

# **THE FINAL FRONTIER**

**A Working Paper on  
the Big 10 Global Water Corporations  
and the  
Privatization and Corporatization  
of the World's Last Public Resource**

by Gil Yaron  
Citizens' Council on Corporate Issues

prepared for  
Tony Clarke  
Polaris Institute

March 15, 2000

© Polaris Institute and the Council of Canadians

## FOREWORD

I would like to take this opportunity to thank Gil Yaron and his associates for producing this working paper. "The Final Frontier" is a summary analysis of research findings regarding the top 10 water corporations in the world. The project was conducted under the auspices of the Polaris Institute for the Council of Canadians.

The origins of this study are rooted in the seminal work by Maude Barlow entitled *Blue Gold: The Global Water Crisis and the Commodification of the World's Water Supply*. Published in June 1999 as a special report by the International Forum on Globalization, *Blue Gold* provided the most comprehensive analysis to date of the rapidly growing privatization of the world's water resources and the emerging global water market.

When Maude Barlow and I met to discuss follow-up work on *Blue Gold*, it became clear to us that more research was needed into the major corporate players in the global water system. If citizens' groups in Canada and elsewhere around the world were to become more active on these issues, then it was important to provide them with a strategic analysis of the major corporate players at the centre of the emerging global water market.

As a result, Gil Yaron and his associates at the Citizens' Council on Corporate Issues were commissioned by the Polaris Institute to develop profiles of the top 10 corporate players in the global water market. A template that we have been designing at Polaris to present strategic information and intelligence on transnational corporations for citizen campaign purposes was refined and tailored for this project.

"The Final Frontier" is intended to provide an overview of the key corporate players within the

geopolitics of the global water crisis as a framework for concerned citizen movements to do serious strategic planning and action on these issues. Accompanying this document are profiles on the two leading global water titans, Vivendi and Suez Lyonnaise des Eaux, plus eight other major corporate players in the global water market system (i.e., Anglian, Bechtel, Bouygues, Enron, RWE, Severn Trent, Thames, and Kelda), which will soon be available on the Polaris website.

The Council of Canadians is presenting “The Final Frontier” as one of its principal background documents for interventions that the Council and other like-minded international organizations will be making at the World Water Forum in The Hague, March 17–22, 2000.

— Tony Clarke

Director, Polaris Institute

## ACKNOWLEDGEMENTS

This report has taken six months to prepare and would not have been possible without the work of a number of individuals. Background research for the project revealed the existence of a wealth of information about corporate activity in the water and utility sector, with few attempts at compiling and analyzing it from a corporate reform and anti-privatization perspective.

My gratitude goes to the many people in Canada, the United States and Europe who provided information for this project, and to the efforts of those who have fought for corporate disclosure legislation in each jurisdiction, which has allowed access to much of the corporate information included in this report. Many thanks to Dierk Ullrich for help on researching German sources and to Public Services International for continuing research on many of the corporations cited in this paper. Most importantly, my sincerest gratitude to Nicole Rycroft for the tireless hours of work she put into compiling the corporate profiles and assisting at all stages of the project. Her involvement made writing this report a truly enjoyable experience.

— Gil Yaron

## LIST OF TABLES

TABLE 1: MERGERS AND ACQUISITIONS 1994-1998 .....	13
TABLE 2: COMPARATIVE FINANCIAL STATISTICS .....	14
TABLE 3: 'BIG 10' OWNERSHIP OF UNITED STATES WATER CORPORATIONS.....	21
TABLE 4: TOP FIVE PRIVATE SPONSORS BY NUMBER OF PROJECTS, 1990-1997.....	69
TABLE 5: PRIVATE WATER AND SEWERAGE PROJECTS IN DEVELOPING COUNTRIES BY TYPE, 1990-1997 .....	70

## TABLE OF CONTENTS

1. WATER WORLD: Geopolitics and the Corporatization of Water _____	7
2. THE BIG 10 WATER CORPORATIONS: Structure of Water Transnationals _____	18
3. PROFITING OFF WATER: Corporate Finances and the Economics of Water _____	28
4. REVISITING COLONIALISM: Water Policy, Politics and the Law _____	34
5. LIVING WITH PRIVATIZED WATER: Labour, Communities and Environment _____	45
6. BEYOND THE BIG 10: Dams, Bags and Other Things _____	64
7. THE HORIZON: The Future of Corporate Water _____	69

## Chapter 1

# WATER WORLD: Geopolitics and the Corporatization of Water

The notion of water provision as a public good and welfare activity is being replaced by the concept of water as an economic good and as an input in economic activity.

— Ariel Dinar and R. Maria, *Comparative Study of Water Institutions and Their Impact on Water Sector Performance in Selected Countries* (Saleth, Delhi: Institute of Economic Growth, July 1998).

Water has always been one of humankind's most precious resources. At the dawn of the new millennium, the world is facing the possibility of life-threatening water shortages. Increasing demand, changes in consumption patterns, desertification, pollution and an inadequate infrastructure all appear to be leading us towards a global water crisis.

A recent study published in the *International Journal of Water Resources Development* states that "slightly more than one billion people live in arid regions that will face *absolute* water scarcity by 2025."<sup>1</sup> The areas in which these people live (including parts of China, Pakistan and India) have insufficient water resources to sustain domestic, agricultural, industrial and environmental requirements. An additional 348 million people face severe water scarcity and the possibility of satisfying water demand only through massive development of infrastructure, at enormous cost and with possibly severe environmental consequences.

Currently 31 countries — mostly in the Middle East and Africa — are facing water shortages.<sup>2</sup> By the year 2025, seventeen countries will be added to this list, including Ethiopia, India, Kenya,

---

<sup>1</sup> David Seckler, David Molden and Randolph Barker, "Water Scarcity in the Twenty-First Century," *International Journal of Water Resources Development* (March 1999): 2.

<sup>2</sup> Danielle Knight, "Environment Bulletin — Water: Worldwide Water Shortage to Worsen" (September 8, 1998), available at [www.ips.org/Critical/Environment/Environ/env1209006.htm](http://www.ips.org/Critical/Environment/Environ/env1209006.htm).

Nigeria and Peru. World leaders such as Mikhail Gorbachev have recognized the pending water crisis: “Based on population projections alone, some 33 countries are expected to have chronic water shortages by 2025. Moreover, such projections do not take into account the possibility that climate change could eventually further exacerbate water shortages.”<sup>3</sup> It is now a commonly held belief that “the wars of the 21st century will be fought over water.”<sup>4</sup>

It is customary to look to governments for deliverance in such critical situations. However, water management policy seems not to be based any longer on the premise that water is a social resource necessary for all life, but rather on the view that it is an economic resource to be managed by market forces. Cash-strapped governments are increasingly acquiescing to fiscal pressures and lobbying by transnational corporations to turn control of the resource over to private interests, which in turn are capitalizing on the growing scarcity of water. According to the World Bank’s Private Participation in Infrastructure (PPI) project database, between 1984 and 1990 there were only 8 private water and sewerage project contracts completed in developing countries, compared with 97 between 1990 and 1997.<sup>5</sup> Most of these contracts were awarded by a few countries: China (13), Malaysia (6), Mexico (12), Brazil (8) and Argentina (7). According to industry reports, about 200 new municipal and industrial clients in the United States issued requests for proposals for operating and management contracts in 1997.<sup>6</sup>

In some situations governments have the capital to finance power and water projects. Even in these areas — for example, the United Arab Emirates (UAE) — privatization is being pursued as the new frontier of economic development. The United States Department of Commerce

---

<sup>3</sup> “Wars Over Water Worry World Leaders” (January 5, 1999), available at <http://ens.lycos.com/ens/jan99/1999L-01-01-02.html>.

<sup>4</sup> Comments of Ismail Serageldin, Vice-President of Environmental Affairs, World Bank, and Chairman of the World Water Commission, as quoted in M. de Villiers, “To the Last Drop,” *Financial Post Magazine* (April 1999): 36.

<sup>5</sup> Gisele Silva, Nicola Tynan and Yesim Yilmaz, “Private Participation in the Water and Sewerage Sector — Recent Trends,” *Private Sector* (1997): 1–2.

<sup>6</sup> *1997 Trends in Water and Wastewater Utilities*, available at [www.privatization.org/Collection/ServiceAreas/1008\\_w-ww\\_priv\\_trends.html](http://www.privatization.org/Collection/ServiceAreas/1008_w-ww_priv_trends.html).



articulates many benefits of privatization in its market assessment of the UAE. Among them is the claim that “it will reduce government’s capital expenditures incurred for the maintenance and expansion of power and water projects and will eventually free financial resources for military and other expenditures.”<sup>7</sup>

In fact, the global water industry is going well beyond the privatization of municipal and regional water. Global water corporations are also acquiring control of water through (1) the ownership of dams and waterways, (2) control over bottled water, (3) the development of new technologies to facilitate water desalination and purification, and (4) water exportation. While development in these areas is being undertaken by small entrepreneurial engineering and construction companies as well as larger transnational companies, these smaller enterprises are often bought by the large transnationals once they have proven their viability. Chapter 6 of this report, “Beyond the Big 10,” discusses in detail these developments in the control of water.

There are six systemic and financial concerns associated with the privatization of water and water services. First, the fact that water is a resource essential to human survival requires that decisions regarding allocation of water address the many interests at stake rather than only financial considerations. Since the corporation as an institution exists to generate profit for its shareholders, allowing corporations to control water management means that issues such as equal access, sustainability and workers’ rights may no longer be a priority. Yet the private corporation is incapable, some feel, of adequately managing the myriad interests involved in the management of an important public resource, not the least of which involves serving the needs of citizens. Indeed, studies indicate that “water sector experts” promote the belief that “the notion of water provision as a public good and welfare activity is being replaced by the concept of water as an economic good and as an input in economic activity.”<sup>8</sup> Thus, the corporatization of water is

---

<sup>7</sup> U.S. Department of Commerce, *Market Assessment* (U.S. Department of Commerce, January 6, 1998), available at [www.ipwa.org/discus/messages/13/21.html?SaturdayAugust1419990224pm](http://www.ipwa.org/discus/messages/13/21.html?SaturdayAugust1419990224pm).

<sup>8</sup> Ariel Dinar and R. Maria, *Comparative Study of Water Institutions and Their Impact on Water Sector Performance in Selected Countries* (Saleth, Delhi: Institute for Economic Growth, July 1998).

already leading to a concentration of control in the hands of a very few organizations, which exercise their monopoly in order to maximize profits.

Second, despite being a relatively new industrial sector, the history of the water industry includes allegations of bribery, misappropriation of funds, exorbitant executive salaries, high consumer prices, favouritism, extensive interlocking between industry and government, poor environmental and health records, and unfair labour practices. These activities will be outlined further throughout this report.

Third, privatization means that the management of water resources is based on principles of scarcity and profit maximization rather than long-term sustainability. Industry claims that the privatization of water has a positive effect on sustainability, since it results in greater efficiency of water use. However, the history of water privatization in England indicates rather that the unregulated corporatization of water puts corporate profits before principles of sustainable water management. For example, not until 1999, when the national regulator, OFWAT, imposed requirements for water conservation and infrastructure repair, did British water corporations take significant steps to repair leaking water pipes. Contrary to industry claims, our findings suggest that the privatization of water is, in fact, antithetical to sustainable resource management. Corporations are dependent on increased consumption to generate the profits necessary to attract investors. As a result, while many water corporations are actively engaged in the purification, diversion, desalination and export of water, none are considering the most fiscally and environmentally responsible option — conservation. In order to satisfy their primary economic objectives, many corporations seek to increase the availability of water solely through unnatural water diversion, desalination and export, rather than through promotion of water conservation and decreased consumption patterns. The increased pressure placed on the resource through the promotion of increased consumption by private interests is likely to result in an acceleration of confrontations among the corporations and nations vying for control over this precious resource.

Fourth, the global trend towards the privatization of what have traditionally been public services reduces the democratic involvement of both citizens and governments in water management decisions. Unlike government, corporations have minimal disclosure requirements in most countries; as a result, the public's access to information from corporations is restricted.<sup>9</sup> The public is thus unable to ensure that the resource is potable and that it is being managed in a sustainable, efficient manner. Furthermore, the nature of the water industry is such that only one corporation can be involved in the management of water in a given region. Once a private monopoly is established it is extremely difficult to reverse it. Contractual obligations and the establishment of financing systems based on private control make it impossible for governments to reclaim water management if the private monopoly does not meet requirements. The concentration of power in the hands of a single corporation and the inability of governments to reclaim management of water services allow corporations to impose their interests on governments, thus compromising governments' ability to govern based on the interests of the public.

Fifth, privatization exacerbates the existing problems related to water access. As we have seen, countries that have current or imminent water shortages are home to some of the poorest people on earth. Although industry asserts that privatization will result in adequate and equal access to the resource, privatization frequently results in access only for those who can afford it. As corporations acquire the rights to water access points and take over ownership of the rights to the technologies necessary to access increasingly scarce supplies, peoples' ability to access water may well be further constrained.

Finally, industry argues that the privatization of water-related services is the only way to finance the infrastructure development necessary to provide water to the growing global population. Few would deny that improvements to the international water infrastructure are both necessary and

---

<sup>9</sup> Maude Barlow, *Blue Gold: The Global Water Crisis and the Commodification of the World's Water Supply* (International Forum on Globalization, June 1999).

costly. In a 1996 report on drinking water, the U.S. Environmental Protection Agency stated that U.S. water systems will need \$140 billion through 2016 to meet standards.<sup>10</sup>

Hungary estimates costs for improving its water services at \$500 million.<sup>11</sup> However, experiences elsewhere would indicate that public revenue-generating mechanisms (such as the implementation of a tax on currency speculation like the Tobin Tax) could be developed to finance a public water industry. Until 1997, 13% of private participation in the water and sewerage sector took the form of management and lease contracts; such contracts leave control in the hands of government (see Chapter 7 for a full discussion of structural options), indicating that public control is possible.

The recent report entitled *Blue Gold* from the International Forum on Globalization was the first effort to focus general public attention on the water crisis and the impacts of water privatization.<sup>12</sup> This report builds on *Blue Gold* by analyzing the 10 major corporate players in the global water industry in detail and articulating their plans for the privatization of water in the 21st century. Describing these corporate actors and identifying their objectives are critical to developing effective responses to the concerns about water privatization. One of the problems in developing a list of the “top 10” water corporations in the world is the rate of change within the industry. Growth in the international water sector is occurring so rapidly that data are almost instantaneously obsolete. According to one author, “evidence is mounting that water will become the next acquisition frontier for leading players intent on shaping and dominating the future European utilities landscape.”<sup>13</sup>

---

<sup>10</sup> “Vivendi Offers \$6.2B for U.S. Filter: Powerful Combination. Deal Creates International Water Treatment Giant” *Financial Post* 1 (March 23, 1999): C10. The American Water Works Association estimates that it will cost us\$325 billion to upgrade u.s. water distribution systems over the next 20 years: RCC, “AWWA Ups Needs Estimate” *Public Works Financing* 127 (March 1999): 6.

<sup>11</sup> “Electricity Hungary Faces Huge Water Bill,” *Utility Europe* (March 1, 1999): 5, available at [www.reedbusiness.com/industrial.htm](http://www.reedbusiness.com/industrial.htm). [au]

<sup>12</sup> Barlow, *Blue Gold*.

<sup>13</sup> Kate Stanbury, “Watershed,” *Utility Week* (April 30, 1999): 16.

The past several years have seen a large number of acquisitions and consolidations as the “Big 10” (as we will refer to them in this report) vie for international markets. Between 1994 and 1998 there were 139 water-related mergers and acquisitions, with a total market value of nearly £10 billion (see Table 1). The rate of mergers and acquisitions exploded in 1999 with the largest mergers in history, including the acquisition of U.S. Filter, valued at over \$6 billion, by Vivendi. Although only in its infancy, the private water sector in the United States generates more than \$80 billion a year in revenue, four times the sales of Microsoft Corporation<sup>14</sup> Predictions value the global water and wastewater industry at between \$300 billion and \$800 billion in the year 2000.<sup>15</sup> (All dollar amounts in this report refer to U.S. dollars.)

**Table 1: Mergers and Acquisitions 1994–1998<sup>16</sup>**

	1994	1995	1996	1997	1998
Total number of agreements	25	27	31	29	24
Total value of agreements (US\$M)	877.51	690.13	921.7	669.52	699.8
Global market (%)	8.91	7.23	9.8	6.82	7.2

Note: Data includes all M & A deals involving water companies (water-to-water plus cross-sector deals) across all parts of the water industry value chain, including extraction, supply, sewerage, irrigation, etc.).

In light of these rapid changes within the industry, we have included corporations in the Big 10 list based not only on their annual revenues, but also on the breadth of their operations and their potential to meet future market demands (i.e., their “multi-utility” servicing capacity). Based on these criteria, the corporations named to the Big 10 list are, in descending order, Vivendi (France), Suez Lyonnaise des Eaux (France), Bouygues (France), Enron (USA), RWE, RWE Aktiengesellschaft Group (Germany), United Utilities (UK), Thames Water (UK), Anglian Water

<sup>14</sup> James K. Glassman, “A European Recipe for Increasing Your Returns: Just Add Water,” *International Herald Tribune* (Neuilly-sur-Seine, France) (April 8, 1999): 18.

