

CACC



NEWS

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State Court of Appeals rules against Nestle's Ice Mountain bottled water in zoning dispute

by Cameron Harwell

Nestle's Ice Mountain bottled water operation in northern Lower Michigan is not an essential public service, its bottled water is not a public water supply, and Osceola Township was within its rights to deny the company zoning approval for a new booster pump station to move its water, the Michigan Court of Appeals ruled in December. Nestle Waters North America pursued the pump station in anticipation of receiving final approval on a plan to increase water withdrawals from its White Pine Springs well in Osceola Township from 250 gallons per minute to 400 gallons per minute. The Michigan Department of Environment, Great Lakes and Energy approved the increased water withdrawal in April 2018, after earlier finding it "is not likely to cause an adverse resource impact," meaning it won't impact populations of fish in the Chippewa Creek watershed, a tributary to the Muskegon River, or decrease stream flows to the point of natural resource impacts. Critics, however, said impacts from water withdrawals at current levels could already be seen in nearby wetlands and streams. Environmental groups appealed the permit issuance, and a ruling on the groundwater withdrawal increase is expected from an administrative law judge in early 2020. The ruling, by appellate judges Cynthia Diane Stephens, Deborah Servitto and Amy Ronayne Krause, reversed an Osceola County Circuit Court judge's affirmation of Nestle's arguments that because water is essential for life, and Nestle's bottled water meets a public demand, it can't be disallowed by zoning. "As an initial matter, the circuit court's conclusion that plaintiff's commercial water-bottling operation is an 'essential public service' is clearly erroneous," the appellate judges stated. While water is indeed "essential to human life, as well as to agriculture, industry, recreation, science, nature and essentially everything that humans need," selling bottled water for a profit "is not essential." "Essential public service" is a term one sees in many local zoning ordinance exceptions, but it most typically applies to electrical wires and substations, water and sewer pipes and the like, said

Okemos attorney William Fahey, who represented Osceola Township in the case. In response, Ice Mountain Natural Resource Manager Arlene Anderson-Vincent said the company was disappointed in the appeals court ruling. "We firmly believe that the Circuit Court was correct in ordering Osceola Township to issue a permit for our request to build a small, 12-foot-by-22-foot building, to house a booster pump," she said. "We believe the plan we proposed met the Township's site plan and special land use standards. We will evaluate our possible next steps in the legal process." The appellate court also ruled that the pump station was not an "extractive operation," as the actual well removing groundwater is 2 miles from the proposed pump station. But even if it were considered an extractive operation, it could still be denied under township zoning because "according to (Nestle's) own documentation, the effect of its pumping operation will be to 'draw down' the water table in the vicinity." "Extracting the water and sending it to other places where it cannot return to the water table and, critically, doing so faster than the aquifer can replenish, is an 'irretrievable' depletion unless the pumping is reduced or halted," the court ruled. The appellate ruling is significant for local government control, Fahey said. "Even though the state ultimately controls whether you can withdraw water from out of the ground, townships can still govern pipelines and booster pump stations that might be used to transport that water once it's taken out of the ground," he said. The pump station is proposed about 2 miles away from the White Pine Springs well "to allow a greater amount of water to be transferred through their pipeline," Fahey said. The pipeline goes through Osceola Township to a truck-filling station in Ewart, where it's then taken to the Ice Mountain plant in Stanwood in neighboring Mecosta County. The area proposed for the pumping station is zoned for agricultural use, and it's "smack-dab in the middle of a children's summer camp (Ewart's Spring Hill Camps)," Fahey said. *(Continued on Page 3)*

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CACC is a proud member of Earth Share
of Michigan, Michigan Environmental
Council, and Beyond Nuclear.

Unity's EarthCare program: EarthCare Ministry Team

by Murry DeSanto

The purpose of the EarthCare Ministry Team is to support Unity Worldwide Ministries in fostering the awareness of our spiritual oneness with our Earth home and to promote active care of creation.

This team rose up from the grassroots of the Unity movement, coming from the deep desire to express Unity's belief in our oneness with all divine life in ways that directly impact our planet home. As in so many areas in Unity, we saw the importance of walking the talk. Our vision statement reads, "All humanity lives in a spiritual consciousness that manifests as loving coexistence with all creation and care for our Earth home. "We act so that every step on our planet home and through our life here is an active prayer for all divine creation."

Statement of Purpose

The Unity movement is guided by a vision of sacredness and the inter-connectedness of all, the interdependence of all life. It is a journey of spiritual relationships with Earth and its creatures. It is through awakened consciousness that we see everything as the presence of God.

Climate Change -- As humanity has been primarily responsible for climate change, we affirm that it will be humanity which will co-create a vision of the environmentally conscious use of energy and our planet's fragile resources. We joyfully participate in our God-given role as good stewards of the Earth. Through prayer, meditation, church or spiritual center-inspired activism, and the skillful use of media, we affirm that the Unity movement is a world leader in advancing the growth of environmental consciousness and right action.

Mindful Eating -- Mindful eating is a spiritual practice. It raises our consciousness of how we care for ourselves and the earth. It helps restore our sacred relationships with the earth, animals and all creation.

Sacred Activism Workshops--In keeping with the theme of Unity Worldwide Ministries' 2019 People's Convention of "One Humanity, Many Stories," Earth-Care's Sacred Activism workshop focused on ways we can take action without losing groundedness in spiritual principles and peaceful, respectful communications.

