In addition to the important social challenges that citizens’ groups here in Europe are raising about the operations of Nestlé --- whether that be the ongoing battle over infant formula or the struggles against the violation of human and labour union rights in Columbia or the unfair trade practices affecting the commodity prices of coffee, cocoa and milk --- I want to draw attention to the role that the company is playing in stimulating various kinds of water wars in North American communities.

As the world’s leading food corporation, Nestlé is also the number one bottled water company in the world today. Nestlé owns eight international brands of bottled water, like its flagship product Perrier, plus another 71 regional brands in countries around the world. In Europe alone, Nestlé produces 37 regional brands of bottled water in eleven countries. In Latin America, they produce 9 brands of bottled water in four countries; 8 brands in seven countries in Africa and the Middle East, 7 brands in eight Asian countries, and 10 brands in North America.

1. Nestlé’s Water Operations

For Nestlé, bottled water has become a lucrative component of the food giant’s overall business operations. Indeed, Nestlé bottled water sales in total amount to well over $8 billion [USD] annually, more than a third of the company’s revenues for the sale of beverages. Here, I wish to focus my comments on Nestlé’s bottled water operations in North America where two-thirds of its revenues in this sector are generated.

Perrier Group

Nestlé foray into the bottle water industry began in 1969 with its acquisition of a 30 percent stake in a company called Société Générale des Eaux Minérales de Vittel. In the 1980s, Nestlé went on a buying spree, purchasing a string of regionally based bottle water companies in Europe and North America. Primarily in the US, Nestlé took the lead in purchasing well established local and regional bottling companies. In 1980, for example, Nestlé acquired Poland Spring, followed by Ozarka and Zephyrhills in 1987. Later, the company went into Canada buying up Quebec-based Montclair in 1989 and Deer Park in 1993.

Then, in 1992, Nestlé acquired its flagship bottle water company when it purchased the Perrier Group, whose sparkling water had already become well established as the leading brand of bottle water on the global market. Spearheaded by Perrier and flanked by close
to ten other regional and local brands, Nestlé quickly established itself as the leading bottled water company in the U.S. and Canada. Throughout the 1990s, the Perrier Group ignited a major marketing drive for bottled water that eventually transformed the industry in North America.

**Nestlé Waters**

In 2002, Nestlé’s Perrier Group of America changed its name to become Nestlé Waters North America. Its main marketing strategy in the US and Canada was to combine sales of nationally and internationally known brands --- such as Perrier, San Pellegrino, Vittel, Aqua Panna --- with local brands it had acquired --- such as Poland Springs, Deer Park and Ice Mountain --- all of which were well known in their particular regions of the U.S. and Canada.

As a result, Nestlé had established tremendous depth in all water categories and price segments. In 2003, Nestlé Waters led the US bottle water market with a one-third share of total sales. That year, Nestlé bottle water sales in North America amounted to almost $2.7 billion USD, or almost a third of the company’s total bottled water revenues. By this time, Nestlé was also being challenged in North America by the world’s two leading soft drink giants, Pepsico and Coca-Cola, who had entered the bottled water market --- Pepsi with its Aquafina brand in 1994 and coke with its Dasani brand in 1999.

**Product Lines**

During its golden era of the 1980’s, The Perrier Group itself had acquired several bottling companies in North America, thereby building an impressive brand portfolio in all price segments.

Today, Nestlé owns and sells a broad range of bottle water brands through its North American operations:

- Perrier
- San Pellegrino
- Aqua Pana
- Vittel
- Arrowhead
- Calistoga
- Deer Park
- Ice Mountain
- Monclair
- Poland Spring
- Zephyrhills
- Ozarka
- Aberfoyle-Nestlé Pure Life
- Great Bear (discont.)
- Santa Maria

**Water Takings**

In North America today, Nestlé water takings for its bottle water products are emerging as a controversial issue. In 2003, it is estimated that Nestlé Waters withdrew a total of 1,862,486,080 gallons [or 7,050,254,807 liters ] for its bottle water production in the US alone. Since Nestlé takes all of its bottle water from spring water, the company claims that it does not “collect as much as the spring can safely support.” Yet, rising demand for bottle water compelled Nestlé to double its production capacity between 1999 and 2002. And, since Nestlé companies use boreholes to tap water from springs, more water is withdrawn than the natural flow of the spring.
In particular, serious concerns have been raised about Nestlé’s water takings in areas that are prone to drought conditions. In Pasco County Florida, for example, Nestlé bottles its Zephyrhills product with water taken from the Hillsborough River, which also serves as one of Tampa’s main sources for drinking water. In 2000-2001, when a drought hit this region, Nestlé continued to push for a permit that would allow its daily water takings to increase from 301,000 gallons to 1.8 million gallons. Elsewhere, in Brazil, where Nestlé bottles its Pure Life brand, the company reportedly was responsible for drying up the Magnesiana, the main spring used for its bottle water brand, called Pure Water.

