹⁸⁸ Below is a list of Nestlé acquisitions.

Perrier

Founded: 1863
 Sources/Sales: France/Global
 Purchased by Nestlé: 1992

Calistoga

Founded: 1924
 Sources/Sales: California and other western states
 Purchased by Nestlé: 1980

Poland Spring¹⁸⁹

Founded: 1845
 Sources/Sales: Northeast
 Purchased by Nestlé: 1980

Arrowhead

Founded: 1894
 Sources: California, Arizona and Nevada
 Purchased by Nestlé: 1987

Ozarka

Founded: 1905
 Sources/Sales: Texas, Oklahoma, Louisiana and Arkansas
 Purchased by Nestlé: 1987

Ice Mountain

Founded: 1987
 Sources/Sales: Midwest
 Purchased by Nestlé: 1989

Deer Park

Founded: 1873
 Sources/Sales: New York to Florida
 Purchased by Nestlé: 1993

Zephyrhills

Founded: 1960
 Sources/Sales: Florida
 Purchased by Nestlé: 1987

Imported:

Acqua Panna

Founded: 1899
 Sources/Sales: Italy/Global
 Purchased by Nestlé: 1999

S. Pellegrino

Founded: 1899
 Sources/Sales: Italy/Global
 Purchased by Nestlé: 1999

Pure Life

Founded by Nestlé: 2002
 Sources/Sales: United States & Canada

Appendix 1: Nestlé Lashes Out Against Documentary Film FLOW

Despite winning a court decision in Michigan over its controversial water extraction tests, Nestlé chose to use the issue as the centerpiece of its online video response to the recently released documentary film *FLOW* (www.flowthefilm.com), which investigates the bottled water business — along with pollution, privatization and scarcity — as part of a global water crisis. In the video, Nestlé claims that its tests in Mecosta County, Michigan (See Michigan case study on page 12) showed that extraction would not harm the level and flow of groundwater in the area. However, that is not true, according to the lawyer who represented local opposition to Nestlé's proposed operations. Aside from the

video, Nestlé also sent representatives to the August and September screenings of *FLOW* to challenge organizers on site to educate the public about the bottled water issue.

In the video, available at www.nestlewaterissues.com/streaming/, the company “does not disclose that Nestlé lost on these issues at trial,” said Jim Olson, the attorney who represented MCWC in its legal case against Nestlé.¹⁹⁰

The company didn't reveal all of the hydrogeological data showing the effects of the company's pump tests on groundwater and surface water in Mecosta County.¹⁹¹

The raw data showed that the springs entering the headwaters of the stream from the Sanctuary property lost at least half of their flow during the pump tests, Olson said. Flow through the outlet of the impoundment into the upper reach of the stream dropped by 50 percent. At one point in the pump test, a 65 percent drop in flow was recorded one-third to one-half mile downstream.¹⁹²

Biologists and wetlands experts determined that such drops in the level and flow of water in the area would adversely affect the local environment, including loss of wetlands, damage to aquatic habitat, temperature increases and exposed bottomlands.¹⁹³

According to Olson: “The trial court found major effects in drops in flows and levels, and impairment of the environment, and that Nestlé violated the Michigan Environmental Protection Act. The court found that Nestlé's pumping caused and would continue to cause substantial harm and interference with riparian interests and was [an] unreasonable use under Michigan water law because of the drops in flows, levels and impacts. In addition, contrary to Nestlé's portrayals in its video, the court of appeals, even though it relaxed the unreasonable use standard in favor of the company, concluded that pumping at 400 gallons per minute was unreasonable and unlawful and affirmed the trial court's findings of substantial harm and interference.”¹⁹⁴

He added that the people interviewed in the Nestlé video are not neutral: “Noah Hall [a lawyer with the Great Lakes Environmental Law Center] has supported Nestlé, despite his attestations he doesn't personally do bottled water, including Nestlé's legal arguments to weaken water law to the Michigan Court of Appeals.”¹⁹⁵





Appendix 2: The Bad News with Bottled Water

Consumers, businesses and local and state leaders across the country are becoming aware of the many economic and environmental problems with bottled water. By 1999, chinks began to appear in the bottled water sales juggernaut. The problems were growing more apparent with an industry considered to be one of the least regulated in the United States.¹⁹⁶

Bottled water costs 240 to 10,000 times as much as tap water^{197,198} that's just as pure and healthful, if not more so. Buying the equivalent of one gallon of bottled water in single-serve containers costs more than a gallon of gas.¹⁹⁹ In fact, as much as 40 percent of bottled water comes from the tap.²⁰⁰

Studies have found “significant contamination” in independent laboratory testing of bottled water.²⁰¹ In October 2008, Environmental Working Group released a report that found mixtures of 38 different pollutants, including bacteria, fertilizer, Tylenol and industrial chemicals in 10 popular U.S. bottled water brands.²⁰² Furthermore, spring water is not always pure and it's not always from a true spring. Sometimes, “spring” water originates from questionable sources, such as polluted wells. In one case, for example, bottling companies had been buying water from a Massachusetts commercial spring near a hazardous waste site.²⁰³ Samples taken from the spring contained chemicals that likely cause cancer in humans.²⁰⁴

