



**B Lab Controversial Issues Statement -
Water Utilities & Services
Updated as of April 2022**

B Lab's Approach to Controversial Issues and B Corp Certification

As for-profit companies that meet the most rigorous standards of overall social and environmental performance, accountability, and transparency, Certified B Corporations are leaders in the movement to use business as a force for good.

Whether through information a company provides in its [Disclosure Questionnaire](#), an issue raised by a third-party through B Lab's formal [Public Complaints Process](#), or public discourse on B Corp certification requirements and standards, difficult and complex questions regularly arise as to how controversial issues in the world of business should affect a company's eligibility for B Corp certification. Judgments on these issues are then determined by B Lab's independent [Standards Advisory Council](#) as part of a disclosure review process.

B Lab's Disclosure Questionnaire forms the basis of the disclosure review process, which covers sensitive industries, practices, outcomes, and penalties and is based on third party screenings and standards like the IFC Excluded Industries List and International Labor Organization Conventions. Recognizing that any list of sensitive issues may be incomplete, however, B Lab also reserves the right to conduct similar reviews on issues that are not currently featured in the Disclosure Questionnaire, but are deemed subject to material stakeholder concern and a potential violation of the B Corp movement's Declaration of Interdependence.

When new industries or issues where a decision making model has not already been developed arise, B Lab conducts research into the issue in order to guide the Standards Advisory Council's decision. Research is based on secondary sources compiled by B Lab staff, with the overall intent of identifying and understanding the different concerns related to the industry or issue and the different perspectives of stakeholders. This includes a review of press related to the industry and its impact, how the issue is covered by other standards, existing public policy and public policy recommendations from non-profit organizations and other topical experts, examples — potentially both good and bad — of actors within the industry, interviews with expert stakeholders and other public commentary and perspectives. This content is in turn used to develop the framework for Standards Advisory Council review, and determines the types of questions that individual companies are required to answer as part of their review.

Particularly when it comes to industries that are controversial, there is a natural and healthy tension between the inclination to exclude all companies in those industries from eligibility for B

Corp Certification, and *the need for leadership* that has the potential to transform the culture, behavior, and impact of those industries. While B Lab and its [Standards Advisory Council](#) may determine that an industry as a whole is ineligible for certification because of its negative impacts or practices, they also recognize that in controversial industries it may be possible for companies to be meaningfully managing those potential negative impacts or controversies. In these circumstances, the need may be greatest to distinguish between good and bad actors, as well as good, better, and best performance by using rigorous standards of verified social and environmental performance, legal accountability, and public transparency. All stakeholders are best served by the existence of credible and transparent standards that facilitate improved policy, investment, purchasing, and employment decisions.

Along with the recognition that there are many diverse and reasonable perspectives as to what contributes to a shared and durable prosperity for all, B Lab and its Standards Advisory Council will make determinations regarding eligibility for B Corp Certification and, if eligible, will require companies in controversial industries, with controversial policies, or engaged in controversial practices to be transparent about their practices and how they work to manage and mitigate concerns. B Lab will also document and share these positions publicly in order to enable all stakeholders, including citizens and policymakers, to make their own judgments about a company's performance, as well as further thoughtful, constructive public discussion about important issues. Existing B Lab statements and frameworks on controversial issues are available [here](#).

These frameworks, like B Lab's standards generally, are works in progress, and we look forward to improving upon them in the future. B Lab invites other perspectives as it continues to refine its views and, hopefully, contribute to a constructive conversation about the role of business in society.

Independent of eligibility for B Corp Certification, all companies in any industry are able to use the [B Impact Assessment](#) as an internal impact management tool to assess and improve their overall practices, and/or adopt a stakeholder governance legal structure (such as [benefit corporation](#)) appropriate to the company's current corporate structure and jurisdiction.

If you have questions or comments about B Lab's approach to the below issues, please email B Lab's Standards Management team at standardsmanagement@bcorporation.net.

Water Utilities & Services and B Corp Certification

B Lab and its independent Standards Advisory Council have rendered the following decision regarding the water utilities industry's eligibility for B Corp Certification:

Companies engaged in the following practices in the last five years as demonstrated through company disclosures or through publicly available information, are currently ineligible for B Corp Certification:

- The company is involved in lobbying or policy advocacy for cheaper water prices for the company or to weaken regulations regarding water access for the company.
- There are significant, material, and justified stakeholder concerns over the company's access to water sources that remain unresolved.
- There are significant, material, and justified stakeholder concerns over the company's interactions with the public sector, such as allegations of bribery, anti-competitive behavior, or favorable contract claims, that remain unresolved.