<sup>15</sup> Barlow, *Blue Gold*; “Vivendi”; [www.azurix.com/issues/main.html](http://www.azurix.com/issues/main.html).

<sup>16</sup> Stanbury, “Watershed,” 16.

(UK), Severn Trent (UK) and the Kelda Group (previously, Yorkshire Water) (UK). Table 2 summarizes the data upon which our rankings are based.

**Table 2: Comparative Financial Statistics**

Corporation (1)(2)	Water Revenues	Total Revenues	Total Profits	Total CEO Compensation (3)	Total Liabilities
Vivendi	5.88	29.74	1.03	—	45.90
Suez Lyonnaise	4.80	29.39	0.937	—	67.94
Bouygues (SAUR)	2.28	2.92	0.21	—	2.06
Enron (Azurix)		29.35	0.79	8.8 M	29.35
RWE	0.13 (5)	40.40	555.5	—	7.46
Thames Water (1999)	2.13	Same	0.227		0.96
United Utilities	1.37	Same	0.29		1.43
Severn Trent (1999)	0.57	0.82	0.18	\$283,000 (4)	0.89
Anglian (1999)	0.45	0.50	0.23	\$150,000 (4)	0.03
Kelda Group (1999)		0.40	0.13		0.53

(1) All figures represent billions of U.S. dollars unless otherwise indicated.

(2) All figures are converted to U.S. dollars using conversion rates as of October 25, 1999, and based on figures obtained from company annual reports (1998 for U.S. and European corporations; 1999 for British corporations).

(3) Unlike their British and American counterparts, European corporations do not publish details of their CEOs' salaries.

(4) Salaries shown for British CEOs are base salaries only, and do not include other forms of remuneration such as stock options.

(5) RWE Group distributes its water revenues across a number of different sectors. The value shown reflects only those revenues reported as water revenues by the corporation, and therefore may be a conservative estimate of actual total water-related revenues.

The two largest water corporations in the world by far are the French transnationals Suez Lyonnaise des Eaux and Vivendi. Ranked 60th and 70th among Fortune's 1999 Global 500 List,

these two water giants comprise almost 70% of the existing world water market.<sup>17</sup> Suez operates in 120 countries and Vivendi in 90; their combined annual revenues are over \$70 billion (including over \$10 billion in direct water services). Bouygues, another French transnational, operates in 80 countries through its water subsidiary SAUR, with water revenues of \$2.8 billion. A distant fourth is United Utilities, a British corporation with operations around the world. United Utilities services over 28 million people and has formal partnership with the major construction corporation Bechtel, which reported 1998 revenues of \$12.8 billion. The remaining traditional water corporations in our top 10 list include four other British water corporations, Thames Water Plc, Severn Trent Plc, Anglian Water Plc, and the Kelda Group (previously Yorkshire Water Plc).

This study attempts to look beyond these eight corporations, representing the majority of present market share, to consider several large transnationals poised to make a huge impact on the global water market. Enron Corporation is an integrated gas and electricity company ranked 85th in Fortune's 1999 Global 500 List. Its 1998 revenues exceeded \$31 billion, it operates in over 50 countries, and it is making moves into the water market via its newly acquired subsidiary Azurix, in order to capitalize on the "multi-utility" service approach. RWE Aktiengesellschaft, a leading industrial corporation and Germany's largest electricity producer (with revenues exceeding \$40 billion in 1998), is emerging as that country's premier water company, with over 10 million international customers.<sup>18</sup> RWE's revenues place it 63rd in Fortune's 1999 Global 500 List, higher than any other water corporation. However, since a very small percentage of those revenues currently comes from water and wastewater services, we have ranked it lower in the list of the Big 10.

Together, these top 10 water corporations provide a representation of the corporate agenda for the privatization and corporatization of water in the new millennium. It is useful to understand

---

<sup>17</sup> *Water Utilities: Constituents* (July 30, 1999), available at <http://208.198.167.32/docs/WAT1/gpcoctwt.html>.

<sup>18</sup> "RWE to become leading water utility in Germany" (July 2, 1999), available at [www.rwe.de/mitteilungen\\_e/holding/19990702\\_891.html](http://www.rwe.de/mitteilungen_e/holding/19990702_891.html).

the basic framework of the various national water systems in which the Big 10 are based — those of the United States, France, Germany and the United Kingdom.

Water is viewed differently in the United States than in Europe. In America, water has been considered more of a service than a commodity, with regulatory factors traditionally taking priority over profitability. Only in the past 20 years, as a result of the oil crisis in 1974 and subsequent environmental awareness under the Carter administration, has water come to be viewed as valuable economically. Water is largely a local business in the United States, each state having its own regulatory regime governing water use and management. Since the mid-1970s, environmental regulations have prompted companies to invest more in technology and research, thus encouraging companies to form partnerships to improve their access to capital. The result of these collaborations, coupled with the challenges of such a geographically large country, is an industry consisting of 60,000–70,000 water and sewerage companies, of which fewer than 10 are of significant size.<sup>19</sup>

In France, most water services have been privatized for well over a century. In the United Kingdom, a series of state-owned regional utilities were privatized in 1989 by the Thatcher administration, which created regional, privately owned monopolies operating in a highly regulated environment. Water suppliers in Germany are regional monopolies operating under concessions from local authorities, who have a constitutional responsibility to ensure their citizens have access to the water supply. Some of the larger regional companies, such as Rhenag, Cologne, Thuga, Munich and RWE, own shares in some of the smaller companies dotted around the country, but most of these operate entirely independently. Approximately 1,650 utility companies in Germany handle 83% of water delivery; the remaining 17% is handled by 5,350 small organizations.

---

<sup>19</sup> Orla Ryan, "Europe Mulls U.S. Water Market," *Utility Europe* (June 1, 1999): 15.



This report is based on detailed corporate profiles of each of the 10 corporations, as well as on general research on the water industry and the global water situation. Each chapter focuses on a different section of the corporate profiles, thus allowing easy cross-referencing to individual profiles for those readers interested in obtaining more detailed information on a given corporation and its activities. Copies of the 10 corporate profiles are attached as appendices to this report.

Chapter 2 compares the structures of the corporations, including their internal organization and interlocking directorates. Chapter 3 looks at the economic and financial aspects of the corporations, including all financial data and marketing strategies. In Chapter 4, the policy positions of the corporations are considered, particularly with respect to water, political financing, lobbying and legal implications. Chapter 5 considers the labour, social and environmental records of the corporations. It also discusses successes around the world in combating the privatization of water and suggests possible approaches to engaging the global water industry. Chapter 6 attempts to look beyond the records of the Big 10 to outline some general trends and developments within the water industry as a whole. Chapter 7 concludes by briefly highlighting some of the major issues and concerns facing global water in the new millennium. Overall, the goal of this report is to provide a detailed snapshot of the global water market in the new century, highlighting the effects of the corporations' activities on public control over an important global public resource.

## Chapter 2

### THE BIG 10 WATER CORPORATIONS: The Structure of Water Transnationals

“I don't think it's a secret that Azurix wants to conquer the world . . . . We are willing to look at Berlin, Bucharest, Latin America or even the U.S.. We are interested in what makes money, not in geography. . . .”

— Mark Watts, treasurer of Azurix subsidiary Wessex Water, regarding the failed bid to purchase U.S. Filter. From Orla Ryan, “Europe Mulls U.S. Water Market” (June 1, 1999) *15 Utility Europe* (Vivendi 1/n 164).

The common agenda of the 10 largest water corporations is to become transnational, multi-utility providers. Every one of these organizations has sought to develop an international presence, with only the British companies being somewhat delayed by the national regulatory restrictions. Vivendi, the world's largest water services provider through its subsidiary Générale des Eaux, consisted of 3,371 companies as of December 1998 (a number which expanded greatly with the acquisition of U.S. Filter and other companies in 1999) and operates in 90 countries. Suez Lyonnaise des Eaux has operations in 120 countries supplying water to 72 million people.<sup>20</sup> United Utilities serves 25 million people worldwide;<sup>21</sup> Enron has water assets in Mexico, UK, Brazil, Canada and the United States; Bouygues' subsidiary SAUR is active in over 30 countries, servicing 23.4 million customers with water and wastewater services;<sup>22</sup> Severn Trent has international operations focused primarily in the United Kingdom (servicing 3 million), the United States and continental Europe;<sup>23</sup> Thames Water serves 21.8 million people in the United Kingdom, Asia, Australia, the Middle East and South America;<sup>24</sup> Anglian Water provides services to 7.2 million on five continents;<sup>25</sup> and the newly formed Kelda Group operates in the

---

<sup>20</sup> 1998 Annual Report (Paris, France: Suez Lyonnaise des Eaux, 1999).

<sup>21</sup> United Utilities corporate website at [www.unitedutilities.com](http://www.unitedutilities.com).

<sup>22</sup> Bouygues corporate website at [www.bouygues.fr/version\\_anglaise/groupe/groupe/histoire.htm](http://www.bouygues.fr/version_anglaise/groupe/groupe/histoire.htm).

<sup>23</sup> 1999 Annual Report (Birmingham, England, 1999), p. 5, available at [www.severn-trent.com](http://www.severn-trent.com).

<sup>24</sup> 1999 Annual Report, p. 1, available at [www.thames-water.com/annual99/home/home.html](http://www.thames-water.com/annual99/home/home.html).

<sup>25</sup> 1999 Environmental Activity Report, p. 4, available at [www.anglianwater.co.uk](http://www.anglianwater.co.uk).

United Kingdom, The Netherlands, China, Germany and Canada.<sup>26</sup> While RWE Group presently has water operations in only Germany and Hungary, its overwhelming physical and financial size (and its international operations in other sectors) provide it with the capacity necessary to be a major player in the international water market. The RWE Group has stated that it intends to continue expanding its water operations into Eastern Europe and sees “new prospects in the national and international water business.”<sup>27</sup> Negotiations are currently under way to merge RWE with VEW AG (Dortmund), which will create one of the most powerful multi-energy/multi-utility companies in Europe, thus “secur[ing] a top position in Europe in the fields of energy, water and environmental services.”<sup>28</sup>

The members of the water industry are aggressively expanding their range of operations as well as the geographic reach of their water services. Essentially, this expansionist strategy employs three models. In many instances, the corporations enter into public-private partnerships or private joint ventures with institutions in the region where the water services are being provided. For example, in February 1999, Vivendi and RWE Group became the major parties in a consortium covering the partial privatization (49.9%) of Berliner Wasserbetriebe (BWB), resulting in the largest privatization in Germany’s water sector.<sup>29</sup> The second model involves a corporation buying a share in another entity already operating in the sector or region, gradually acquiring a controlling interest in it, and eventually turning the operation into a wholly owned subsidiary. Suez Lyonnaise des Eaux bought the remaining 70% ownership of the U.S. company United Water Resources (a company servicing 7.5 million people in 19 states) in August of 1999, after acquiring a 30.1% equity stake in 1994.<sup>30</sup>

---

<sup>26</sup> In 1998, Yorkshire Water Plc and its subsidiaries came under the newly formed umbrella group, the Kelda Group.

<sup>27</sup> “RWE to Become Leading Water Utility.”

<sup>28</sup> Dr. Gert Maichel, CEO of VEW AG, “Merger Negotiations” (October 21, 1999), available at [www.rwe.de/englisch/agenda/rwe-vew/vew.html](http://www.rwe.de/englisch/agenda/rwe-vew/vew.html).

<sup>29</sup> Press Release, “Vivendi-RWE-Allianz consortium wins contract for partial privatization of Berlin water company” (July 2 1999), available at [www.vivendi.com/fr/html/communiqués/050799\\_1ang.html](http://www.vivendi.com/fr/html/communiqués/050799_1ang.html).

The larger corporations have begun adopting a third approach — buying smaller operations outright. In most instances, the strategy is to buy operations that have an established presence in a geographic region or that have developed new technologies; in that sense, the companies are more predatory than innovative. Several companies, however, do have extensive R and D programs in the area of water purification and filtration technology. In August 1999, Suez Lyonnaise purchased Nalco Chemical, one of the biggest water-treatment chemical companies in the world, for \$4.1 billion.<sup>31</sup> In 1998, Enron acquired Wessex Water and formed Azurix. In 1999, Azurix acquired Canada's Philips Utilities Management Corporation, which manages a variety of water and wastewater projects in the United States and Canada.<sup>32</sup> In 1999, Vivendi bought U.S. Filter, the largest water company in the United States, for \$6.2 billion.<sup>33</sup> Vivendi has stated openly that the company is not interested simply in investing in companies, but wants to acquire their assets and operate them.<sup>34</sup> This approach has been formalized through the creation of a subsidiary called Eau Acquisition Corporation, whose purpose, as its name indicates, is to acquire other water companies. In September 1999, shareholder approval was granted for Kelda Group's acquisition of the Aquarion Company, one of the 10 largest investor-owned water utilities in the United States (serving 141,000 customers, or a population of more than 500,000 in 30 communities).<sup>35</sup> From a national perspective, 6 of the top 10 private North American water companies (based on 1998 total revenues) are owned by the Big 10 transnationals (see Table 3).

---

<sup>30</sup> "Suez Lyonnaise des Eaux to Acquire United Water Resources (August 22, 1999), available at [www.waterindustry.org/New%20Projects/uwr-lyonnaise-2.htm](http://www.waterindustry.org/New%20Projects/uwr-lyonnaise-2.htm).

<sup>31</sup> William Emmanuel, "France's Suez Acquires Nalco, Second French Deal Aims to Cash in on Deregulating Water Utility Sector in United States," *Financial Post* (June 29, 1999): C11.

<sup>32</sup> "Enron Capital & Trade Resources to Purchase New Jersey Power Plants," *PR Newswire* (October 30, 1998), available at Lexis Nexis.

<sup>33</sup> Hoover's Online corporate profiles, *Vivendi* (June 25, 1999), available at <http://www.hoovers.com/premium/profiles>.

<sup>34</sup> Vivendi, *Letter to Investors* 1 (February 1999): 1, 5.

Table 3: Big 10 Ownership of United States Water Corporations

U.S. Subsidiary	Parent Company	Ultimate Ownership/Affiliation
Aqua Alliance/PSG	Générale des Eaux	Vivendi
U.S. Filter	U.S. Filter Corp	Vivendi
Operations Management International	CH2M Hill	Privately held
United Water Services	United Water Resources	United Water Resources/Suez Lyonnaise des Eaux
Severn Trent		
Earth Tech Total Water Management	Earth Tech Inc.	Tyco International Ltd.
ECO Resources	Southwest Water Co.	Publicly traded on NASDAQ
American Anglian	American Anglian	American Water Works/Anglian Water Plc
PUMC	Philip Services/Ontario Teachers Pension Fund	Enron acquisition pending
U.S. Water LLC	Bechtel Enterprises/UIC	Bechtel/United Utilities

Source: "Water/Wastewater Privatization Hits a Growth Spurt," *Public Works Financing* 127 (March 1999): 17.

Within the domain of water operations alone, the corporations are targeting four broad areas: water and wastewater services, water treatment, water-related construction and engineering, and innovative technologies (for example, desalination). They are taking three principal approaches to achieve the capacity necessary to service each of these areas. Some, like Vivendi and Enron, are developing the capacity internally by acquiring subsidiaries with expertise in each area. Others are developing formal partnerships with other transnationals in other sectors. For example, Britain's United Utilities has a formal partnership with Bechtel Group, Inc., a leading private international construction company. In other instances, corporations are entering into joint ventures or one-contract partnerships with corporations in other sectors to work on individual projects. Many corporations are using all three approaches in various circumstances.

<sup>35</sup> "Aqurion Shareholders Approve Merger Agreement" (September 21, 1999), available at [waterindustry.org/New%20Projects/aqurion.htm](http://waterindustry.org/New%20Projects/aqurion.htm).

Enron, an integrated gas and electricity company, made several strategic acquisitions over the past several years to create its water division, Azurix, but has indicated that its future emphasis will be on developing strategic alliances and partnerships.<sup>36</sup> According to one unidentified analyst, Thames Water, Severn Trent, Yorkshire Water, Anglian Water and United Utilities are all actively studying strategies to tap offshore water markets.<sup>37</sup> In short, all of the corporations are developing the capacity to carry out large-scale water operations, including water diversion and exportation projects.

