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### **Nestlé Waters Expresses Mixed Reaction to Court of Appeals Ruling**

(Stanwood, Michigan, November 30, 2005) – Nestlé Waters North America had a mixed reaction to today's opinion issued by the Michigan Court of Appeals. The Court today ruled on an appeal by Nestlé Waters to a controversial 2003 Mecosta Circuit Court ruling that was in error and would have shuttered its Michigan operations, if upheld, according to the company.

The Court stated definitively that the use of water by Nestlé Waters is a beneficial use and ruled that the company's water use at its Stanwood-based Ice Mountain bottling facility could continue. The ruling today keeps nearly 200 employees working at the facility.

The Court's ruling also supported Nestlé Waters' legal arguments in upholding Michigan's historic water use laws, which allow for the balanced and reasonable use of water by all parties. The ruling also affirmed the standards of the Michigan Environmental Protection Act (MEPA), as well.

The Court of Appeals specifically found that:

- Bottled water is a proper and beneficial use of water in Michigan;
- Nestlé Waters has the right to withdraw water, the rate to be determined under a balancing test to be applied by the trial court in upcoming proceedings;
- The Mecosta Court did not apply the proper standards under Michigan's groundwater law and under MEPA, and the case must be reconsidered with application of the proper standards; and
- The Court reduced the interim pumping level to 200 gallons per minute from 250 gallons per minute average. Nestlé does not agree with this, as current pumping levels at 250 are not causing adverse affects.

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The company, however, expressed strong concern that the Court of Appeals, in sending the case back to the trial court for reconsideration, apparently excluded consideration of additional environmental monitoring and water use data gathered at the site over the past several years. Nestlé believes the data gathering since the trial more than two years ago should be considered as it shows that the plaintiffs' theoretical projections were unsound.

Michael Haines, an attorney for Nestlé Waters, with the law firm of Mika Meyers Beckett and Jones in Grand Rapids said, "We believe it is fundamental to fairness that this evidence be received by the court as it considers the questions directed by the Court of Appeals."

"When this case returns to the trial court, the company will pursue every opportunity to offer actual field data gathered since the trial, and to bring to the court all relevant evidence," Haines said.

Nestlé Waters appealed the Mecosta Court's earlier ruling in 2004. A number of Michigan water use and conservation interests, including the National Wildlife Federation, the Michigan Water Environment Association and the Michigan Chamber of Commerce, filed "Friend of the Court" briefs with the Court of Appeals, and have noted that Ice Mountain's water resource protection program is a good example of how Michigan water users ought to operate. They also raised concerns about the deviation the ruling took from Michigan's longstanding water use law, which historically has balanced the interests of all water uses.

The Michigan Department of Environmental Quality (MDEQ) had previously awarded Nestlé Waters all permits required of all water bottling operations in Michigan. Bottled water is also regulated by the U.S. Food and Drug Administration to ensure the quality and proper marketing of bottled water beverages. The more than 20 water bottlers

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operating in Michigan together represent a very small water use, amounting to about 1/100th of 1 percent of fresh water used in the state.

“Nestlé Waters exercised great care in obtaining all appropriate permits and worked in full co-operation with state regulators,” said Haines. “Today’s decision allows us again demonstrate the company’s responsible actions at every step of the process.”

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