#26

September 28, 2009

Sacramento City Council

City of Sacramento
915 I Street
Sacramento, CA 95814

Dear Mayor Johnson and City Council Members:

I have just found out about a business proposition that the City Council is considering involving the Nestle Company, including, the construction of a new plant here in Sacramento and the pumping of up to 116 million gallons of municipal water a year. The idea that the water will cost Nestle $1 per 750 gallons is outrageous in light of our current drought and the likelihood of draught conditions extending into the distant future as global climate change continues.

I understand the ramifications of draught especially the effects on agriculture and the environment, not to mention all of the southern California agricultural, municipal and urban water users. In fact, the Secretary of the Interior, Ken Salazar, has hosted a second public meeting in Washington, D.C. with federal and California officials to discuss strategies for addressing a range of water supply challenges facing California. The meetings are part of ongoing federal and state efforts to develop collaborative strategies to address major water resource challenges in California

I fail to understand how Mayor Johnson and the City Council think that the citizens of Sacramento will embrace water conservation while the City itself is considering giving away this precious aquatic resource almost for free. It is even more incredulous to me since the use of plastic bottles from bottled water puts tremendous pressure on landfills all over the state.

Instead of considering this Nestle proposal the City should be partnering with all sorts of water conservation agencies and non-profits and setting an example of water conservation, not waste, in our city and county.

Please reconsider this ridiculous proposal. We are the State Capitol and should be setting an example of the thoughtful use of our diminishing water supply not the profligate sale of it.

Bonnie G. Ross BGR

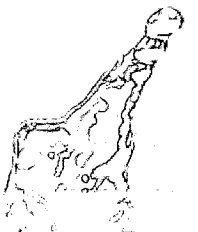
Bonnie G. Ross

P.O. Box 1767

Fair Oaks, CA 95628

#26

food&waterwatch



WATER

Nestlé's Move to Bottle Community Water

Fact Sheet ○ July 2009

Nestlé has taken water from numerous U.S. communities for cheap or nothing, bottled and sold it — for billions of dollars in profit — and then dumped the environmental and other costs onto society.

Nestlé: The Corporate Giant

Nestlé, based in Vevey, Switzerland, is the world's largest food and beverage company.[1] One of its subsidiaries, Greenwich, Connecticut-based Nestlé Waters North America, is the top U.S. bottled water company. Its Poland Spring, Arrowhead, Deer Park, Nestlé Pure Life, Ozarka, Ice Mountain and Zephyrhills brands of bottled water together registered sales of $997 million in 2007, which gave Nestlé Waters North America 30 percent maket share, according to the Beverage World's 2008 report on the industry.[2] This did not include sales from the company's other brands, such as Perrier and Calistoga.

Nestlé Tries to Buy Water for Less Than What Local Residents Pay.

Nestlé's search for water has stirred up controversy in California, Colorado, Florida, Maine, Massachusetts, Michigan, Wisconsin and other states.

In McCloud, California, Nestlé sought groundwater for less than local residents pay.[3] It tried to engineer a deal in which it would have paid about 1 cent to mine and then bottle every 123 gallons of th $0.000081 per gallon. By compari rate for municipal use of groundw lons.[4] Meanwhile, Nestlé can sell tl bottle for around $1.29, or $10.32 l

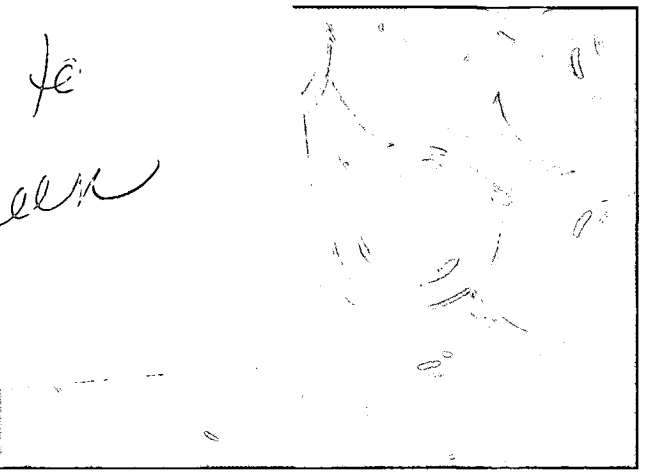
Nestlé Harms Local Ec

When Nestlé or any other water bot amounts of groundwater from a regi such as Mecosta County, Michigan, i and flow of springs, lakes, rivers and wells. That, in turn, can harm the en economies that depend on the water.[6,7,8]

Producing Nestlé's Bottled Water Is Energy-Intensive

Nestlé's North American bottled water brands contribute to the pollution, energy and climate change trouble associated with bottled water production and distribution in general. However, the company tries to "greenwash" its role in this. For example, it has touted its lighter-weight single-serve bottled water products as an example of a way to go green.[9] The fact is, plastic bottles still use petroleum resources and many empty Nestlé bottles still end up as trash along roadways or in landfills.

Consider the following information arrived at from Food & Water Watch calculations: U.S. consumers disposed of some 30.08 billion bottles in 2006. That year, Nestlé controlled 30.4 percent of the U.S. bottled water market, measured in volume of water sold. If market share in volume roughly equates to the market share in the number of single-serve PET plastic bottles sold, that means 9.14 billion of those bottles would have been a Nestlé brand. Given that 86 percent of plastic bottles end up in landfills



#96

June 17, 2009

Robert W. Bowcock
Integrated Resource Management, LLC
405 North Indian Hill Boulevard
Claremont, CA 91711-1196

RE: City Water Service to 8670 Younger Creek Road, Sacramento

Dear Mr. Bowcock:

You have inquired as to whether the City of Sacramento (City), through its Department of Utilities, will provide water service to an industrial user establishing a new plant at 8670 Younger Creek Road (Plant Location) within the boundaries of the City. As the Plant Location is within the City Department of Utilities' service area, this letter acknowledges that the City has both the authority and responsibility for water service to the site.

