

CASE STUDY

Ground Truthing Groundwater: Local Citizens Unite to Prevent Withdrawals

In early 2000, the people of Wisconsin found new hope that their water resources would not be put up for sale to the highest bidder. This is due in part to the dedication of a small grassroots group in central Wisconsin that fought to protect their spring waters from exploitation by a multinational corporate water bottling company, Perrier, Inc. and Great Spring Waters of America.

The story began in February of 1999, when officials with the Wisconsin Department of Commerce invited Perrier to locate in Wisconsin and establish high capacity wells for its planned water bottling plant and pipeline.

In June of 2000, Perrier filed an application for a high capacity well permit under Wisconsin law to establish high capacity wells in the Big Springs area of Columbia and Adams Counties near the peaceful town of New Haven, Wisconsin. Perrier wanted to operate the wells 24 hours per day every day of the year, pumping up to 500 gallons per minute. The proposed bottling plant would have had a footprint of some 80 acres, with up to seven miles of pipeline to move water from the source to the bottle.

The project details were fleshed out in a private agreement between the Department of Natural Resources (DNR) and Perrier, without any knowledge by the public until August of 2000.

However, the DNR did not conduct a thorough analysis of how the high capacity wells would deplete the precious and pure spring waters in the area. Moreover, the analysis did not carefully consider how the pumping would affect nearby trout streams fed by the spring waters. In fact, the DNR did not even know the exact locations of the high capacity wells when it conducted its environmental review. Despite this, the DNR concluded that it would conduct no further

review of Perrier's proposed high capacity well permits.

The citizens in the town of Newport and other areas that would have been affected by water withdrawals decided to fight the issuance of the permit; the steps they took to protect water may be useful for other communities. The everyday people involved in this effort became incredible activists. They used all of the tools available to them, from organizing public meetings and passing local referenda, to getting their message out to the media and going to court.

Step One: Gain access to information

- a. Attend public meetings.
- b. Use the open records laws to access information from the government.
- c. Hold public meetings and invite public officials to attend.

Step Two: Use information to wage an effective media campaign

- a. Raise funds to purchase advertising space in local newspapers.
- b. Consistently write letters to the editor raising questions about the project.
- c. Distribute yard signs to build grassroots opposition to the project.
- d. Develop relationships with the press so they cover the story.

Step Three: Develop a political strategy to build opposition to the project among elected officials.

- a. Attend and speak at government meetings.
- b. Meet with elected officials to discuss the group's position on the issue.
- c. Participate in local elections to make the project a campaign issue.

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Groundwater Legislation in Wisconsin – One Man's Story

Scott Froehlke is a former board member of the River Alliance of Wisconsin and was an important actor in events that led up to the call for groundwater regulation in Wisconsin, and the passage of the legislation itself. In his own words....

It all started with Perrier and their proposal to take groundwater out of central Wisconsin and bottle it (*in 2001*). That got stopped cold by all the locals coming together. Their role ended at the Coloma High School gym, when hundreds of people turned out to corner two Perrier guys. They finally left the state, but with the tacit understanding they would come back when there was a law that might get at groundwater permitting.

The Perrier situation led to the River Alliance of Wisconsin, in the person of Todd Ambts (*former executive director of the River Alliance*), starting talks with a group of people who'd be seriously affected by groundwater removal and regulation—the potato and vegetable growers. From those conversations came a statement of principles about groundwater withdrawals, which we then took to legislators. At this point, I jumped in deep, because of my work as a lobbyist and connections to legislators.

We got Rep. Dwayne Johnsrud's attention (*at that time chair of the Assembly Natural Resources Committee*) because of the unusual alliance of farmers and an environmental group. Johnsrud really wanted something to come of this, got his Senate colleague Neal Kedzie involved, and then things got complicated. The legislators wanted "a big tent," and industry people, municipalities and well-drillers got in the mix. The potato and vegetable growers' lobbyist got involved because he didn't like what the farmers he represents had started.

The big moment in all this, though, was turning it over to the lawmakers and trusting the process—believing that something good would come out the other end. Johnsrud was determined to pass something and even though he worked off our original outline, the greens were very skeptical. What brought them along was the entry of Steve Born (*University of Wisconsin planning professor and long-time conservation activist*). Born scolded the greens to keep them from being an obstacle. In the middle of it all was Todd Ambts (*now water division administrator for WI DNR*), who'd gone from advocate to regulator on the same issue.

In the end, a backroom deal was struck that delivered a very flawed product. The bill passed with only one vote against it in both houses of the legislature. Though flawed, what's important is what the law got started, not what it accomplished per se. What got started is the groundwater advisory committee to study the big issues and make recommendations and to define the vague term "deleterious impact" from groundwater withdrawals that the legislation didn't define. The law gave two thirsty regions of the state—Brown County and southeastern Wisconsin—license for local governments to cooperate on groundwater withdrawals and conservation measures.

The story's just begun with this law.

Step Four: Use the law and litigation as a last resort to protect your environment and quality of life

- a. Bring legal action to defend the public's rights to clean water and a clean government.
- b. Remember that a lawsuit is a supplement to and not a replacement for the educating and organizing work of the grassroots group.

The community formed a group and called themselves the Concerned Citizens of Newport. They retained the help of Midwest Environmental Advocates, Inc. and Garvey and Stoddard, PC to go to court, a decision that complimented their multi-level organizing and local activism.

In *Concerned Citizens of Newport v. Department of Natural Resources*, the Concerned Citizens of Newport alleged that the DNR had violated the Wisconsin Environmental Policy Act (WEPA) by failing to conduct a sufficient environmental review of the high capacity wells and by failing to include the public in the environmental review. The Concerned Citizens of Newport also alleged that the DNR violated the Public Trust Doctrine by essentially giving Wisconsin's precious water to a private, multinational corporation.

In summary, the court granted Concerned Citizens of Newport's petition on the claim that the DNR had failed to adequately examine the environmental effects of the high capacity wells. Specifically, the court stated that "the DNR's record...is not adequate nor is the environmental impact statement decision on that record reasonable..." Moreover, "[t]he modeling and the data are insufficient to make a reasonable assessment of the potential impact on groundwater, impact on the marsh levels, the creek flow and so forth." The Court required the DNR to reconsider the high capacity well permits, and conduct a more thorough environmental

review of the surface water impacts caused by the wells.

Further, the Court ruled that the closed-door process set up by the DNR to conduct its environmental review of the high capacity wells also violated Wisconsin law. Specifically, the Court called the process "impermissible" and that the DNR and Perrier effectively cut the public out of environmental decision-making—the very public that would be hurt the most by Perrier's high capacity wells. When the DNR re-examined the high capacity well permits, the Court held that it must do so by providing the public with the full opportunity to participate.

The court gave the DNR the task of creating a new Environmental Assessment that would have more fully shown the public the environmental impacts of Perrier's proposal. Faced with their inability to accomplish this, Perrier announced on September 17, 2002, that it would let its permits expire and leave Wisconsin.

