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December 20, 2006

Mr. Steven E. Chester, Director
Michigan Dept of Environmental Quality
Constitution Hall
525 W. Allegan
Lansing, MI 48933

Freedom of Information Act Coordinator
Michigan Dept of Environmental Quality
P.O. Box 30473
Lansing, MI 48909-7973

UPS OVERNIGHT DELIVERY

RE: MDEQ Public Documents and Records Regarding Any Applications
Preliminary Plans, or Preliminary Discussions Concerning Nestlé Waters North
America Inc. Proposed New or Increased Water Sources;

Freedom of Information Act Request
MCL 15.231, *et seq.*
Our File N^o. 5099.00

Dear Mr. Chester and FOIA Officer:

I wrote to you and the Freedom of Information Officer on October 13, 2006, on behalf of Michigan Citizens for Water Conservation ("MCWC"), requesting public documents within the Michigan Department of Environmental Quality ("Department") related to Nestlé Waters North America Inc. ("Nestlé") "new or proposed water source/and or water wells for its Michigan water production, marketing, and distribution operations in Newaygo County, *or any other County in the State of Michigan.*" (Italics added).

Violation of the Freedom of Information Act

Subsequently, the Department advised by letter October 18, 2006, that the Department issued a 10-day extension to comply with the request; and on October 26, the Department advised by letter that we would have to submit partial payment per invoice. This was timely paid, and the Department then advised by letter November 2, 2006, that we would have to pay additional fees, which were also timely paid.

On November 14, 2006, the Department finally responded to the October 13, 2006 Freedom of Information Request, stating that it was enclosing "all of the documents available to fulfill your requests. You will be receiving the documents from our district office." This letter also enclosed only a single document, an April 2005 NPDES stormwater discharge authorization for the Nestlé bottling plant at Stanwood, Michigan. Nothing was stated, disclosed, or enclosed related to any "new or proposed water source/and or water wells" of Nestlé that were known or in front of the Department. On November 13, 2006, we received a packet of documents from the district office as advised in the November 14, 2006 letter. Virtually all of the documents provided to us from the

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District office pertained to Nestlé's stormwater discharge and related issues at the Stanwood bottling plant. Not one document was identified or enclosed related to the water sources the Department has had knowledge of or reviewed.

In summary, we requested on behalf of MCWC all reports, meeting notes, correspondence, studies, data, memoranda, and any other documents related to "new or proposed water sources" by Nestlé in the State of Michigan. The Department responded, in effect, by stating there were no such public documents subject to the Freedom of Information Act (FOIA). On December 19, 2006, the Department issued a press release and posted a notice of proposed decision that Nestlé would receive approval of a water source in Osceola County, near the municipal water source/well field that it obtained from the City of Ewart. In addition, Nestlé and the Department acknowledged, at least in the media, that Nestlé has also been studying for sometime a water source adjacent to the White River in Newaygo County. Not one mention or document regarding the water sources was provided to us in response to our Freedom of Information Act request.

As a result, the public has been kept in the dark by a failure of disclosure on the part of Nestlé and the Department. As such, the Department cooperated with such non-disclosure on the part of Nestlé. This appears to be a flagrant violation of the Freedom of Information Act, which demands that the Department disclose all public documents and identify those documents as to which it claims an exemption.

Moreover, MCWC's President wrote Nestlé a letter requesting the same information regarding new or proposed water sources, and Nestlé's President wrote back stating that Nestlé would "share our science as we did previously (referring to the Mecosta County matter)." (Copy enclosed). Nestlé indicated by this letter that there was scientific information that would be shared, although to date it has not disclosed or made such science available except for the petition finally disclosed by the Department on December 19, 2006. In addition, on reliable source, we are advised that Nestlé's consultants have met with Department staff and provided a report or preliminary findings or other information to the Department.

Based on the above, it appears the Department has public documents within or once in its position and/or knowledge, and that the Department has breached and failed to comply with its duties under the Freedom of Information Act.

