

**Congress of the United States
House of Representatives**

**Committee on Oversight and Government Reform
Assessing the Environmental Risks of the Water Bottling Industry's Extraction of Groundwater**

**Testimony of Terrill (Terry) Swier
On Behalf of
Michigan Citizens for Water Conservation**

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It has been seven years since the residents of Mecosta County, Michigan were made aware of Nestlé's plans to pump over 210 million gallons of spring water per year from a private hunting preserve, divert it through a 12 mile pipeline that crosses streams and wetlands to its plant, bottle it, and then truck it outside the Muskegon River Watershed and Great Lakes Basin under the brand name Ice Mountain. As Nestlé moved into Michigan to privatize our water for its own profit, it announced there would be no adverse resource impact to the natural resources.

In December 2000, about 100 citizens met at an elementary school and Michigan Citizens for Water Conservation ("MCWC"), a grassroots, non-profit corporation was formed. MCWC's mission is and has been to conserve, preserve, and protect the waters and natural resources and public trust in those resources of Michigan and the Great Lakes. MCWC has grown to over 1,900 members, and continues to work on water preservation and conservation issues with other organizations.

MCWC began at the local level, asking our elected township officials to place a moratorium on the Nestlé project to give us time to investigate and evaluate a proposal of this magnitude for the potential impact on neighboring wells, lakes, streams, wetlands, wildlife, and the community's quality of life. Elected officials did not hear or listen to our voices. This eventually led MCWC to three petition drives on rezoning ordinances and to three courts: the Mecosta County Circuit Court, the Michigan Court of Appeals, and the Michigan Supreme Court. The findings of harm from Nestlé's pumping remain intact and unaffected in all three courts.

MCWC believed then, and it now has been proven that irreparable harm would occur to the waterways due to pumping by Nestlé at the Sanctuary Spring site. Nestlé's pumping has caused harm to the Dead Stream by reducing the flow and level, narrowing the stream, exposing mud flats, and restricting the enjoyment of many of the members of MCWC and the public for fishing, boating, and kayaking on the stream. The findings of facts are in the court records that Nestlé pumping has created and will continue into the future to create adverse impacts to the riparian uses and rights.

What will this ancient marsh watershed area, including Thompson Lake, be like for future generations? The lives of the 1,900 members, including the plaintiffs, those who live on the Tri-Lakes, and mine have changed since Nestlé came to Michigan. The issue has pitted neighbor against neighbor, friendships have been severed, and Nestlé has violated our lives either directly or indirectly with telephone polling, private investigators, the FBI coming to our homes, and a potential Strategic Lawsuit Against Public Participation (SLAPP suit) against my son. MCWC has spent nearly a million dollars on the lawsuit against Nestlé. We continue to hold fundraisers such as bake sales and garage sales to continue to pay our legal and environmental bills. Nestlé has affected families – emotionally, physically, mentally, and financially. MCWC believes much of what it has done and stands for is supported by a majority of Michigan's citizens.

Since 2000, Nestlé has continued to actively pursue other spring and groundwater sources in Michigan. Nestlé extracts more than 300 million gallons a year from three sites from the Sanctuary in Mecosta, from its Stanwood plant, and in trucks in from Ewart, a city 20 miles to the north of Mecosta.

Nestlé purports to be a “good neighbor” company to our area, yet it continued to pump at high rates during a long period of low precipitation and lower recharge. Even when bottomland and other dramatic impacts and damage to the Dead Stream, Thompson Lake, and wetlands have occurred, Nestlé has continued to pump. Nestlé was cautioned by the trial judge that it proceed at it’s own risk in building its plant in Stanwood. True to form, Nestlé pushed ahead in building its plant and continued to use the possible loss of jobs as ways to push through with its lobbyists in Lansing to get to the Governor and her staff and legislators to side with an international company and not the citizens.

MCWC has won three court decisions. However, the Michigan Supreme Court has issued a remand order. If mediation fails in 2008, the issues are again referred to the circuit court for a hearing and decision at more and even greater expense to the citizens of Michigan and the local watershed.

MCWC would like to see:

- No pumping by Nestle, including the pumping in Ewart that causes harm to the environment where it diminishes the flow or level or impairs any lake or stream or causes harm to the environment and property owners or public use.
- No diversion of spring water for export by Nestlé outside of the Michigan’s watersheds. Spring water by definition is directly connected to wetlands, lakes, and streams and necessarily results in harm, especially during seasonal and cyclical low flow periods.
- State laws passed to protect against diversions of water, including exports in any sized containers, including bottles less than 5.7 gallons.
- A revocable license required from the legislature or an agency delegated with the power to license water bottlers like Nestlé to withdraw and divert the waters for export, subject to strict public trust conditions. The state must always retain the right to revoke a license and stop a use that is not primarily in the public interest and/or causes adverse impacts to the water, air, and/or land.
- All water bottlers must meet standards to be set by the courts and state law including the “no likely pollution, impairment, or destruction” standards of Michigan’s well respected Michigan Environmental Protection Act.
- Amendment of the Federal Water Resource Development Act to provide interested citizens with a right to enforce, by citizen suits with recovery of attorney fees and costs of litigation, the diversion and export ban of that Act.
- Protection of federal and state wetland laws from water extraction and diversion for export.
- A mandatory evaluation and consideration of the projected loss of flows and levels of water from watersheds in which human extraction and diversions is proposed due to global warming or climate change.

Water grabbers, like Nestlé, undermines the interests of our six-generation residents who live on the lakes and streams; the public that fishes, boats, swims, and enjoys our lakes and streams; farmers who rely on our groundwater; and industry and our economy that are so dependent on our water. Water is our heritage and our culture. It must be protected for our future generations.

For background on MCWC and the various lawsuits, water law disputes and the Great Lakes Compact, see the MCWC web page at www.saveMIwater.org.

Thank you.