

# An Idyll Interrupted

*After a Hiker Noticed That a Local Creek Had Dried Up, He Suspected His Neighbor Was Operating a Commercial Spring-Water Business. And Then Things Got Ugly in Idyllwild.*

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ALTHOUGH HIS BEHAVIOR IN OTHER RESPECTS COULD BE DESCRIBED AS INCENDIARY, CHUCK Stroud has no desire to burn down the woods around Idyllwild, California. This stretch of the San Jacinto Mountains, desiccated by a record six-year drought, is at constant risk of conflagration. So as Stroud and his dog, Belle, take their morning stroll through Idyllwild Park, he stubs out his Marlboros on the sole of an Ugg boot and palms the butts, saving them for the ashtray of his battered economy car.

Belle is an aging border collie-shepherd mix, and Stroud, 55—wiry and shaggy, with a graying beard and an animated face—could pass for her human cousin. By profession, he is the pastoral associate at Idyllwild’s Queen of Angels Catholic Church, and there is about him a touch of the mystic. You can see it in the Virgin of Medjugorje pendant, acquired on a pilgrimage to Bosnia-Herzegovina, that dangles over his bear-in-the-moonlight T-shirt. You can hear it in the way he speaks of the landscape he has made it his mission to protect: “A place of endless wonder. A cradle of life. An amazing, amazing world.”

The son of a Hollywood producer, Stroud spent much of his boyhood in other high-country towns before moving to Idyllwild (elev. 5,400, pop. 3,500) as a newlywed in 1973. He and his wife have raised three children in this community of log cabins and million-dollar chalets, Bible camps and art colonies, dusty pickups and deluxe SUVs. And almost every day for the past 10 years, he has ambled to Idyllwild Park, hiking past stands of California black oak, incense cedar and ponderosa pine to a coyote-haunted meadow bordered by two streams. Idyllwild Creek, to the east, is a shallow, sluggish tributary, clogged with willows and grasses; Lily Creek, to the west, races down a steep hillside, its course strewn with boulders the size of mastodons. Both creeks would vanish during the fall dry season, but Lily invariably ran stronger and lasted longer.

In August 1998, however, Stroud noticed something strange: Lily Creek ran dry before its counterpart. “It didn’t add up,” he says. Stroud had heard rumors of someone selling local spring water to bottlers, and he wondered whether that might explain the anomaly. One day he clambered half a mile up the rocks. There, just above State Highway 243, he found what he took to be the answer: a pipe that emerged from the slope, split in two, and ran down to a pair of steel tanks by the roadside.

Stroud had stumbled upon the site of Idyllwild Mountain Spring Waterworks, Inc. The discovery would launch him and his neighbors into a continuing conflict. There have been blockades, vandalism, threats of violence. One combatant served time for battery. And Idyllwild is not unique. In rustic retreats across the country, the spring water wars are boiling over.

DURING THE PAST DECADE, ACCORDING TO THE BEVERAGE MARKETING CORP., BOTTLED water consumption in the U.S. has more than doubled, from almost 2.7 billion to nearly 6.4 billion gallons. California leads the nation, with 1.6 billion gallons downed annually. Last year, the product overtook coffee and milk to become the second-largest commercial beverage category on the market. Analysts credit the trend to several factors: a spate of municipal-water contamination scares in the early '90s, the gym craze—which made H<sub>2</sub>O-to-go a fashion statement as well as a convenience—and the growing popularity of both “natural” and calorie-free comestibles.

This success has occasioned some grumbling. Although the Food and Drug Administration regulates the safety of bottled water, critics point out that enforcement can be spotty; according to the Environmental Protection Agency, “some bottled water is treated more than tap water, while some is treated less or not at all.” (Bottled tap water, also known as “purified water,” represents about 40% of U.S. sales; the best known labels are Coca-Cola’s Dasani and Pepsi’s Aquafina.) The coming edition of *The World’s Water*—a survey published biennially by the Oakland-based Pacific Institute for Studies in Development, Environment and Security—lists 11 major bottled-water recalls and one warning since 1990, for problems ranging from chemical contamination to high fecal coliform counts.

In widely publicized taste tests, participants have shown either a preference for tap water or an inability to distinguish it from bottled spring water. Yet a liter of bottled water typically retails for 1,500 times the equivalent from your kitchen faucet.