The Plant Location is currently equipped with a four inch water service connection and a three inch meter. To the extent this current connection and meter configuration remains adequate for uses onsite, no connection and/or water impact fee will be assessed. The City Department of Utilities further acknowledges our understanding that water flow to the Plant Location will average 215,000 gallons per day, with peak demands of 320,000 gallons per day. The 3" water meter onsite has an operating range of between four and 550 gallons per minute.

The City's Economic Development Department administers the Sewer Treatment Capacity Bank program, which can substantially reduce the Plant Location's sewer impact fees. I understand from the Economic Development staff that the Plant Location's expected wastewater discharges will average 45,000 gallons per day, and with a peak discharge rate of 130,000 gallons per day. At these rates of discharge, the Sewer Treatment Capacity Bank can limit the Plant Location's wastewater impact fees to $269,087, subject to final approval by the Sacramento City Council.

Further, the Economic Development Department staff stands ready to assist with the Plant Location's application to the Sacramento Regional County Sanitation District (SRCSD) for "Waste Minimization Certification" and attendant reduction of its sewer impact fees to $149,046. Final approval of such reduction rests with the SRCSD, which is outside the purview of the City of Sacramento.

Please feel free to contact Tom Zeidner of the City's Economic Development Department with any questions you may have concerning the content of this letter.

Very truly yours,

MARTY HANNEMAN
Director, Department of Utilities

CC: Dave Brent, Engineering Manager, City Department of Utilities

CITY OF SACRAMENTO: Application for Economic Development Treatment Capacity Bank Sewer Credits (i.e. a reduction in rate per ESD to $923)

Before submitting this application for processing, please contact the Sacramento Regional County Sanitation District (SRCSD) at (916) 876-6100 to receive a quote stating the number of ESD's required for your business. **This application will not be processed without a quote from the SRCSD.** Please call Trevor Walton at 916-808-7223 with any questions as to eligibility for sewer credits (i.e. a reduction in rate per ESD to $923) or for assistance in completing the application.
Please print or type your responses to the questions below and provide additional information as requested. When complete, return to: Economic Development Department, City of Sacramento, by mail at 915 I Street, 3rd Floor, Sacramento, CA 95814; or by fax to 916-808-8161.

1. Project Name: Integrated Resource Management, LLC
2. Address for which Credits sought: 8670 Younger Creek Zip: 95828-1022
3. Assessor's Parcel Number: 062-0140-013-0000
4. Legal Name of Business Owner: Robert W. Bowcock
5. Owner's Mailing Address: 405 North Indian Hill, Claremont, CA 91711
6. Owner's Phone Number: (909) 621-1266 Owner's Fax Number: (909) 621-1196
   Owner's email address: bbowcock@irmwater.com
7. Brief Project Description: industrial processing plant
8. Please mark the category that best describes your project:
   Residential_____ Number of Units_____ Low Income Project? Yes____No____
   Commercial ✓ Number of new jobs from creation/expansion_____
   Mixed ____Number of Residential Units ____Number of new jobs from creation/expansion 50+
9. Are sewer credits being sought for a business relocating from another site within the Sacramento Metropolitan area? Yes _____ No ✓ If yes, what address relocating from?_____

Applicant signature: [signature] Date: 5 June 09
Print Applicant's Name: Robert W. Bowcock

To be completed by City:

Prepared By:_____ Number of approved ESDs: _____

Approved By:_____ _____
Trevor Walton, Project Manager Date

Notes and Project Information:

- _____
- _____

From: Jim Peifer <[redacted]>
To: Save Our Water <[redacted]>
Sent: Wednesday, September 9, 2009 4:35:36 PM
Subject: Re: Nestle Bottling Plant

Answers to you questions:

1) How many pipes supply water to the site?

Answer: There is a network of pipelines that serves the City. Near the site, there is a 12-inch pipeline that is looped within the streets adjacent to the property.

2) What size are the pipes?

Answer: see answer to question 1.

3) What would be the daily (total) pumping capacity of the plant?

Answer: I understand that the plant will average 215,000 gallons per day, with peak demands of 320,000 gallons per day.

4) Does Nestle have a drought mitigation plan?

Answer: The City has no requirement that its customers have drought mitigation plans.

5) Is there any limit on how much water a customer can use?

Answer: No, provided that customer does not violate City Code provisions regarding wasting water

6) What are the City of Sacramento and/or Department of Utilities conservation goals?

Answer: The City of Sacramento / Department of Utilities supports efficient water use, and is implementing various measures and requirements to promote wise water use, but does not have specific numeric water conservation goals.

Thank you,

Jim Peifer
City of Sacramento, Department of Utilities

ACCOUNT	PREMISE TYPE	ENTITY NAME	ADDRESS	CONSUMPTION (CF)	CONSUMPTION (GAL)
5346844000	OTHER	SACRAMENTO POWER AUTHORITY	3215 47TH AVE	41,659,736	311,614,825
4095844000	OTHER	SACTO CO-GEN MS B302	5000 83RD ST	39,288,100	293,874,988
1297734000	APTS	SHRA A06610	505 10TH ST	23,223,323	173,710,456
8343734000	COMWAREH	COUNTY OF SACRAMENTO	651 I ST	16,723,300	125,090,284
7404744000	PARK	CITY OF SACRAMENTO	3930 W LAND PARK DR	14,807,000	110,756,360
9582844000	PARK	CITY OF SACRAMENTO	6002 8TH AVE	13,356,300	99,905,124
7789244000	COMWAREH	COUNTY OF SACRAMENTO	7620 FREEPORT BLVD	12,403,200	92,775,936
1884044000	COMWAREH	SEVEN UP BOTTLING COMPANY	2670 LAND AVE	12,300,000	92,004,000
6504734000	PUBSCHOL	CSUS	6000 J ST	11,205,900	83,820,132
7951252451	IRRIG	HP HOOD LLC	8340 BELVEDERE AVE	9,774,400	73,112,512

From: Tom Buford (TBuford@cityofsacramento.org)
To: Save Our Water
Date: Tue, September 22, 2009 4:16:40 PM
Cc: Scott Johnson
Subject: Re: Meeting re: CEQA

Evan:

"Beverage bottling plant" has been in the Zoning Code matrix since at least 1956.