**Water Control**

In North America, bottled water companies like Nestlé Waters have been able to secure control over underground aquifers and streams by taking advantage of an archaic patchwork of regulatory regimes. One of these is called the “rule of capture.” According this law, “ground water is the private property of the owner of the overlying land” and they “have the right to capture the ground water beneath their land.” In Texas, for example, this is the law that is used to regulate ground water sources that bottled water companies can easily exploit. It is also known as the ‘law of the biggest pump’ because the landowner with the largest pumping capacity “can dry up the adjoining landowner’s well.”

Take, for example, the case in Henderson County, Texas, where Nestlé’s Great Spring Waters of America began pumping large volumes of groundwater for its Ozarka bottling plant. Four days after the pumping began, the well of Bart Sipriano who occupies land near the Ozarka plant, suddenly went dry. When a lawsuit was subsequently filed to protect Sipriano’s water rights, the court upheld the ‘rule of capture,’ declaring that Nestlé was in no way liable. And, when the case was brought to the Texas Supreme Court in 1998, the ‘rule of capture’ was unanimously reaffirmed and calls to modify the law to protect rural homeowners and domestic users of water were flatly rejected.

**Water Fees**

In comparison to other beverages, says the past chairman of Perrier, bottled water is highly lucrative in terms of production costs and determining the final retail price: “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.” The reason that it is so lucrative is that companies like Nestlé comparatively little or nothing in the way of fees for the water they take out of groundwater streams and aquifers.

Unlike other industries such as forestry, mining, oil and gas, the bottled water companies are not obligated to pay a fee or tax on the extraction of the resource in most jurisdictions. In some jurisdictions, companies must obtain a ten year permit for groundwater takings of over 20,000 gallons a day for which they pay a fee ranging between $1500 and $4000, a very tiny fraction of what they sell the water for in bottled form. For the most part, the bottled water industry has been strongly opposed to being taxed at the source or having to pay royalty fees on the water they extract, arguing that they are adding value to water in the way that farmers or golf owners do.
Marketing Schemes

Through extensive advertising, Nestlé has been remarkably successful in selling a perception of bottled water. After all, “we sell water … so we have to be clever,” says Nestlé Waters’ senior vice president of global marketing, noted earlier. Indeed, Perrier spearheaded the drive towards new marketing campaigns for the sale of bottled water in North America throughout the later 1980s and the 1990’s. Having established its brand name in the more mature markets of Europe, Perrier was introduced as the choice drink of a new generation of yuppies in the U.S.. Perrier became a perfect product for the yuppie generation, enabling their need to distinguish themselves, their taste for a healthy beverage and their desire to display their wealth.

One of the main themes of Nestlé’s marketing strategy is the purity of their product. For the natural product (spring waters, mineral waters) this purity emphasis is linked to the creation of a natural image. In fact, both Nestlé Waters’ brands (Arrowhead and Poland Spring) capitalize on this nature side. Arrowhead with its tagline “It’s better up here,” --- that is to say, in the mountain where our source is and where the air is pure and the pollution inexistent. For Poland Spring it’s a little different. The brand tagline “What it means to be from Maine” is the extension of Nestlé’s bottled water strategy which had been to buy local bottlers well established in their region.

False Labeling

The labels on Nestlé’s bottled water brands are often designed to convey the image that the water itself comes from pure and pristine sources. In the U.S., labeling laws do not require bottled water companies to provide specific information on the original source of the water. In Canada, such laws do exist but are not rigorously applied. As a result, consumers can be left with misleading or even false information on the source of the water that they are drinking.

Take, for example, Nestlé’s Poland Spring and Alaska Premium Glacier brands. The label on Alaska Premium Glacier drinking water claims that it is “Pure Glacier Water from the Last Unpolluted Frontier.” In fact, however, the water used for this brand is municipal water drawn from the public water system in Juneau, Alaska [pipe # 111241]. Similarly, Nestlé’s Poland Spring brand is not spring water drawn from a pristine and protected source, as its label tries to portray, but is usually water supplied by borehole wells located near their bottling plants. Nestlé also sells reprocessed distilled tap water labeled as … Poland Springs!