All other companies are eligible for B Corp Certification if they meet these additional standards:

1. Anti-corruption and government affairs: The company has publicly available policies on anti-corruption and government affairs. The policies detail how they will be implemented (e.g., employee trainings) and include internal grievance mechanisms.
2. (As applicable) Water affordability: For companies that charge water rates to residential end users, either:
 - a. The company's water rates represent no more than 3-6% of the community's average household income, or
 - b. The company's proposed rate changes are reviewed and voted on by an independent organization (e.g., regulatory agency, affected stakeholders).
 - c. If the two options are not possible as the result of circumstances outside of the company's control, the company engages in collective action to improve water affordability in the relevant watersheds to achieve either of the above two requirements within two recertifications.
3. Water access: The company's water access is fairly obtained and compensated for.
 - a. Company pays a volume-based fee, or
 - b. The company has regulatory licenses for water abstraction, and the company is in compliance with the parameters specified by the license.
4. Regulated jurisdictions: The company is in compliance with local and national regulations regarding water quality or the WHO's Guidelines for Drinking Water Quality, whichever is more stringent.
5. (As applicable) Wastewater treatment: The company is in compliance with local and national regulations regarding wastewater treatment.
6. Sustainable water usage: The company does not extract at a scale or rate that will significantly affect water access for the area, taken into context with the normal recharge or flow rate of the water source. Also, the company has integrated water resource management to minimize water losses in the distribution network.
7. Collective action: The company engages in collective action to improve water quality, access, and affordability in the relevant watersheds.
 - a. The collective action includes engaging with local end-users on how they can be active participants in water stewardship.

Industry Overview

Goal 6 of the United Nations Sustainable Development Goals (SDGs) is to ensure access to water and sanitation for all.¹ Access to water, sanitation, and hygiene (WASH) is recognized as a human right. While progress has been made on increasing access to clean drinking water and sanitation, billions of people still lack these essential services. Globally, one in three people do not have access to safe drinking water, and two out of five people do not have a basic hand-washing facility with soap and water.

Companies in the Water Utilities & Services industry play a large role in the access of water and sanitation. The Sustainability Accounting Standards Board (SASB) definition of the Water Utilities & Services industry is as follows:

“Companies in the Water Utilities & Services industry own and operate water supply and wastewater treatment systems (generally structured as regulated utility businesses), or provide operational and other specialized water services to system owners (usually market-based operations). Water supply systems include the sourcing, treatment, and distribution of water to residences, businesses, and other entities such as governments. Wastewater systems collect and treat wastewater, including sewage, graywater, industrial waste fluids, and stormwater runoff, before discharging the resulting effluent back into the environment.”²

While the majority of Water Utilities & Services companies are publicly owned, about 7% of the urban population in the developing world is served by privately owned companies.³ A common business model is a public-private partnership (PPP) in which private operators are delegated the management of utilities under various contractual arrangements with public entities. Some stakeholders claim that private operators have the ability to improve efficiency and incorporate local context and risks. For example, a [report by the World Bank](#) concludes that the most consistent contribution of private operators has been improved operational efficiency and service quality. The overall findings support the perspective that well-designed PPPs are a valid option to improve water availability in developing countries.

However, other stakeholders believe that water utilities should remain in the public sphere.⁴ For example, a [report by Corporate Accountability](#) investigates the impact of privatization and liberalization of water services and makes the case for public water systems. The report highlights the potential risks of water privatization such as lower water quality and related public health concerns, higher water rates, and corruption. While these risks certainly exist, stakeholder engagement and research also indicate that companies can implement best practices in order to address these risks (discussed further in the next section). For example, in an editorial for the Journal of Water Resources Planning and Management, Gary H. Wolff suggests, “We do not need to decide if private or public players are superior, in the abstract. We

¹ [UN](#)

² [Sustainability Accounting Standards Board](#)

³ [World Bank](#)

⁴ [Corporate Accountability](#)

need to implement and enforce the ‘rules of the game’ under which private or public utilities or operators are efficient and responsive to social needs and desires.”⁵

Risks and Material Issues

B Lab can best summarize the stakeholder concerns regarding water utilities as follows:

Corruption and Government Affairs

Typically the government puts out a contract for water and sanitation services, and private operators engage in a bidding process to win the contract. In light of this ongoing relationship with the public sector, privately owned water utilities companies may be incentivized to engage in bribery and corruption in order to avoid competition, gain market entry, obtain more favorable contract terms, and weaken regulations.⁶

In addition to the amount of the bribe, additional costs of corruption can include distorted terms of contracts and regulations that negatively impact water affordability, access, and quality. These risks are discussed in the following sections.

Companies can mitigate the risk of corruption and bribery by implementing an anti-corruption and bribery policy as well as a government affairs policy. The policies should be made publicly available and include mechanisms for employees to report wrongdoings.

