

LIQUID ASSETS

Felton fights an international mega-corporation to take control of the town's water

by Laurel Chesky

Felton

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It had all the makings of a Hollywood David and Goliath classic (think *Erin Brockovich*, *Norma Rae* and *Chinatown*). At the front of the room sat two suits—the city slickers, the corporate drones—planted expressionless, lips pursed, hands folded on the table in front of them. Facing them, a crowd of townies—some dressed in flannel and scuffed boots, some sporting unwieldy coifs and deeply engraved faces—filled the Felton Community Hall, the political and social hub of this tight-knit mountain town.

On a Wednesday afternoon two weeks ago, more than 100 Felton customers of the California-American Water Company showed up to give a California Public Utilities Commission administrative law judge a piece of their collective mind. California-American is a private company that delivers water to 10 communities around the state, including Monterey and Moss Beach. By the time the second session of the hearing got underway that evening, the audience had swelled to 350, spilling out the doors of the hall.

And the crowd was mad. Raving mad.

Borrowing the words of abolitionist Frederick Douglass, Felton resident Ted Petrikis stood at the podium and declared in a dramatic bellow, “We are here to agitate. We do not intend to be denied, bullied, buffaloed or pushed ... We intend to have what we want.”

What they want is control of something more crucial to life than food and a little less necessary than air. They want control of their water. In the course of 13 months, Felton has seen its water system pass from the hands of a medium-sized company to the largest water company in the U.S. to a huge international conglomerate. Now, they want it back. Why? Felton property owner Gene Martin puts it simply: “Once they get a hold

of your water, they’ve really got you by the shorthairs.”

And the people of Felton are not ones to be pushed around. If you didn’t know the people of Felton—as likely Cal-Am execs did not before the hearings—you might think this burg an unlikely setting for political theater. You’d be wrong. In an extraordinary act of solidarity, the community has come together and resolved, almost unanimously, to fight one of the largest companies in the world.

The bee buzzing in Felton’s collective bonnet is two-fold. Firstly, Cal-Am, the private company that has delivered their water for just over a year, is pushing for a staggering 71 percent rate hike over the next three years. Secondly, on Jan. 10, German international conglomerate RWE swallowed Cal-Am’s parent company, American Water Works. Suddenly, all those nasty, capitalistic “ation” words—consolidation, privatization and globalization—hit home.

“There’s a huge debate going on about the global privatization of water resources, and it’s mostly happening in places that have lots of water and not too many people, like Canada,” says county supervisor Jeff Almquist, who is leading the fight for the people of Felton to seize control of their water system. “Normally those things would all spin along somewhere way far away from us, but here you have the trappings of those big global issues having an effect right here in Felton.”

Shutting Off the Profit Faucet

Tom Lindsay, a bearded, flannel-donning CPA, sums up Felton’s concerns: “Potentially it (the sale of Cal-Am) can affect the quality of our water, the quantity that’s available, and the price.”

Quality, if the new parent

company fails to comply with state and local water standard regulations. Quantity, if the new company chooses to bottle and export water from Felton—a real fear among residents. And price, if the CPUC approves the substantial rate hike that Cal-Am is seeking. “So they’ve taken our water, which is a right and a resource, and turned it into a commodity,” Lindsay says.

Now you can add another buzzword to anti-globalization speak—“Feltonization.” If the people of Felton have their way, the Feltonization of their water system is imminent, or more to the point, eminent, as in eminent domain. Organized into a political action committee dubbed FLOW (Friends of Locally Owned Water), the people of Felton intend to purchase Cal-Am-owned assets in their community—forcibly, if need be. Those assets include infrastructure, such as tanks, pipes and pumps, and the customer base of 1,350 ratepayers.

The notion to take over the system might never have spawned had Cal-Am not asked for an outrageous rate hike. In a formal application filed with the CPUC in September, the company is asking for a 56 percent rise in revenue this year, followed by an additional 9 and 2 percent increase in the following two years—an ambitious goal considering the current economic climate. (See page 19.)

The rate application followed stockholder approval of the American Water Works’ sale to RWE in January of last year. With the two happening simultaneously, the sale and the rate increase have become inseparable in the minds of Felton customers.

Privatize This

The hearings in Felton were set to allow residents to have their say concerning the impending application filed by Cal-Am to raise water delivery rates. Ultimately the

CPUC—a state-level commission made up of gubernatorial appointees who regulate publicly and privately owned utilities—will decide whether or not the rate hike swims. That decision is expected sometime this summer.