Through stories and lessons, it was shown that a shift in consciousness can be realized as we move from ego to eco. Through this shift, we can use our God-given strengths and put our efforts in the dimension(s) where we feel called, and to feel privileged and honored to be alive during this time. The uncertainty of the way forward generates creativity—and even though we can't guarantee the outcome, we can still give ourselves to this work with unconditional love.

Walking the Talk -- Unity headquarters in Kansas City, Missouri has received a Green Building award. The buildings have been or are in the process of increasing energy efficiency. The recycling program is robust, meals are served on ceramic ware and stainless utensils, to go containers are recyclable

For further information - <https://www.unityworldwideministries.org/earth-care>

This is the first in a series of articles highlighting environmental stewardship actions by faith communities.

(Continued from Page 3) For area residents and environmentalists concerned about the bottled water company's impacts on local streams and wetlands, the ruling feels like a victory. "It is a really big deal," said Liz Kirkwood, executive director of Traverse City-based nonprofit For Love of Water, or FLOW. "It's really significant for the court to go through this very careful analysis to distinguish what bottled water represents — how it is not an essential service, how it is not part of the public water supply."

The ruling was unpublished, meaning it's not intended to be precedent-setting in other cases. But groups or indi-

viduals can ask the appellate court to publish the ruling, and given the potential significance of its determinations on for-profit bottled water companies, that could happen, Fahey said. "I have not yet decided one way or the other, but if my client approves, I may ask the court to publish its ruling myself," he said. Fahey noted that the state's consideration of the increased water withdrawals by Nestle reviewed it as a public water supply.

Keith Matheny, *Detroit Free Press*, Dec. 3, 2019 | Updated 11:06 a.m. ET Dec. 4, 2019

Water Watch

By Ann Hunt

Canada narrows nuke waste options – Canada's Nuclear Waste Management Organization, consisting of nuclear power generators, has recommended two sites for a permanent national repository, one of which is located on the shores of Lake Huron on the Bruce Peninsula and the other at Ignace in northwestern Ontario about 150 miles north of Lake Superior. The final site will permanently house the country's spent nuclear waste about 1650 feet underground. Canada has a current inventory of almost 2.9 million used nuclear fuel bundles, about 128 million points, currently temporarily housed at nuclear power plants. Prior plans to dispose of low level radioactive wastes in Bruce County were met with loud opposition. Both of Michigan's US Senators expressed concern over the proposal, citing the potential risks to the Great Lakes. Update: Opposition by First Nation tribes has scuttled the proposal. Canada is currently exploring other options.

• Keith Matheny, *Detroit Free Press*, 12/08/2019 as reported in the Toronto Star

Enbridge Line 5 lawsuit supported by three states

-- The attorneys general of Minnesota, Wisconsin, and California have filed amicus briefs in support of Michigan Attorney General Dana Nessel's lawsuit to shut down Line 5 through the Straits of Mackinac. The briefs support Nessel's contention that the state has "the obligation and authority to protect public trust waters." Enbridge has claimed that federal law preempts states from protecting their bottomlands and navigable waters. The lawsuit claims that Line 5 violates the Public Trust Doctrine, is a common law nuisance, and violates the Michigan Environmental Protection Act. Briefs in the case were filed December 10, and oral arguments will be heard this year.

• Julie Mach, MLive, 11/14/2019

Potash mine in Osceola County granted DEQ permits to proceed -- Citing the probable drawdown of water tables affecting a large marsh which is home to trumpeter swans and bald eagles, Michigan Citizens for Water Con-



servation (MCWC) filed a legal challenge to the permits. The Administrative Law Judge assigned the case a year ago decided he didn't have jurisdiction and cancelled the hearing days before it was scheduled. Area landowners Ken Ford and Doug Miller also expressed concern about pipeline leaks and groundwater contamination in the area dependent on groundwater wells. The MCWC appeal will be heard by the DEGLE (formerly DEQ) Environmental Permit Review Panel.

• Mary Schuermann Kuhlman, Public News Service – MI, 12/15/2019

Colorado fracking study shows toxic chemical exposure 2000 feet from drilling sites

-- A multi-year study of people living within a half mile of hydraulic fracturing (fracking) sites showed higher risks of exposure to benzene and other chemicals, experiencing nausea, headaches, dizziness, nosebleeds, and respiratory difficulties. The study only concentrated on known chemicals, noting that many chemicals used in fracking operations are considered trade secrets. Up until now, Colorado required a 500 foot setback, but regulators will be using the results of this study to reevaluate standards.

• Jordan Davidson, *EcoWatch*, 10/18/2019

Over 2 million in US live without running water, indoor plumbing

-- The US Waste Alliance documented the extent of the crisis, finding households in every state lacking these basic services. Some communities rely on outdated systems that provide only intermittent services, others rely on water trucks and solar-powered systems. Federal data tends to underestimate the number of homes without sanitation, and federal funding for water and wastewater systems has fallen from 63% in 1977 to 9% in 2019.

• Nadia Ramiagan, Public News Service – KY, 12/15/2019

Join us March 21ST for the
1ST Quarter Board Meeting at the
Wirt Public Library, Bay City
from 11am - 1pm.

Letter from the Chair

Hope everyone has had a great start to 2020 and hitting their goals! In setting goals for the year, my goal for CACC is to start recruiting for Wheatland early. Just like the Game of Thrones, "Winter is always coming." For CACC, Wheatland is always coming. We are only a little over six months away from this year's festival and tickets go on sale very soon. If you worked last year and want to return, it's not too early to reach out and let your crew leader know you're interested. And if you know of others who'd like the opportunity to volunteer, let us know! First come, first served. And it'll be September before we know it!



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