Tom

Tom Buford
Senior Planner, Environmental Planning Services
Direct Line (916) 808-7931
Cell Phone (916) 541-5396
Fax (916) 808-5328
Community Development Department
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95811

>>> Save Our Water <[redacted]> 9/22/2009 3:11 PM >>>
Hi Tom,
Do you know how I can find out when "beverage bottling plant" was added to the matrix?
Thanks,
Evan

From: Tom Buford <[redacted]>
To: Evan Tucker <[redacted]>
Cc: Scott Johnson <[redacted]>
Sent: Friday, September 4, 2009 8:18:46 AM
Subject: Meeting re: CEQA

Evan:

It was a pleasure meeting with you yesterday. As I indicated, the building permits sought by Nestle are ministerial and are not subject to CEQA review. I have provided a contact in the Department of Utilities who may be able to provide additional information regarding the project.

If I can be of any further assistance please feel free to contact me.

Tom

From: Jim Rinehart
To: Zeidner, Tom
CC: Brent, Dave; Chaney, Maurice; Spaur, David
Date: 7/14/2009 9:55 AM
Subject: Bottler

Tom,
Traci notified me that the bottler executed the lease here in Sacramento. You did a GREAT JOB! She still can't give out the name, because she says the company is working on a press release that takes into account that there are some people opposed to bottled water firms...

Still, we won... she said that before the meeting w/ you me and Dave Brent that Sacramento was number 3, behind Stockton (better building) and Roseville (better water), but after the meeting and throughout the rest of the due diligence, Sacramento was their first (and it turns out, final) choice!

Jim

James R. Rinehart
Economic Development Manager
City of Sacramento
915 I Street, Third Floor
City Hall
Sacramento, Ca 95814
(916) 808-7223
jrinehart@cityofsacramento.org

From: Jim Rinehart
To: Brent, Dave
CC: Hanneman, Marty; Zeidner, Tom
Date: 5/29/2009 11:45 AM
Subject: Potential New Sacramento Fortune 100 Business

Dave,
I just want to thank you again for your outstanding presentation Wednesday before the site selection expert for the Fortune 100 Bottler considering Sacramento for their new facility. We were informed that we are the likely selected location, and their Board of Directors will be making that determination next week. But, they have asked for one more datum: can we provide them a list of the top 10 customers for Sacramento Water? Because of their penchant for secrecy, they want to see how clients view us, particularly as viewed through the PR sensitivity lens.
Is this info that is 1) readily available?
2) release-able? (ie: not confidential)
3) can be sent on to me or Tom by email by today at 4PM?

Thanks,
Jim

James R. Rinehart
Economic Development Manager
City of Sacramento
915 I Street, Third Floor
City Hall
Sacramento, Ca 95814
(916) 808-7223
jrinehart@cityofsacramento.org

From: Dave Brent
To: Dave Hansen, Dan Sherry
Date: 6/25/2009 10:26 AM
Subject: Fortune 100 Company

Yesterday I talked with Bob Bowcock who is represnting the high water use co. Looking to locate in sac. Dan I know you've talked with him also. Anyway, he asked if they could somehow separate their water supply from the other small users occupying office space on same parcel. I told him we would work with them to avoid having to put a new, large sevice in to accopmplish this. There is already a 4" service at the site and they want to avoid a paying another impact fee. In short, if this comes up, please continue to work with him towards a solution which is what I promised him. Don't hesitate to call me. Thanks. Db

From: David Spaur
To: Tom Zeidner
Date: 7/14/2009 8:55 PM
Subject: Re: SACTO Company

Yes

I would agree
Bob is better at this than Tracy and she temds to over react

I hope to develop a better system
----Original Message----
From: Tom Zeidner
To: David Spaur <dspaur@cityofsacramento.org>
Cc: <Jrinehart@cityofsacrmanto.org>

Sent: 7/14/2009 8:47:09 PM
Subject: RE: SACTO Company

Dave:

Thanks for calling Tracey S and SACTO on this. It was very frustrating working (if that's what you'd call it) with them on this effort. She'd call expecting instant response on requests for information. However, when I'd call her, and leave messages asking to be called back, we were frequently ignored (no calls back, hardly what I'd call a "partnership"). Can't help but feel that that SACTO only communicates with us on an "as needed" basis, despite that the City did all the leg work here.

Tom Zeidner
City of Sacramento
Economic Development Department
1030 15th Street, 2nd Floor
Sacramento, CA 95814-4009
(916) 808-1931
(916) 808-8161 (fax)
tzeidner@cityofsacramento.org
>>> David Spaur 07/14/09 3:30 PM >>>
Yes, I know and we know

However, you need to think about how to involve and when to involve elected officials.

Now is a good time to think about that!

Lets do this...

1. stop the panic
2. think thru your process
3. come up with a good practice of including the right people and the right time.

Maurice has gone on hold to wait for you.
We are all waiting while we should use the time to plan how to communicate so when SACTO announces the project someday our Council member is informed and we can quickly and professionally inform our Mayor and Council so they don't always feel left out!

What is your plan?