Aside from the various arrangements created to provide the skill and capacity to carry out water-related projects, the organizations' international scope requires them to develop joint ventures and partnerships to meet applicable national requirements, acquire requisite local knowledge and develop local connections. For the most part, the corporations act independently within their respective home countries. However, most international ventures in this sector are done as joint ventures or partnerships, with joint ventures putting forward bids as consortiums. For example, in February 1999, Suez Lyonnaise formed a consortium with the Jordanian company Montgomery Watson-Arabtech Jardaneh (75%/25%). Supported by a \$55 million loan from the World Bank, the consortium won the first water management contract in Jordan to provide water and wastewater management and maintenance services to the Great Amman territory of 1.6 million inhabitants.<sup>38</sup> Enron has entered into joint ventures with EMC Group (in Thailand) and Tribasa (the second largest construction company in Mexico) to pursue power and water supply projects in those countries.<sup>39</sup> In many instances, the Big 10 are entering into consortiums with each other to obtain contracts. Suez Lyonnaise has joined with a subsidiary of RWE (RWE Aqua) as the two private stakeholders in Budapest Waterworks Rt, which supplies water to the

---

<sup>36</sup> Ryan, "Europe."

<sup>37</sup> Ibid.

<sup>38</sup> "Suez Lyonnaise des Eaux Wins Jordan's First Private Water and Wastewater Contract" (February 2, 1999), at [www.suez-lyonnaise-eaux.fr/english/entre/infos/cpc/cp170.htm](http://www.suez-lyonnaise-eaux.fr/english/entre/infos/cpc/cp170.htm).

<sup>39</sup> "Enron Converts to Stock, May Acquire a Stake in Mexican Constructor Tribasa," *Corporate Mexico* (June 28, 1999), available at Lexis Nexis; Gordon Platt, "Asian Crisis Will Hit U.S. Export Growth; Analysts Predict a Big Container Imbalance Resulting at West and East Coast Ports," *Journal of Commerce* (October 29, 1997): 1A; "Briefs," *Journal of Commerce* (October 27, 1997): 9A.

Hungarian capital.<sup>40</sup> In another instance, Suez Lyonnaise and Anglian Water entered into a cooperative agreement as part of SMVAK (Severomoravske vodovody a kanalizace), the second largest water supplier in Czechoslovakia.<sup>41</sup> Even the two water giants Suez and Vivendi placed a joint bid to provide water services to Rio de Janeiro.<sup>42</sup>

The acquisition models with respect to water operations are complicated by management arrangements. In most instances, regional governments retain some ownership in most water projects because of the corporations' lack of the necessary regional knowledge and the local desire to retain some involvement in projects that were traditionally handled by the public sector. For example, SAUR, Bouygues' water subsidiary, has a joint venture with the Sofia municipality of Bulgaria to renovate the water distribution network for the Bulgarian capital.<sup>43</sup> However, in a growing number of projects, exclusive control is being given to the water corporations, eliminating public involvement. This shift in control is discussed in more detail in Chapter 7.

So far we have considered "what" has happened within the water industry and "how," but the most important question in developing strategic responses is "why." There are several reasons for the unprecedented growth of both the Big 10 and the international water industry as a whole. First, the common element is the privatization and deregulation of water services, which place these services in the hands of the market. In virtually all instances, the marketing strategies of the Big 10 explicitly target nations undergoing privatization and deregulation of their water sectors, notably in Europe, Asia, Latin America and, in the near future, North America. Reports indicate that Bouygues is considering "massive expansion" in China and establishing a foothold in the

---

<sup>40</sup> Public Services International Research Unit, *Suez Lyonnaise des Eaux Profile* (August 6, 1999), available from author.

<sup>41</sup> "UOHS Allows SMVAK-Anglian Water Merger," *CTK Business News Wire* (August 3, 1999), available at Lexis Nexis.

<sup>42</sup> "Vivendi President Reaffirms Interest in Cedae," *Gazeta Mercantil Invest News* (December 4, 1998), available at Lexis Nexis.

<sup>43</sup> "SAUR to Renovate Water Network in Sofia," *Multinational Service* (October 10, 1995), available at Lexis Nexis.

United States in the new millennium.<sup>44</sup> Suez Lyonnaise has its sights set on Southeast Asia, the Pacific and China.<sup>45</sup> Thames Water's marketing strategy is to accelerate the "development of Thames Water as a leading competitive force in the international water market," expanding into the United States and eyeing India as "an emerging market with possibilities."<sup>46</sup>

Secondly, the water corporations are attempting to meet investor demand for profits through acquisitions, since the provision of water services itself does not provide sufficient returns. According to Professor John Kay, London School of Economics and the University of Oxford..., "demand for water grows more slowly than the economy as a whole. So the water companies have to look to acquisitions — it's the only way to achieve further growth: find other related businesses to which you can add value."<sup>47</sup>

Lastly, financing criteria from international funding agencies such as the World Bank favour multi-utility service providers for many development projects. This requires corporations either to broaden their scope or to develop partnerships with other corporations.

The structural aspects of the global water industry have profound implications for challenging the privatization of water. This report identifies five primary avenues for engaging the Big 10. First, due to the rapid rate of expansion and acquisitions, the companies have acquired significant debt loads, making them vulnerable in the short term (see Chapter 3).<sup>48</sup> Second, the high level of investment in the water sector means that the corporations have more at stake and are more vulnerable to policy reform affecting access, pricing and service requirements. Third, their

---

<sup>44</sup> "French Construction Giant Set for 'Massive' Growth in China: Report," *Agence France Presse* (May 14, 1998); "Bouygues' Saur-Cise Hopes to Unveil Strategic Partner Before Year-End," *Extel Examiner* (November 16, 1998), available at Lexis Nexis.

<sup>45</sup> "Asia Still Rules Essential Infrastructure Market Despite Crisis" (March 13, 1998) *Agence France Presse*, available at Lexis Nexis.

<sup>46</sup> "Market for Water Projects Steadier in Asia's Downturn," *Asia Today* (February 1999), available at Lexis Nexis.

<sup>47</sup> Stanbury, "Watershed."

<sup>48</sup> Kate Bulkley, "The Gallic Master's Opening Gambit," *The Independent* (London)(August 4, 1999): 3.



expansion into other industrial sectors through acquisitions makes their internal structures fragile in the short term, as they try to merge corporate cultures and create unity among their diversified operations. Fourth, the various ownership structures employed by the corporations allow for a multi-pronged approach that would place pressure on municipalities, the corporations and the regulatory agencies.

Finally, the diversity of operations of many of the corporations has the potential to create conflict between different parts of the organization and among investors. Most of the larger water companies have well-established operations in other related sectors (such as electricity, transportation, construction and telecommunications), and seek to capitalize on this breadth by providing a “full service” approach with respect to various water uses.<sup>49</sup> Vivendi provides a primary example of this diversified approach. Vivendi’s activities include construction, building and public works (27%); water distribution (21%); waste management (10%); publishing and multimedia (10%); communication (9%); thermal energy (8%); transportation (6%); real estate (6%); independent electricity production (2%); and “other” (1%).<sup>50</sup> This would allow for an approach to the corporations through their non-water operations that would affect their water operations. For example, there is some concern that Vivendi’s attempts to use its utility-based assets to finance its telecommunications acquisitions will not be accepted by investors, since investors attracted to telecommunications are not likely to be interested in the water sector.<sup>51</sup> Vivendi’s CEO is aware of this potential for investor conflict and has indicated that he will spin off Vivendi’s water operations into a completely separate company in 2002.

---

<sup>49</sup> One of the structural consequences of the multi-utility provision approach is the move towards creating “corporate groupings,” which include corporate elements, each focusing on one utility sector. Therefore, the RWE Group has adopted the motto “One Group; Multi-utilities” and the Group vision to become one of the leading European suppliers in the “multi-utility/multi-energy” sector. Yorkshire Water recently changed its name to the Kelda Group. Vivendi also changed its name from Générale des Eaux, giving that name to its water subsidiary.

<sup>50</sup> Wright Research Center, *Vivendi SA Company Summary*, available at [profiles.wisi.com/profiles/scripts](http://profiles.wisi.com/profiles/scripts).

<sup>51</sup> Bulkley, “Gallic Master..”

Not only are the Big 10 corporations intimately connected with other institutions through joint ventures and partnerships, but they all have directors with direct connections to governments and business around the world. Extensive interlinks exist between executives of the major water corporations, government and other sectors, most notably banking and international finance. For example, Suez Lyonnaise des Eaux CEO Gérard Mestrallet has held positions with the French ministries of transport, economy and finance, and has been advisor on industrial affairs to the Minister of Finance; Suez director Jérôme Monod was chief of staff to ex-Prime Minister Jacques Chirac and currently sits on the board of RWE; director Reto Domeniconi was the former CEO of Nestlé S.A.; director Lucien Douroux is the CEO of the French bank Caisse Nationale de Crédit Agricole; director Jean Peyrelevade is chair of the French financial institution Crédit Lyonnais; director Bernard Mirat was the former vice-chair of the Society of French Stock Exchanges (Société des Bourses Françaises); Sir Frederick Holliday is on the board of Shell UK; and Paul Desmarais Jr. is the chair and CEO of Power Corporation Canada, a major utility operator.<sup>52</sup> This degree of interlocking between the water industry and other sectors creates scenarios which, it is suggested, should be scrutinized. For example, the CEO of Suez Lyonnaise sits on the board of directors of the Crédit Agricole bank, which is Suez's second largest shareholder.<sup>53</sup> A potential conflict of interest is thus created, with the chief executive of a major water corporation directing a financial institution that has business ties with his corporation.

While virtually all successful international efforts to privatize water have focused on privatizing ownership of the infrastructure (delivery and purification systems), an emerging strategy to gain control over water is to attain rights to water access. Many small companies in Canada and the United States have acquired water licences that allow them to use a prescribed amount of water from a particular source. There is some indication that Azurix is attempting to acquire the water licence of Skeena Cellulose, a British Columbia forestry company. Since British Columbia's

---

<sup>52</sup> 1998 Annual Report (Paris: Suez Lyonnaise des Eaux, 1999), p. 6.

<sup>53</sup> *Ibid.*

water has already been over-allocated, the only means by which water companies can obtain access to the resource is by acquiring the licences held by other companies.<sup>54</sup>

---

<sup>54</sup> British Columbia has allocated 110% of its water through licences, creating a severe threat to the sustainability of the province's water resources, fish stocks and wildlife.

### Chapter 3

## PROFITING OFF WATER: Corporate Finances and the Economics of Water

We are here to make money. Sooner or later the company that invests recoups its investment, which means the customer pays for it.

— Mr. During, Director, Suez Lyonnaise des Eaux

Water is a huge international business. Conservative estimates by water corporations value the industry at \$300 billion annually, while World Bank estimates have gone as high as \$800 billion.

Corporate profits are made by capitalizing on the principles of scarcity and controlled access. While the corporations argue that the privatization of water services is socially beneficial, the consequence of corporate control is that social and environmental concerns come second to the economic imperative of profit maximization for shareholders. Thus, privatized water is likely to result in allocation to those who can pay, and in increased and unsustainable consumption.

The conflict is no more apparent than in the comments of the two top executives of Suez Lyonnaise des Eaux. Gérard Payen, Suez's executive vice-president, is quoted as stating that "a public service must serve everyone, or it is not a public service. Lyonnaise des Eaux has harnessed all of its know-how and energy to provide a quality service to the poorest sections of the community, with the acknowledgement and support of the World Bank."<sup>55</sup> However, these comments contrast sharply with CEO Gérard Mestrallet's observations that "water is an efficient product. It is a product which normally would be free, and our job is to sell it. But it is a product which is absolutely necessarily for life."<sup>56</sup> Accordingly, the Big 10 continue to record huge

---

<sup>55</sup> 1998 Annual Report (Paris: Suez Lyonnaise des Eaux, 1999).

<sup>56</sup> Beverly Schuch, Charles Hodson and Charles Molineaux, Transcript 99062700V56 of "CNN Business Unusual" (June 27, 1999), Cable News Network.

annual profits despite complaints about poor water quality and increasing water problems in the areas in which they operate.

Much of the financial success of the Big 10 water corporations is supported by large-scale project financing from international agencies such as the World Bank and the European Bank for Reconstruction and Development. The World Bank's portfolio of water projects accounts for 14% of its lending, and the Bank invested more than \$33 billion in water-related projects between 1985 and 1998.<sup>57</sup> This support allows the corporations to incur less risk while reaping the profits associated with the projects. In one instance, Suez Lyonnaise invested only \$30 million of the \$1,000 million promised for improvements in a subsidiary's projects — the rest came from the World Bank and Argentine banks.<sup>58</sup> Chengdu Générale des Eaux-Marubeni Waterworks Company Ltd., a company sponsored by a consortium including Vivendi, developed a water supply system for the city of Chengdu, a \$106.5 million project; they received more than 50% of the financing required from the Asian Development Bank and the European Investment Bank.<sup>59</sup> In another instance, Casablanca city officials have criticized Suez Lyonnaise for putting virtually no new capital into a water supply and wastewater disposal contract which was funded primarily through bank loans.<sup>60</sup>

The policies of financial institutions such as the World Bank appear biased towards funding large multi-utility infrastructure projects. Since the mid-1980s, the World Bank has been developing “policies and strategies to better manage water resources, integrating the disparate and often competing uses of water (such as for water supply and sanitation, irrigation, hydro-power,

---

<sup>57</sup> “Managing World’s Water Resources Requires Partnerships, Innovations” (March 19, 1999) *M2 Presswire*, available at Lexis Nexis.

<sup>58</sup> Public Services International Research Unit, *Water Privatisation in Latin America* (July 1998), available at [www.psir.org/affiliates/water/latam.htm](http://www.psir.org/affiliates/water/latam.htm).

<sup>59</sup> Asian Development Bank, “ADB To Finance Private Sector Water Supply Project in China” (February 11, 1999), available at [www.ipwa.org/discus/messages/6/20.html?MondayAugust919991118pm](http://www.ipwa.org/discus/messages/6/20.html?MondayAugust919991118pm).

<sup>60</sup> CUPE, *Lyonnaise des Eaux Fact Sheet* (Canadian Union of Public Employees, 1999), p. 2, at [www.cupe.ca/antipriv/company12.html](http://www.cupe.ca/antipriv/company12.html).

industry and ecosystems) into a sustainable, holistic approach.”<sup>61</sup> Since only large corporations have the capacity and financial resources to develop these large-scale projects, in practice these policies favour privatization and the involvement of the larger corporations.<sup>62</sup> Local operations are severely disadvantaged by such policies, and often are left with no choice but to open the management of local resources to foreign corporations. This funding bias also explains both the trend towards the multi-pronged structure of the large corporations and the joint venture approach taken in many instances.

A similar situation exists between the Big 10 and private financial institutions. All of the Big 10 are closely connected to banks in their home countries. Bank representatives sit on the boards of directors of almost every major water corporation, and the corporations often receive financing from these same banks. For example, Suez Lyonnaise director Lucien Douroux is the Chief Executive of Caisse National de Crédit Agricole. Crédit Agricole Indosuez, a leading French financial institution, is one of the largest shareholders in two of the major French water companies, Suez and Bouygues.

With this financial infrastructure in place, the Big 10 have been able to encourage and capitalize on the shift towards deregulation (see Table 2). However, the majority of the major corporations face financial impediments. Both Vivendi and Suez Lyonnaise des Eaux have cash flow/total debt ratios below suggested minimum standards as a consequence of major asset acquisition activity.<sup>63</sup> While most of the Big 10 have credit ratings in the A to AA range, several have minimal working capital, requiring them to rely on external financing to facilitate projects.<sup>64</sup>

---

<sup>61</sup> “Managing World’s Water Resources,” at Lexis Nexis. The Bank’s Operations Evaluation Department is conducting a major review of the implementation of the Bank’s 1993 Water Resources Management Policy Paper as the Bank prepares to update its approach to the sector.

<sup>62</sup> Public Service International Research Unit (PSIRU), *Suez Lyonnaise Profile* (August 6, 1999), available from author.

<sup>63</sup> The cash flow/total debt ratio gauges a company’s ability to repay the funds it has borrowed.

<sup>64</sup> The working capital ration is a simple measure of how much the value of current assets exceeds the value of current liabilities. For a complete explanation of Standard & Poor’s Insurance Ratings see <http://data.insure.com/ratings/define.cfm>. Briefly, the ratings are as follows: AAA (extremely strong); AA (very strong); A (strong but somewhat more likely to be affected by adverse business conditions); BBB (good but more

Nevertheless, as long as share values increase, the corporations seem able to handle the debt and investors remain loyal. For example, RWE stock value increased 45% during the 1997–1998 fiscal year,<sup>65</sup> while Bouygues' stock increased 53% over the same period.<sup>66</sup>

For anyone wishing to halt the privatization of water resources, a timely strategy, given the vulnerability of these corporations, would be to shift the investor climate. Some suggestions for achieving this are discussed in Chapter 5.

In addition to institutional loans, the Big 10 use a variety of financial vehicles to raise money for their operations. Suez Lyonnaise has established equity funds for Latin America and Asia as a source for equity investment in water projects.<sup>67</sup> Enron uses pension funds, such as the California Public Employees' Retirement System and Ontario Teachers Pension Plan Board, to finance take-overs.<sup>68</sup>

Again, an effective strategy that could have an impact on corporate operations and future plans would involve influencing these funds, introducing investment screens in various ethical funds that own stock in the Big 10, and other forms of shareholder activism. Similarly, if pension funds were to place investment screens on the financing of water-related operations, they could have a significant impact on the corporations' financing strategies. Given the large number of public sector employees currently contributing to these pension funds, and given the threat that privatization of water series poses to their jobs, this seems a promising strategy. However, such

---

likely to be affected by adverse business conditions). Any ranking of BB or lower is regarded as vulnerable. BB (marginal — positive attributes exist, but potential inability to meet financial commitments); B (weak, ability to meet financial commitments likely impaired by adverse financial commitments); CCC (very weak — dependent on favourable business conditions); CC (extremely weak — not likely to meet some of its financial commitments).

