

# The Water Underfoot

*Running the enclosure algorithm on the water beneath your feet*

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Water falls from the sky for free, soaks into the ground, and collects in aquifers and springs that have belonged to whole communities for as long as anyone can remember. By law and by custom it is about as common as a thing can be. So it is worth asking why, in the richest country on earth, families now buy drinking water by the case, towns fight to keep their own springs from being pumped dry, and the water under your feet can end up owned by a private equity firm. Run the seven steps and the answer appears.

## **Step 1 TARGET** | *find shared value not yet owned*

The commons here is older than property itself: the groundwater, the springs, the rivers, the rain. In American law it has long been held under a public-trust idea, that certain waters belong to everyone and are held by the state in trust for the public. Enormous, essential, and historically not for sale.

## **Step 2 REFRAME** | *call the commons a tragedy*

Then the story. Public water systems are aging, inefficient, mismanaged, the argument goes, so let private operators run them. And tap water is quietly recast as suspect, while bottled water is marketed as purer, safer, premium, even though much of it is ordinary groundwater. The reframe turns a shared birthright into a product you would be foolish not to buy.

## **Step 3 ABSTRACT** | *turn it into a countable unit*

Water becomes a unit to be permitted and sold: the acre-foot, the pumping permit, the bottle, the utility rate base. And the price put on the public's water at the source is almost insulting. Depending on the state, a permit to pump groundwater for commercial bottling can cost as little as a

one-time fee of around \$115, or a couple of thousand dollars a year.<sup>1</sup> The commons is measured, and the meter is cheap for whoever holds the permit.

**Step 4 TITLE** | *vest the unit in a private owner*

Now the ownership. Pumping permits and long concessions vest the right to extract in private hands. The largest bottled-water operation in the country, the brands behind Poland Spring and Arrowhead, was sold by Nestle in 2021 for about \$4.3 billion to private-equity firms and renamed BlueTriton.<sup>2</sup> Private utilities own the pipes for millions of households. The water is still physically the public's. The right to take it and sell it has been titled to someone else.

**Step 5 INVERT** | *make the old custom a crime*

The inversion is stark when a community tries to defend its own water and finds it cannot. As springs and rivers drop, towns discover the permit outranks their objection. In California, regulators found that the company bottling Arrowhead had been drawing water from a national-forest spring largely without valid rights, and ordered it to stop, an inversion caught in the act.<sup>3</sup> In some places even collecting rainwater off your own roof has been restricted. The public's prior claim, the oldest claim there is, is treated as the trespasser.

**Step 6 TOLL** | *charge for access, dump the cost downstream*

Here is the tollbooth, and it has one of the steepest markups in the economy. Water pumped at the source for a pittance is sold back by the bottle at thousands of times the cost, and privatized utility rates tend to climb. The cost is dumped onto the aquifer itself and onto everyone who depends on it: in one heavily pumped Florida region, groundwater withdrawals rose more than 400 percent over six decades while a nearby river and its springs lost roughly a third of their flow.<sup>4</sup> The family whose well runs low, and the household buying drinking water it once got from the tap, pay the rest.

**Step 7 NATURALIZE** | *erase the memory of the commons*

And the cover story settles in: bottled is just safer, water is scarce so of course it must be priced and managed by markets, this is simply how modern

water works. The public-trust idea, that the water was everyone's to begin with, fades until defending it sounds radical rather than ancient.

## **The loop**

Then it loops. The margins from bottling and privatized utilities fund the next permit, the next acquisition, and the lobbying that fights public-water funding and weakens the trust doctrine. Each enclosure pays for the next stretch of pipe.

## **Who pays for this fence**

The cost lands on the people least able to carry more water uphill: the rural family on a well that the next big straw draws down, the city household whose privatized rates keep rising, the future that inherits a depleted aquifer, and across the world the communities, like Cochabamba, Bolivia, that have had to rise up just to take their own water back. Water is the clearest case of all that the fence is not neutral about who it keeps out.

## **The counter-algorithm**

And the inverse is, here, written into the bones of the law. The public-trust doctrine already says these waters belong to the public; reviving and enforcing it is a choice. The great majority of Americans still get their water from public, community-owned utilities, proof that water as a commons is the normal case, not the exception. Communities can challenge extraction permits, protect their watersheds, keep their utilities public, and, as Cochabamba showed, take back what was sold. The simplest counter-step is memory: water belonged to everyone first, and saying so out loud is how it stays that way.

## **The fence around the rain**

This is the whole program, run on something that literally falls from the sky. A public birthright targeted, public water reframed as a failure and bottled water as salvation, the water abstracted into a cheap permit, the right to extract titled to private owners, a community's oldest claim turned into a trespass, a toll collected at a markup of thousands of times, and the memory of the commons quietly drained away. You have now watched the

seven steps run on your dinner, your electric bill, and your drinking water. The pattern does not change. Only the thing being fenced.

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## Notes and Sources

1. On groundwater pumping permits for commercial bottling costing as little as about \$115 one-time or roughly \$2,100 per year, depending on the state, and on bottled water often being ordinary groundwater: [reporting on the bottled-water industry](#).
2. Nestle sold its North American bottled-water brands (including Poland Spring and Arrowhead) for about \$4.3 billion in 2021; the business was renamed BlueTriton Brands: [BlueTriton Brands](#).
3. California regulators determined that the operator bottling Arrowhead water drew from a national-forest spring largely without valid water rights and ordered it to cease: [news report](#).
4. On a more than 400% rise in groundwater withdrawals from a Florida aquifer region (1950 to 2010) and an associated decline of roughly 30% in nearby spring and river flows: [Our Santa Fe River](#).
5. On the public-trust doctrine and the predominance of public water utilities, and the 2000 Cochabamba Water War, see “The Quiet Fence” and “The Enclosure Algorithm.”

*Spot the Fence is a recurring Hold in Common series that runs the enclosure algorithm on one commons at a time. Figures were checked against the sources above; the framing is the project's own.*