



Water Heist

**How Corporations Are Cashing In
On California's Water**



California Office
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Public Citizen is a national, nonprofit consumer advocacy organization founded by Ralph Nader in 1971 to represent consumer interests in Congress, the executive branch and the courts. We fight for openness and democratic accountability in government, for the right of consumers to seek redress in the courts; for clean, safe and sustainable energy sources; for social and economic justice in trade policies; for strong health, safety and environmental protections; and for safe, effective and affordable prescription drugs and health care. We have six divisions and two state offices.

The California Office Our campaigns protect the basics for life: food, water and democracy. We fight for safe and sustainable agriculture that provides locally-grown and nutritious food produced in a humane fashion. We advocate for democratic control and protection of public water resources in the face of international corporate strategies to privatize their ownership and distribution. And we continue to highlight how corporate-driven trade policy undermines environmental regulations, labor laws, and the democratic process.

Public Citizen is campaigning to protect universal access to safe and affordable drinking water by keeping it in public hands. Public Citizen does not believe that citizens benefit from privatization of their water and wastewater systems because the sale of public works to private companies can foster corruption and result in higher rates, inadequate customer service and a loss of local control and accountability.

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California's Great Central Valley receives between one and ten inches of rain a year. The diverted rivers sent south to be used as irrigation water provide the Midas touch that transforms the desert into the richest agricultural region in the world.

Executive Summary

California's Central Valley is one of the largest contiguous swaths of land on earth to have been so completely altered by human activity. Lake beds and wetlands have been drained and planted with cotton and almonds, rivers dammed and diverted over hundreds of miles from their sources, the air filled with such quantities of dust and pesticides as to become the most polluted in the country, and the dry semi-desert floor turned into the most productive agricultural region in the world. Now, after a century of such cosmetology, the Valley is about to get yet another makeover from a boom crop: sprawl.

OVER THE PAST DECADE, a handful of the largest agribusiness and development corporations in the country have been rewriting California water policy in secret meetings to quench their thirst for unabated expansion and privatize the state's water supply. Displaying total disregard for the California State Constitution, representative democracy, and the environmental and social impacts of their actions, these players seek to "game" public water projects—much as Enron "gamed" energy deregulation. Their goal is to siphon as much of California's public water as possible to their corporate farms and "master-planned" cities in the desert while profiting from insider water sales.

In California state law, as laid out in the Constitution and the Water Code, water is a public good, held in trust by the state to ensure the greatest benefit to the public. In *Water Heist: How Corporations Are Cashing In On California's Water* we show how the public trust has been breached by an entrenched water plutocracy. The corporate interests that pervade the

water districts that call the shots throughout the state are setting up insider water trading systems to facilitate the ease with which water flows to money. With direct corporate control over vital public water infrastructure—especially massive public water storage facilities—environmental protection and justice, urban renewal and smart growth face a desiccated future where profit rather than need dictates the destiny of California's water.

The abuses continue largely because they occur in closed meetings in hidden forms of government. Public Citizen aims to help cast the light of public scrutiny on the water deals taking place using the state's public water delivery system so that not just the CEOs of California have a voice in determining how our water is managed.

The water plutocracy includes some of the largest private agribusiness and development corporations in the country, who have created obscure and unaccountable water districts that act like "hidden government."



Usurping Democracy: The Monterey Amendments

In 1994, the largest contractors with the California State Water Project (SWP)—the state’s largest water delivery system—called the Department of Water Resources (DWR) into a closed meeting. The agreements that the SWP contractors and the state reached in that meeting led to a document known as the Monterey Amendments, named after the city where the meetings took place. These “amendments” to the SWP contracts included denying that the SWP delivers half of what the contractors say it does and effectively deregulating the SWP so that the contractors can sell contracts for precisely the half of the water that doesn’t exist. Sound confusing? It is. Welcome to the world of “paper water.”

In the same Monterey meetings, the state also agreed to give away an underground water storage facility that DWR spent \$74 million purchasing and developing.

State Giveaway of Essential Public Asset: The Kern Water Bank

The Kern Water Bank is an underground water storage facility—the largest of its kind—situated at the southern tip of the Great Central Valley, the region where the state delivers 80 percent of its surface water to industrial agriculture. The water bank is connected to the public canals and aqueducts that pipe water in from the northern, central and southern Sierra Nevada mountain range. The

water bank can store about 1 million acre-feet of water and pump out over 200,000 acre-feet a year, according to official project descriptions.

The Kern Water Bank is an integral part of California’s public water delivery system. It could store large amounts of water for times of drought or natural disasters such as fires or earthquakes. It could also provide a handful of private corporations with the keys to a virtual “switchyard” for controlling water deals between agribusinesses and real estate developers.

In 1994, DWR gave the Kern Water Bank to the Kern County Water Agency, which immediately signed it over to the Kern Water Bank Authority, a supposedly public entity comprised of a collection of water districts and one private company. The private company involved is a “paper company” with no listed telephone number or address: Westside Mutual Water Company. Westside is owned by perhaps the largest agribusiness in the United States: Paramount Farming Company.