<sup>65</sup> 1998 Annual Report (Germany: RWE, 1999), available at [www.rwe.de/englisch/geschaeftsbericht/geschaeftsbericht\\_98/rwe\\_aktie.html](http://www.rwe.de/englisch/geschaeftsbericht/geschaeftsbericht_98/rwe_aktie.html).

<sup>66</sup> Hoover's Online financials at [www.hoovers.com](http://www.hoovers.com).

<sup>67</sup> PSIRU, *Suez Lyonnaise*.

<sup>68</sup> Steve Davies, *Enron Profile* (Public Services International Research Unit, August 10, 1999), available from author.

an approach would not help to overcome the ability of many of the corporations to self-finance or jointly finance their prospective operations. For example, Bechtel, United Utilities' partner in international water-related projects, has established a \$1 billion fund to acquire interests in privatization and development projects related to utilities and infrastructure, primarily in Latin America, South America and the Asia Pacific region.<sup>69</sup>

Citizens also have the ability to influence governments at the local and regional levels to implement safeguards on the privatization process. Recent events in Britain are a prime example. Following the privatization of the British water industry under Margaret Thatcher in 1989, the industry was plagued for years by allegations of financial mismanagement, overly generous compensation for corporate executives and poor water quality. Nearly a decade later, the British regulator, OFWAT, imposed rate reductions on all British water companies and foreign corporations operating in the United Kingdom, as well as requirements that the corporations improve their infrastructure. Severn Trent plans to invest £2.3 million in improving and maintaining its water and wastewater plants, pipes and facilities during the 1999-2000 financial year,<sup>70</sup> and Thames Water has designated £350 million for improving the quality of drinking water. This has placed a financial strain on many of the companies and delayed further activities by foreign interests.

The fact remains, however, that as the corporations gain strength through increased size, regulators become less able to assert water policies to protect the public interest. Powerful corporations threaten to pull out, or argue that they will be unable to meet standards previously agreed to. Suez Lyonnaise, for example, has stated that the changes imposed on its British subsidiary, Northumbrian Water Group, will result in a reduction of frf130 million in its net

---

<sup>69</sup> "US Electrical Companies Form Energy Infrastructure Fund," *International Water Power & Dam Construction* 49 (June 1997): 5.

<sup>70</sup> 1999 Annual Report (Severn Trent), 14.



consolidated earnings for the year 2000 and that, consequently, it will not be able to meet environmental protection targets.<sup>71</sup>

---

<sup>71</sup> "Suez Lyonnaise Says UK Ofwat Review to Cut 2000 Net Earnings by 130 mln ffr." *AFX News* (July 27, 1999).

## Chapter 4

### REVISITING COLONIALISM: Water Policy, Politics and the Law

... Ferdinand de Lesseps, who wanted to build the Suez Canal to transform the geography of the world. And it was a philosophy of conquest. And I think that we – we have to keep the heritage of Ferdinand de Lesseps and to develop all in our group the philosophy of conquest. And doing that, if we succeed, we shall be in harmony with our world history and follow our culture. [sic]

— Gerard Mestrallet, CEO of Suez Lyonnaise des Eaux (art.91 l/n)

It is startling to hear the head of a modern transnational corporation express what sounds like an antiquated notion of colonialism, when speaking of corporate expansionism within the water industry. However, the words of Suez CEO Gerard Mestrallet illuminate the impact that the monopolistic control over this essential resource can have on communities and democratic institutions. This chapter reviews the policies of the Big 10 that perpetuate this new form of resource colonization, the political involvement of the corporations in undermining the democratic institutions created to safeguard our public resources, and the behaviour of the Big 10. In short, the evidence suggests regressive policy objectives, large-scale corporate malfeasance, and public-private interlocking, all of which raise serious concerns about the ability of these corporations and our present public institutions to manage this public resource responsibly.

As discussed in Chapter 2, the express policy of the major water players is to expand their operations internationally. The corporations have taken a number of approaches to fulfilling this policy objective: (1) advocating privatization and deregulation, (2) capitalizing on water scarcity, (3) developing expertise in the provision of water management and services as well as in relevant technologies, (4) taking a multi-utility service approach, and (5) creating joint ventures and purchasing major water operations.

As mentioned earlier, the water corporations have focused on areas undergoing deregulation and privatization to achieve international resource colonization, and they are taking a lead role in advocating for this trend. Suez Lyonnaise is one of the sponsors of the Canadian Council on Public-private Partnerships, and company executives regularly speak at water privatization conferences.<sup>72</sup> The corporation has also formed an association with other privatized Argentine utilities (many of which are European-owned) to resist pressures from consumers, politicians and regulators.<sup>73</sup> Enron has spearheaded many initiatives to relax legal requirements, and RWE has led a number of consortiums in the privatization of electricity, waste and water facilities. The difficulty is that these efforts by the water industry happen quietly at industry forums such as Aquatech (see below) and through ongoing lobbying with the assistance of industry trade associations such as Water UK.

Few corporations are likely to explicitly articulate a policy of capitalizing on water scarcity, but scarcity is a necessary prerequisite to ensure profitability of the resource. The primary concern is that without proper regulation and equitable distribution requirements in place, the privatization of scarce essential resources inevitably leads to the creation of a two-tiered society — those who can afford to purchase the resource and those who cannot. Furthermore, rather than promoting water conservation, corporations are using scarcity as a reason to pursue alternative ways of obtaining water, such as water diversion and desalination. What is portrayed as an altruistic quest by the corporations to meet growing demand in water-scarce regions may actually be a quest for new products and markets. This position is difficult to prove, but the growing concentration of operations in water-poor regions provides strong anecdotal support for this thesis. Thames Water is one of the players involved in the Australian Environmental Management Corporation (Austemex), which is looking at multiple avenues of capitalizing on predicted Asian water shortages.<sup>74</sup> Bechtel, along with United Utilities Plc, Ayala Corporation and Mitsubishi Corporation, has formed the Manila Water Company consortium to pursue water and wastewater

---

<sup>72</sup> CUPE, *Lyonnaise des Eaux Fact Sheet*, 1.

<sup>73</sup> PSIRU, *Suez Lyonnaise*.

<sup>74</sup> John Macleay, "Tapping the Water Boom," *The Australian* (March 29, 1996): 23.

contracts in the Philippines.<sup>75</sup> U.S. Filter Corporation, Vivendi's subsidiary, has announced that it will form a joint venture with two other corporations for the desalination of sea water in the Middle East.<sup>76</sup>

Corporations, especially the ones with multi-utility capacity, are looking for opportunities to develop large-scale projects that involve electricity, water, wastewater and other services. Enron is actively considering joint initiatives combining energy and water projects. RWE has a "multi-utility program" aimed at supplying the energy, water, waste management and telecommunication services to major urban centres. RWE foresees a wave of future restructuring and privatization of German water utilities currently under municipal control.<sup>77</sup> The rationale for this approach seems clear: to meet the comprehensive demands of developing regions, to derive maximum efficiency from the construction of utility infrastructure, and to satisfy the requirements of international financial institutions like the World Bank (see discussion in Chapter 2). One of the primary concerns about this approach is the degree of control it will give to select private interests over infrastructure and resource delivery. With control of all essential services in the hands of a corporate monopoly, there is a serious risk of certain long-term interests (i.e., those not accounted for through public demand) being ignored.

The irony inherent in the corporate agenda to privatize the water industry is that while the corporations actively seek to deregulate the water industry and open it up to competition, they are creating monopolies within the regions where they operate. As we have seen, the Big 10 have sought to increase their international presence in the global water market by buying up smaller, innovative corporations that are considered to be leaders in their areas of operation. For example, in addition to the recent acquisitions by Vivendi and Suez Lyonnaise discussed in Chapter 2, there are reports that Bechtel is considering purchasing various international water operations,

---

<sup>75</sup> "Bechtel Develops Human Resources for Expansion," *Jakarta Post* (December 8, 1997); Elisha R. Garcia, "ING Bank to Facilitate \$40-M Loan to Manila Water Co.," *Business World* (August 21, 1998): 10.

<sup>76</sup> Dan Gerstenfeld, "Clal, Arison to Launch Desalination Venture with U.S. Filter Corporation," *The Jerusalem Post* (July 29, 1999): 13.

including Anglian Water.<sup>78</sup> Anglian Water's Group Managing Director has advocated that "competition can bring us unlimited business opportunities which is good news for our customers and shareholders." However, other company officials have simultaneously been pushing for concentrating control within the UK water industry to the six large UK water groups. According to Anglian Water's CEO, Chris Mellor, "the water industry in England and Wales needs to boil down to three or four 'national champions' to compete with the French and the Americans worldwide — with room for niche players working in specific areas like production."<sup>79</sup> The concerns about growing corporate concentration within the industry are magnified by the inherently monopolistic nature of water service provision. Generally speaking, only one corporation receives a contract to operate a given water system, creating an absolute monopoly within that region.

While none of the corporations' water export policies are publicly available, it is known that Suez Lyonnaise des Eaux and Bouygues' SAUR are currently involved in the proposed construction of a 320-kilometre pipeline through southern France to bring water from the Rhone River to Spain. This is the first project of its kind in Europe, and experts believe it represents the future along the Mediterranean, where the climate is becoming drier and warmer. While the construction of the pipeline will be easy from a technical perspective, a Suez Lyonnaise official anticipates that it will be politically and legally complex. Furthermore, planners believe that negotiating the water rights for the aqueduct could serve as a model for future European water export projects.<sup>80</sup>

---

<sup>77</sup> "RWE to Become Leading Water Utility."

<sup>78</sup> Chris Godsmark, "Bechtel Eyes up Anglian Water's Overseas Arm," *The Independent* (London) (January 31, 1998): 23..

<sup>79</sup> Paul Garrett, "Water Growing at Home and Away," *Utility Week* (June 4, 1999).

<sup>80</sup> Marlise Simons, "A Daring Plan to Drive Rhone Water to Spain," *International Herald Tribune* (Neuilly-sur-Seine, France) (July 20, 1999): 2.

The policy agendas of the Big 10 water corporations are supported by their exceptional presence in government and politics. Through corporate–government interlocks, political financial contributions, and lobbying by the corporations and their industry representatives, the Big 10 have established a formidable political presence. These transnational corporations also exert significant influence over their national governments as a result of their economic clout within their national economies. The scope and concentration of ownership that the Big 10 have in a wide array of industrial sectors results in a tremendous capacity to influence local and national decision-making. As one colleague has commented with respect to Vivendi’s CEO, “He [Messier] understands perfectly well how to maneuver with whoever is in power to defend his interests. He has his antennae out, on the right and on the left, and they all have a stake in getting on with him. Water and communications, they’re pretty crucial to any government.”<sup>81</sup>

As mentioned earlier, all of the corporations have strong links with government through their corporate executives. In many instances, corporate officers have held senior government positions in the past. Suez Lyonnaise des Eaux’s former president, Jerome Monod, was the general secretary of the RPR party in France from 1976 to 1978. Charles Walker, Enron board member, is a former U.S. Deputy Treasury Secretary, while John Wakeham was previously leader of the UK House of Lords and UK Energy Secretary.<sup>82</sup>

In addition, the corporations have cultivated relationships with government and ex-government officials. According to the socialist opposition within the Paris city council, the city’s administration has deliberately favoured Suez Lyonnaise and Vivendi due to political ties.<sup>83</sup> Bechtel has a long history of relationships with U.S. government officials (such as ex-Secretary of State George Schultz and Middle East envoy Phillip Habib) as well as the CIA.<sup>84</sup> Close

---

<sup>81</sup> John Henley, “His Rise to the Top of the French Business Community Has Been Unstoppable.” *The Guardian* (London) (July 26, 1999): 6.

<sup>82</sup> 1998 Annual Report (Enron, 1999), available at [www.enron.com/annual98/board.fset.html](http://www.enron.com/annual98/board.fset.html).

<sup>83</sup> PSIRU, *Suez Lyonnaise*.

<sup>84</sup> MoJo, “The CIA Crosses Over,” available at [www.mojones.com/cgi-bin/kidofwais.pl?bechtel](http://www.mojones.com/cgi-bin/kidofwais.pl?bechtel); Multinational Monitor, *Bechtel Profile* (1989), p.1, available at [www.essential.org/monitor/hyper/issues/1989/10/mm1089\\_08.html](http://www.essential.org/monitor/hyper/issues/1989/10/mm1089_08.html).

friendships and business relationships with top officials at the Atomic Energy Commission facilitated Bechtel's building the first commercial nuclear power reactor in the United States and subsequently receiving 40% of all nuclear power plant contracts in the country.<sup>85</sup> Enron's interlocking relationships are almost too extensive to trace. Enron's CEO, Kenneth Lay, is a close friend of former President George Bush and has acted as reception host for the Republican National Convention. He is also one of Bill Clinton's golfing partners.<sup>86</sup> Enron's consultants include former U.S. Secretary of State James Baker, retired Gulf War Chief of Operations General Thomas Kelly, and former U.S. Commerce Secretary Robert Mosbacher, all of whom had numerous meetings with Kuwaiti officials regarding infrastructure projects following the Gulf War.<sup>87</sup> Officials from the Clinton administration have helped Enron win contracts abroad through publicly supporting their bids, influencing foreign governments, providing federal government funding, and inviting Enron officials to accompany government delegation visits.<sup>88</sup>

Within the United States, the water corporations are also large donors to political parties. In the case of Bechtel, one of its guiding principles is to "reward those contributing to our success."<sup>89</sup> Accordingly, political action committee contributions by Bechtel in 1997-98 totalled \$153,900.<sup>90</sup> At the time of this writing, Enron executives have donated \$89,650 to George W. Bush's presidential campaign and over \$3 million to both U.S. political parties in the period from 1988 to 1999.<sup>91</sup> Following its take-over of Wessex Water, Enron was also a major sponsor of the 1998 UK Labour conference, and the company has been heralded by one official of the UK

---

<sup>85</sup> *Multinational Monitor*, *Bechtel Profile*, 1.

<sup>86</sup> Jack Irvine, "London Labour Is Going Power Mad; Big Business Picks up Bar Tab for Blair; Jack Irvine's Opinion Page," *The Mirror* (September 24, 1998): 11.

<sup>87</sup> Russell Mokhiber and Andrew Wheat, "Shameless: 1995's 10 Worst Corporations," *Multinational Monitor* 16 (December 1995): 5; Pratap Chatterjee, "Enron Deal Blows a Fuse," *Multinational Monitor* 16 (July/August 1995): 2.

<sup>88</sup> Mokhiber, "Shameless"; Chatterjee, "Enron," 3.

<sup>89</sup> Bechtel website at [www.bechtel.com](http://www.bechtel.com).

<sup>90</sup> "Bechtel Group: PAC Contributions to Federal Candidates, 1997-1998," available at [www.opensecrets.org/pacs/pacgot/00103697.htm](http://www.opensecrets.org/pacs/pacgot/00103697.htm).

<sup>91</sup> [www.opensecrets.org/2000elect/cgi-win/lookup.exe](http://www.opensecrets.org/2000elect/cgi-win/lookup.exe); Nick Cohen, "Comment: Without Prejudice: U-turns in the U-bend," *The Observer* (June 6, 1999): 35.

Consumers' Association as "one of the Government's favourite water companies."<sup>92</sup> In 1995–96, Suez Lyonnaise des Eaux donated \$9,550 to the Democrats and \$3,465 to the U.S. Republicans through its U.S. subsidiaries Aqua-Chem and United Water Resources.<sup>93</sup> Thames Water is reported to be a generous donor to Britain's Conservative Party.<sup>94</sup> Within France, there has been controversy over political donations by the three major French water corporations, which have been awarded 80% of the public utility contracts in France since the early 1980s.<sup>95</sup>

The corporations and their representative associations also expend considerable resources lobbying governments directly and indirectly. In 1998, the Bechtel Group spent \$260,000 on in-house lobbying and \$60,000 to hire law firm Akin Gump Strauss Hauer & Feld (whose senior executive partner, Vernon E. Jordan Jr., is a close advisor to Bill Clinton).<sup>96</sup> Enron spent \$1.6 million on lobbying in the United States.<sup>97</sup> The water industry also has many private and industry-wide advocacy organizations that represent them. Thames Water's new lobby group, Pro-Co, is pushing for the removal of obstacles to mergers and for increased competition in the UK water industry as a way of strengthening British companies overseas.<sup>98</sup> The United Kingdom's Water Services Association, Water Companies Association and Water United Kingdom are only a sampling of the industry's collective presence in one country.<sup>99</sup> In the United States, the newly formed International Private Water Association (IPWA), whose membership includes Vivendi, has arranged "brown bag" lunches between association members and World

---

<sup>92</sup> Cohen, "Comment"; Paul Eastham, "Labour Conference Goes out of the Red," *Daily Mail* (London)(September 26, 1998): 10.