Best Regards,

ECONOMIC DEVELOPMENT DEPARTMENT

CITY OF SACRAMENTO

Ms Tracey Schaal
Director, Strategic Marketing
Sacramento Area Commerce and Trade Organization
400 Capitol Mall, Ste. 2500
Sacramento, CA 95814

May 27, 2009

Subject: 8670 Younger Creek Road

Dear Ms Schaal:

On behalf of the City of Sacramento, I want to thank you and SACTO again for your excellent representation and subsequent introduction to Robert Bowcock, consultant to the bottling client considering Sacramento as a site for their facility.

I would like to reiterate several salient points raised at today's meeting to help Mr. Bowcock in arriving at the site decision to locate in the City of Sacramento:

- The site at 8670 Younger Creek Road is configured with a 3" meter and a 4" water line;
- With this existing configuration, your client will not be subject to a water connection fee, nor a water impact fee;
- Utility Engineering Services Manager Dave Brent provided you and Mr. Bowcock with the current water rate schedule and a 48-month projection of expected water rates into the future;
- The City of Sacramento, through its Sewer Credit Program, can reduce the Regional Wastewater Fees to a range of $40,283 (certified w/ credits) to $160,324 (non-certified w/ credits). When coupled with the Sacramento Area Sewer District fee of $108,763, the total fees would range from $149,046 to $269,087; and
- The site is in the Sacramento Municipal Utility District (SMUD) service delivery area, providing low-cost, reliable and readily available energy.

The City of Sacramento is known for its plentiful, quality, and inexpensive water. Additionally, staff is committed to providing whatever information is required to assist in making this important decision favorable to Sacramento. In short, we know the bottling client would be an excellent candidate for a Sacramento location and we look forward to the day when we can officially welcome it to our city.

Most cordially,

James R. Rinehart
Manager of Economic Development
City of Sacramento

providing low-cost, reliable and readily available energy.

ECONOMIC DEVELOPMENT DEPARTMENT

CITY OF SACRAMENTO

Mr. Robert Bowcock
Managing Director, Integrated Resource Management, LLC
405 North Indian Hill Boulevard
Claremont, CA 91711

May 28, 2009

Subject: 8670 Younger Creek Road

Dear Mr. Bowcock:

I want to again express my appreciation to you for meeting with us yesterday regarding your client's water and waste water requirements.

I would like to reiterate several salient points raised at yesterday's meeting to help you in recommending the location in the City of Sacramento to your client:

- The site at 8670 Younger Creek Road is configured with a 3" meter and a 4" water line;
- With this existing configuration, you will not be subject to a water connection fee, nor a water impact fee;
- Utility Engineering Services Manager Dave Brent provided you with the current water rate schedule and a 48-month projection of expected water rates into the future;
- The City of Sacramento, through its Sewer Credit Program, can reduce the Regional Wastewater Fees to a range of $40,283 (certified w/ credits) to $160,324 (non-certified w/ credits). When coupled with the Sacramento Area Sewer District fee of $108,763, the total fees would range from $149,046 to $269,087; and
- The site is in the Sacramento Municipal Utility District (SMUD) service delivery area, providing low-cost, reliable and readily available energy.

The City of Sacramento is known for its plentiful, high quality, and inexpensive water. Additionally, I personally commit to providing you with whatever information you may require in order to favorably recommend Sacramento to your client. We look forward to officially welcoming your client as a new corporate citizen of the City of Sacramento.

Most cordially,

Tom Zeidner
Senior Development Project Manager
City of Sacramento

From: Jim Rinehart
To: Tyresius, Ezekial
Date: 8/24/2009 11:22 AM
Subject: Re: Nestle Bottling Plant

Hello Mr. Tyresius,
Thank you for your recent inquiry. My office merely assisted our recruiting partner SACTO in helping to attract Nestle Waters to Sacramento, and such do not have answers to your specific questions. However, many of the specific responses may be found on the Nestle Water's website for the project at: www.sacramento.nestlewatersca.com . Nestles has also provided a contact name if you would like to speak with someone. Her name is Julie Soderlund at 916-551-1383.
Regards,

James R. Rinehart
Economic Development Manager
City of Sacramento
915 I Street, Third Floor
City Hall
Sacramento, Ca 95814
(916) 808-7223
jrinehart@cityofsacramento.org

>>> Ezekial Tyresius <etdropout@hotmail.com> 8/19/2009 9:36 PM >>>

Hi Mr. Rinehart,

I would like to get some information about the Nestle bottling plant being proposed for Sacramento.

1) I read that it will be a "two-line bottling plant". What does that mean?
2) Will the bottles be made on site?
3) What will be the daily pumping capacity of the factory/how big will the pipes be?
4) Has Nestle turned in any applications yet?
5) Where are the springs in the foothills that they are getting the water from?
6) What is the sewer treatment capacity bank and what is Nestle getting from it?
7) Will there be any public meetings on this issue?
8) Will there be any environmental review of this project?
9) What kind of permits does Nestle need in order to open the plant?

Please let me know that you have received my e-mail. Thank you for your time.
Evan

Jim Rinehart - Nestle Waters Sacramento Project Information

From: "Cassie Gilson" <cgilson@gilsongs.com>
To: <jrinehart@cityofsacramento.org>
Date: 8/24/2009 11:10 AM
Subject: Nestle Waters Sacramento Project Information
CC: "Julie Soderlund" <jsoderlund@wilsonmillercom.com>

Jim,
Thanks again for following up on the inquiries regarding Nestle Waters Sacramento project. As we discussed, you can direct an interested folks to Nestle Water's website for the project at: www.sacramento.nestlewatersca.com . If they have additional questions, they can contact Julie Soderlund at 916-551-1383. Don't hesitate to give me a call if anything else comes up.

