



# MCWC

Michigan Citizens for Water  
Conservation

Volume 4 Issue 2

## LEGAL STRANGULATION

Since Judge Lawrence Root ruled on November 25, 2003 in favor of Michigan Citizens for Water Conservation in their lawsuit against Nestle Waters North America, Inc., and ordered the "...termination of all water withdrawals by the Defendants from the well field at the Sanctuary Springs<sup>®</sup> within 21 days (12/16/03)" MCWC attorneys have appeared in Circuit Court for the following hearings:

December 12, 2003: Nestle attorneys requested a stay of the 11/25/03 decision (request was denied)

December 15, 2003: Nestle officials filed for an emergency stay with the Michigan Court of Appeals (request granted)

January 13, 2004: Nestle's motion for a new trial heard by Judge Root; request denied in a written opinion released in February 2004

March 4, 2004: Nestle filed for appeal of decision in the State Court of Appeals

May 7, 2004: Motion for costs heard by Judge Root; on 5/14/04 Judge Root awarded \$122,212.47 to MCWC for expert witness and other costs (see details in next column)

May 27, 2004: Nestle filed a motion for stay of the order regarding plaintiff's costs (denied)

A copy of the court decisions can be viewed or printed off MCWC's web site: [www.saveMIwater.org](http://www.saveMIwater.org).

The transcripts from the Mecosta County Circuit Court have been received by the Michigan Court of Appeals, and both sides will be filing appellate briefs. MCWC will file a cross claim of appeal on Count IV (The Public Trust). The filing deadlines have been set and the approximate deadline for all briefs is the middle of September 2004.

Each time Nestle files for motions or hearings, MCWC attorneys are obliged to study the motion, file a response,

and appear for the hearing (or be available for a telephone conference). As a result, although **MCWC WON** we continue to incur tremendous legal expenses to continue the fight.

**MCWC needs your support now more than ever.** It has been a long road since December, 2000 to get where we are today. MCWC has raised over \$350,000 and has used that money to help defray bills incurred by its legal team of Olson, Bzdok and

Howard, Jim Samuels, and Chris Shaffer from the Cooley Law School and its environmental experts, to name a few: Dr. Chris Grobbel, Dr. Barbara Madsen, Dr. Mark Lutternan and Dr. David Hyndman.

As the case goes to the State Court of Appeals, additional money is needed to:

- \* defend the circuit court's decision in the court of appeals
- \* use the judge's decision to educate citizens of the risk to groundwater and groundwater users in their own backyards (MCWC has heard of at least 3 other areas in Michigan where Nestle has been investigating)
- \* advance MCWC's Five Points Water Law Proposal found MCWC's web site [www.saveMIwater.org](http://www.saveMIwater.org)
- \* educate, energize and mobilize the public to expand the debate over the security and future of the water of the Great Lakes basin to include the commons and public trust and prohibit privatization of water
- \* hold workshops throughout the Great Lakes basin to build citizen understanding on the issues of who owns the water

## NESTLE ORDERED TO PAY COSTS

In a hearing on May 7, 2004 before Judge Root, attorneys for MCWC and Nestle argued over trial related costs of MCWC that Nestle should pay.

After a careful analysis of the facts presented and the law, Judge Root ordered Nestle Waters North America, Inc. to reimburse \$122,212.47 to Michigan Citizens for Water Conservation (MCWC) for its expert fees and some of its non-expert costs. However, literally before the ink was dry on Judge Root's, order, Nestle was back in Court arguing for a stay of the order (that was denied)!

Nestle has filed with the State Court of Appeals to reverse the awarding of costs, so it is not likely that MCWC will see any of the money that Nestle was ordered to pay for some time.

In early July 2004 the State Court of Appeals granted the motion for stay **pending appeal**. The decision was not based on the merits of the case, simply the money. Nestle has been ordered to post a bond for the amount of the Circuit Court award.

## MCWC NEED YOUR HELP

The water belongs to everyone. **All of us. It is not for sale.** MCWC is fortunate to be growing and adding new members. As a result, your financial contribution as a supporter is very important.

Please support the following important fund-raisers this summer as the legal team prepares for battle in the Court of Appeals:

### 1. WATER RAFFLE

Grand Prize: \$5,000  
2nd & 3<sup>rd</sup> Prizes: Paddle Boats donated by Lakeside Motor Sports, Inc. of Mecosta

\$100/ticket or \$150/2 tickets  
Drawing October 9, 2004

Under 150 tickets sold, drawing reverts to 50/50 raffle with \$1,000 minimum prize. Maximum of 1,000 tickets sold. Need not be present to win. Please contact one of the board members to purchase your tickets.

### 2. GARAGE SALE

MCWC will hold a garage sale on July 24, 2004, at the Rodney United Methodist Church from 8:00 am – 4:00 pm. Volunteers are needed for set-up on Friday and assist with sales and clean-up on Saturday. Contact Terry Swier (972-8856) or [tswier@centurytel.net](mailto:tswier@centurytel.net) or Don Sutherland (231-972-5987) [donsue@net-port.com](mailto:donsue@net-port.com) to volunteer or to donate items.

### 3. RETURNABLE BOTTLES & CANS

Each weekend throughout the summer, MCWC collects returnable bottles and cans. The drop-off location is in the 11100 area of M-20 (11 Mile Rd.) across from the Round Lake Resort.

**Michigan Citizens for Water Conservation**  
P.O. Box 1  
Mecosta, MI 49332

MCWC is a non-profit group organized in December 2000. Our goal is to conserve, preserve and protect the public's natural resources. Our efforts have concentrated on research and education so that informed decisions are made regarding protection of the

### 4. BEACH PARTY – AUGUST 7, 2004

See the enclosed flyer for additional details about the August 7<sup>th</sup> fund-raiser.

### 5. DONATIONS

Please take the time to make a generous donation to MCWC to continue the fight and leave a legacy for our future generations.

**Donations can be made on-line at:**

[www.saveMIwater.org](http://www.saveMIwater.org)

Or mail your check to:

**MCWC**  
**P. O. Box 1**  
**Mecosta, MI 49332**

Name \_\_\_\_\_  
Address \_\_\_\_\_  
State/Zip \_\_\_\_\_  
Email \_\_\_\_\_

## THE MOVEMENT GROWS. . . .

The Michigan conferences of the United Methodist church have passed a resolution on water protection and voted for the past 2 years to encourage a boycott of Nestle products.

Michigan chapter of Trout Unlimited rejected a donation of \$50,000 from Nestle. Zebrowski, Ed, Jr. "TU State Council Rejects Money from Ice Mountain." Michigan Trout 24.2 (Summer 2004):1+

2004 grants have been received from Lake Michigan Federation and Great Lakes Aquatic Habitat Network & Fund.

## MEMBER CORRESPONDENCE

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