Breach of Public Trust Regarding Water Source Review

Because of the above, MCWC requests you, as Director of the Department, to immediately look into this matter, and provide a written response or supplement to the Department's previous response to our FOIA request October 13, 2006. In addition, you are also requested to extend the time for public comment on the Department's December announcement and Notice regarding the proposed finding on Nestlé's new or proposed water source for Twin Creek and Chippewa Creeks in Osceola County. The combination of non-disclosure of new water source proposals and recent announcement of the Department's knowledge and review of water sources during and before this time period has seriously prejudiced and put citizens and potentially affected persons at a great disadvantage to respond in such a short time frame. It is also troubling that the Department timed the Notice over the Christmas Holidays, making it even more difficult for citizens or organizations to respond.

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An extension of the time frame for comment is essential. After all, the recently signed Compact agreement regarding Great Lakes water sources and Michigan's water withdrawal law passed last February 2006 call for public disclosure and public participation. The provisions recognize water as a "public resource held in trust" for the benefit of citizens. Such non-disclosure and complicity in Nestlé's secret search for new water sources violates the spirit and letter of this public trust and the principle of public disclosure. Nestlé has opted to obtain approval of its proposed new water source under a provision of the new water withdrawal law that lets the company obtain an advance ruling of "no adverse impact," which arguably could cut-off or insulate citizens from disputing this finding if they do not mobilize and provide comments. The legislature was asleep when it let this provision into this law. However, given that it is now the law, it is even more important for the Department to encourage early public knowledge and participation of proposed water sources in the State of Michigan.

New Freedom of Information Act Request

Finally, without waving any claim, remedy, or relief under the FOIA or any other law or regulation for any past violations as described above, I once more request on behalf of MCWC under the FOIA, access to and copies of all documents contained in your files, the files of any employee or staff of the MDEQ relating to any proposal, preliminary or otherwise, by Nestlé Waters North America Inc. or its consultants, representatives, or agents, for any **new or proposed** water source and/or water wells for its Michigan water production, marketing, and distribution operations in *any County, including Osceola, Newaygo, and Wexford, in the State of Michigan*. This request is made on behalf of Michigan Citizens for Water Conservation, a Michigan non-profit corporation. **I also request that you exclude correspondence and any materials and documents prepared or submitted by this office that appear in the public record regarding this matter.**

Specifically, I request copies of the following documents related to the above referenced and described matters:

1. All correspondence, minutes, Department, Bureau, Division, or other Section inter- or intra-office communications, electronic mail (including in-box, out-box, trash-box, and sent items), databases and information stored in electronic media (including but not limited to hard drives, computer tapes, computer disks, compact disks, zip files, microfilm and microfiche) and printouts thereof, notes (including handwritten notes and telephone messages), calendar or appointment book entries, memoranda, records, recordings, tables, charts, reports, contracts, agreements, files, studies, or other documents relating to the subject matter of this FOIA request;
2. All notes, emails, memoranda or other documents relating to any communication or meeting with MDEQ officials, employees, and Governor Jennifer M. Granholm or anyone from the Governor's Executive Office;
3. Any legal descriptions, maps, diagrams, studies, reports or other documents, including preliminary or draft, regarding the location and size in terms of quantity or volume of water of any such proposed water sources;

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4. Any studies, reports, test results, data, calculations, evaluations, or other documents, including preliminary, draft, or memoranda, regarding the testing of any such proposed water sources;
5. Any studies, reports, test results, data, calculations, evaluations, or other documents, including preliminary, draft, or memoranda, regarding the environmental effects or impacts of any such proposed water sources;
6. Any hydrogeological reports, studies, findings, test results, analyses, including water and soil sampling results, monitoring or other data, or any related hydrogeological information regarding any such proposed water sources;
7. Any hydrological reports, studies, findings, test results, analyses, evaluations, monitoring data, or related hydrological information;
8. Any communication to, with, or from Nestlé Waters North America Inc., it's officials, employees, agents, contractors, experts, attorneys, or consultants, representatives, including representatives or employees of Malcolm Pirnie Inc. and/or Public Sector Consultants, Inc.
9. Any document or communication with, among, or between any other department of government or unit of government , including their employees and staff, of the State of Michigan pertaining to the subject matter of this request..
10. Any other documents or communications in any form pertaining to the above-referenced matter which are part of the public record for the time period specified above.