Best,
Cassie

GILSON Government Strategies

Cassie Gilson
1215 K Street, Suite 2030
Sacramento, CA 95814
P: 916-444-7464
F: 916-448-1121
C: 415-260-4217
Email: cgilson@gilsongs.com

Please consider the environment before printing this e-mail

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
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Public: (916) 445-9555
Telephone: (916) 327-7851
Facsimile: (916) 327-2319
E-Mail: Deborah.Slon@doj.ca.gov

July 28, 2008

Terry Barber, Interim Planning Director
Siskiyou County Planning Department
P.O. Box 1085
Yreka, California 96097
-via email, hard copy to follow-

RE: **Nestlé Waters North America Environmental Impact Report**

Dear Ms. Barber:

According to press reports, Nestlé Waters North America ("Nestlé") is not proceeding with its proposed McCloud Water Bottling Plant project, and has indicated that it is considering proposing a scaled back project.[1] We also understand that, according to Nestlé, it intends to undertake a two to three year evaluation of the existing hydrology and biology status, as well as perform additional studies on air and water quality, traffic conditions, hazardous materials, and an economic impact study.[2] We are encouraged by these developments because, in our view, the environmental review for the previously proposed project had serious deficiencies. Nonetheless, to our knowledge, the proposed changes have not been memorialized in a formal document, and we are not aware of a formal withdrawal of the previously proposed project. We also note that adoption of the suggested changes would require significant revision of the contract between Nestlé and the McCloud Community Services District, a new, formal project proposal, and circulation of a new Draft Environmental Impact Report.

We are therefore providing this letter, setting forth our concerns with respect primarily to the pending (possibly withdrawn) DEIR, with the hope that our comments on the deficiencies of that document will provide some guidance to Nestlé and the County in revising the project and the EIR. The Attorney General of the State of California submits these comments pursuant to his independent power and duty to protect the natural resources of the State from pollution, impairment, or

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[1] *See, e.g.*, Associated Press, "Nestle Scales Back Massive Water Bottling Project," *Los Angeles Times* (May 13, 2008).

[2] Nestlé Press Release, June 4, 2008.

destruction in furtherance of the public interest. (*See* Cal. Const., art. V., § 13; Cal. Gov. Code, §§ 12511, 12600-12612; *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 14-15.)

The existing DEIR prepared in connection with the original project fails to address greenhouse gas emissions from the project and improperly defers analysis and mitigation of significant effects on other natural resources, in violation of the California Environmental Quality Act ("CEQA").

Background

The McCloud River is unique among California's larger rivers in that most of its water derives from springs and underground lava aquifers rather than from rainfall or snowfall. The river and its associated riparian area provide habitat for over 200 wildlife species. The Lower McCloud has been designated a Wild Trout Stream by the state Department of Fish and Game.

As originally proposed, the project would allow Nestlé to bottle 520 million gallons of spring water, and potentially unlimited groundwater, from the McCloud River watershed each year for the next fifty years for sale and distribution. Nestlé would construct a one million square foot water bottling facility on the site of a former lumber mill, where it would bottle spring water and other beverages. Nestlé recently indicated that its revised proposal will reduce the size of the facility from one million square feet to 350,000 square feet, and the annual water take from 1600 acre feet per year to 600 acre feet per year – a reduction of approximately sixty percent.[3] Under either scenario, Nestlé would truck the bottled water and other Nestlé beverages from McCloud. In addition, Nestlé could transport unspecified quantities of unbottled bulk water from different locations to the McCloud facility, or from McCloud to other facilities.

As initially proposed, the project would be the largest water bottling plant in the United States.[4] Even the scaled down proposal has the potential to significantly affect the important and unique natural resources of the McCloud River area. Yet, the DEIR fails to address in any meaningful way the project's likely environmental impacts.[5] Most significantly, as discussed in more detail below, the DEIR fails to analyze the global warming impacts of the project, even though bottling and transporting water are highly energy-intensive. Nor does the DEIR adequately examine the impacts of the project on air quality, water quality of the McCloud River and its tributaries, biological resources, or solid waste.

---

[3] Nestlé Press Release, May 12, 2008.

[4] S. Young, *Bottling Plants to Face Opposition as Fears Grow Over Water*, Associated Press (April 9, 2008).

[5] The pending DEIR is so patently inadequate that even Nestlé has requested that the environmental review process be reopened. J. Keenan, *Nestle Proposes Reopening Bottling Plant EIR Process*, Redding Record Searchlight (Feb. 14, 2008).

The DEIR Fails to Analyze the Global Warming Impacts Resulting from the Project.

Scientific and Legal Background

Global warming presents serious challenges to California and the Nation. Greenhouse gases in the atmosphere trap heat near the Earth's surface. Unnaturally elevated atmospheric concentration of these gases emitted from human activities cause average temperatures to increase, with adverse impacts on humans and the environment.[6] The overwhelming scientific consensus is that human activities that release carbon dioxide ("CO2") and other greenhouse gases to the atmosphere are, and have been, warming the planet. According to the leading experts, including the Intergovernmental Panel on Climate Change, continuing the current rate of emissions will result in disastrous environmental effects, including increasingly rapid sea level rise, increased frequency of droughts and floods, and increased stress on wildlife and plants due to rapidly shifting climate zones. In addition, public health impacts will likely increase, including impacts related directly to heat stress, and respiratory problems resulting from smog, which forms more easily with high temperatures.

With Executive Order S-3-05 and the California Global Warming Solutions Act of 2006 (AB 32), the Governor and Legislature recognized California's vulnerability to the adverse effects of increasing temperatures, the urgency of curbing greenhouse gas emissions, and California's important role as a leader in the fight against climate change. California is committed to reducing greenhouse gas emissions to 1990 levels by 2020, and to 80 percent below 1990 levels by 2050. California's commitment to prompt action is in accord with the science. According to Rajendra Pachauri, Chairman of the United Nations Intergovernmental Panel on Climate Change ("IPCC"), "If there's no action before 2012, that's too late. What we do in the next two to three years will determine our future. This is the defining moment."[7]

Global Warming Under CEQA

CEQA requires that "[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so." (Pub. Res. Code, § 21002.1, subd. (b).) This requirement is the "core of an EIR." (*Citizens of Goleta Valley v. Board of Supervisors of Santa Barbara County* (1990) 52 Cal.3d 553, 564-65.) Global warming is an "effect on the environment" under CEQA, and an individual project's contribution to global warming can be significant or cumulatively considerable.[8] Projects that increase greenhouse gas emissions over long periods of time will make it more difficult for the State to combat warming and to achieve the aggressive reductions required by AB 32 and the Executive Order.