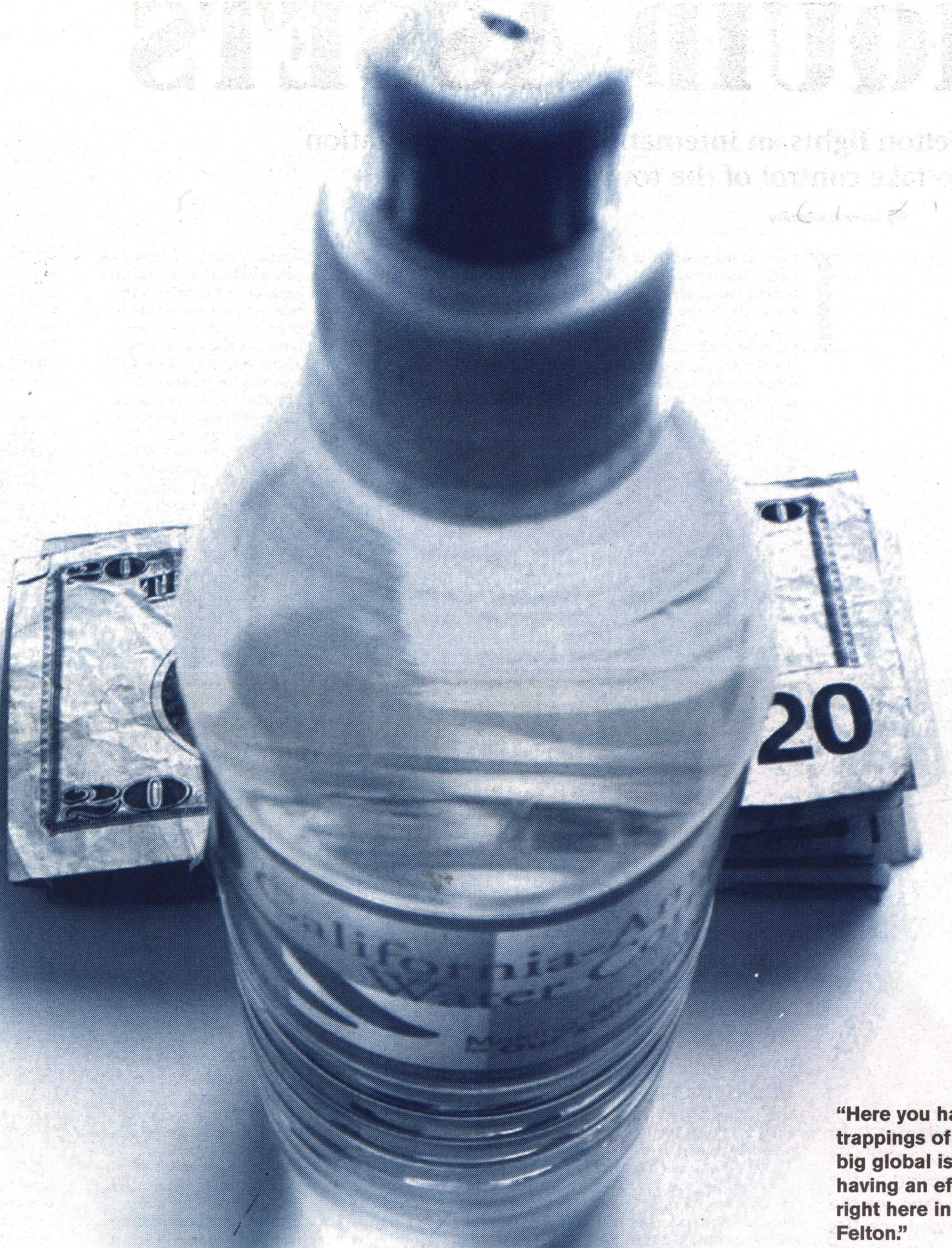
But most everyone who showed up at the Felton Community Hall on Jan. 29 wanted to talk ownership, not rate hikes. Most speakers vociferously protested the sale of American Water Works to the German company—a merger that was already approved by the CPUC and similar agencies in 22 other states, and which was finalized two weeks before the hearings took place. The hearings morphed from a routine step in a regulatory procedure to a group therapy session in which speakers aired their frustration over a global transaction directly affecting them, but which had spun beyond their control. Again and again, speakers passionately argued that water is a basic human right, not a commodity to be sold to the highest bidder.

However, in California and much of the rest of the world, that’s not necessarily the case. Eight out of 10 American communities get their water from public waterworks, usually owned by the local municipal government. But other communities, particularly those in the western end of the country, depend on private companies to manage and deliver water. The basic difference between the two boils down to profits. Municipal systems don’t make them, so they serve the customers—who are also constituents, voters and taxpayers—first and foremost. Private water companies serve shareholders first, customers second.