Water Affordability

Affordability is a critical factor in improving the population’s access to water, sanitation, and hygiene.⁷ Household budgets may be insufficient to afford water sources that meet the national minimum standard.

When the SDGs were announced in 2015, although affordability was featured in 10 targets across six SDGs, there was no established methodology to measure affordability. More recently, in May 2021, UNICEF and the WHO published a report on The Measurement and Monitoring of Water Supply, Sanitation, and Hygiene Affordability. Historically, the primary way to measure affordability has been the expenditure threshold approach: a ratio of household spend on water and wastewater as a proportion of annual income, compared to an affordability threshold. While this affordability threshold varies by country, multilateral development banks and the OECD have defined thresholds between 3% and 5%.

While the threshold approach has been popular with policy makers and service providers, there are limitations as well. Importantly, this approach does not take into account a household’s

⁵ [Journal of Water Resources Planning and Management](#)

⁶ [Corporate Accountability](#)

⁷ [UNICEF and WHO](#)

spending on other essential services, which varies by household and by location. Alternative approaches include analyzing how people behave with respect to WASH expenditure and service levels (revealed preference); what people say (stated preference); and focusing on affordability for households in poverty. Currently, nationally representative studies and datasets tend to provide more complete data for the expenditure threshold approach relative to the other approaches.

Private water utilities also face monopoly pricing concerns. The extent to which private water utilities can establish their own rates varies by jurisdiction. For example, in the United States, the rates charged by private water utilities are regulated by state agencies.⁸ In Brazil, water and sanitation rates are set in concession agreements with municipalities and regulatory agencies and adjusted annually by inflation indices. In South Africa, private water utilities can set their own market-based rates. Particularly in jurisdictions where water rates are regulated by government entities, water affordability is at risk of being negatively impacted by corruption. Furthermore, water affordability varies widely by market, so companies should engage with their communities to understand their perspectives on water rates and how they would define affordable water rates (e.g., as a percentage of disposable income).

Companies can work towards water affordability for their end users by ensuring water prices and household spend on water represent 3-6% of annual income, ensuring any proposed rate changes are reviewed and voted on by an independent organization, and engaging in collective action to improve water affordability.

Water Access

There are material issues around the methods that companies use to access water and their privatization of what is considered a “public good.” The practical concerns of this issue include a lack of proper payment for the rights to water resources when compared to fair market value, which may subsidize the privatization of the water while providing insufficient resources to support municipal infrastructures.⁹ In some instances, Water Utilities & Services companies own the only source of clean drinking water in a given community or region, which can have adverse impacts on the local communities, such as forcing the areas to find new water supplies, drying out natural water sources, and restricting water use. Whether land or rights are owned directly by the company, the fees or taxes paid for water extraction can vary substantially and be based on volume used, extracted, a flat fee, or be none at all. In many cases, companies themselves may have limited control over these payment structures depending on their size and geography. Some companies may engage in lobbying to create policies that give them access to more water, or reduce their cost of water, which may improve their profitability but not be of interest to the public good.

⁸ [United States Government Accountability Office](#)

⁹ [Vice](#)

Companies can demonstrate their water access is fairly obtained and compensated for by paying a volume-based fee for their water access or obtaining and complying with regulatory licenses for water access.

Water Quality

Good water quality is essential to human health, social and economic development, and the ecosystem.¹⁰ Water treatment facilities intake raw water, remove it of contaminants and treat it with chemicals, and produce water that is suitable for drinking and sanitation. Water quality poses potential environmental and human health risks, and treatment facilities are typically subject to extensive regulations to control and monitor their impact.

These risks are arguably higher in marginalized communities. For example, beginning in 2014, the residents of Flint, Michigan, faced environmental injustice when the city changed its water supply to save costs.¹¹ About 45% of Flint's population lives below the poverty line, and nearly one in six of the city's homes has been abandoned. Water samples collected from homes indicated high levels of lead as well as bacteria that causes Legionnaires' disease. The residents submitted complaints that the foul-smelling, discolored, and off-tasting water caused health issues including skin rashes, hair loss, and itchy skin, but these complaints were routinely ignored for months. The Michigan Civil Rights Commission concluded that the poor governmental response to the Flint crisis was a result of systemic racism. In 2017, a court settlement required the city to replace the city's lead pipes and guaranteed further funding for tap water testing, faucet filter installation and education program, free bottled water through the following year, and health programs to assist residents negatively impacted by the water.

Furthermore, safe drinking water distribution is problematic in many countries in Asia, parts of Europe and South America, and much of Africa due to their insufficient water infrastructure systems.¹² Although regulations may vary by jurisdiction, the [WHO's Guidelines for Drinking-Water Quality](#) is recognized as a global standard.