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[6] Intergovernmental Panel on Climate Change, Fourth Assessment Report (IPCC 4th) (2007), Working Group (WG) I, Frequently Asked Question 2.1, *How do Human Activities Contribute to Climate Change and How Do They Compare with Natural Influences?* http://ipcc-wg1.ucar.edu/wg1/FAQ/wg1_faq-2.1.html

[7] Rosenthal, *U.N. Chief Seeks More Leadership on Climate Change*, N.Y. Times (November 18, 2007).

[8] *See* Cal. Pub. Res. Code, § 21083.05, subd. (a); see also Sen. Rules Comm., Off. Of Sen. Floor Analyses, Analysis of Sen. Bill No. 97 (2007-2008 Reg. Sess.) Aug. 22, 2007.

All phases of a project must be considered when evaluating its impact on the environment: planning, acquisition, development, and operation. (Cal. Code Regs., tit. 14 (hereinafter "CEQA Guidelines"), § 15126.) Although this DEIR discusses construction of the bottling facility and pipelines, it provides only a cursory overview of the environmental impacts of operating the facility.

Bottle Production

Ninety-six percent of bottled water is sold in polyethylene terephthalate ("PET") bottles.[9] PET is produced from fossil fuels, typically natural gas and petroleum. Producing bottles for American consumption of water in 2006 required the equivalent of 17 million barrels of oil, not including the energy for transportation.[10] The manufacture of every ton of PET produces 3 tons of carbon dioxide.[11] In 2006, 900,000 tons of PET were used to bottle water in the United States, producing approximately 2.5 million tons of carbon dioxide.[12]

Although Nestlé anticipates bottling millions of gallons of spring water each year, the DEIR does not discuss the environmental and global warming impacts of producing bottles for this water. Moreover, under the contract between Nestlé and the McCloud Community Services District, Nestlé may bottle an unknown quantity of other beverages at the facility each year; the DEIR does not address the impacts of producing bottles for those products either. Instead, the DEIR states only that resin pellets of PET will be delivered to the McCloud facility, where they will be blowmolded into bottles. (Project Description, at p. 2.0-18.) In violation of CEQA, the DEIR does not provide an estimate of the number of bottles it will produce on-site, nor an estimate of energy and resulting emissions required to blowmold these bottles each year. The recirculated DEIR should provide this information.

Operation of the Facility

Operating and powering a water bottling facility will take considerable energy. The DEIR predicts that by complete buildout, electrical demand for the project as originally proposed will be 12,240 KW at summer peak and 13,600 KW at winter peak. (Public Services & Utilities, at p. 3.11-12.) The electricity consumption of the project is so great that construction of an electrical substation is included as a component of the project. (Project Description, at p. 2.0-5.) While a smaller-scale project presumably would require less electricity, it will still require some amount. The DEIR must quantify the energy required, and it must address the environmental and global warming impacts of this increase in electrical demand. Currently, the analysis is limited to the impacts the project will have on Pacific Power Corporation's energy supply, which the DEIR

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[9] Container Recycling Institute, *Water, Water Everywhere: The Growth of Non-Carbonated Beverages in the United States* (Feb. 2007), at p. 4, available at www.container-recycling.org.

[10] Pacific Institute, *Bottled Water and Energy: A Fact Sheet*, available at www.pacinst.org/topics/water_and_sustainability/bottled_water/bottled_water_and_energy.html.

[11] *Ibid.*

[12] *Ibid.*

concludes is less than significant. (Public Services & Utilities, at p. 3.11-21.) Under CEQA, however, the DEIR must address the source of energy for this substation and the emissions that will result from its operation.

Transporting the Bottles

As initially proposed, the project would require between 400 and 600 diesel truck trips every day to transport bottled water from the facility for distribution and sale. In addition, Nestle may transport bulk water from other sources for bottling at the facility, or from the project area to other bottling facilities. (Project Description, at p. 2.0-18.) The scaled down operation may require fewer trucks, but it is possible that Nestlé could also choose to increase the transport of bulk water from other sources to McCloud. Nowhere does the DEIR state how often Nestlé expects these alternative arrangements to occur, or how much extra truck traffic this will entail. This information is critical to understanding the true nature of the environmental impacts of the transportation element of the project.

The diesel truck emissions from this project will result in releases of both carbon dioxide and diesel soot. Yet, the DEIR entirely fails to address global warming resulting from either pollutant. (Truck emissions also create air quality and health impacts, discussed below.) Diesel soot – or black carbon – has been identified as a substantial contributor to global warming.[13] Unlike carbon dioxide, which traps solar energy radiating back from Earth's surface, black carbon particles absorb solar radiation as it enters Earth's atmosphere, increasing its heat.[14] In addition, when the black carbon particles precipitate onto snow, they increase heat absorption, leading to glacial melting.

Because the DEIR omits any discussion of the emissions of carbon dioxide and diesel soot resulting from the project, it is impossible to determine the full extent of the impact of these emissions. Further, because the impacts are not identified, they are also not mitigated where feasible, as required by CEQA.

The DEIR Does Not Adequately Evaluate Impacts of the Project on Air Quality.

