



Save Our Groundwater

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NEWS

June 24, 2008

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NEW HAMPSHIRE SUPREME COURT DENIES SAVE OUR GROUNDWATER APPEAL

BARRINGTON, NH – Save Our Groundwater (SOG), a Seacoast-area nonprofit organization that advocates for conserving and protecting underground water reserves recently received a decision from the New Hampshire Supreme Court declining to hear the organization's May 15, 2008 appeal concerning the Department of Environmental Services (DES) refusal to hear the organization's appeal of the "New Sources of Bottled Water" approval to USA Springs, Inc.

The court's decision allows the DES ruling to deny appeals by both SOG and the Town of Nottingham on the basis that they lacked legal standing. Neither entity was allowed to present their evidence before the state agency.

Standing is the requirement that a party show harm before it can be part of a legal proceeding.

"This is very troubling," says Denise Hart, a SOG board member. "First the state denies our right to due process citing standing and then the state Supreme Court justices refuses to hear our appeal. Are permit applicants the only ones who have standing in our state? Should state agencies be allowed to make decisions that affect the lives of local people with no possibility of appeal? That doesn't seem like the New Hampshire way."

SOG had launched an appeal on behalf of its members in November 2005 following the Department of Environmental Services (DES) decision to grant USA Springs, Inc. a "New Sources of Bottled Water" approval. SOG's appeal of this, as well as one from the Town of Nottingham, languished for almost three years in the state bureaucracy until April 2008 when the DES Water Council issued a denial citing that both SOG and the Town of Nottingham lacked legal standing to bring appeals.

"The DES with the complicity of the Supreme Court doesn't want to hear from the citizens of the state," says SOG board member and former state legislator Bill McCann. "The system is broken and it will take sustained energy on the part of New Hampshire residents and the legislature to fix this problem in our laws."

"My clients live very close to the site and are directly affected by it. They should have had an opportunity to be heard by the agency," says Joshua Gordon, SOG's appellate attorney.

Some 43 families and local businesses, including SOG members and residents of the Towns of Nottingham and Barrington, live within a 7000-foot "zone of influence" established by the DES as the area most likely to be impacted by the proposed water bottling operations.

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Attorney Robert A. Backus of Backus, Meyer & Branch, LLP whom SOG retained in 2007 to try and speed up the appeal process notes "When municipalities and nonprofit organizations representing members who may be affected by a state agency's decision are denied standing to bring appeals of administrative and legal decisions, democratic participation in the process becomes very limited. New Hampshire currently has no law defining legal standing, and relies on interpreting court precedents. This problem, which the legislature needs to solve, affects towns, nonprofit groups, and many, many people."

For more information and documents relating to the Supreme Court appeal, visit <http://www.saveourgroundwater.org>

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