When one factors in the ecological consequences, bottled water is simply a dirty deal. Bottling water is inefficient. Producing a one-liter bottle of water can require three liters of water.²⁰⁵ Annual U.S. plastic bottle production requires

more than 17 million barrels of oil, enough to fuel one million vehicles on our roads each year.²⁰⁶ But it's not just the production of the bottles that has an ecological impact. The energy used to pump, process, ship and refrigerate bottled water amounts to 50 million barrels of oil, enough to run 3 million cars.²⁰⁷

Unfortunately, the bad news doesn't stop after the last drop is drained from the bottle. About 86 percent of the empty plastic water bottles in the United States land in the garbage instead of being recycled,^{208,209} amounting to about two million tons of PET plastic bottles in U.S. landfills each year.²¹⁰ Single-serving water bottles and other beverage containers, often used on the go, are recycled at a lower rate than containers typically used at home. Those bottles likely will be incinerated, which releases toxic ash and gases into the air.²¹¹

What are the larger implications of using and burning all that energy? For one, bottling water produced more than 2.5 million tons of carbon dioxide in 2006, according to calculations by the Pacific Institute.²¹² This contributes to the ongoing crisis of global climate change.

But that's not the end of the story. The climate change caused by bottled water production and distribution in turn can affect the replenishment of groundwater in communities across the country. In 2005, the journal *Nature* published a study showing how climate change could diminish water sources dependent on melting snow. With warmer periods, earlier snowmelt could mean “much of the winter runoff will immediately be lost to the oceans” rather than to recharge groundwater sources.²¹³

²⁰⁷ If 50 million barrels of oil is enough to run three million cars, then 17 million barrels of oil would run approximately 1 million cars. $50/3=16.67$.

Appendix 3: Businesses Turn to Tap Water, Too

Restaurants and local governments aren't the only entities that see the value in drinking from the tap. Corporate America, with perhaps a less than altruistic incentive, is motivated by the mighty dollar. For instance, Brita, a Clorox company, has seen sales of their water filter systems rise as much as 11 percent in one quarter in 2007.²¹⁴ So has Procter & Gamble. Its filter brand PUR reached record highs in 2007. Nalgene Outdoor Products, maker of the popular reusable water bottle carried by most hikers and other outdoor enthusiasts, started a web-based campaign titled "Refill Not Landfill." Its 32-ounce bottle is now sold with that catchy slogan and sales have shown an increase of as much as 30 percent in the month after the campaign.²¹⁵ Proceeds from the campaign are now dedicated to buying carbon offsets.



Appendix 4: Some Facts: Nestlé's Bottled Water Business

According to the Nestlé Waters web site, the company is the "undisputed leader for bottled water in the United States and in Canada, despite intense competition."²¹⁶ It manufactures 72 brands of bottled water around the world.²¹⁷

Nestlé's Bottled Water operation:

Worldwide (2007)

- 10.4 billion in sales in Swiss francs (\$9.93 billion in 2007 dollars) in worldwide sales
- Market share: 19.2 percent
- Employees: 33,500
- Factories: 100
- Producing countries: 38

United States

- 30 percent to 32 percent share of the U.S. bottled water market^{218,219}
- Average consumption of bottled water per capita: 97.5 liters/year
- \$4.3 billion in North American sales
- Nestlé Waters has bottling facilities in 15 states: California, Arizona, Colorado, Texas, Illinois, Indiana, Michigan, Ohio, Pennsylvania Tennessee, Georgia, Florida, Maryland, Massachusetts and Maine.²²⁰

Appendix 5: Possible Global Trade Implications of Groundwater Extraction

Sensible government oversight of the bottled water industry is clearly needed and long overdue, but when international food companies like Nestlé are buying natural resources and distributing bottled water, international trade and investment rules may trump local, state or national regulatory efforts. Some trade agreements may limit the ability of governments (especially state or local governments) to enact regulations over the water bottling industry, to impose regulatory burdens (like Maine's proposed tax on water extraction) on water bottling companies, or to set limits on the sale or commercial trade in bulk water resources. To date, the World Trade Organization rules on services trade (known as the General Agreement on Trade in Services, or GATS) does not cover the distribution of drinking water, although some international water companies have pressed to include water services in the current round of WTO negotiations. The GATS agreement already has a broad scope that favors commercial investors; the addition of water, water distribution and other water-related services to future GATS negotiations would potentially significantly undermine local, state and federal government abilities to protect water and water systems as public goods.

International trade and investment rules (most notably under the North American Free Trade Agreement, or NAFTA) protect companies from public interest regulations. NAFTA gives corporate investors broad latitude to claim that necessary government oversight to protect the environment, drinking water safety or other legitimate regulations are "expropriations" that deserve monetary compensation. The U.S.-based Metalclad company received \$15.5 million in damages after a local Mexican jurisdiction prevented the company from reopening a toxic waste dump by declaring the area a natural reserve for the preservation of endangered cacti.* Efforts by local or state government to protect aquifers from water bottling companies could potentially be challenged under these investor rules.

* See Food & Water Watch and Institute for Policy Studies, *Challenging Corporate Investor Rule*, April 2007 at 12.



Finally, the commodification of water resources and global trade in bulk water is increasingly of concern to citizen activists. Although NAFTA does not currently cover water as a tradeable good, there are efforts to include bulk water trade in any NAFTA expansion.** Moreover, water is included in the list of goods under the WTO's tariff classification system, which could allow WTO rules and dispute systems to be applied to government oversight of the bottled water industry. The long reach of global trade and investment rules could complicate the efforts of local governments and citizens to hold the bottled water industry accountable.

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