

**OFFICIAL BALLOT
SPECIAL TOWN MEETING
ATKINSON, NEW HAMPSHIRE
SEPTEMBER 12, 2007**

Linda S. Jette

TOWN CLERK

INSTRUCTIONS TO VOTERS

A. TO VOTE, completely fill in the OVAL to the RIGHT of your choice(s) like this:

ARTICLES

Special Meeting Article 2007-01 (Citizens Petition)

WHEREAS, we, the residents of Atkinson have a duty and a responsibility to safeguard Atkinson's ground water supplies for current and future town needs, and

Whereas we have a duty to safeguard the rights of people within the Atkinson community and the rights of the natural ecosystems of which Atkinson is a part, and

Whereas, Atkinson's water is held in the public trust as a common natural resource to be owned and be used for the current and future benefit of Atkinson's residents, and

Whereas many homes in Atkinson are not hooked up to a private company's water system and instead rely solely on private wells, and

Whereas, those private wells are totally dependent on adequate ground water supplies, and

Whereas, the drainage and large scale withdrawals of Atkinson's ground water for transport or pumping out of Atkinson for sale out of town is not in the best interests of Atkinson's current and future water needs, and

Whereas, these large scale withdrawals for sale of Atkinson's groundwater is a concern of Atkinson residents, and

Whereas, we have a responsibility to current and future generations in Atkinson to take affirmative steps to protect Atkinson's ground water supplies,

We, the undersigned Atkinson residents, do hereby submit this Petition for a Special Town Meeting to be held at the earliest possible date so that Atkinson's residents may vote on the below "Atkinson Water Withdrawal Control Ordinance."

ATKINSON WATER WITHDRAWAL CONTROL ORDINANCE

Section 1.

Preamble and Purpose: We, the People of the Town of Atkinson declare that water is essential for life, liberty and the pursuit of happiness - both for people and for the ecological systems which give life to all species. We, the People of Atkinson, declare that we have the duty to safeguard the water both on and beneath the earth's surface, and in the process, safeguard the rights of the people of Atkinson and the rights of the ecosystems of which Atkinson is a part. We the people of Atkinson declare that all of our water is held in the public trust as a common resource to be used for the benefit of Atkinson residents and of the natural ecosystems of which they are a part. We believe that the corporatization of water supplies in this community - placing the control of water in the hands of a corporate few, rather than the community - would constitute tyranny and usurpation; and that we are therefore duty bound, under the New Hampshire Constitution, to oppose such tyranny and usurpation. That same duty requires us to recognize that two centuries' worth of governmental conferral of constitutional powers upon corporations has deprived people of the authority to govern their own communities, and requires us to take affirmative steps to remedy that usurpation of governing power.

Section 2.

Authority: This Ordinance is adopted and enacted pursuant to the authority granted to the people of the Town by all relevant state and federal laws including, but not limited to the following:

Part First, Article 10 of the N.H. Constitution, which declares that government is instituted for the common benefit, protection and security of the whole community, and not for the private interest of any class of men;

Part First, Article 1 of the N.H. Constitution, which declares that the government is founded upon the consent of the people and instituted for the common good;

The spirit of Part Second, Article 5 and Part Second, Article 83 of the N.H. Constitution, which subordinate corporations to the body politic;

N.H. RSA 31:39 I (a) and III which, under powers and duties of Towns, permit bylaws for the care, protection, preservation of the commons; the ordering of their prudential affairs; and the enforcement of such bylaws by suitable penalties.

The Declaration of Independence which declares that governments are instituted to secure people's rights, and that government derives its just powers from the consent of the governed;

The General Comment of the United Nations Covenant on Economic, Social and Cultural Rights, which declares that "the right to drinking water is fundamental to life and health. Sufficient and safe drinking water is a precondition to the realization of human rights."

Section 3.

Statement of Law: No corporation, syndicate, or business entity shall engage in water withdrawals and depletion from within the boundaries of the Town of Atkinson. The term "corporation" means any corporation organized under the laws of any state of the United States or any country. The term "syndicate" includes any limited partnership, limited liability partnership, business trust or Limited Liability Company organized under the laws of any state of the United States or any country. The term "engage" shall include, but not be limited to, the physical extraction of water, and the buying and/or selling of water extracted within the Town of Atkinson.

Section 4.

Statement of Law: No corporation doing business within the Town of Atkinson shall be recognized as a "person" under the United States or N.H. Constitution, or laws of the U.S. or N.H., nor shall the corporation be afforded the protections of the Contracts Clause or Commerce Clause of the U.S. Constitution, or similar provisions found within the N.H. Constitution, with the Town of Atkinson.

Section 5.

Exceptions: The people of the Town of Atkinson hereby allow the following exceptions to the Statement of Law contained with Section 3 of this Ordinance:

Municipal authorities established under the laws of the State of New Hampshire engaged in water withdrawals providing water only to residential and commercial used within the Town of Atkinson; Non-profit educational and charitable corporations organized under state non-profit corporation law, and qualifying under Section 501(c)(3) of the Federal Tax Code, which do not sell water withdrawn within the Town of Atkinson outside of the Town of Atkinson; Utility corporations operating under valid and express contractual provisions in agreements entered into between the Town of Atkinson and those utility corporations, for the provision of service within the Town of Atkinson; Corporations operating under valid and express contractual provisions in agreements entered into between residents of the Town of Atkinson and those corporations, when the withdrawn water is used solely for on-site residential, household, agricultural, or Commercial facilities within the Town of Atkinson, as long as such commercial facilities do not withdraw water for sale outside of the Town of Atkinson, or purchase water withdrawn from the Town of Atkinson for sale outside of the Town.

Section 6.

Enforcement: Any corporation planning to engage in water withdrawals within the Town of Atkinson must notify the Town of such activity at least sixty (60) days prior to engaging in water withdrawals. Such notification shall contain a claim to one of the exemptions listed in Section 5 of this Ordinance. Any violation of this Ordinance shall be considered a criminal summary offense, and will subject the Directors of the non-compliant corporation to joint and several liability with the corporation itself. The Atkinson Board of Selectmen authorizes a fine of up to \$1,000.00 per day of violation. Each act of water withdrawal shall be considered a separate violation of this Ordinance. The Atkinson Board of Selectmen may also file an action in equity in Rockingham County Superior Court or any other Court of competent jurisdiction to abate any violation defined in Section 3 of this Ordinance. If the Atkinson Selectmen fail to bring an action to enforce this Ordinance, any resident of the Town has standing in front of the Court for enforcement.

Section 7.

Severability: The provisions of this Ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the people of Atkinson that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision has not been included herein.

Section 8.

Effect: This Ordinance shall be effective immediately upon its enactment.

YES

NO