Legal Actions

As a result, Nestlé Waters has been faced with a series of class action suits alleging that the company’s brand advertising and labeling with regards to the source of the water is both misleading and fraudulent. In Illinois, for example, a judgment and settlement was brought against Nestlé’s Poland Spring in September 2003. Meanwhile, Nestlé Waters is currently facing class action suits in several other states, such as Florida, California, Maine, Michigan and Pennsylvania. In most of these cases, the company is being charged with depletion of water sources as well as misleading advertising with the label ‘spring water.’
Moreover, these legal actions on water takings have come at a time when Nestlé has had to increase its production to meet rising demand. So far, Nestlé has successfully prevailed in most of the legal battles it has faced. But because Nestlé must continue to seek out new sources to meet production demands, it keeps running into new resistance. Increasingly, citizens and local government officials are beginning to realize that there the economic benefits of welcoming a major bottling company like Nestlé on their land are surpassed by the price that communities are called to pay in terms of harm or potential harm to their environment and their quality of life.

2. Community Resistance

In recent years, Nestlé has become a prime target of a growing wave of community-based resistance against the bottled water industry in North America. Much of this resistance has focused on Nestlé’s water takings. The following provides a snapshot of three different, but related models of community resistance against Nestlé’s water takings in the U.S. --- one in the state of Wisconsin, another in the state of Michigan, and the other in the state of Florida.

Wisconsin Battle

In early 2000, community based groups calling themselves Waterkeepers of Wisconsin, organized a campaign to stop Perrier from building a bottled water plant on top of Mecan Springs, near Coloma in Waushara County, in the State of Wisconsin.

Mecan Springs is part of the Mecan River watershed in Waushara County, which is located in east central Wisconsin, about 70 miles from Madison. Perrier, now part of Nestlé Waters of North America, wanted to drill a well tapping into the Mecan Springs and erect a 250,000 square foot facility on the state owned property, for what would become Wisconsin’s largest bulk water bottling plant. The Perrier plant was designed to pump 500 gallons a minute, 24 hours a day, all year long. The daily extraction of 270,000 gallons a day was estimated to be “five times larger than any other such operations [in the state].”

In June 2000, communities nearby Big Springs held referendums opposing the construction of the Perrier plant. The referendums were won by overwhelming majorities. In response, however, the Perrier spokesperson declared: “the people don’t have all the information.” This was enough to fan the flames of resistance. “If that’s the company’s attitude,” replied the Waterkeepers, “[we’re] ready to fight. We are going on the Internet, and we’re going to the county fairs, to the parades and to the flea markets.” Not only did the Waterkeepers take their campaign to the people of Wisconsin but they also systematically responded to each of Perrier’s allegations.

In August 2000, for example, the Waterkeepers invited a group of groundwater experts to evaluate Perrier’s environmental assessment, which had been conducted by the department of Natural Resources. The team of experts found the assessment to be flawed because it made improper use of previous groundwater studies and its tests were inadequate. The Concerned Citizens of Newport went on to sue the State Department of Natural Resources “for deciding that the project should be allowed to go forward despite public opposition.” Then, in November 2000, the State Governor, who had originally been wooed by Perrier, finally asked the company to leave, saying: “People in Adams County and the Town of New Haven do not want Perrier there, and they’ve made that crystal clear […] It’s time for them to find a different location.”
Two years later, Perrier finally left Wisconsin to relocate in next door Michigan. In January 2004, Perrier’s president was quoted as saying: Perrier’s president was quoted saying “People were much more receptive in Michigan. We’re going to have a very successful operation in another state, which will give the people in Wisconsin an opportunity to see who we are. I don’t think that enough people did their homework on who we are.”

**Michigan Battle**

But Nestlé ran into strong community resistance in Michigan as well as Wisconsin. It all began in the summer of 2000 when news broke that Perrier was planning to build a $100 million water bottling plant in Mecosta County, located in west central Michigan, about an hours drive north of Grand Rapids. The Nestlé Waters plant was designed to pump as much as 720,000 gallons of water a day.

In December 2000, concerned residents formed the Michigan Citizens for Water Conservation (MCWC) to lead the community-based resistance against Nestlé’s plans. Initially, the community found out about the project when a local real estate agent tried to convince local residents to sell their property. When it became clear that a spring water bottling company wanted to buy their land, the MCWC did some research on Nestlé’s plans and found that local and state officials were already working with the company on a deal. As in Wisconsin, Michigan officials urged citizens to trust the company.

In Michigan, the initial battle lines were drawn around the zoning changes that were required in Mecosta County, and neighboring Osceola County, to allow Nestlé’s to build its water bottling operation. The MCWC organized a signature campaign to compel local officials to hold a referendum on the zoning changes. In June and August 2001, referendums were held in both Mecosta and Osceola counties, and rezoning was rejected by a 2-to-1 margin.