Worse, environmentalists say, all those bottles may be despoiling the very landscapes depicted on their labels. Each year, the World Wildlife Fund estimates, around 1.5 million tons of plastic are used in water bottles. According to the Berkeley-based Ecology Center, most are made with the oil-derived PET, or polyethylene terephthalate, whose manufacture generates 100 times more emissions—including nickel, benzene, ethylbenzene and ethylene oxide—than an equal quantity of glass. Shipping 20 million tons of filled containers around the world consumes untold amounts of polluting fossil fuel.

Once the bottles are discarded, the damage continues. The Container Recycling Institute reports that 89% of plastic water bottles—40 million a day—end up as trash or litter. Tossed onto the roadside, they can last 1,000 years. Incinerated, they release chlorine, a greenhouse gas, into the air and create ash loaded with heavy metals. Buried in landfills, they may leach endocrine-disrupting phthalates into groundwater.

None of that, of course, has caused a consumer backlash, in part because scandals over public water supplies—most recently, the presence of lead in Washington, D.C.’s system—continue to drive Americans to the bottle. Instead, resistance is arising in communities where the water is demonstrably excellent: those whose pristine springs attract bottlers looking to meet the burgeoning demand. For a multinational corporation or an ambitious entrepreneur, bottled water can mean big profits. Unlike, say, mining or

logging, there are virtually no land-use costs, and extraction is a cinch. But companies increasingly are being forced into costly legal fights with grass-roots activists who resent privatization of a public commodity—and who fear that excessive pumping will dry up wells and disrupt delicate ecosystems.

“This has come out of nowhere in the last few years,” says Pacific Institute director Peter Gleick. In central Wisconsin, locals rebelled when Nestle Waters North America—the largest single U.S. bottler, with sales of \$2.7 billion spread among 15 brands—began considering two sites near the Mican River, a prize trout stream, in 1999; the company later halted its investigation. In Mecosta County, Mich., a judge recently sided with plaintiffs seeking to shut down a plant owned by Nestle subsidiary Ice Mountain. (Nestle is appealing.) However, the victories of the anti-bottling forces are often partial and temporary: Independent bottler USA Springs initially lost its bid to suck as many as 300,000 gallons a day from a spring in Nottingham, N.H., but has reapplied and received conditional approval for its operation. In Crystal Springs, Fla., opponents tried to prevent Zephyrhills—another Nestle brand—from increasing by sixfold its daily allocation of 301,000 gallons of local spring water; however, the company was given permission to draw a portion of its requested increase.

Industry representatives insist that their opponents are acting on emotion, not science. “I think a lot of it is the NIMBY issue—‘not in my backyard,’” says Stephen Kay, a spokesman for the International Bottled Water Assn., which represents 80% of the nation’s bottlers. “We require that the source be in compliance with all state and local guidelines. We have a policy that there should not be an adverse impact on the water source itself.”

Says Jane Lazgin, Nestle’s director of corporate communications: “We scientifically measure the effects of our water withdrawals. We do that with the selection of a spring site and through its ongoing operation, with monitoring of stream levels, groundwater levels, precipitation. We’re always assessing the behavior of the aquifer and its response to our withdrawals. And that includes the whole ecosystem of aquatic life and wetlands and so on.”

But some experts say the bottling foes have a point. “It turns out we’re not very good at protecting natural springs,” says Gleick, who won a 2003 MacArthur “genius” grant for his work on water conservation. “There’s a rapid drive to make water a commodity, and that’s occurring in the absence of adequate public protection.”

The problem, says Robert Glennon, a law professor at the University of Arizona and the author of “Water Follies: Groundwater Pumping and the Fate of America’s Fresh Waters,” is that an aquifer—the subterranean source of a spring or well—is like a bathtub, fed by rainwater or snow-melt filtering through layers of rock or soil. “You’ve got what’s called recharge, which is the water flowing into the tub, and discharge, which is when the water drains” naturally into the environment, Glennon says. “In a state of nature, there’s an equilibrium, and the level in your tub is stable. But groundwater pumping”—whether by a bottler or another user—“introduces another process. Every drop that’s pumped means one drop less that’s discharged.”

Under some circumstances—for example, when a bottler taps a large, stable aquifer far from sensitive springs—the process does little harm. But even the smallest operation can wreak havoc, Glennon and others say, if the reduction throws the local

hydrological balance out of whack. And that, says Chuck Stroud, is precisely what happened in Idyllwild.