<sup>93</sup> See [www.opensecrets.org](http://www.opensecrets.org).

<sup>94</sup> Larry Elliott and Michael White, "Fighting Talk from Embattled Mr. Brown," *The Guardian* (London)(July 26, 1996): 20.

<sup>95</sup> Jacques Neher, "French Water Firm in Inquiry," *International Herald Tribune* (Neuilly-sur-Seine, France),(July 14, 1994), available at Lexis Nexis.

<sup>96</sup> See [www.opensecrets.org/lobbyists/98profiles/2188.htm](http://www.opensecrets.org/lobbyists/98profiles/2188.htm); see also [www.akingump.com](http://www.akingump.com).

<sup>97</sup> See [www.opensecrets.org](http://www.opensecrets.org).

<sup>98</sup> Paul Newton, "Warriors on World Stage," *Utility Week* (March 26, 1999): 10.

<sup>99</sup> Naomi Russell, "French Owner Lyonnaise Welcomes Water Group Merger," *Utility Week* (February 13, 1998): 13.



Bank representatives involved in private sector water infrastructure projects.<sup>100</sup> In addition to identifying opportunities for private sector investment in water systems, wastewater treatment, water purification, desalination, irrigation, hydro-electric power, flood control and other water-related projects, the IPWA provides a forum for members to address “water project risk issues” (i.e., public opposition to privatization and environmental risks), “project fundamentals,” “guarantee issues” and “other matters necessary for successful financing of water projects.”<sup>101</sup>

Less obvious is the presence of corporate representatives in international government trade efforts. The cooperation of governments and the corporations in these forums reflects the close relationship between the two institutions. In 1998, Suez’s CEO was part of an official delegation accompanying Minister Lionel Jospin to China.<sup>102</sup> A member of Suez’s subsidiary, Degremont, was also a member of Jacques Chirac’s official visit to Mozambique.<sup>103</sup> Bouygues’ executives accompanied the French government to China in 1996 and CEO Martin Bouygues has since had a private audience with China’s president, Jiang Zemin.<sup>104</sup>

The political interventions of the Big 10 are themselves overshadowed by the myriad allegations laid against the corporations and their executive officials. The legal landscape of the major water corporations includes cases of bribery, corruption and other illegal activities. While these activities do not always relate directly to water services, they suggest that the primary concern of the corporations is with profits. Given the need for the management of this essential resource to be both credible and accountable, the behaviour of the Big 10 is of concern, and it raises serious questions about the privatization of essential public resources. The evidence strongly indicates

---

<sup>100</sup> See [www.ipwa.org/GlobalIssues.html](http://www.ipwa.org/GlobalIssues.html).

<sup>101</sup> See [www.ipwa.org/Policies.html](http://www.ipwa.org/Policies.html).

<sup>102</sup> “Suez Lyonnaise des Eaux signs two contracts in China: A water treatment plant and an incineration plant in Shanghai” (September 24, 1998), available at [www.waternunc.com](http://www.waternunc.com).

<sup>103</sup> “Just Visiting,” *Indian Ocean Newsletter* 817 (June 27, 1998), available at Lexis Nexis..

<sup>104</sup> “Large French Business Delegation Led by Minister to Visit China,” *Xinhua News Agency* (September 13, 1996), available at Lexis Nexis.

that the system as it exists today does not adequately ensure that the water corporations act in the public interest and remain accountable to the public.

One of the primary areas of concern is the tampering with water pricing by the corporations. In Indonesia, legal proceedings have been initiated against Suez Lyonnaise des Eaux and Thames Water by residents and local contractors to have the water management contracts of both companies revoked and to have the companies pay compensation. There are also allegations that the Indonesian government broke the law granting the water concessions without subjecting them to competitive tender.<sup>105</sup> In addition to charges of corruption and illegal price increases against Suez (see Chapter 3), a Suez subsidiary was ordered to reimburse the citizens of St. Etienne in October 1996 for the illegal concession "entrance fees" recouped from customers through increased water prices.<sup>106</sup> In 1998, the Oregon Court of Appeal found that the Enron subsidiary, Portland General Electric, was improperly billing its customers \$21 million a year to cover the lost investment on a nuclear power plant.<sup>107</sup> In light of such practices, claims made by corporations (such as Suez) that they are concerned with the welfare of the poor, and that privatization of water services will benefit the financial interests of consumers, must be seriously questioned.

Many of the water corporations have poor records of financial mismanagement and wrongdoing, with corporate officials being repeatedly subject to allegations of corruption, bribery and anti-competitive practices. At the time of this writing, RWE-Matra is under investigation by a subcommittee of the Hungarian parliament for a contract in which it paid the Hungarian State Privatization and Holding Company \$26 million the day before signing a power privatization contract in 1995.<sup>108</sup> Thames Water was one of the water utility companies accused of exploiting

---

<sup>105</sup> "Joint Venture Firms Ready to Face Lawsuit," *Jakarta Post*. (September 17, 1998).

<sup>106</sup> PSIRU file, *Suez Lyonnaise*.

<sup>107</sup> Brent Waith. "Court rules PGE Unfairly Charging Customers," *The Oregonian*. (June 25, 1998). The decision is currently being appealed to the Oregon Supreme Court.

<sup>108</sup> "RWE Still Hopeful for Smaller Lignite Power Plant," *MTI EcoNews* (March 26, 1999), available at Lexis Nexis.

tax allowances on their capital investment programs.<sup>109</sup> In 1998, the High Court of Argentina ruled that the price increases levied by Aguas Argentinas, a Suez subsidiary, were illegal.<sup>110</sup> Both SAUR and Bouygues officials have been the focus of a number of investigations into alleged corruption, bribery and anti-competitive practices over the years. In the most recent instance, Martin Bouygues, CEO of Bouygues, and two other top company officials were formally placed under investigation in October 1997, for misusing company funds.<sup>111</sup>

Aside from official political financing, some corporations have allegedly also bribed political officials. The construction groups of Bouygues, Suez Lyonnaise and Vivendi are currently the subjects of a major judicial investigation over allegations that they participated in a corrupt cartel between 1989 and 1996. It is alleged that the three companies shared building contracts for schools in the Ile-de-France region of France worth approximately \$500 million, to the exclusion of other bidders, and that the 2% levy they charged on all contracts was used to support major political parties in the region.<sup>112</sup> For this latter activity, Jacques Durand, commercial director of a Suez subsidiary, was indicted for corruption, bribery, favouritism and anti-competitive practices.<sup>113</sup> In 1985 it was reported that Bechtel attempted to bribe the Israeli Prime Minister and governing party in a bid to secure the safety of a pipeline.<sup>114</sup>

The record of the Big 10 from the policy, political and legal perspectives provides significant opportunities for engagement. The corporate focus on privatization requires that civil society develop strong frameworks for supporting government efforts to maintain public control over access to water. Educating the public about democratic control and about the long-term effects of privatization on the resource, and monitoring activities of the corporations and their lobbying

---

<sup>109</sup> Ben Potter, "Murdoch Groups Top Low Taxpayers' League," *The Daily Telegraph* (November 30, 1996), p. 5.

<sup>110</sup> PSIRU, *Water Privatisation*, p. 5.

<sup>111</sup> Roger Ronnie, "Privatisation Has a Bad Reputation Too," *Africa News* (September 30, 1998), available at Lexis Nexis.

<sup>112</sup> PSIRU, *Suez Lyonnaise*.

<sup>113</sup> *Ibid.*

<sup>114</sup> Multinational Monitor, *Bechtel Profile*, p. 2.

organizations, are critical to effectively addressing the concerns of politicians and the public. Citizens who wish to bring about change need to understand the implications of corporate political financing for the treatment of issues, and to promote campaigns focused on ending such corporate support. They must also document the legal records of these corporations to enhance transparency and educate the public about the problems related to the corporatization of water.

While reversing the privatization of water is the ultimate objective, we can also help to develop a regulatory framework that restricts corporate profits and executive salaries, ensures adequate and equal access, and requires that water management be done in a sustainable manner.

Finally, the importance of this resource necessitates that corporations in this sector have restrictions placed in their charters governing the scope and nature of their activities. Each corporation and subsidiary has its own charter or certificate of incorporation that is registered in every jurisdiction in which it operates. Some countries, such as France, still require that companies list the scope of their operations in their charters. In many jurisdictions, including the United States and Canada, charters may be revoked where the corporation has a poor record of violations, acts against the public interest, or acts outside the scope of its own charter. This remedy merits more consideration and study in other jurisdictions as a mechanism for ensuring accountability within the private water industry.

## Chapter 5

### **LIVING WITH PRIVATIZED WATER: The Impact of Water Corporatization on Labour, Communities and the Environment**

You must cut costs ruthlessly by 50 to 60%. Depopulate. Get rid of people. They gum up the works.

— Jeffrey Skilling, Enron President speaking at an industry conference in 1997

While the past several years have seen unprecedented growth in the private water industry accompanied by high shareholder returns, these indicators provide only a narrow, short-term view of the impacts of privatization. Some of the most profound implications of the corporatization of water are long-term and have not yet been felt in the areas of labour, environment and civil society. This chapter considers the existing evidence in these areas and demonstrates the negative consequences that the privatization of water will ultimately have on the social fabric of global society.

In the context of labour, corporations argue that privatization will lead to increased employment and better working conditions for employees; however, the limited information available regarding labour relations in the water industry suggests otherwise. Evidence in some operations points to discrimination against union members, selective hiring practices, disparity between domestic and foreign employees, lay-offs despite consistent growth, and exorbitant executive remuneration. This is of concern given that the labour force in many of the corporations numbers in the hundreds of thousands and is growing.<sup>115</sup>

These corporate labour practices are the consequence of the water industry evolving in a deregulated environment. The absence of regulation results in a lack of disclosure and

---

<sup>115</sup> Vivendi employs approximately 235,000 (1998 Vivendi Annual Report); Suez Lyonnaise had a workforce of 210,000 (1998 Annual Report); RWE employs 145,467 individuals (1998 Annual Report at 5); Bouygues employed 105,036 people in 1998 (1998 Annual Report). The workforces of both Vivendi and Suez Lyonnaise have since increased due to major acquisitions.

transparency, making it difficult to draw conclusions from the conflicting reports regarding the labour practices within the Big 10. However, it is clear that a relatively small percentage of labour in the privatized water industry is unionized (Enron, for example, estimates that only 16% of its American employees have union representation).<sup>116</sup> The Public Services International Research Unit has documented numerous cases of derecognition of unions by Enron in its operations in the United Kingdom, Argentina, Guatemala and India.<sup>117</sup> Even where unions have been formed, reports suggest that trade union rights have been denied, especially in foreign operations. Enron employees at one Argentinean plant have demonstrated against alleged attempts by the company to destroy the union local.<sup>118</sup> In contrast to these reports, the Kinder, Lydenberg, Domini report — a leading corporate social responsibility index — speaks favourably of Enron, stating that it offers “flexible work schedules, dependent care accounts and dependent care resource and referral, paid and unpaid family leave, and educational reimbursements.”<sup>119</sup> In January 1999, *Forbes* magazine ranked Enron in its list of the “100 Best Companies to Work for in America.”<sup>120</sup>

There is also reported disparity between the treatment of employees in local and foreign operations. Suez Lyonnaise and Thames Water have different pay scales for their expatriate and local workers on their Indonesian water projects, and have come under pressure to regulate salary standards. The head of a local commission looking into conditions at the project stated that “equal salaries for local and foreign staff members are badly needed to avoid discrimination.”<sup>121</sup> In a related matter, Jakarta workers have been on strike since early April 1999, protesting the

---

<sup>116</sup> Kinder, Lydenberg, Domini, *Enron Corporation Profile* (Kinder, Lydenberg, Domini & Co., Inc., 1999), p. 1, available from author.

<sup>117</sup> “PSI Company Networks: Enron,” available at [www.psi-utilities.org/wucweb/networks/enron/index.htm](http://www.psi-utilities.org/wucweb/networks/enron/index.htm); “Against Globalization — And for Power to the People, an Interview with Medha Patkar,” *Multinational Monitor* 18 (November 1997): 3.

<sup>118</sup> *Ibid.*

<sup>119</sup> Kinder, *Enron*, p. 4.

<sup>120</sup> *Ibid.*

<sup>121</sup> “PDAM Jaya Told to Rework Its Agreements with Foreign Firms,” *Jakarta Post* (September 8, 1998), available at Lexis Nexis.

disparity in wage increases between public water authority workers (who represent 45% of the workforce) and Suez Lyonnaise and Thames Water employees (who represent 20% of the workforce).<sup>122</sup>

Furthermore, the public has expressed concern about reported lay-offs despite continual economic growth in the corporations. In Brazil, there have been consistent reports of staff reductions, uncertain work situations and sub-contracting by Enron.<sup>123</sup> In Manila, reports indicate that Suez Lyonnaise and United Utilities have cut staff heavily and engaged in selective hiring and denial of trade union rights.<sup>124</sup>

Some municipalities have successfully negotiated protection provisions into contracts to ensure labour standards are maintained upon privatization. As part of a consortium contract acquiring a stake in Berlin's waterworks, Vivendi committed to creating 2,160 jobs over a 10-year period, including 1,000 jobs as a result of forming a foundation to develop social projects. The consortium has also promised there will be no mass lay-offs of Berliner Wasserbetriebe personnel for 15 years.<sup>125</sup> However, without union representation, employees are dependent on municipalities negotiating contracts on their behalf to build in such employee security provisions. While this was successful in Germany, it may prove more difficult in regions that have weaker labour laws, weaker governments, and more acute water problems. Clearly, despite lack of full information regarding the labour practices among the Big 10, further protections are required for employees, and such protections should be entrenched before communities permit privatization.

Another area that suffers from lack of transparency is the reporting of salaries and the relationship between executive and employee wages. For the most part, this is because

---

<sup>122</sup> PSIRU, *Suez Lyonnaise*.

<sup>123</sup> "PSI Company Networks"; "Against Globalization," 3.

<sup>124</sup> PSIRUO, *Water Privatisation*, 8.

<sup>125</sup> "Vivendi-RWE-Allianz Consortium Wins Contract for Partial Privatization of Berlin Water Company" (July 2 1999), at [www.vivendi.com/fr/html/communiqués/050799\\_1ang.html](http://www.vivendi.com/fr/html/communiqués/050799_1ang.html).

continental European corporations are not required to report executive salaries, while American companies generally do not report average employees salaries. In the case of Severn Trent and Thames Water, their CEOs made more than 14 times the average employee wage in 1998 — a disparity that nevertheless likely pales in comparison to that found within the larger water corporations.<sup>126</sup> In 1998, despite public complaints over rate increases and poor service, Thames Water increased the base salary of its executive directors by an average of 4%, while there was no reported increase in the wages of its non-executive employees.<sup>127</sup> Yorkshire Water's board received widespread criticism over director and executive bonuses. The salary of the former chair of the board increased four-fold between 1989 and 1995.<sup>128</sup>

What is most disturbing is the health and safety record of many of the corporations. While some violations by the Big 10 relate to sectors of their operations other than water, the attitude of the corporations to health and safety generally is cause for concern with respect to future water operations. In 1995, Enron was fined \$355,000 by the Occupational Safety and Health Administration (OSHA) for numerous violations of safety standards related to the 1994 explosion at its Pasadena methanol plant. Enron also faces charges for knowingly failing to comply with pipeline safety requirements and recommended industry practices; these alleged actions resulted in an explosion at a Puerto Rico plant that killed 33 people and injured 69 others.<sup>129</sup> In other instances, the corporations' approaches to worker safety are undetermined. In 1998, Bechtel was given three safety awards from different American associations and claimed to have the best overall safety record in Latin America.<sup>130</sup> This represents a considerable shift from 1985, when the corporation was fined by the Nuclear Regulatory Commission's Office of Investigations for deliberately circumventing safety procedures at the Three Mile Island cleanup

---

<sup>126</sup> Public Services International, "They get paid HOW MUCH? — CEO and Average Pay in the Utility Companies," available at [www.psi-utilities.org/wucweb/ammo/ceopay.htm](http://www.psi-utilities.org/wucweb/ammo/ceopay.htm).

<sup>127</sup> 1999 Annual Report (Thames Water, 1999):16, available at [www.thames-water.com/annual99/home/home.html](http://www.thames-water.com/annual99/home/home.html).

<sup>128</sup> "Business Water Bosses Defend Bonuses," *BBC News* (June 28, 1998); Hoover's profile

<sup>129</sup> Securities Exchange Commission, *Form 10-K (Enron)* (1998); Nick Cohen, "Hold on a Minute....," *The Observer*. . ." (September 13, 1998): 32.