Being a private utility company in America is a sweet deal. Water companies, such as Cal-Am, are given a monopoly in an area where they deliver water to a captive audience. To protect the interest of the consumers,

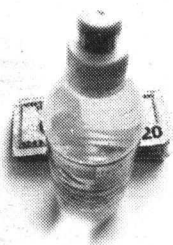
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private utilities are regulated by state law and watchdogged by the California Public Utilities Commission. The commission makes sure that the company is doing its job in terms of delivering clean water efficiently and not overcharging to do it. In turn, the company gets rights to collect a certain amount of water for free and is guaranteed a modest profit margin for its efforts—12 percent in Felton's case. Cal-Am does not own the water in Felton's watershed, but residents pay the company to deliver the water to their homes and businesses.

Like other utilities, a trend to turn over public water systems to the private sector has swept the globe. In developing countries, the World Bank has encouraged and funded the transition, with mixed results. Some of the better-reported failures of privatization include Betchel's debacle in Bolivia, where soaring water prices resulted in riots and deaths in 2000. In the U.S., United Water Resources,

a subsidiary of the French company Suez, bought Atlanta's municipal water system for \$21 million. Since then, customers have complained of broken fire hydrants, slow service and dirty water.

American Water Works, Cal-Am's parent company, has led the way in the consolidation and privatization of America's water, swallowing smaller private and public systems across the country. AWW is the country's largest water company, with annual revenues of \$1.5 billion. Since 1990, the company has gobbled up as many as 22 smaller systems per year. Its biggest buyout to date happened in 1999 when it bought Citizens Utilities Company for \$859 million. Citizens formally owned Felton's system. AWW has also rounded up a number of small public systems. In 2001 the company announced the largest ever privatization of a municipal system when it purchased the city of Coatsville, Penn.'s water and wastewater system,

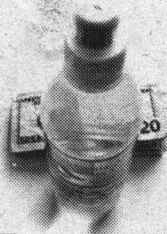
which serves 15,000 customers. Today, AWW pumps more than a quarter-trillion gallons of water a year to more than 10 million people living in 1,300 communities in the U.S., including Felton, in 23 states.

When a community tries to spoil AWW's privatization plans, it doesn't play nice. After all, it's a for-profit company, not a church choir. In 1995, Cal-Am unsuccessfully attempted to move in on Orange County's waterworks in what was considered to be the first-ever hostile takeover of a public water system. And when Chatanooga, Tenn. tried to take back its water system from the company, AWW waged a multi-million-dollar public-relation war to sway public opinion against condemning the company's property. The PR battle included a smear campaign against Chattanooga's mayor—the company ran slick TV ads using unflattering photos of the civic leader. In other words, the folks in Felton could be in for a fight.

Water World

Since the days when everyone had a well in their backyard, Felton's water has been delivered by a private provider—Cal-Am for the past year, and Citizens Utilities before that. Cal-Am promises that Felton residents won't be able to tell any difference in their water service with a new owner. Cal-Am will remain intact as a company. The only difference will be, "Instead of shareholders all over the world, we're controlled by one owner," says Cal-Am spokesman Kevin Tilden. "We have the same employees in the same offices. The sale went through on Jan. 10 and nothing happened."

But as ugly as American Water Works' and Cal-Am's corporate conniving may appear, it pales in comparison to the antics of its new owner, RWE. The international megaconglomerate has a stake in more than 500 companies in



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120 countries. In fiscal 2001, the company reported \$62.9 billion in sales and a net profit of \$1.3 billion. Its holdings include RWE Energie, Germany's largest electricity supplier, and Thames Water, Great Britain's largest water company. According to Public Citizen, a consumer rights group started by Ralph Nader, Thames water racked up 233 pollution incidents in 1999. Between 1989 and 1997, the British government prosecuted the company 31 times for environmental violations. Other subsidiaries include mining, construction and civil engineering outfits, and the ominously named Nukem Nuclear. Nukem has been accused of illegally dumping radioactive waste into the North Sea.

Like AWW, RWE has an insatiable appetite for smaller utilities. In June, the Russian newspaper *Pravda* reported that RWE "is ready to pounce on the battered U.S. energy trading market, seeking to exploit the collapse of Enron

Corp. and the sham of its rivals." In the article, *Pravda* quotes Hans Dieter Erkemper, the CEO of an RWE company, as saying, "We're like a crocodile in the water waiting for the prey to swim."

How well that quote translated from German to Russian to English is unclear. But the gist of it is. The German company plans on diving head first into the American market, and the acquisition of AWW furthered that goal. In the global grab for water, RWE is positioning itself at the top. With the world population exploding, fresh water has been dubbed as the oil of the 21st century. Profit-minded companies like RWE are preying upon communities with an abundance of water.