THE FOUNDER OF IDYLLWILD MOUNTAIN SPRING WATERWORKS IS A RETIRED LAWYER FROM Dallas named Paul Black, whose rambling house on Highway 243 is near the plot that holds his spring. He is in his 70s, a wizened tortoise of a man wearing a green golf hat and sweat pants as he clears brush from his yard on a recent afternoon. He seems not to hear a greeting from Stroud, who has positioned himself carefully beyond the property line. Black does respond, however, when a reporter asks for an interview. “No comment,” he says. “I just can’t deal with that idiot you’re talking to.”

Black’s first meeting with Stroud was friendlier. It occurred in October 1998, after Stroud sent a letter to the local Community Resource Management and Planning agency, which coordinates the efforts of public-safety and conservation agencies. Noting the early disappearance of Lily Creek, he asked for an investigation into whether Black’s facility was “creating an adverse impact on the integrity of a valuable stream course.” The agency’s response was noncommittal, but Black promptly called and invited Stroud to tour his facility.

“I went up and spent a couple of hours with him,” Stroud recalls. “We had a very interesting conversation.” Lily Creek goes underground at various points along its route, and on Black’s property the only visible water was a spring in the creek bed. At the time, all his withdrawals came from a newly reopened horizontal well, drilled by the U.S. Forest Service in the 1930s to access the spring’s source. Black promised that his operation would remain modest, Stroud says, and that he would be sensitive to environmental concerns; he even cited watershed studies showing that he was taking only a fraction of 1% of the available flow. “I came away feeling that he had the interests of the community at heart.”

Stroud let the matter drop, though his doubts returned the following year, as the plant’s production grew. In the interim, Stroud joined what proved to be a successful fight to block county officials from building a recreation center on his beloved meadow. Then he set to work putting Paul Black out of business.

The impetus was a call from Olivia Redwine, a psychotherapist who led the campaign against the rec center. Redwine had moved to Idyllwild with her three children in the ‘70s, and for a time had been the groundskeeper for Riverside County Park. A former actress, she was also a longtime antiwar and environmental activist. “I’d march up and down the street on Saturdays with signs,” she says. “My kids would say, ‘Mom, please.’”

What first drew Redwine’s attention to Black’s operation was the trucks. In 1999 their numbers increased to sometimes more than five a day. They would illegally cross the highway’s double line and pull up, facing traffic, in the Caltrans turnout fronting Idyllwild Mountain Spring Waterworks. After filling their tanks, they would often reverse course—blocking the two-lane highway with the maneuver—and head downhill toward I-10. It didn’t take Redwine long to connect the vehicles with the draining of Lily Creek. “That stream had been absolutely glorious,” she says. “When I saw the trucks going, I said, ‘Wait just a minute!’”

In late 2000, Redwine asked Stroud to help her fight Black and his enterprise. The following May, the pair founded Concerned Citizens for the Conservation of

Mountain Water, which quickly enlisted dozens of supporters. Among them was Jeff Smith, now 41, a beefy former engineer at the San Onofre nuclear power plant who had left to become a schoolteacher. "I became more aware of man's failure to see the broader picture," he says. "You know: 'We can do this,' but not, 'Should we be doing this?'"

A newcomer to Idyllwild, where his ancestors had been cattle ranchers, Smith decided to call on Black after noticing that certain riparian plant species, such as the lemon lily, were vanishing along with the water from Lily Creek. At the pump station, Smith says, two burly truckers blocked his way. Then, he says, Black approached, wielding an ax handle, and chased him back to his car. "The police officer who answered my call wrote it up as an unjustified complaint," Smith says. It would not be the last such confrontation.

Concerned Citizens began circulating petitions and peppering local officials with letters. The group discovered that Black was selling water to at least four California bottlers, among them, the Ralphs supermarket chain. His tanks, the group charged, held 6,250 gallons apiece, 1,250 more than county ordinance allowed. They suspected that Black's horizontal well was drawing water from government land, perhaps illegally; he'd also drilled two vertical wells, his opponents said, though his pumping permits covered only his own household use. Black's trucks were violating state highway laws. He had poured concrete into a creek bed, against state regulations. He was running a business in a residential zone. Most important, the activists claimed, Black was capturing water from a subterranean stream, to the detriment of downstream wetlands. Lily Creek ran into Strawberry Creek, which flows into the San Jacinto foothills. Along the way, it nurtured such threatened species as the yellow-legged frog and the southwestern willow flycatcher. If the stream died, it could take the whole ecosystem with it.