Criteria Pollutants

Air pollution harms the health of Californians, damages agricultural crops, forests, and other plants, and creates haze that reduces visibility. While the DEIR notes that the project may create regional emission increases from on-site heating and processing activities and equipment, it summarily concludes that, because these emissions will be below the federal "de minimus" threshold

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[13] Hansen, J. and L. Nazarenko, *Soot Climate Forcing Via Snow and Ice Albedos*, Proc. Natl. Acad. Sci. 100 (2003). A recent study concludes that the warming effects of black carbon is three to four times greater than previously believed, and that black carbon in fact is the second greatest contributor to global warming after carbon dioxide. V. Ramanathan, G. Carmichael, *Global and Regional Climate Changes Due to Black Carbon*, *Nature Geoscience* 1, 221 - 227 (March 2008).

[14] Hansen, J. and L. Nazarenko, *Soot Climate Forcing Via Snow and Ice Albedos*, *supra*; Ramanathan, V. and G. Carmichael, *Global and Regional Climate Changes Due to Black Carbon*, *supra*.

of significance for reactive organic gas ("ROG"), nitrogen oxides ("NOx"), carbon monoxide ("CO"), and particulate matter ("PM10"), the environmental impact is less than significant. (Air Quality at pp. 3.4-9, 3.4-10.) The existence of a federal de minimus threshold of significance does not, however, enable the County to escape its obligation to analyze whether project impacts will be significant.

The DEIR does not explain why it relies on federal standards of significance for air quality when state standards exist. States have the primary responsibility for assuring air quality within their boundaries (42 U.S.C., § 7407, subd. (a)), and California has its own ambient air quality standards for criteria pollutants that are generally more restrictive than federal standards.[15] The DEIR should have discussed whether the project will be consistent with State standards in its analysis of the impact of the project on air quality. And, even assuming the project complies with State air quality standards, the lead agency is not relieved of its responsibility to determine whether the project nevertheless has significant air quality impacts under CEQA. (*See Mejia v. City of Los Angeles* (2005) 130 Cal.App.4th 322, 342.)

The DEIR fails to discuss emissions of ozone, carbon dioxide, and PM2.5 that will result from hundreds of diesel truck trips every day. These emissions should be quantified and evaluated to determine the potential impacts on the environment. If, upon evaluation, those impacts are deemed significant, CEQA requires feasible mitigation.

Further, the DEIR omits any discussion of the air quality effects of the project on air basins other than the Northeast Plateau, in which the project is located. All phases of a project and all significant impacts must be discussed in a CEQA document, and the regional context must be included. (CEQA Guidelines, §§ 15125, 15126.)

Health Impacts of Diesel Truck Exhaust

The DEIR concludes that toxic air contaminants emitted from the project's trucks will have a less than significant impact on health because "the vehicles will not idle for long periods of time, do not have auxiliary power units for refrigeration, and will be located more than 1,000 feet from the nearest sensitive receptor." (Air Quality, at 3.4-10.)

This conclusion cannot be supported in light of readily available information about the health impacts of diesel emissions. For over a decade, California has identified diesel exhaust particulate matter ("diesel PM") as a toxic air contaminant based on its potential to cause cancer, premature death, and other health problems. Diesel exhaust also contributes to California's fine particulate matter (PM2.5) air quality problems. Children and the elderly are most vulnerable to the effects of diesel PM, and diesel emissions are responsible for the majority of California's known cancer risk from outdoor air pollutants.[16] Failure to more thoroughly analyze these impacts is improper under

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[15] *See* Ambient Air Quality Standards Chart, California Air Resources Board (April 2008), available at www.arb.ca.gov.

[16] http://www.arb.ca.gov/research/diesel/diesel-health.htm

CEQA.

The DEIR Includes an Inadequate Project Description that is Inconsistent With the Project Described in the Contract.

Every EIR must set forth a project description that is sufficient to allow an adequate evaluation and review of the environmental impacts. (CEQA Guidelines, § 15124; *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 654.) "An accurate, stable, and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*San Joaquin Raptor Rescue Center, supra*, 149 Cal.App.4th at 655.)

This DEIR violates the most basic CEQA tenet: it fails to accurately describe the actual project that is proposed, and that has been agreed to by contract. The DEIR firmly and unequivocally declares that the volume of water included in the contract is capped at 1,600 acre feet per year, regardless of whether the source of the water is spring water or groundwater. (Hydrology and Water Quality, at p. 3.9-28.) Yet, the contract expressly excludes groundwater from the calculation of maximum take (Contract, at p. 3), and permits Nestle to take potentially unlimited amounts of groundwater to produce drinking water or other beverages. (Contract at p. 16.) Furthermore, under the contract, Nestle may request unspecified amounts of additional spring water beyond the 1,600 acre feet per year. (Contract, at p. 7.) We understand that Nestlé has agreed to reopen the contract to address the proposed limitations in size of facility and quantity of water. To comply with CEQA, the terms of the amended contract and the recirculated DEIR must conform.

Failure to accurately describe the true extent of the project thwarts proper analysis by the public and decisionmakers. (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 654.)

In addition, an inaccurate project description necessarily results in inaccurate environmental analyses. Here, the DEIR is plainly inadequate under CEQA when it fails to consider the impacts of both unlimited groundwater use and of additional spring water, as provided for in the contract. Use of this additional water will result in additional production, operation, and truck traffic, and a wide array of additional direct and indirect environmental impacts at levels not disclosed or analyzed in the DEIR.

The DEIR Does Not Adequately Describe the Baseline Environmental Conditions of the Impacted Watersheds.

An EIR must include a description of the existing physical environment conditions in the vicinity of the project, so that the project's environmental effects can be measured against this baseline. (CEQA Guidelines, § 15125, subd. (a).)