At the same time, MCWC organized its own study in which a group of experts countered the claims being made by Nestlé regarding the sustainability of the spring and the economic benefits of the project. Throughout the region, the MCWC mobilized concerned residents to participate in the series of public hearings convened by Nestlé and the Michigan Department of Environmental Quality.

In June 2001, the MCWC took Nestlé’s to court, claiming that the company’s groundwater use violates the ‘public trust doctrine’ in U.S. law. In October 2002, the judge ruled that while Nestlé had the right to pump water on a ‘reasonable use’ basis, the company’s water withdrawal has harmed, or is likely to harm, the community residents and the environment. Three bands of Native people’s also challenged Nestlé’s in court on the basis that bottling water for export violates the Water resources Development Act, but the case was dismissed by a federal judge.

In October 2002, the Judge ruled that while Nestlé had the right to pump on a ‘reasonable-use’ basis, the company’s water takings had harmed, or was likely to harm, the community’s residents and the environment. Three bands of Native Peoples also challenged Nestlé in court on the basis that bottling water for export violates the Water Resources Development Act in Michigan, although this case was later dismissed by a federal judge.
In November 2003, the Michigan Circuit Court finally ruled in favor of the MCWC and “...ordered the company that produces Ice Mountain bottled water to halt all water withdrawals in Mecosta County.” But, in December 2003, Nestlé won an emergency reprieve to continue pumping spring water until its appeal of the circuit court ruling has been heard and decided. Currently, the case is still pending in the Court of Appeals and Nestlé continues pumping the water spring.

Florida Battle

Meanwhile, Nestlé had also run into public opposition for its spring water takings in Florida. Since 1980, the Crystal Spring in Pasco County, Florida, has been the prime source of the bottling company, Zephyrhills, now owned by Nestlé. In 1997, Nestlé wanted to boost its pumping permit for Crystal Springs from 301,000 gallons per day to 1.8 million gallons a day. In response, concerned citizens formed a movement called Save Our Springs [SOS] to stop the expansion of Nestlé’s water takings.

For most of the 20th century, the Crystal Spring was privately owned but open to public. Local residents used the Springs as a place to gather, picnic and swim during hot summer days. The Springs’ current owner, rancher Robert Thomas, purchased it in 1975. Thomas maintained public access to the site, turning it into a park called the Crystal Springs Recreational Park (CSRP). Thereafter, CSRP sold water to the local bottling company, Zephyrhills. In 1996, however, things changed when Thomas blocked public access to the Spring. A year later, Thomas, on behalf of Nestlé, requested the increase in the pumping permit for water takings from Crystal Spring.

In organizing its campaign, Save our Springs launched its own website along with petitions and boycott initiatives throughout Pasco County. Joining with the Southwest Florida Water Management District, the SOS filed a lawsuit against Thomas, Nestlé, and several Pasco County councilmen in an effort to stop the permit boost.

Testifying before one of the court hearings on the issue, a representative of the New York-based Beverage Marketing Corporation stated: “… in order for the company to grow, it needs to increase the amount of water it withdraws from Crystal Springs […] People want more bottled water, and if Zephyrhills [Nestlé’s brand] can’t deliver, someone else surely will.” He added “When you have this kind of growth potential, to not take advantage of it is a sacrilege.”

In January 1999, an administrative law judge ruled in favor of SOS by refusing to grant the six-fold increase in the pumping permit for the Nestlé plant. Not only had Thomas and the company failed to prove the need for the pumping boost, but since Crystal Spring also feeds the Hillsborough River, one of the main water sources for Tampa Bay, it could only worsen a situation made difficult by droughts in the previous years.

While the SOS was savoring its victory, Thomas and Nestlé decided to appeal the ruling to an administrative law judge in March 2000. The Appeal Court, however, rejected Thomas’ proposition “per curiam” [with no Supreme Court appeal possible] in a ruling handed down in February 2001.
Taken together, these three battles illustrate the kind of community-based resistance that has been building up in the U.S. against Nestlé’s bottled water operations. Other examples exist elsewhere in the U.S. and Canada. In January 2005, The Polaris Institute brought together citizen activists from these and other community organizations across the U.S. and Canada who are challenging and resisting the operations of Nestlé and the other major bottled water corporations in North America. Out of this process has come a network of groups working together in sharing analysis, intelligence and campaign strategies.

*Note:* The information contained in this presentation has been fully documented in two publications by the Polaris Institute: *Inside the Bottle: An Expose of the Bottled Water Industry*, by Tony Clarke [Polaris Institute, 2005] and a corporate profile on Nestlé, prepared by Richard Girard [Polaris Institute, 2005].