

PRESS RELEASE

From: Michigan Citizens for Water Conservation

Subject: FW: Sup. Ct. MCWC v Nestle Opinion

Traverse City, July 25, 2007.

The Supreme Court Clerk's office left a message this morning that it issued an opinion and order today. While Michigan Citizens for Water Conservation, and the Doyle and Sapp families reserve further comment after digesting the opinion and order in more detail, for the moment, it appears the four of the Justices --Justices Marksman, Taylor, Corrigan, and Young -- have put another nail in the coffin of citizen standing, and that Michigan's environment and individual and public rights have taken another severe blow at the hand of this Court. The Court now says it will require that any person bringing a lawsuit to protect our air, water, and natural resources, or the public trust in our waters, must allege and prove harm to waters, wetlands, or other environmental features on the Defendant polluter's property; i.e. standing has been used as a sword to cut-off or cripple the citizen suit to protect Michigan's environment, and to give Nestle and other businesses a license to destroy and pollute on their own property unless a citizen can show a specific interest in Defendant's property, such as use, aesthetics, recreation.

Nestle asked the Court to cripple the state's Michigan Environmental Protection Act ("MEPA"). And Nestle succeeded in damaging the rights of citizens to protect our water and water resources. The Court followed suit. It's decision is regressive, punitive, and illogical in the extreme. In 1963, citizens enacted a Constitution that mandates the legislature to pass laws to protect the environment as an important public interest to the health and welfare of people in the State. In 1970, our legislature passed a law, the MEPA, that granted citizens to maintain lawsuits against those who propose or act in ways that are likely to pollute, impair, or destroy the air, water or natural resources or the public trust. Why and how could an injured Plaintiff from Nestlé's conduct not be able to maintain a lawsuit to protect all of the environment and water resources harmed by Nestlé's pumping? MCWC and the DoYLES and Sapp families in the MCWC v Nestle case proved unreasonable harm from Nestlé's pumping. Once this has been shown, the law intends all harm can be stopped or controlled. For the Court to condone harm on a company's property is irrational. Such an approach ignores judicial restraint called for by the doctrine of separation of powers that is supposed to protect our constitution, the rights and interests protected by it, and the powers of the legislature to follow it. The approach by the Court condones the piecemeal, wholesale destruction, and ruin of Michigan's treasured and fabled water resources and the environment. Four justices have cast their vote in favor of big business and against individual property rights, citizens, our local governments and communities, and the waters, wetlands, and environment. In the bigger picture, these Justices have also cast their vote in favor of big business and squarely against all citizens and the community in which they live.

In addition, the Court's opinion fails to address the important water law issues before it, so critical to the people of Michigan, including groundwater, riparian, the public trust and future of the waters of the Great Lakes. The Court simply affirmed in part and reversed and remanded in part the Court of Appeals decision, not stating what was affirmed, but stating only that it has ruled on the MEPA

standing issue, and remanded that to the trial court. In my mind, this means, Plaintiffs will go back to circuit court to (a) address standing in the wetlands and Osprey Lake on Nestlé's property, and (b) request the trial court to explain how the unreasonable harm, which is not in dispute, constitutes an impairment under the MEPA to the riparian and public waters of the stream and, if (a) is established, to the wetlands and Osprey Lake on Nestlé's property. Michigan Citizens for Water Conservation and individually harmed plaintiffs will continue to fight for Michigan's water and related water resources and the public trust.

It's time for all citizens to take standing, our air, water and public trust into their hands. The Constitution is of and for the people. These issues belong to the people. It is time for massive unified action, without regard to our politics, to demand respect for and protection of the environment by the Supreme Court, since that's what our Constitution and laws demand. If necessary, this means citizens should petition to amend the Constitution of the state to make it clear to the Court, that when the people declare the environment is of paramount concern and the legislature shall pass laws to protect it, they mean it. This includes the authority to enact citizen suits without regard to the artificial barriers erected by the Court. Such barriers destroy our heritage, our water and natural resources, and communities. These matters should be a first priority on the agenda for the people in the State, and particularly landowners and private property owners who live on lakes and streams or near industry, and those with an interest in conservation, the environment, and the future health of our communities and quality of life.

In solidarity of the rights of citizens to vindicate the public interest as declared by our State Constitution,

Yours,

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