Companies can achieve good water quality for their end users by ensuring compliance with local and national regulations regarding water quality or the WHO's Guidelines for Drinking Water Quality, whichever results in more stringent water quality standards.

Wastewater Treatment

Water and wastewater treatment facilities produce effluents, which are residuals and solids that consist of chemicals used in the treatment process and contaminants from water or wastewater inputs.¹³ Treated effluent is discharged from facilities into surface water or pumped into

¹⁰ [UN Water](#)

¹¹ [National Resource Defense Council](#)

¹² [ScienceDirect](#)

¹³ [SASB](#)

groundwater. Effluents pose potential environmental and human health risks, and treatment facilities are typically subject to extensive regulations to control and monitor their impact. Regulations frequently set maximum limits of effluent discharges to manage these risks, with penalties and potential loss of licensure as indications of excessive harm. Furthermore, public and regulatory scrutiny of effluent quality is increasing given substances of emerging concern.

Companies can minimize environmental and health risks related to wastewater treatment by ensuring compliance with local and national regulations regarding wastewater treatment.

Sustainable Water Usage

At the core of concerns around water usage is its sustainable usage. There is the possibility for companies to extract water at a rate that depletes the water source over time, not just affecting the long-term management of the company but also the communities that may also rely on the water sources and the ecosystems which depend on them. Furthermore, significant volumes of water may be lost in the distribution network (called non-revenue water) as a result of infrastructure failures and inefficiencies.

These risks are higher in regions with water sources that are over-licensed or overexploited, defined below:

- Over-licensed: Water sources where the collective licensed water exceeds the average annual recharge volume of the aquifers, while actual water extraction volumes may differ. An over-licensed water source may also be overexploited.
- Overexploited: Overexploited aquifers are those in which the extraction of groundwater exceeds the average annual recharge volume, in such a way that the persistence of this condition for long periods of time causes environmental impacts such as depletion of springs, lakes, wetlands; decrease or disappearance of the base flow in rivers; permanent drop in groundwater levels; ingress of saline water, etc.¹⁴

Companies can work towards sustainable water usage by identifying sustainable extraction rates in the context of normal recharge or flow rates, ensuring their extraction rates remain at sustainable levels and do not affect the water table or water access for other stakeholders, and integrating water resource management programs to minimize water losses in the distribution network.

Rationale for the Standards Advisory Council Decision

The Water Utilities & Services industry plays a significant role in meeting the Goal 6 of ensuring everyone has access to water and sanitation. There exists an inherent tension between Water Utilities & Services companies maximizing social benefit and maximizing shareholder returns, resulting in the industry risks of corruption, water affordability, water access, water quality,

¹⁴ [CONAGUA](#)

wastewater treatment, and sustainable water usage. Secondary and stakeholder research indicates that the accompanying company best practices appropriately mitigate these risks. Therefore, Certified B Corporations in the Water Utilities & Services industry should demonstrate that their business model integrates a holistic, stakeholder-focused approach, with an emphasis on improving water quality, access, and affordability for the watershed.

Water Utilities & Services companies should engage in collective action and work with community stakeholders to steward water as a shared resource. Stakeholders may include end users; local communities and action groups; employees and other workers; and governments, regulators, and civil society organizations. Communities engaged in collective action can work together to improve water quality, access, and affordability for the watershed's stakeholders. Example outcomes of collective action include target-setting for water used, increased investment in infrastructure, policy advocacy, and awareness raising.

B Lab's [Controversial Issue statement on the Bottled Water industry](#) served as an important precedent for these standards. The Bottled Water industry is a separate but related industry that also faces industry risks related to water quality, water access, and sustainable water usage. Furthermore, the statement emphasizes the use of collective action in order to strengthen water quality, access, and availability in the watershed. Bottled Water companies are eligible for B Corp Certification with, at minimum, incremental disclosure on their public B Corp profile regarding material sensitive issues in the industry.

These standards do not specifically impose additional minimum requirements regarding other potentially material issues for Water Utilities & Services companies that are already sufficiently covered by B Corp Certification standards. All companies pursuing B Corp Certification, including Water Utilities & Services companies, must complete the Disclosure Questionnaire, which features disclosures on topics such as litigation and penalties. Any such topics raised in the Disclosure Questionnaire, as well as through B Lab's background check and Public Complaint Process, would be reviewed by B Lab and could result in additional disclosure requirements, remediation, or ineligibility in their own right.

The decision of the Standards Advisory Council has been informed by independent research conducted by B Lab and stakeholder consultations including academic experts.

This statement is effective as of April 2022 until further judgment from the Standards Advisory Council.

Please send your feedback or questions to B Lab's Standards Management team at standardsmanagement@bcorporation.net.