<sup>130</sup> See [www.bechtel.com](http://www.bechtel.com).



operations.<sup>131</sup> Attempting to accurately determine Bechtel's health and safety record is further confounded by the presence of executive interlocking within the health and safety administration. While Bechtel executive Stew Burkhammer has been credited with providing "invaluable insight and advice" as a member of the U.S. government's OSHA's Advisory Committee on Construction Safety and Health, the involvement of industry executives in the development and implementation of health and safety policy may be seen to call into question the legitimacy of such regulatory regimes.

Although inconclusive, the findings with respect to labour practices within the water industry raise grounds for concern. Moreover, there is nothing to indicate that privatization is more beneficial to the welfare of employees than a public sector approach to management. If anything, privatization reduces the accountability of employer to employee. In most instances, the corporations have entered into short-term contracts to operate water services in a given region, resulting in less job security for employees. Furthermore, there is no ability for the public to influence the disparity between executive and employee salaries. If privatization is to proceed, steps must be taken to ensure, at the very least, job security and safe working conditions.

The effects of the privatization and corporatization of water extend beyond employees to impact directly on every individual within civil society. There is no question that in order to maintain water infrastructure and provide potable water to the growing world population, individuals will be required to pay. However, commodifying water creates problems in the context of a privatized system. Corporatizing water management requires water operations not only to finance themselves but also to generate a profit for corporate executives and shareholders, which ultimately translates into added costs for consumers. Furthermore, as already discussed, the privatization of water services creates monopolies. This concentrates control in the hands of one corporate entity in a given region and reduces government's ability to set minimum access and quality requirements for those who cannot afford to pay the going water rates. The

---

<sup>131</sup> Multinational Monitor, *Bechtel Profile*, 1.

corporatization and privatization of water without regulatory constraints means that water access and quality is shaped by the corporate bottom line rather than the greater public interest.

The consequences of privatization and corporatization for consumers are most evident in the context of public health. Governments declare that they cannot afford to provide water services, and turn control over to private interests. Governments' lack of financial capacity to provide water services leaves them unable to promote water quality standards beyond those that are economically acceptable to the corporations. Nor are governments in a position to penalize corporations for failing to meet water quality requirements and continuing to raise rates. This leaves the public in the position of having no effective institutional mechanism to ensure the quality and affordability of water. For example, in July 1999, the Drinking Water Inspectorate in Britain ranked Northumbrian Water (a Suez subsidiary) as the second worst company on the basis of operational performance.<sup>132</sup> Britain's water regulator, OFWAT, responded to complaints about rate increases and poor quality by requiring water corporations to reduce rates (25% in the case of Northumbrian Water) and invest in infrastructure improvements. In response, Suez Lyonnaise announced that it will slow its environmental investments programs and will be unable to meet EU environmental standards within the prescribed time.<sup>133</sup>

Reports of the poor quality of water supplied by the Big 10 occur globally. Residents of North Jakarta have been vocal about chronic shortages of drinking water and large price increases in an area under supply by Suez Lyonnaise.<sup>134</sup> In Manila, there were many complaints to Suez subsidiary Maynilad Water Services Inc. and the Manila Water Company about the quality of

---

<sup>132</sup> "South West, North West Water Score Lowest for Quality in England, Wales – DWI," *AFX News* (July 7, 1999), available at Lexis Nexis.

<sup>133</sup> Roland Gribben, "Household water bills are expected to fall by average of pounds 40" (July 28, 1999) *The Daily Telegraph (London)*, p.2; Andrew Turpin, "Price-cut Let-off for Water Companies" (July 28, 1999) *The Scotsman*, p.22; Christine Buckley, "Water companies called to account after years of rises" (July 28, 1999) *The Times (London)* all available at Lexis Nexis.

<sup>134</sup> "Rorotan Residents Cry for Clean Water," *Jakarta Post* (September 14, 1998), available at Lexis Nexis.

water service in Manila following privatization.<sup>135</sup> Consumer complaints against Yorkshire Water increased 12% in 1997–1998.<sup>136</sup>

As we have stated, the disparity in power between the private water industry and local governments makes public institutions unable or highly reluctant to challenge the actions of the water corporations. In one instance involving the largest private concession in the world, Suez Lyonnaise and Vivendi were granted a 30-year concession for Buenos Aires in 1993, with Suez Lyonnaise acting as operator on the project. Despite massive investments by the corporation, the Argentine regulator has been severely critical towards Suez, stating that “the main goals set at privatization have not been met, in terms of the raising of water quality standards or in expansion of the system.” According to reports, these problems were the result of a privatization process where awarding authorities were “pressed by the need to alleviate a serious budget deficit,” resulting in contractual conditions where service implementation and environmental standards were ignored. According to a report by the Public Services International Research Unit,

“... The bidding (for the Buenos Aires water system) was practically an emergency response due to the crisis state that the state company was in. There was no time to discuss the issues of sanitation or environmental policy and how much we wanted to pay for it.” Attention was only given to the proposed reduction in rates [which the operator asked to renegotiate after one year to increase water tariffs.] The operator pays nothing for the use of the existing facilities and has little risk capital of its own involved. In short, Lyonnaise has little incentive to provide an acceptable service. The regulator complains to have insufficient instruments to sanction the operator’s misconduct, as apart from minor fines there is only the “doomsday option of revoking the contract.”<sup>137</sup>

In Valencia, Spain, reports suggest that a subsidiary of Bouygues’ SAUR blocked both the competitive re-tendering of its water concession and the local council’s bid for increased control during 1998–1999. Such control by the corporations, and the resulting incapacity of public institutions, is unacceptable when dealing with an essential public resource, and speaks to the inadequate institutional protections for the public.

---

<sup>135</sup> PSIRU, *Suez Lyonnaise*.

<sup>136</sup> “Rorotan Residents.”

The inability of government to assert meaningful controls over water corporations is further evidenced in the small penalties administered for water quality violations. Suez's Northumbrian Water was fined a mere £6,000 plus £3,800 in costs for supplying water contaminated with sediment to 15,000 customers in 1997.<sup>138</sup> Such penalties are not a meaningful deterrent for corporations whose annual revenues are in the billions of dollars.

In addition to these concerns about health issues and the undermining of our democratic institutions and processes, the water industry has faced serious criticism about the huge salaries awarded to corporate executives while water rates continue to rise. Within a framework that ensures public control and access for the poor, charging for water could support conservation and provide needed revenues to maintain water infrastructure; however, such a system has not so far been introduced. Rather, the commodification of water appears to be used to enhance corporate profits rather than facilitating greater efficiency and ensuring minimal water requirements for all citizens. There was a 110% increase in the price of water by Suez's Northumbrian Water between 1989 and 1995; the CEO's salary increased 150% and company profits increased 800% during the same period.<sup>139</sup> In France, the price of water rose 47.7% between 1990 and 1994, after privatization occurred. In the city of Paris, rates increased 300% between 1984 and 1997.<sup>140</sup> The French Socialist Party, holding the majority of seats within the National Assembly, has criticized the rapid increase in water prices, demanding better regulation of the industry and calling for a redistribution of "abusive profits" to lessen the impact of excessive water tariffs.

In England, the picture is the same. Enron's Wessex Water has received criticism from Britain's industry watchdog for "lack of transparency" surrounding the release of its financial figures. In 1998, profits increased 6% and directors were given large bonuses. Meanwhile, households

---

<sup>137</sup> *Latin Trade Business and Industry* (March 1, 1999), cited in PSIRU, "Lyonnaise des Eaux Faces Repeated Troubles in Argentina," available at [www.psiru.org](http://www.psiru.org).

<sup>138</sup> Paul Newton, "Doing It by the Letter," *Utility Week* (October 9, 1998): 6.

<sup>139</sup> CUPE, *Lyonnaise des Eaux*, 2.

<sup>140</sup> *Ibid.*; PSIRU file, *Suez Lyonnaise*.

received higher water bills in the Wessex area and prices have increased an average of 58% since privatization in 1985.<sup>141</sup> Wessex Water's business plan, released in May 1999, proposes an additional 6.8% annual increase in water bills over the next five years.<sup>142</sup> In Gdansk, Poland, there have been huge price increases reportedly beyond what many people can afford since Bouygues' SAUR was awarded the water concession for the city in 1993.<sup>143</sup>

The relationship between huge senior executive salaries and increased consumer rates surely requires an immediate response. Since water is a primary need of all humanity, there would appear to be something fundamentally wrong with the CEOs of water corporations making huge salaries while water service is costing more than average citizens can afford.

The corporate call for increased water rates is taking place despite a failure by some corporations to improve water efficiency, especially in the case of the British companies. Government data from 1996 reveals that Thames Water lost 38% and Yorkshire Water lost 33% of its water through leaks during 1995–1996, while the national average was around 16%.<sup>144</sup> Yorkshire Water was criticized for investing inadequate funds for infrastructure maintenance and upgrading.<sup>145</sup> In 1995–1996, the UK government found that Yorkshire Water had failed to supply acceptable

---

<sup>141</sup> Chris Maguire, "Liquid Asset: Wessex Water Chief Executive Colin Skellett Has Risen from Humble Beginnings to a Position That Could Make Him a Multi-millionaire," *Bristol Evening Post* (July 21, 1999): 8/9; Paul Mullins, "Watchdog Hits Delay In Displaying Results; Not Clear; Ofwat Says Wessex Kept Price Hike Figures From Public," *Bath Chronicle* (July 17, 1999): 4.

<sup>142</sup> Paul Newton, "Eyebrow Water Price Forecasts Show Massive Spread," *Utility Week* (April 30, 1999): 5.

<sup>143</sup> Public Services International Research Unit, *SAUR/Bouygues Profile* (February 9, 1999), available at [www.world-psi.org/water/psiruaurreport.rtf](http://www.world-psi.org/water/psiruaurreport.rtf).

<sup>144</sup> Philip Turton, "Leakage Level Update" (U.K. Environment Agency, November 9, 1998), available at [www.environment-agency.gov.uk/modules/MOD31.255.html](http://www.environment-agency.gov.uk/modules/MOD31.255.html); "Labour Ideas for Saving Water and Ending Waste for Yorks Water Customers," *Universal News Services* (November 19, 1996), available at Lexis Nexis.

<sup>145</sup> *Ibid.*; "Thorns from the Thistle," *Daily Mail (London)* (September 29, 1995):13S; Colin Brown, "Tory MPs Urge Clarke to Consider Windfall Tax," (September 26, 1995) *The Independent (London)*, p.1; Chris Lloyd, "Creaming the Profits from the Fat Cats. . . — But Are There Other Reasons to Tax the Utilities?" *The Northern Echo* (September 26, 1995); Alan Jones, "Booming Profits 'Make Windfall Tax Plan Valid,'" *Press Association Newsfile* (September 25, 1995).

services or repair leaking pipes in the previous 12 years.<sup>146</sup> It was criticisms such as these that led to OFWAT imposing infrastructure improvement requirements in 1999.

One of the less obvious aspects of the privatization of water services by large transnational corporations is the displacement of control from local decision-makers to foreign institutions. These foreign interests do not have a direct stake in the interests of the local community and are therefore less likely to see their responsibility for supporting the general well-being of the regions in which they operate. Corporate philanthropy is one indicator of this disinterest. Corporate giving by the Big 10 is universally below the 1% level of gross profits accepted by most corporate social responsibility indexes as the threshold for corporate donations. The Kelda Group, for example, gave £700,000 (0.1% of gross revenues) during 1998–1999.<sup>147</sup> More obvious are the direct allegations of human rights abuses by some of the major water corporations. Enron and Bechtel Corporation (a formal partner with United Utilities) have been seriously criticized for their complicity in human rights abuses associated with the development of the \$3 billion Dahbol Power Plant in India. This plant, the largest electricity generating plant in the world, is considered by the World Bank to be “not economically viable.”<sup>148</sup> According to Human Rights Watch, Enron (which currently has a 50% stake in the project) paid the state security forces, who were responsible for committing numerous human rights violations, to protect corporate interests, including illegally detaining and arresting peaceful protesters.

Finally, the human implications of the corporatization of water are compounded by the environmental consequences resulting from such a shift. As this report maintains, the corporatization and privatization of water are fundamentally unsustainable and detrimental to the environment. Placing the control of water in the hands of corporations leads to increased

---

<sup>146</sup> Hoover's profile.

<sup>147</sup> Annual Report and Accounts 1999 (Yorkshire Water, 1999), 7.

<sup>148</sup> Human Rights Watch, *The Enron Corporation: Corporate Complicity in Human Rights Violations* (New York, 1999), 14.

consumption. Furthermore, profit-seeking corporations often ignore environmental requirements, which results in environmental damage.

The environmental records of the Big 10 water corporations all reflect the unsustainability of privatized water management. The British members of the Big 10 are among the worst environmental offenders in the United Kingdom. Between 1989 and 1997, Anglian, Severn Trent, Northumbrian, Wessex and Yorkshire Water were successfully prosecuted 128 times. Between 1997 and 1998, all of them were "found guilty by the courts."<sup>149</sup> Marine studies of several of Northumbrian Water's sewage outfalls by the UK Environment Agency found significant resulting impacts on the marine environment.<sup>150</sup> Enron's Wessex Water was ranked as the fourth worst polluter in the United Kingdom by the national environmental agency in 1998 and fined a mere £36,500 for five separate violations related to illegal sewage discharge in the same year.<sup>151</sup> Anglian Water has consistently failed to meet environmental targets. In 1999, the corporation was found to have violated the *Water Industry Act* twice in 1997, failed to meet its leakage targets set by the regulator in 1998, and was prosecuted on 31 occasions between 1989 and 1997 for water pollution offences.<sup>152</sup> As a result, Anglian Water was ranked as the sixth worst polluter in the United Kingdom in the Environment Agency's 1998–1999 "Hall of Shame," receiving £24,250 in fines for six separate violations. The regulator has required the corporation to make an investment of £700 million over the next five years to improve its environmental standards.<sup>153</sup> Severn Trent was also ranked as one of the top 20 in the same "Hall of Shame," with fines of £15,000 for two violations related to illegal sewage discharges.

---

<sup>149</sup> "Worst UK polluters include Enron, Vivendi, Suez-Lyonnaise" at [www.psuru.org/news/3437.htm](http://www.psuru.org/news/3437.htm), taken from UK Environment Agency, *Independent* (March 22, 1999).

<sup>150</sup> "UK Ofwat proposes to raise Northumbrian Water price limits; to hit customers," *AFX News* (July 24, 1998).

<sup>151</sup> "Worst UK Polluters"; UK Environment Agency, *Environment Agency's 1999 Hall of Shame*, available at [www.environment-agency.gov.uk/files/shame.htm](http://www.environment-agency.gov.uk/files/shame.htm).

<sup>152</sup> Anglian Water, *Environmental Activity Report 1999*, p.13; Hoover's History; "Environment Agency 'Names and Shames'" (July 2, 1999) *UK: Environment News*, available at Lexis Nexis.

<sup>153</sup> Anglian Water, *Environmental Report*, 11.

As with penalties for water safety violations discussed above, a review of regulatory penalties incurred by water corporations for various environmental violations clearly illustrates that present regulatory systems do not adequately deter wrongful corporate behaviour. Suez Lyonnaise's subsidiary Essex & Suffolk Water was fined £14,000 for illegal over-abstraction of water at five sites in Suffolk over a three-year period. Thames Water received fines of £6,000 on two occasions for illegally discharging sewage effluent and £5,000 twice for the illegal abstraction of water.<sup>154</sup> These penalties are hardly sufficient to act as a serious deterrent for corporations. Corporations merely incorporate these penalties into their bottom lines and continue to act as they wish, because there are no substantive measures to hold them fully accountable.

It is also interesting to consider the environmental records of some of the corporations in other operational areas, since their involvement with water services is relatively new and there is nothing to indicate that they will adopt different attitudes and practices in their water operations than they have in other sectors of their operations. Bechtel has been heavily involved in the construction of 45 nuclear facilities across the United States, many of which have experienced repeated operational problems. It was also found to have circumvented safety procedures in the cleanup of Three Mile Island (where contamination incidents continue to occur), and is reported as being responsible for 730 spills of hazardous materials from 1990 to 1997.<sup>155</sup> Enron has been listed as responsible for 76 spills (some very considerable in size) and has received numerous penalties.<sup>156</sup> In 1994, Enron subsidiary Florida Gas Transmission violated its wetlands permits during construction of a gas pipeline; construction was suspended and Enron was ordered to pay \$391,000 in administrative penalties.<sup>157</sup> Enron was also fined for pollution described by the

---

<sup>154</sup> Catherine Cook, "Thames Water Utilities LTD Fined £6,000 For Pollution of Barkham Brook" (UK Environment Agency, March 8, 1999); Catherine Cook, "Thames Water Fined £6,000 for Pollution Offence" (UK Environment Agency, October 8, 1998); Catherine Cook, "Thames Water Utilities Limited Fined for Failing to Obtain a Water Abstraction Licence" (UK Environment Agency, July 27, 1999); Catherine Cook, "Thames Water Utilities LTD: Maximum Fine for Taking Too Much Water" (UK Environment Agency, January 28, 1999).

<sup>155</sup> Multinational Monitor, 1.