The term "documents" and "communications" as used in this FOIA request is to be construed in the broadest possible manner and includes any written, graphic, or recorded matter, however produced or reproduced, of any kind or description, including both sides of any two-sided writing, drafts and marked copies.

If there are any fees for searching for or copying the records I have requested, please advise and we will remit those fees at once, so long as the cost is within the limits and confines of the Freedom of Information Act. If you believe that the volume of material contained in your file is so great that it would result in costs in excess of \$100.00, please notify me so that I may personally review the file or otherwise attempt to narrow the scope of this request.

Because our client, Michigan Citizens for Water Conservation, is a non-profit corporation working in the public interest, as demonstrated by its dedication regarding the water law and policy in Michigan, we request that fees be waived pursuant to Section 4 of the Freedom of Information Act (MCL 15.234(1)).

Further, because this request may require assembling the documents and communications requested, we consent to an extension for the MDEQ to fulfill this request from 5 days to 15 days from the date of receipt of this request.

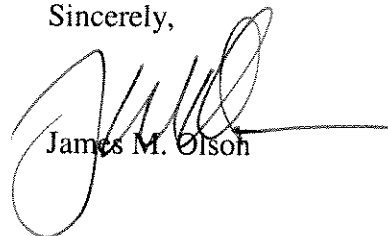
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If your file contains large scale plans or drawings, rather than photocopying them piecemeal, please let us know by identifying the contents and/or subject matter, and we will work out a way in which full-size copies can be obtained. Likewise, if your file contains any other "writing," as defined by the FOIA to include photographic films, prints, microfilm, microfiche, cards, disks, or other ways of recording or retaining meaningful information (such as audio or video tapes, CD, DVD, or information stored on computer), please advise, identifying contents and/or subject matter, as well as the format, and suggest some way in which we can obtain usable copies.

If all or any part of this request is denied, please cite the specific exemptions to justify your refusal to release the information, under Section 13 of the Act, and the reason why you have not invoked your discretion to release the requested documents in the public interest. We further request any segregable portion of any document you might otherwise withhold. For each record or portion of a record which you withhold, we specifically request a particularized description of the basis for withholding it.

Thank you for looking into and for your cooperation and attention to this matter.

Sincerely,



James M. Olson

JMO:ral

Enc: Nestlé Waters North America Inc. Letter dated 11/10/06
xc: T. Swier, President, MCWC

Nestlé Waters North America Inc.

777 WEST PUTNAM AVENUE
GREENWICH, CT 06830

TEL: 203 863 0242
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www.nestle-watersna.com



KIM E. JEFFERY
PRESIDENT
CHIEF EXECUTIVE OFFICER

ARROWHEAD

11/10/2006

DEER
PARK

CALISTOGA

Mrs. Terry Swier, President
Michigan Citizens for Water Conservation
P.O. Box 1
Mecosta, Michigan 49332

ICE
MOUNTAIN

Dear Mrs. Swier:

Ozarka

Thank you for your letter and the opportunity to address your concerns. Your letter does two things, it presents your view on the legal grounds to produce bottled water in the state of Michigan, and requests we share the results of the scientific investigation of potential water sources for Ice Mountain.

Island
Spring

We have a fundamentally different view than you on the legal status regarding bottled water. In point of fact, the court supports bottled water as a beneficial and lawful use of water contributing to an overall beverage industry that creates jobs and economic benefit. Consistent with this, the legislation passed earlier this year treats bottled water as a product much like other beverages, the production of which is subject to legal requirements that protect Michigan's natural resources.

Zephyrhills

Focusing then on the future and the request to share our science as we did previously, we will be doing just that. You can expect a call from one of our geologists, Bobbi McClead, in the coming weeks to set up time to discuss the project.

Nestlé
PURE LIFE

I thank you for the opportunity your correspondence provided.

Barrier

Sincerely,

Kim Jeffery

SPRING

PELLEGRINO

KEJ5916

Vittel