

## MICHIGAN CITIZENS FOR WATER CONSERVATION

FOR IMMEDIATE RELEASE

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### **Michigan Citizens for Water Conservation and Nestlé Settle Injunction Pumping Limits Pending Further Appeals**

Grand Rapids, MI: Grand Rapids Circuit Court Judge Dennis Kolenda, who was assigned to determine pumping limits as directed by the Michigan Court of Appeals in late November 2005, this week entered an order setting pumping limits pursuant to a stipulation agreed to by Michigan Citizens for Water Conservation and Nestlé Waters North America, Inc.

In November 2005, the Court of Appeals affirmed a 2003 trial court ruling that Nestlé's pumping violated Michigan water law, but reversed the trial court's injunction that stopped Nestlé from pumping in favor of a determination by the Circuit Court of allowable pumping limits.

After a facilitated mediation, MCWC and Nestlé stipulated to an order that sets interim limits for the injunction affirmed by the Court of Appeals. The modified injunction allows Nestlé to continue to pump and divert water at reduced levels from the Sanctuary Springs that form the headwaters of a branch of the Little Muskegon River. Additional provisions require the company to further reduce pumping limits during fish spawning and drier summer months. Judge Kolenda will forward the stipulated order to the Court of Appeals in Lansing. The limits are temporary pending any further appeals regarding proper water law principles and the protection of the stream and lakes.

MCWC has achieved the interim goal of setting Nestlé's pumping limits from the Sanctuary Springs that minimizes impacts to the stream, wetlands, and lakes during the very low periods. In the summer months, the company will be restrained to as little as 125 gallons per minute because of seasonally low flows or levels. These benchmarks will minimize serious harm to the entire sub-watershed pending any appeals.

"This is a significant achievement for MCWC and its many supporters," said Terry Swier, President of MCWC. "MCWC has won two court battles against Nestlé and this stipulated order that restricts pumping is a positive step toward the enforcement of these victories." Swier continued, "At least the most serious harms will be minimized while MCWC seeks a ruling from the appellate courts. The settlement allows Nestlé to pump, for now, an average of 218 gallons per minute, as opposed to the 400 gallons per minute originally permitted by the State. The order also allows for payment of MCWC's costs and reserves for subsequent hearings the ability for the courts to impose stricter limits needed to prevent interference with an adequate water supply needed for the watershed and its ecosystem."

Jim Olson, attorney for MCWC, remarked, “The trial court and Court of Appeals in this case determined that pumping next to the headwaters of this stream causes unacceptable harm at levels permitted by the State. While this interim order doesn’t finally resolve the dispute, the parties can now turn to the appellate courts to determine one of the major legal issues of our time.” Olson continued, “Water supports our property rights, business, farming, and recreation. Nestlé wants everyone to think that bottled water isn’t any different than the water in beer or soda pop. But the truth is that the sale of water in a bottle or any sized container is still a diversion or export of water, and not a product to which water is added. This is about legal precedents concerning water, not beer -- water law precedents that are needed to protect those of us who live and earn a livelihood in Michigan. The last thing Michigan can afford is a legal precedent that would shift the law in favor of water exports with harm to our economy, environment, and security, and without the consent of Michigan’s citizens.”

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