"We could cultivate no interest," Stroud says. Some of the agencies took months before responding, and others seemed determined to erect procedural roadblocks. The local water boards defended Black's permits, and after interviewing all concerned, California's State Water Resources Control Board declined jurisdiction. To the activists' knowledge, the Highway Patrol didn't even ticket the trucks. Meanwhile, the group's members were turning on one another. Meetings became shouting matches as members pressed for their own agendas. In September 2001, Redwine quit. Stroud and Smith followed suit, and the group disbanded.

It turned out to be a liberating move. Redwine, Stroud and Smith formed a new organization, Mountain Resources Conservancy, consisting solely of themselves. "We were like three kids in a treehouse," Stroud says. Redwine became the conservancy's president. Stroud provided poetic sound bites for the press: "It is ridiculous to believe that 35 million people in California can sip from alpine springs without impact or consequence." Smith was the researcher, an intellectual pit bull who could also dig his canines into the enemy when necessary. "Jeff can be offensive and aggressive," Redwine says, "and that's great."

The first small victory came in November, when the county finally cited Black for his oversized water tanks. But the big break came in early 2002. By that time, the drought's effects were obvious to everyone. Great swaths of pine and cedar were dying, infested by bark beetles that prey on weakened conifers. The area's reservoir, Foster Lake, resembled a wading pool. In response, local officials had declared a Stage 3 water emergency, which banned such frivolities as washing cars and watering lawns, and

imposed steep rate hikes on heavy users. Like a growing number of residents, Sonia Waisman, a lawyer, was concerned that Black was exporting water under such conditions. The law firm she works for, Morrison & Foerster, is one of the largest in the world, and its attorneys are encouraged to take on pro bono cases. Waisman offered the conservancy her services, aided by three colleagues. “Pretty soon,” Redwine says, “people who wouldn’t respond to us had to start responding.”

EVEN FOR LAWYERS, THE LEGAL ISSUES SURROUNDING GROUNDWATER PUMPING—WHETHER for bottling or any other purpose—can be murky. Some states apply a single set of laws to underground and surface waters; others treat groundwater as separate and unequal. “One problem,” says Gleick of the Pacific Institute, “is inconsistent definitions and regulations. The other is inadequate enforcement.” In California, critics complain, both conditions apply. “Groundwater is virtually unregulated in this state,” says Juliette Beck, who works on water-rights issues for the consumer group Public Citizen.

Or rather, it is regulated mostly in theory. State law recognizes two categories of groundwater. “Percolating groundwater” has no detectable boundaries or direction, and may be pumped without a permit, other than a certification from the Food and Drug Branch of the California Department of Health Services that it is safe to drink. A “subterranean stream” follows a definable course over a measurable distance, and a property owner who wants to pump it is supposed to get a water-right permit from the State Water Resources Control Board. But the board will not get involved unless there is proof that the water really is a subterranean stream, which can require a hydrogeological survey costing tens of thousands of dollars. The logical option for the landowner, therefore, is to just assume he has percolating water and start pumping.

No one is likely to make a fuss. That’s because anyone wishing to contest the use of a subterranean stream must prove that the groundwater fits the definition before asking the water board to intervene. To contest the use of percolating groundwater, on the other hand, the injured party must file a lawsuit, claiming the right to a share of the water. When the affected area is publicly owned, though, as in Idyllwild Park, such an approach becomes problematic.

Paul Black insisted that his water came from a percolating source, confined to his property and unconnected—despite his well’s placement in the creek bed—to the health of Lily Creek. The conservancy hired a hydrogeologist, Randy Harris, who found circumstantial evidence to the contrary. The creek, he noted, was flowing above Black’s property but not below. Harris found signs, moreover, that the downstream current had until recently been robust: water-polished rocks showing signs of recent weathering; newly dying trees along the banks. He interviewed longtime residents who confirmed that Lily Creek had been a very different creature before Black came to town. But without a comprehensive hydrogeological survey, the science was not strong enough to convince state regulators. Instead, the creek’s fate was apparently decided by more practical considerations: local politics.

BY THE SUMMER OF 2002, IDYLLWILD WATER DISTRICT MEETINGS WERE PACKED WITH locals demanding that Black’s pumping be halted. And on June 30, a few protesters resorted to

direct action, parking four cars in the turnout overnight to prevent the water trucks—by then arriving at all hours—from filling up.