<sup>156</sup> Right-To-Know Network, *Environmental Protection Agency ERNS database* (December 17, 1997), pp. 3, 8-9, available at [db.rtk.net/ix-bin/ern](http://db.rtk.net/ix-bin/ern).

<sup>157</sup> Kinder, *Enron*, 5.



Florida government as “the worst environmental damage from a single project” it had ever seen.<sup>158</sup> RWE continues to use CFCs in certain operations, conduct open strip mining, and operate nuclear power plants.<sup>159</sup> Unfortunately, insufficient government revenues, deregulation and the absence of regulation in many countries where these corporations operate are severely reducing the capacity of governments to monitor corporate activity and to prosecute corporate actors when they fail to comply with environmental protection standards. Perhaps a service as vital as water should not be privatized if there are insufficient regulatory resources to ensure public health and environmental sustainability.

Despite the environmental reality of their corporate practices, the corporations are very concerned about the environmental image they convey and have taken a variety of measures to mitigate any possible damage in this area. Although many of the corporations have issued environmental principles or policies and consider environmental issues in their annual reports, most refer to generic and non-quantifiable criteria.<sup>160</sup> Several organizations have also put in place environmental coordinators or supervisors to establish liaison with government and the public.<sup>161</sup> In 1977, Bechtel had an in-house lobbyist on its payroll responsible for environmental, Superfund and waste issues.<sup>162</sup> The corporation has also participated in numerous exhibitions that have been denounced by environmentalists as “greenwashing.” Thames Water is attempting to promote an energy generation process from the combustion of sludge, which it terms “greenwaste.”<sup>163</sup> Corporate directors such as Severn Trent’s Derek Osborn also sit on boards of environmental groups, which raises serious questions about the reliability of the positions taken

---

<sup>158</sup> Cohen, “Hold on.”

<sup>159</sup> RWE, *RWE Environmental Report 1998*, p.2 available at [www.rwe.de/englisch/index.htm](http://www.rwe.de/englisch/index.htm); Paul Newton, “Electricity German Utilities Join Talks On Nuclear Ban” (December 1, 1998) *Utility Europe*, p.4; Julian Woodford, “Schroeder’s Power” (November 1, 1998) *Utility Europe*, p.17.

<sup>160</sup> RWE, *Ibid.*; “Azurix: Environmental Policy” (Enron Corp., 1998–1999), available at [www.azurix.com/environment/index.html](http://www.azurix.com/environment/index.html); Thames Water, “Thames Water Plc Environmental Statement — 19<sup>th</sup> July 1991,” available at [www.thames-water.com/environment/envtext.html](http://www.thames-water.com/environment/envtext.html); Anglian Water Plc, *Environmental Activity Report 1999* (Anglian Water, 1999), p. 2.

<sup>161</sup> RWE, *Ibid.*, pp.5, 6.

<sup>162</sup> “CRP Lobbying Spending: Bechtel Group Inc” available at [www.opensecrets.org/lobbyists/97profiles/2188.htm](http://www.opensecrets.org/lobbyists/97profiles/2188.htm).

<sup>163</sup> *Supra* note 126, pp. 6, 10. [not clear what this refers to]

by these organizations and potentially threatens to undermine the credibility of the environmental movement generally.<sup>164</sup>

Behind all the rhetoric, the deepest fallacy articulated by the Big 10 regarding the environment is their contention that privatization yields greater efficiency and water conservation. This paper has presented evidence suggesting that privatizing water services does not necessarily increase efficiency. However, the more important point is that the corporatization of water requires that the corporations increase water consumption in order to increase profits — the primary and sole objective of corporations. This fundamentally undermines water conservation efforts. Efficiency is only sought to the extent that it improves the bottom line, but since conservation is antithetical to increased consumption, the privatization of water is not in the interest of the public.

Municipalities may not have the resources to repair old systems that have leaks causing extensive water loss, but the corporatization of water does not solve the problem, merely shifting the focus from deteriorating infrastructure to unsustainable resource exploitation.

While the power disparity between corporate and societal interests is growing, the corporate dimension of the social, labour and environmental concerns surrounding water privatization present a myriad of possibilities for confronting the problem. Already, opposition to the corporatization and privatization of water has been strong, and has taken a variety of approaches. It is important to consider these approaches and their success, as well as other potential avenues, if we are to stop the privatization trend.

Traditional public opposition has occurred through both government intervention and direct public intervention. In many instances, public opposition has led to the decision to terminate privatization contracts or not to privatize at all. Some governments have acknowledged the negative impacts of privatization and sought to reverse the trend. In Budapest, city councillors and local organizations protested excessive increases in water charges by a consortium including

---

<sup>164</sup> 1999 Annual Report, 2.

Suez Lyonnaise subsidiary Budapest Water Works, and the vice-president of the municipal maintenance committee was quoted as stating that "it is now clear that this kind of privatization was a mistake."<sup>165</sup> In Indonesia, Jakarta city government initially cancelled water management contracts awarded to Thames Water and Suez Lyonnaise, although the contracts were later renegotiated to include provision for local worker and resident dispute resolution.<sup>166</sup> The city of Rio Rancho, New Mexico, decided to take over direct operation of its water and wastewater system from UWR (26% owned by Suez Lyonnaise), thus terminating the contract with the private operator.<sup>167</sup> And in Tucuman, the regional government terminated the contract with Vivendi's subsidiary Aguas de Aconquila, citing problems with quality and cost.<sup>168</sup>

There have also been direct public interventions in projects of the Big 10 water corporations, and concerns are growing as the projects get bigger and have greater impacts on communities and the environment. For example, Enron has faced international opposition to many of its projects. In India, the corporation is facing a nationwide campaign involving thousands of villagers and trade union members over the building of the Dahbol power plant, which is reported to be uneconomical.<sup>169</sup> In Puerto Rico, trade unions and environmental groups are opposing the construction of a gas-fuelled generation plant because of serious environmental and social concerns.<sup>170</sup>

There are significant opportunities to augment activity in this area. For example, the public could use the many industry exhibitions as opportunities to voice their concerns, not only to the larger corporations but to the entire industry. One major upcoming water trade exhibition is Aquatech

---

<sup>165</sup> "PSIRU file, *supra* note 61. Thames Water, Suez Lyonnaise Indonesian contracts reportedly cancelled" (May 26, 1998) *AFX News* available at Lexis Nexis.

<sup>166</sup> Thames Water, Suez Lyonnaise Indonesian contracts reportedly cancelled" (May 26, 1998) *AFX News* available at Lexis Nexis. PSIRU file, *supra* note 61.

<sup>167</sup> PSIRU, *Suez Lyonnaise*.

<sup>168</sup> "French bull in SADC states" (June 19, 1999) 862 *The Indian Ocean Newsletter*.

<sup>169</sup> Chatterjee, 1.

<sup>170</sup> *Supra* note 67.

2000, to be held in Amsterdam September 26 to 29, 2000. Aquatech predicts 25,000 visitors will attend, including policy-making, managerial and technical officials in industry, government, water control corporations, water companies, engineering consultancies and advisory services, and suppliers of the water industry.<sup>171</sup> Another is the International Water Industry Exhibition October 23 to 27, 2000, in Berlin.<sup>172</sup>

Evidence suggests some other approaches than can successfully challenge privatization. A 1997 Status Report on Public-Private Partnerships from the U.S. Conference of Mayors, which includes findings from 261 cities surveyed, identified organized labour as the primary impediment to the development of public-private partnerships.<sup>173</sup> Other significant impediments identified by cities were procurement restrictions and intergovernmental relations. These data suggest that opposition to water privatization is having an impact and that organized labour and jurisdictional arguments can be used to challenge the corporatization of water.

Furthermore, strong economic arguments to support public ownership of water infrastructure must be provided. Some local governments have identified innovative ways to generate revenues needed to finance infrastructure maintenance and maintain public control over water services. For example, city commissioners in Portland, Oregon, have proposed rewarding water conservation. The proposal would re-allocate charges to the major industrial and commercial users (the major water consumers) while encouraging everyone to reduce consumption and thereby reduce impacts on the resource and local infrastructure. Moreover, the changes could delay construction of a \$100 million dam project for an additional 30 years.<sup>174</sup> This is the reverse of the approach taken by many regions, which provide extensive water rate discounts and subsidies to industry to encourage them to set up operations in their area. For example, the city of

---

<sup>171</sup> See [www.aquatech-rai.com/english/exhibitions/aquatech2000/welcome.html](http://www.aquatech-rai.com/english/exhibitions/aquatech2000/welcome.html).

<sup>172</sup> Contact: Cornelia Wolff von der Sahl. International Water Industry Exhibition, Messe Berlin GmbH, Messedamm 22, D-14055 Berlin, Germany. Tel: 49-30-3038-2085. Fax: 49-30-3038-2079.

<sup>173</sup> "Fear of Labor Is Top Impediment to Privatization" at [www.waterindustry.org/psg1.htm](http://www.waterindustry.org/psg1.htm).

<sup>174</sup> Scott Learn, "Conservation Priced Water/Wastewater Rates Proposed Brave New World?" (March 3, 1999) *The Oregonian*.

Phoenix enticed Sumitomo Sitix, a large Japanese wafer manufacturer, to build in its jurisdiction a plant that is projected to use 2.4 million gallons of water per day. This was accomplished by providing the corporation with an 80% tax cut, duty-free import–export privileges, \$7 million in immediate infrastructure improvements, \$5.5 million for offsite sewer and water systems, and \$1.5 million for street improvements.<sup>175</sup> Such corporate welfare is surely economically imprudent and does not contribute to preserving the long-term interests of communities and their water resources.

A further key to engaging the global water market involves acknowledging the largest consumers of water, upon whom the major water corporations depend. Some of the major customers of the Big 10 water corporations include energy corporations such as Esso, Exxon and Shell Nigeria; food corporations such as Cadbury's, Ocean Spray Cranberries and Packaged Ice, Inc. (the largest manufacturer and distributor of packaged ice in the United States); and high-tech corporations such as IBM. Aside from industrialized agriculture (which consumes an estimated 70% of the total developed water supplies of the world),<sup>176</sup> the high-tech industry is one of the most water-dependent and water-damaging sectors in the world. In Santa Clara, California, the electronics industry is reported to have used almost 24% of the city's water in 1994–1995 and to comprise 65% of the top wastewater dischargers in the county.<sup>177</sup> It is estimated that each six-inch silicon wafer chip produced requires 2,275 gallons of de-ionized water, as well as similarly large amounts of electricity, chemicals and gases.<sup>178</sup> In addition, huge amounts of groundwater reserves are contaminated in the chip-making process. Santa Clara County in the Silicon Valley has the highest number of Superfund sites in the nation. As of 1996, 20 of the 29 Superfund sites in the area were directly caused by the production of silicon wafers and other electronics components, while another five sites resulted from contamination from related industries

---

<sup>175</sup> Silicon Valley Toxics Coalition, *Sacred Waters: Life-Blood of Mother Earth* (San Jose, California: SVTC, 1999), p.2 at [www.svtc.org](http://www.svtc.org).

<sup>176</sup> Seckler, 4.

<sup>177</sup> *Bechtel*.

<sup>178</sup> *Ibid*.

(equipment manufacturers, chemical suppliers and waste disposal).<sup>179</sup> Through confrontation of by means of boycotts and other forms of commercial opposition, pressure can be exerted on these corporations both directly (for their poor practices) and indirectly (since industrial customers will abandon suppliers with bad public reputations).

There are also opportunities to capitalize on the vulnerabilities of many of these major transnational water corporations as a result of the wide scope of their operations. In addition to bringing direct opposition to bear on their water operations, pressure can be exerted on other sectors of the corporations' operations, such as Vivendi's telecommunications operations. It has been suggested that shareholders interested in telecommunications are not enamoured with Vivendi's water-related acquisitions and will not respond favourably to economic boycotts of telecommunication products in response to concerns over privatized water.

Another available avenue, given that the Big 10 are all widely held public corporations, is concerted shareholder activism. Urging large institutional investors and blocks of individual investors to bring resolutions and highlight concerns about water privatization will undoubtedly have a strong impact on the behaviour of the large corporations. Indeed, past experience has demonstrated this in the case of the labour and human rights practices of corporations such as Disney and Nike.

In order to counter public concerns about privatization, some water corporations have adopted policies that themselves present opportunities for future opposition efforts. For example, Bechtel has instituted a global policy of "regionalizing" its operations by employing only local people. While this in itself can be seen as a positive step (in that it creates more direct benefits for communities in which the corporation operates), it also has the potential to compel the corporation to respond to local conditions and concerns. While Bechtel undoubtedly sees this approach as a more economically efficient way to operate (given that local labour standards in

---

<sup>179</sup> Ibid.

countries such as Indonesia are generally lower), it is imperative that this be viewed as an opportunity to demand local involvement in water operations, rather than as a precedent for undermining the rights of workers.

Another possible tool for engendering corporate accountability uses Anglian Water's idea of a Customer Charter. Developed in 1997, the Charter outlines what customers can expect and stipulates company responses when these standards are not met. For example, if customers are not told of an interruption to their water supply, they receive £20 from the company.<sup>180</sup>

Finally, given the vital public importance of the resource, there is clearly a need for increased public disclosure and accountability. Yorkshire Water Plc (now part of the Kelda Group), reportedly not one of Britain's most beloved corporations, was criticized by residents, councillors and members of parliament for refusing to disclose information regarding local drainage capacity following several incidents of raw sewage overflow.<sup>181</sup> Given the fragility and the essential place of water, and the degree of impact water has on public health and the environment, mechanisms must be introduced requiring water-related industries to disclose this kind of information. Simultaneously, citizens, unions and community-based organizations must continue working to document the activities of water corporations as they affect their communities and the natural environment.

---

<sup>180</sup> Anglian Water, "Customer Charter" (Anglian Water Plc, 1998), available at [www.anglianwater.co.uk/news\\_events.htm](http://www.anglianwater.co.uk/news_events.htm).

<sup>181</sup> "MP labels Yorkshire Water 'stubborn'" available at [www.yahoo.com/bin](http://www.yahoo.com/bin).

## Chapter 6

### **BEYOND THE BIG 10: Dams, Bags and Other Things**

One way or another water will be moved around the world as oil is now.

— John Hayward, World Bank water expert (1996) quoted in R. Lawrence, “A water solution in the bag” (August 29, 1996) 409(28798) *The Journal of Commerce*.

The global water industry is going well beyond monopolizing municipal and regional water services. These corporations are also set on acquiring control of water access through the ownership of dams and waterways, the control and marketing of bottled water, the development of new technologies to facilitate water desalination and shipment, and the export of water. But a review of the 10 major water corporations does not fully capture the magnitude of the efforts being expended on the privatization and corporatization of all aspects of control of water, since much of the development in these areas is being undertaken by transnational engineering, construction companies and small entrepreneurial enterprises. These organizations are generally bought up by the larger water transnationals once they have proven and successfully marketed their products.

The larger corporations are getting involved in large-scale dam and water diversion projects either directly or through partnerships with infrastructure corporations. There are over 37,000 large dams around the world, and concern has been raised regarding the environmental and social impacts of such megaprojects. The most recent example is the Three Gorges Dam on China's Yangtze River. This hydro-electric project is the largest one in the history of the world. It is creating a reservoir approximately 400 miles long, permanently submerging approximately 150,000 acres (including at least 1,500 factories, 600 towns and 16 archeological sites) and displacing 1.3 million people. It is designed to generate 18,200 megawatts of electricity, provide power to rural Chinese provinces, and provide flood management and improved navigation for



the upper Yangtze River.<sup>182</sup> As a result of environmental and human rights concerns, the U.S. Bureau of Reclamation withdrew technical assistance for the project, and the World Bank and the United States' Export-Import Bank have refused to finance it, despite being lobbied by American corporations who "are current and potential suppliers of equipment for construction of the project."<sup>183</sup>

In response to the growing concerns around the impacts of dams, the World Commission on Dams (WCD) was established in 1998 to review the environmental, social and economic impacts of large dams and to develop new guidelines for the industry. While the WCD states that its funding is not tied, it does receive support from Enron and Suez Lyonnaise subsidiary Tractabel, which indicates the interest of the Big 10 in the water infrastructure market.

The scale of these megaprojects requires corporations with huge capacities. Calgary-based Agra Inc., Anglo-French group GEC-Alstom, Asea Brown Boveri of Switzerland, and a consortium including Voith, Siemens and GE-Canada are among the transnationals who have been awarded contracts on the Three Gorges Dam project.<sup>184</sup> Canada's ongoing support of the project includes the federal Export Development Corporation's backing of nearly \$177 million in loans given to General Electric (to land a \$153 million turbine contract).<sup>185</sup> In the Bakun Dam project (recently abandoned by the Malaysian government following criticisms that it was environmentally unsound and socially irresponsible, which made it difficult to attract investment), the chief contractor agreement was initially awarded to the Swedish engineering firm ABB. Members of the Big 10, including RWE, Enron and Bechtel (which still owns the plans to the proposed Grand Canal scheme), are using their capacities in construction, engineering and water to gain an

---

<sup>182</sup> "Frequently Asked Questions About the Three Gorges Dam Project" at [www.exim.gov/3gorges.html](http://www.exim.gov/3gorges.html).