While Felton is a drop in the ocean of global water resources, it's an oasis in the California waterscape, which will face shortages in the coming years. According to the California Department of Water Resources, the demand for water in the state will rise

by one-third between 1995 and 2020, yet the state has not yet taken steps to provide for the increased need. The San Lorenzo Valley is a relative rarity in that it enjoys a surplus of water.

"In a place like San Lorenzo Valley, we have some surplus water," Almquist says. "It would be nice to retain that independence. But there you have a foreign company that may have the rights to take our water and export it, and we would have no control over it."

Bottled Frustration

How RWE's corporate strategy will play out in the U.S. remains to be seen. But locals don't plan on waiting around to see what happens next.

Rosemary Chalmers, a member of FLOW, voices Felton's concerns clearly: "We don't want RWE of Essen, Germany bottling and selling our water for their profit and impacting the aquifer in the San Lorenzo Valley."

Right now, there is nothing to stop Cal-Am from bottling up water from Fall Creek—from where Felton pulls its water—and selling it at Safeway. Cal-Am execs have stated that they are not interested in bottling or exporting water. But there's not much to stop them should they change their mind later. And promises from Cal-Am don't mean much in Felton these days.

The state doesn't have a rule against exporting water, and neither does the county. A handful of locally owned companies—which Scott Millar, an aide to Jeff Almquist and a member of FLOW, describes as "good neighbors"—already bottle and sell water from Santa Cruz County.

But even if there were regulations in place, it might not matter much. The problem with a foreign-owned company like RWE taking control of local water is that the company may be able to escape local and state regulations. The foreign trade agree-

ments NAFTA and GATT view water as a commodity to be traded like any other product.

In 1999, the California-based Sun Belt Water, Inc. sued Canada for \$10.5 billion after the British Columbia provincial government revoked the company's permit to export water. Sun Belt was importing water from B.C. to the thirsty southwestern United States. The company sued, claiming that B.C. had violated NAFTA rules calling for the equal treatment of foreign and national companies. The company also attacked the provincial government's law set up to protect its water, saying that the law obstructs the free flow of goods. The case is still pending.

Should Sunbelt prevail, then clearly under NAFTA, a local or state government doesn't have the right to protect its natural resources. In other words, RWE could potentially walk away with as much of Felton's water as the company can suck up.

Backwater Revolt

It didn't take long for the folks in Felton to decide to stand up and take back their water. Two months ago, a handful of rabble-rousers organized a town meeting. With two days' notice, somewhere between 150 and 200 folks showed up at the Felton firehouse—so many that the fire engines had to be moved out of the station to accommodate the bodies. Within 10 days, hundreds of letters had been sent to the CPUC, and 900 people had applied their signatures to a petition protesting Cal-Am's rate hike request. Eventually, more than 1,200 people would sign the petition, almost as many as there are Cal-Am customers in Felton.

Now the town is plunging into an eminent domain case to seize control of their water from an international conglomerate. Federal case law allows governments to condemn property for the greater good as long as the owner is

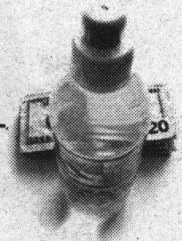
paid fair market value. The condemnation process will involve appraising Cal-Am's assets, coming up with the money and convincing a judge to let it happen. The county has retained outside counsel to pursue the case, and the public San Lorenzo Valley Water District is studying the fiscal feasibility of absorbing the Felton system. Initial analysis conducted by Almqvist's office suggests that the water district could buy out Cal-Am and deliver water to Felton without upping current rates.

Cal-Am has stated that it would be an unwilling seller, which means, even if a judge forces the sale, Cal-Am will likely try to walk away with as much money as possible.

In exercising its right to eminent domain, Felton joins a smattering of other communities across the country fighting for their water. Collectively they form a small but determined backlash against the privatization and globalization of water resources. In Montara,

in Santa Mateo County, where a condemnation suit was initiated when Citizens Utilities owned that community's system, Cal-Am is being forced to sell out to the people. And across the country, places such as Huber Heights, Ohio; Peoria, Ill; and Duval, Nassau and St. Johns counties in Florida are fighting to reclaim their water. In doing so, people are standing up and saying, "Our water is not a commodity, it is a right."

With a nod to the Boston Tea Party, Ted Petrikis concludes his tirade at the afternoon CPUC hearing. "If tea is important, then I declare water is much more important for us. Such a basic commodity needs to be owned and controlled by the people that use the water and turn the tap, and that's us."



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