The next morning, all the vehicles had been vandalized. Tires were slashed, windows scratched, paint savagely gouged. Carved into the side of a pickup belonging to Daniel Pietsch were the words “Chuck Sucks.” Chuck Stroud, who bears some resemblance to Pietsch, believes it was a case of mistaken identity. Pietsch decided to sue, and found a handwriting expert who identified the penmanship as Black’s.

Not long after, officials began turning against Black. In July, the Riverside County code enforcement department issued him a cease-and-desist order for operating a business in a residential area. In September, Black applied for a zoning change and a conditional-use permit. The county Planning Commission requested that he first supply reports covering the possible hydrological, biological and even archeological impact of his pumping. In March 2003, the commission recommended that the county supervisors deny his request.

Last May, the county finally asked the Highway Patrol to enforce traffic laws against Black’s trucks, and Caltrans demanded that he build a safe turnaround and loading site. Later that month, the supervisors confirmed the Planning Commission’s judgment. And in June, the county filed a court complaint seeking injunctive relief and civil penalties. Black was given 30 days to respond; if he failed to cooperate, he would be fined \$3,000 a day. Asked why the county hadn’t taken such steps earlier, senior planner David Mares cites the constraints of bureaucratic procedure: “This was more than just a zoning matter. It took a fair amount of time for Black to work through the process.”

In July, to mark the anniversary of the vandalism, Black’s foes began a continuous vigil in front of his property. They marched with American flags or lounged in lawn chairs. Their supporters honked their car horns as they passed. A roommate of Black’s called the sheriff’s department and alleged that some protesters were armed. When deputies questioned the crowd, Jeff Smith was indignant. “These are moms,” he recalls saying. “These are schoolteachers. These are professionals with a commitment to the community.”

Smith led the marchers to the foot of Black’s driveway. Black climbed into his white Mercedes SUV. Then he pointed the vehicle toward Smith and stepped on the gas. Mercifully, no one was hit. A deputy arrested Black for assault with a deadly weapon, terrorist threats and reckless driving. Free on bail, Black settled the civil complaint with the county, agreeing to shut down his business by 5 p.m. Aug. 5. When the hour came, a crowd gathered in the turnout by Idyllwild Mountain Spring Waterworks, brandishing a “CLOSED” sign.

In early November, Black pleaded guilty to a single count of battery and was sentenced to 60 days, on consecutive weekends, at Banning Correctional Institute. The terms of his probation included participation in an anger-management program. And this January, a small-claims judge ordered him to pay \$5,000 in restitution for Daniel Pietsch’s truck.

THE CONSERVANCY AND ITS SYMPATHIZERS, HOWEVER, SEE THE WAR AS FAR FROM OVER. Farther north, on desert land owned by the Morongo Band of Mission Indians, Nestle recently built a 383,000-square-foot plant to extract and bottle spring water for its

Arrowhead brand; the tribe and the company are sparring with state and local officials who say the operation would deplete an aquifer that serves the Coachella Valley.

In an ironic twist, the Pine Cove Water District is seeking to buy Black's property, intending to tap its spring for domestic consumption. Though the project could lower water bills, the conservancy contends that it will be just as harmful as the old waterworks, and the group has retained the nonprofit Western Environmental Law Center for the next battle. "What we're saying," Redwine says, "is that if you're not willing to steward this beautiful place, then you shouldn't be here. The environment is more important than commerce in this little town."

The proper balance between environment and commerce is what the national fight over bottled water is all about. Even on the Earth-first side, there is a broad spectrum of opinion: Public Citizen's Beck calls the product a "consumer sham" and urges a boycott. Sierra Club water-privatization specialist Ruth Caplan encourages members "not to drink bottled water unless it's absolutely necessary," but allows that on a long plane ride, "you gotta hydrate." Law professor and author Glennon notes: "As much as the bottled water industry has grown, relative to the amount of water used to grow alfalfa, it's a drop in the bucket." He advises conscientious consumers to look for the words "purified" or "artesian" (a.k.a. well water) on the label, since those sources are less likely to be environmentally sensitive than springs.

Among the Idyllwild activists, Stroud and Smith avoid bottled water. "I just never got into the habit," Stroud says. Smith says: "It's a fad." As for Redwine, she has fallen off the wagon. Her explanation is that in 2002, over furious opposition, the Idyllwild Water District began tapping a uranium-tainted well to supplement the town's supplies. Water officials assured residents that the radioactive water would be so diluted as to pose little risk, but when Redwine had hair samples taken, she found her levels of uranium to be alarmingly high.

"One of the reasons I came here was the water," she says. "Now I don't trust it anymore." ■