<sup>183</sup> "Three Gorges Dam" at [www.edf.org/programs/Intern...ams/AsiaOceania/q\\_ThreeGorges.html](http://www.edf.org/programs/Intern...ams/AsiaOceania/q_ThreeGorges.html).

<sup>184</sup> "Industry monitor: Three Gorges Dam" (September 1, 1997) 23(18) *Business China* at p. 11.

<sup>185</sup> Tom Fennell, "Power Struggle: criticism, corruption and costs plague the Canada-aided Three Gorges dam project" (August 16, 1999) 112(33) *Macleans*, p. 36.

advantage in winning such large-scale infrastructure projects as part of their “multi-utility” objective.<sup>186</sup>

One of the areas experiencing the most rapid development is the bottled water industry. According to the National Defense Research Council's recent study of this industry, bottled water is a \$4 billion industry in the United States, with sales having tripled over the past 10 years. Globally, the industry was worth an estimated \$14 billion in 1995, with an annual growth rate of 8%-10%.<sup>187</sup> Large transnationals such as Nestlé, Coke and Pepsico are marketing brands of bottled water, along with hundreds of smaller companies around the world, including Group Danone, Suntory, McKesson Water Products, Crystal Geysers and Vivendi's U.S. Filter. Nestlé, the global leader in mineral and spring waters, has no less than 14 brands of bottled water on the international market, including Arrowhead, Contrex, Deer Park, Fürst Bismarck, Levissima, Nestlé Pure Life, Ozarka, Perrier, Poland Spring, San Pellegrino, Valvert, Vera, Vittel and Zephyrhills.<sup>188</sup> In late 1998 and 1999, the company started marketing its Nestlé Pure Life bottled water in Pakistan and the rest of the developing world, having already established a presence in China, Vietnam, Thailand, Brazil and Mexico.<sup>189</sup> Despite growing demand for bottled water, the industry is plagued by reports that the water quality of more than one quarter of the brands is inferior to regular tap water. According to the National Research Defense Council (NRDC) report, government and industry estimate that about one quarter of bottled water is bottled tap water, sometimes with additional treatment and sometimes not. One example in particular cited by the NRDC illustrates how susceptible the public is to corporate wrongdoing in the context of bottled water:

There has been an explosion in bottled water use in the United States, driven in large measure by marketing designed to convince the public of bottled water's purity and safety, and capitalizing on public concern about tap water quality . . . . Some of this marketing is misleading, implying the water

---

<sup>186</sup> Chodos Murphy and Humovitch, *Selling Out: Four Years of the Mulroney Government* (Toronto: James Lorimer & Co., 1988), at p. 26.

<sup>187</sup> National Research Defense Council, *Bottled Water: Pure Drink or Pure Hype* (Washington D.C.: National Research Defense Council, 1998), at Chapter 2. Report available at [www.nrdc.org](http://www.nrdc.org).

<sup>188</sup> Hoover's Online at [www.hoovers.com/premium/profiles/5/0,1112,41815,00.html](http://www.hoovers.com/premium/profiles/5/0,1112,41815,00.html).

<sup>189</sup> See [www.nestle.com/mr1998/productgroup/01](http://www.nestle.com/mr1998/productgroup/01).

comes from pristine sources when it does not. For example, one brand of "spring water" whose label pictured a lake and mountain actually came from a well in an industrial facility's parking lot, near a hazardous waste dump, and periodically was contaminated with industrial chemicals at levels above FDA standards.<sup>190</sup>

The imbalance within the industry between corporate interests and public concerns over health and the environment is reflected the words of a past chairman of Perrier Corporation who stated, "It struck me . . . that all you had to do is take the water out of the ground and then sell it for more than the price of wine, milk, or, for that matter, oil."<sup>191</sup>

Several small independent entrepreneurs, some backed by the larger water corporations, are developing water-bag technologies that will facilitate the exportation of large quantities of water in large, sealed fabric bags. According to reports from a leading maritime organization, modified tankers are already transporting water to regions such as the Bahamas, Japan, Taiwan and Korea.<sup>192</sup> As of 1997, at least four corporations developing water-bag technologies had been identified. Aquarius Water Trading and Transportation Ltd. (a.k.a. Aquarius Holdings Ltd.) is a British-based corporation funded in part by Suez Lyonnaise subsidiary Northumbrian Water Company.<sup>193</sup> Aquarius currently has a number of 750 m<sup>3</sup> bags in use and planned to manufacture and test 2,000 m<sup>3</sup> bags in 1998. The company has already made deliveries between Piraeus and Aegina, Greece, and estimates the current market for transporting water to the Greek Islands may exceed 200 million metric tonnes per year.<sup>194</sup> Nordic Water Supply Company in Oslo has also developed water-bag technology and has contracted with Turkey to deliver 7 million m<sup>3</sup> of water to Cyprus. Other companies considering water-bag technology include the Medusa Corporation and Spragg and Associates which (with the past support of CH2M-HILL, a U.S. infrastructure corporation) has its sights set on Washington State, California, and the Middle East as its initial

---

<sup>190</sup> NRDC report.

<sup>191</sup> Ibid..

<sup>192</sup> Maritime Activity Reports (1996), at <http://www.marinelink.com/aug96/mr0811.html>.

<sup>193</sup> Financial Times, "Aquarius: Water bags seize commercial niche" (September 11, 1997) 30 *Financial Times Global Water Report*, p. 15.

<sup>194</sup> Ibid.

freshwater delivery service sites.<sup>195</sup> According to Terry Spragg of Spragg and Associates, “there are three aspects to the situation — technology, economics and politics. We feel good about the technology and economics. It’s the politics that is the problem.”<sup>196</sup>

---

<sup>195</sup> Financial Times, “Manavgat: Money bags and water bags” (March 12, 1997) 18 *Financial Times Global Water Report* 6; Ken Lilly, “Project Summary — Freshwater Delivery System” (February 28, 1996), at [www.waterbag.com/tech.html](http://www.waterbag.com/tech.html).

<sup>196</sup> Personal interview with Terry Spragg, 22 November 1999.

## Chapter 7

### THE HORIZON: The Future of Corporate Water

Unless serious steps are taken to oppose privatization, the future will see the inevitable increase in the corporatization and concentration of water resource ownership. Between 1990 and 1997, members of the Big 10 comprised all the private sponsors of projects in developing countries (see Table 4).<sup>197</sup> Increased private control coupled with growing water scarcity and consumer demand will make it increasingly difficult for public regulators to impose limits on water rates or environmental protections. As water corporations grow in size, national governments are likely to find it nearly impossible to control these giants, given their impact on the economy and employment. The United Kingdom's water regulator, OFWAT, has managed to impose rate reductions and infrastructure improvement requirements in the past year; however, restrictions on British companies operating internationally have been relaxed, which may ultimately lead to unbridled growth and concentrated power in these entities, making it harder for the regulator to serve the public interest.<sup>198</sup>

**Table 4: Top Five Private Sponsors by Number of Projects, 1990–1997**

Corporation	Number of Projects
Suez Lyonnaise des Eaux	28
Vivendi	13
Aguas de Barcelona (Suez Lyonnaise subsidiary)	6
Thames Water	6
SAUR International	5

Source: Gisele Silva, Nicola Tynan and Yesim Yilmaz, "Private Participation in the Water and Sewerage Sector — Recent Trends," *Private Sector* (World Bank Group) (1997): 7.

<sup>197</sup> Silva et al., *supra* note 5 at p. 7.

<sup>198</sup> Caroline van den Berg, "Water Privatization and Regulation in England and Wales" (199?) *Private Sector*. [GET FULL CITE.]

The development of alternative ownership structures that accommodate needed infrastructure improvements, while ensuring that water remains a social resource for the benefit of the entire planet, is critical. Currently, water privatization essentially employs four different ownership/management models that exist on a spectrum from most to least degree of public control: operations and management contracts, greenfield projects, concessions and divestiture.<sup>199</sup> Management and lease contracts allow the public sector to retain control over operations while allocating specific tasks to private interests, with investment often coming from development bank loans and all investment risk being borne by the government. Greenfield projects usually take the form of build-operate-transfer (BOT) contracts with ownership reverting to the government after the initial contract period (in public-private joint ventures, ownership of the assets often remains with the public partner during the contract term). Concessions place full operational investment responsibilities and associated commercial and investment risk with the private sector. Divestitures call for complete transfer of ownership to the private interest. As Table 5 indicates, privatizations in developing countries between 1990 and 1997 favoured concessions.

**Table 5: Private Water and Sewerage Projects in Developing Countries by Type, 1990–1997**

TYPE	Number of Projects	Investment (\$B)
Concession	48	19.909
Greenfield	30	4.037
Operations and Management	13	N/A
Divestiture	6	.997
Total	97	24.950

Source: Gisele Silva, Nicola Tynan and Yesim Yilmaz, "Private Participation in the Water and Sewerage Sector — Recent Trends," *Private Sector* (1998): 5.

<sup>199</sup> Silva et al., *supra* note 5 at 6.

With the exception of management and lease contracts (which composed only 13% of all privatization arrangements), the degree of public control under these various models is insufficient to ensure the protection of water resources. In the case of management and lease contracts, the analysis is case-specific, depending on the terms of the specific contractual arrangement. What is required is a model that not only leaves *de facto* control in the hands of public institutions but provides these institutions with revenues sufficient to ensure their continuing economic control over water services. History has demonstrated that where governments are caught between providing an investor-friendly business environment and protecting the public interest, regulatory control is insufficient. Public institutions must have the legislated and economic security to pull away from public-private contracts where such contracts are not in the interests of the public.

The future ownership and operation of water infrastructure by international corporations such as Vivendi and Suez Lyonnaise is even more troubling when considered in the context of international trade agreements. Legal opinions confirm that water and water-related services are caught under World Trade Organization agreements as goods, services, and investments. Milos Barutciski and Anita Banicevic, in a paper presented last year to the Canadian Bar Association, conclude:

Article XI [reduction of quantitative restrictions] is potentially the most important provision in the WTO/GATT system in relation to the issue of water exports. We are of the view that an outright prohibition of water exports would likely run afoul of Article XI:1, unless it could be justified by an exception elsewhere in GATT. In light of the express exception conservation of natural resources in Article XX(g) of GATT, we are compelled to conclude that GATT was intended to apply to all natural resources, including those in their natural state. Moreover, it is difficult to conceive that the GATT contracting parties would have considered fresh water in its natural state as something entirely different from other natural resources. Certainly there is nothing in the GATT text of interpretative notes to suggest this conclusion. In any event, even if it is arguable that water in its natural state is not a "good" and therefore falls outside of the scope of Article XI, any domestic commoditization of water may be sufficient to bring it within the ambit of Article XI. An interesting issue is whether the allocation of water rights by the state for private use would be considered a commoditization of water, thus making it a "good" for the purposes of GATT generally, and Article XI in particular. Thus the status of water in its natural state has not yet been addressed by any GATT or WTO panels.<sup>200</sup>

---

<sup>200</sup> Milos Barutciski and Anita Banicevic, *Water, the WTO and NAFTA: Conservation, Exports and the International Trading System* (Toronto: Canadian Bar Association National Symposium on Water Law, April 9-10, 1999), at p. 15.

While the authors are correct in stating that there has been no panel decision directly on the issue of the status of water under international trade law, other decisions have concluded that a country may not impose measures that discriminate between products based on the means of production.<sup>201</sup> In other words, one must consider only the “product” and not the “process” used to produce that product. Applying the product-process distinction in the context of water, a trade panel would hold that any restrictions on the process by which water is obtained or distributed would constitute an unnecessary and WTO-illegal barrier to trade.

The end result of this approach is that international trade agreements such as the WTO and the NAFTA restrict the ability of national governments to determine how a natural resource is to be managed. Trade advocates contend that the environmental safeguard provisions in the WTO (e.g., article XX(g) of the GATT) facilitate conservation objectives by permitting domestic governments to implement national measures where water exports are perceived to pose a risk to health or the environment.<sup>202</sup>

But the concerns are that no panel has ever ruled in favour of conservation measures taken by a country under article XX(g) and that the burden is being placed on nation-states to defend their actions against arguments made by foreign corporate interests through their government representatives. This is because the WTO and its trade dispute mechanism are structured to address private economic interests and not those of the global commons. This observation is even more transparent under the *NAFTA*, given that national governments may be sued directly by foreign corporations if they take steps to restrict resource access to foreign corporations.<sup>203</sup>

---

<sup>201</sup> *United States – Restrictions on Imports of Tuna* (complaint by Mexico)(1991), GATT Doc. DS21/R, 39<sup>th</sup> Supp. (1991-1992) BISD 155; *United States – Restrictions on Imports of Tuna* (complaint by EEC & Netherlands) (1994), GATT Doc. DS29/R.

<sup>202</sup> *Supra* note 199, p.24.

<sup>203</sup> *North American Free Trade Agreement*, Chapter 11.



Aside from the impacts on the ability of nations to manage their water resources, these agreements are especially detrimental to local communities. Under present trade agreements, once regional governments decide to privatize, they are not allowed to discriminate between local and foreign corporate ownership — a measure that will ultimately lead to reduced local control and management. Furthermore, communities will be beholden to international corporations that hold patents on water-related technologies (such as water purification treatment) in order to meet their water needs, rather than developing such technologies locally through public research and development operations. A government will not be able to prevent a foreign corporation operating within its jurisdiction from exporting water without placing equivalent restrictions on national corporations. Moreover, when water is sold, it will not go to people in water-scarce regions, but will be exported to those who can afford to purchase the product — industry and the rich. Those already lacking water will not benefit from turning water into a marketable good. While there is a need for the world to share its resources, including water, more equitably, these decisions must be based first on environmental and social factors rather than on economics. International trade agreements take the reverse approach by allowing allocation to be determined by market forces, and by ignoring environmental impacts and the inability of many local communities to pay for access.

Finally, the cumulative effect of corporate concentration, international trade agreements, growing international consumer demand and evolving technologies suggests that water exportation is imminent unless governments adopt clear positions against it and promote alternative ways of meeting global water requirements. Corporations are not speaking about water exports explicitly, but it seems clear, based on their investment in water-bag technology and their involvement in water diversion projects, that they have the financial and technological capacity to actively pursue water exportation once the political climate is right.

Water importation was among the recommendations of a 1999 report on water in the Middle East, where use in 1994 (3,183 million m<sup>3</sup>) exceeded average annual renewable surface and

groundwater resources (2,788 million m<sup>3</sup>).<sup>204</sup> Drought in that region in 1999 was so severe that Israel stated it could not provide the water quantities to Jordan prescribed by treaty. As a result, Jordan was forced to go to Syria for emergency water supplies. Already the three major French water corporations are working on a water transfer project between France and Spain, while massive water diversion projects between the United States and Canada originally conceived decades ago are rearing their heads again. Bechtel still retains ownership of the blueprints to the Grand Canal scheme in Canada. This plan envisages building a dam across James Bay to make it into a freshwater lake, moving that water through a series of canals and rivers to the Great Lakes, and ultimately delivering it into the water-deficient regions of the Midwest United States.<sup>205</sup> Water shipment via tankers is already under way and promises to increase as it becomes more economically feasible as a result of improved technology and increased demand.

It has not been the purpose of this paper to argue that these corporations are inherently *bad*. Rather, this report reconsiders whether the corporatization of water is capable of serving the best interests of the public and the resource itself. It is clear that some institutional structure is needed to provide the necessary service of developing and delivering water resources to the world. Furthermore, such a structure is required to commodify water as a means of promoting water conservation. However, the position of this paper is that privatization and corporatization are not appropriate ways in which to achieve these objectives.

It is critical for the general public to appreciate the profound implications that the corporate structure has on the management of water. This report has illustrated the importance of understanding the implications of the structural, financial, political and social dimensions of the 10 largest global water corporations as a starting point to engaging the issue of the corporatization and privatization of water. Corporations are not capable of fulfilling the complex

---

<sup>204</sup> Committee on Sustainable Water Supplies for the Middle East, *Water For The Future: The West Bank & Gaza Strip, Israel and Jordan* (National Academy Press, 1999) cited in Peter Gubser, "Water For The Future" (September/October 1999) 14(5) *Middle East Insight*, p. 62.

<sup>205</sup> Mel Clark and Don Gamble, "Water Is in the Deal" in Wendy Holm, ed., *Water and Free Trade* (Toronto: James Lorimer & Company, 1998) 2 at 14ff.

task of sustainable water management because they are concerned primarily with maximizing profits for their shareholders. When it comes to concerns about water conservation, public health, job security and the well-being of communities, corporations are not responsive enough to manage these interests. To the corporations, water is a private asset to be sold to those who can afford it rather than a common gift of nature for all to share equally and responsibly. At the same time, society cannot move back to inefficient public management, but must invest in developing our public institutions to make them responsive to the various interests at stake. This report has taken a first step towards addressing the problem by highlighting the concerns related to the corporatization and privatization of water. In the new millennium, we must use this information to develop strategies to help preserve this vital resource for all in the centuries to come.