



AMERICAN WATER

Paul G. Foran

VP and Counsel, Regulatory Programs

1025 Laurel Oak Rd

Voorhees NJ 08043

[Paul.foran@amwater.com](mailto:Paul.foran@amwater.com)

P 856-346-8371

F 856-782-2799

March 26, 2010

Independent Expert on the Issue of  
Human Rights Obligations Related to  
Access to Safe Drinking Water and Sanitation  
ESCR Section  
Special Procedures Division  
UNOG-OHCHR  
Palais des Nations  
CH-1211 Geneva 10,  
Switzerland

Dear Madam or Sir:

You are already in receipt of a letter from Don Correll, President & CEO of American Water, which expresses some thoughts about a United Nations proposal concerning a human right to water that may restrict or inhibit private sector participation in the delivery of water and sanitation services. Mr. Correll provided a number of examples that demonstrate the important role the private sector has played in the delivery of water service in the United States for hundreds of years. I will not repeat those examples, but would like to offer a few additional perspectives that may have some further relevance to the issue of expanding access to high quality water and sanitation services in developing countries.

Although it is true that most Americans have access to high-quality, reliable water service, there remain areas of the U.S. where the population does not have that access as well as areas where continued access is threatened. The private sector has played a significant role in extending such service where it does not exist and helping to insure continued access where it is in jeopardy.

As an example, I would like to bring your attention to a program of public/private partnership in the state of West Virginia which American Water's subsidiary, West Virginia American Water Company, has pursued for the last 15 years.

West Virginia is a mountainous state where it is often difficult and expensive to provide water treatment and distribution facilities to more remote regions. As a result, some areas of the state lack access to high-quality, reliable water supplies that comply with standards issued by the U.S. Environmental Protection Agency (USEPA), pursuant to the Safe Drinking Water Act.





AMERICAN WATER

Over about the last 15 years, West Virginia American Water has partnered with many public service districts, county authorities, regional development authorities, municipalities and others in a number of arrangements tailored to meet the specific needs of the agencies involved. Such arrangements have included joint funding of projects where the utility makes a direct investment in the project and the public entity leverages its access to low cost financing; the use of capital leases and usage fees to support public sector contributions; operating agreements; water sales agreements and other mechanisms. Over the last 15 years, these arrangements, as well as West Virginia American Water's acquisition of small, non-viable systems, have resulted in utility investment in excess of \$450 million, which leveraged public sector investment in excess of \$130 million, for a combined utility/public sector investment in excess of \$550 million benefitting a population in excess 150,000. Such benefits included extending reliable water service that complies with all quality standards to people that did not have such service at all, enhancing service where it was deficient and, where West Virginia American Water acquired the system, extending to consumers the regulatory oversight and transparency protections provided by the West Virginia Public Utility Commission.

The existence of many small, non-viable systems in the U.S. is also a significant challenge to the continued access to high quality, reliable service. There are about 52,000 community water systems in the U.S. today. Over 90 percent of these systems serve fewer than 10,000 people and tens of thousands of these systems serve populations of fewer than 500. Both government-owned and private-sector owned entities comprise these systems, which usually lack the financial and technological capability to replace aging infrastructure and comply with expanding water quality standards.

Here again, the private sector has, and will continue to play an important role in mitigating the non-viable system challenge. Over the last several years, American Water alone has acquired hundreds of these systems and entered into some form of public-private arrangement with many others. Other private, investor-owned water companies have done the same; this involvement has brought capital and operating expertise to enable the continued provision of high-quality, reliable service.

As it has historically done, the private sector brings significant contributions to meeting the challenges of sustainable water supply. These include capital attraction, technological innovation, efficiency and operating expertise, the ability to cross government jurisdictional boundaries to bring consolidation, regionalization and economies of scale and others. Where the private sector actually owns the system, it also brings the transparency and consumer protection provided by state public utility commission oversight, which ensures provision of high-quality service to all consumers on a non-discriminatory basis at prices that are fair and reasonable. I myself am a former public utility commissioner from the state of Illinois and have personally witnessed the contributions the private sector has made for many years in attracting capital and providing operating expertise, as well as helping to resolve difficult issues related to non-viable systems.



AMERICAN WATER

In closing, the appropriate focus of the U.N. inquiry should not be on whether the private sector should participate in enhancing access to quality water and sanitation services, or how that role can be limited or inhibited. The positive role the private sector has played in providing quality service to millions of people for hundreds of years, and should continue to play in the future, is patently obvious. Rather, the focus should be on a policy of flexibility which encourages and leverages the resources of both the public and private sectors to the greatest extent to meet the challenges of preserving and extending access to these essential services to all areas of the world that are deficient.

Thank you for your consideration.

Paul G. Foran  
VP and Counsel, Regulatory Programs