



Water Privatization

A publication of the Community Environmental Legal Defense Fund

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Communities across the country are being targeted by water corporations to siphon off hundreds of thousands of gallons of water a day to bottle and sell. The privatization of water brings significant impacts to communities and local ecosystems, and increasingly communities are seeking to stop it.

CELDF has partnered with communities in New Hampshire and Maine to develop first-in-the-nation laws banning corporate water privatization and securing the right of community self-governance.

What are the dangers?

Commercial water withdrawals impact both surface and groundwater resources. They deplete drinking water and can contaminate aquifers and wells. In addition, withdrawals dry up streams, wetlands, and rivers, as well as reduce lake levels, damaging habitat and harming wildlife.

Why can't we stop it?

Residents of Nottingham, NH¹, spent years fighting a state permit for a water bottling plant that would have extracted over 300,000 gallons of water daily from the local aquifer. They learned that the corporate directors of USA Springs had more rights to decide what happened to the water in the community than the people who lived there. Part of this, they found, is because corporations have constitutional “rights” under the U.S. Constitution, which private corporations are able to wield against communities to override local, democratic decision making².

They also found – as are other communities across the country – that their state government, with the help and at the behest of

corporations, has legally authorized water withdrawals to take place. Through legislation such as the New Hampshire Groundwater Protection Act³, state environmental agencies are issuing permits to corporations to extract millions of gallons of water a day from local aquifers to bottle and sell.

So, when a community contacts their state agency for help to *stop* a water extraction operation, they find that rather than helping the community to protect its water, the agency is instead *legally authorizing corporations to take it*. Not only do corporations wield corporate

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“rights” to prevent residents from protecting their communities, but the state preempts⁴ them from doing so as well.

What are our options?

When a community faces water privatization, they have three choices before them:

1. Do nothing. This assures water privatization can happen in their community.
2. Use existing law, such as zoning, to try to stop water privatization. However, this only allows communities to determine where the water bottling operation can be located in the community, not stop it. And as folks in Nottingham found, state law regulating water privatization does not grant communities the legal authority to say “no” to the privatization.
3. Change existing law. Use their own municipality to protect their community and assert their rights by making local laws that recognize their right to say “no” to water privatization.

The bigger problem

Facing harmful corporate activities such as water privatization is creating a shift in understanding about how and why communities are unable to protect themselves from such threats. We live under a system of law and governance that subordinates community and nature’s rights to corporate “rights” and state preemption. And it’s no accident. Our constitution intentionally places the rights of property and commerce over the rights of people, communities, and nature. Decisions about ecosystems – soil, water, the minerals beneath us, even the air we breathe – are largely in the hands of corporations instead of community members who are directly impacted. It’s no surprise then that when we try to build the communities we want, we find that our system of law prohibits us from doing so.

What are we going to do about it?

The Community Environmental Legal Defense Fund has been grassroots organizing for almost two decades, partnering with communities to challenge and transform the existing structure of law that elevates the rights of property and commerce over the rights of people, their communities, and nature. **Today, over 140 communities in Pennsylvania, Ohio, New Hampshire, New Mexico, New York, Maine, Maryland, Massachusetts, and Virginia have adopted CELDF-drafted laws.** These laws ban unwanted corporate activities, such as water privatization, drilling and fracking, and factory farming, while eliminating certain legal doctrines which stand in the way of community self-governance and sustainability.

¹ See www.celdf.org/community-organizing-new-england-nottingham

² See www.celdf.org/our-work-corporate-rights and www.celdf.org/celdf-model-brief-to-eliminate-corporate-rights

³ See www.des.nh.gov/organization/commissioner/pip/fact-sheets/dwgb/documents/dwgb-22-1.pdf

⁴ See www.celdf.org/state-preemption

Who are we?

CELDF is the only organization in the country that has assisted communities to ban corporate water withdrawals through grassroots organizing and local lawmaking.

Through this work, CELDF has become the principal advisor to communities and municipal governments determined to transition from merely *regulating* corporate harms to *stopping* those harms by asserting their right to democratic, local self-governance.

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