Who’s Behind the Kern Water Bank? Roll International Corporation and Paramount Farming Company

Roll International Corporation—a Los Angeles-based holding company—is one of the largest privately owned companies in the world, and everything that Roll owns claims to be the biggest at what it does. Roll International owns the Franklin Mint, Teleflora, and a collection of

agribusinesses—all of which operate in three California counties—including Paramount Citrus, Paramount Farming, and Paramount Farms, Inc. The California Farm Bureau Federation wrote that together “these firms constitute the largest farming company in the United States.” Roll is privately owned by Stewart Resnick, a Beverly Hills billionaire and major campaign contributor who gave over \$350,000 to the Gray Davis Committee and the anti-recall groups between 2000 and 2003. Governor Davis chose Resnick to co-chair his agriculture-water transition team with the champion of the failed Cadiz groundwater banking scheme, Keith Brackpool.

Although the Kern Water Bank Authority oversees a vital water resource, its staff is tucked away in the offices of Paramount Farming Company, without so much as a sign on the door. Executives from Paramount, who created an almond and pistachio empire over the past two decades, said that they went into the water bank to secure a firm water supply for their crops. Local newspaper articles, however, quote Paramount’s vice president, who presides over the water bank’s board of directors, as saying “sales from the water bank were contemplated from the time the bank was acquired.” In fact, the paper reports, Paramount is particularly interested in selling water to its parent company’s home town: Los Angeles. Paramount executives have already had “early talks” with the Los Angeles Department of Water and Power about selling “an as-yet-unspecified amount of water.”

The website of Paramount’s Los Angeles-based law firm clearly boasts about how the law firm advised Paramount Farming Company to set up a mutual water company (Westside Mutual Water Company) to “own and operate” the Kern Water Bank. Paramount, it seems, has been planning for some time to harvest more than just pistachios and almonds.

Irrigating Sprawl

California’s population is expected to grow by 20 million in the next twenty years, and real estate developers are scrambling to get a hold of “secure” water supplies for their sprawling subdivisions. Public Citizen found a water sales contract between WV Acquisitions, a Roll International subsidiary whose president is also president of Paramount Farming Company, and Newhall Land and Farming Company, the largest developer in the state. Newhall has been taking advantage of the 1994 backroom deregulation of the SWP to go shopping for paper water contracts for the

new “master-planned” city it plans to build in northern Los Angeles County. Such sales involve water supplies that are far from secure because they are based on allocated state water supplies: that is, paper water. Furthermore, this report raises the essential question: Should corporations like Paramount and Newhall be allowed to profit from buying and selling water that belongs to all Californians?

Usurping Democracy, Again: The Napa Proposition

In July 2003, just months after the seven-year lawsuit challenging the Monterey Amendments by a coalition of environmentalists, public advocates, and one State Water Project contractor was settled, the participants in the Monterey meetings met again, this time in Napa. The agreement that resulted from these meetings—called the Napa Proposition—plans to further integrate the SWP and the federal Central Valley Project (CVP). Such integration will allow landowners, principally in the San Joaquin Valley and Southern California, to trade off the federal project’s superior storage capacity and the state project’s greater pumping capacity with one goal in mind: to continue pumping water to agribusinesses, developers, and water marketing barons in Southern California, unabated by either federal or state endangered species acts, water quality issues in the Delta, or the unmet needs of communities in the Central Valley that don’t have access to clean drinking water.

End Game: Water as Public Trust

California’s public water utilities and resources are governed by a plutocracy—a select group of private corporations, individuals, and semi-public and public officials all working in tandem to “game” state water policy. They meet in closed sessions and rewrite public policy, tailoring their edits to the interests of monopoly-like agribusiness corporations and real estate developers. Is this a conspiracy theory? No. It is just business as usual.

The water plutocracy must be replaced with a vibrant water democracy.

Public Citizen strongly advocates returning the State Water Project to broad public use and oversight so that it can benefit all Californians, rather than only a select group of Los Angeles corporations. Water must be maintained as a public good, held in trust for broad and equitable use, *not* a commodity bought and sold by the highest echelons of the corporate elite.

We recommend the following concrete steps for accomplishing this goal:

Return Kern Water Bank to Public Control

Paramount and its Westside Mutual Water Company should never have been allowed to “own and operate the water bank.” The privatization of this vital public resource should be reversed.

Repeal the Monterey Amendments

The Monterey Amendments should be repealed and the State Water Project contracts should be rewritten with an eye to water conservation and environmental restoration as well as the original stated purpose of the project: to reallocate California’s water resources in an *equitable* manner.

Eliminate Paper Water

The Department of Water Resources continues to maintain on paper that the State Water Project can deliver almost twice as much as nature provides. The water “entitlements” of the twenty-nine State Water Project contractors should be re-drafted to fit the actual capability of the project to deliver.

No Resale of State Water Project Water

The individual contractors that receive state project water should not be allowed to profit from reselling that water, whether it is back to the state Environmental Water Account or to real-estate developers.

Democratize Water and Irrigation Districts

Water and irrigation districts that receive public water deliveries from the SWP should be transparent and accountable to the public. There should be elected, public representatives on the boards of such districts who would represent the non-landowning population affected by water policy decisions made most often in closed meetings.

NATURE PROVIDES ENOUGH WATER for California to meet all of its needs: to sustain water-efficient family farms and industries; to provide safe drinking water to present and future generations; and to restore and maintain California’s much-abused environment. Nature provides enough water; that is, unless mismanagement and greed intervene and allow for the state’s public water supplies to be manipulated for profit. Too much is at stake to let this water heist continue.