This DEIR, however, does not adequately describe the baseline environmental conditions for the watersheds impacted by the project. The DEIR asserts only that, because there is insufficient data to determine stream flow, it is impossible to analyze the environmental impacts. (Hydrology & Water Quality, at p. 3.9-38.) This assertion is not supported by the record. The DEIR does not describe any reasonably conscientious attempt to collect stream flow data or to make further inquiry

of environmental or regulatory agencies having expertise in the matter. (*Berkeley Keep Jets Over the Bay v. Board of Commissioners* (2001) 91 Cal.App.4th 1344, 1370.) An analysis of stream flow is critical to understanding the environmental impacts of a project that proposes to divert a significant amount of water from a river. (CEQA Guidelines, § 15151.) Ideally, stream flow of Squaw Valley Creek and Mud Creek would be evaluated over a period of years in order to account for changes in environmental conditions. (*Save Our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 125.)

In the absence of any analysis, the DEIR further makes the unsupportable conclusion that impacts on the watershed will be "minimal." (Hydrology & Water Quality, at p. 3.9-24.) An EIR must offer "a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." (CEQA Guidelines, § 15151.)

We are encouraged that Nestlé has agreed to conduct a two to three year hydrology study to correct these deficiencies. Without this additional analysis, the DEIR would be entirely inadequate under CEQA. As written, the DEIR's promise to "begin long-term monitoring of Squaw Valley Creek to provide the base information necessary to evaluate long-term impacts associated with the MCSD overflow in to Squaw Valley Creek and the impacts of the proposed project" (Hydrology & Water Quality, at p. 3.9-38) is insufficient. It is not enough to monitor the flow after the project has been approved; the public needs data beforehand in order to evaluate the effects of the project. A mitigation measure cannot be used as a device to avoid disclosing project impacts. (*San Joaquin Raptor Rescue Center, supra*, 149 Cal.App.4th at 663-64.)

The County's Analysis of Biological Impacts and Mitigation Measures is Inadequate.

Because the DEIR fails to adequately establish the baseline environmental conditions, it cannot properly analyze the biological impacts of the project. The following discussion, focusing on impacts to sensitive frogs, illustrates the document's deficiencies.[17] We understand and are encouraged that Nestlé intends to more thoroughly analyze such impacts in a recirculated DEIR.

The DEIR explains that the project could result in potentially significant impacts on frogs and their habitats by changing water quantity or quality in the Squaw Valley Creek.[18] But it states that those impacts "cannot be quantified because of a lack of data." (Biological Resources, at 3.5-67.) This lack of analysis is inadequate under CEQA. The purposes of CEQA are thwarted if the project proponent simply gathers data to quantify impacts of a project after the project has already been approved and implemented. (*San Joaquin Raptor Rescue Center, supra*, 149 Cal.App.4th at 663-64.)

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[17]The DEIR improperly focuses only on threatened and endangered species. CEQA does not have such limitations. See CEQA Guidelines, § 15065, subd. (a)(1).

[18]"Any potential changes in water quantity or water quality in Squaw Valley Creek as a result of the proposed project could result in a reduction in aquatic and riparian frog habitat and thus mortality to the tailed frog, foothill yellow-legged frog, and Cascades frog eggs, tadpoles, or adults. This impact is considered to be potentially significant subject to mitigation." (Biological Resources, at p. 3.5-66.)

Mitigation measures proposed in the DEIR raise additional significant concerns. Under the DEIR, if the monitoring demonstrates that the bottling project is having a significant impact on biological resources, "[Nestlé] shall supplement flow in Squaw Valley Creek from another source to offset the impacts or shall not complete subsequent phases of the proposed bottling facility." (Biological Resources, at p. 3.5-68.) Nowhere, however, does the DEIR define when impacts on biological resources due to changes in water quality and quantity would be considered significant. Further, it does not identify a source of substitute water, nor does it examine the environmental impacts of using another source. In addition, the monitoring would continue only for five years after full buildout. (*Id.* at 3.5-67.) This is inadequate mitigation under CEQA.

The DEIR Fails to Address the Impacts of Waste Generation Resulting from the Project.

Discharge of PET Pellets

PET pellets, or "nurdles," used to manufacture plastic bottles pose significant threats to marine life. Approximately 60 billion pounds of pellets are produced annually in the United States.[19] When these tiny plastic spheres are accidentally released into the environment, birds and animals mistake them for food[20] and subsequently die through starvation, choking, or infection.[21] In addition, the plastic often contains potentially harmful chemicals such as phthalates, bisphenol A, styrene, or vinyl chloride which can leach into the water.[22]

Recently enacted legislation, codified at section 13367 *et seq.* of chapter 5.2 of the California Water Code, requires implementation of best practices to control against the discharge of nurdles into the environment. Best practices include the installation of appropriate containment systems; the prevention of discharge; proper storage; capture devices; and a vacuum system for quick cleanup of fugitive plastic pellets. (Cal. Water Code, ch. 5.2, § 13367, subds. (e)(1) to (e)(5).)

This DEIR does not address nurdle control. Because the facility will receive and store nurdles in order to manufacture bottles on-site, (Project Description, at 2.0-18), the DEIR should discuss the management procedures it intends to adopt to prevent and mitigate potential spills.

Bottles

The DEIR fails to address the solid waste impacts of this project. More than one billion plastic water bottles end up in the trash in California each year, taking up valuable landfill space and

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[19]US EPA (1992) *Plastic Pellets in the Aquatic Environment: Sources and Recommendations*, Final Report EPA842-B-010.

[20]California Coastal Commission (2006) *Eliminating Land-Based Discharges of Marine Debris in California: A Plan of Action from the Plastic Debris Project.*

[21]US EPA (2005) *Marine Debris Factsheet*, EPA-842-F-05-001i

[22]*Resolution of the California Ocean Protection Council on Reducing and Preventing Marine Debris* (2007)

The DEIR fails to address the solid waste impacts of this project. More than one billion plastic water bottles end up in the trash in California each year, taking up valuable landfill space and

leaching toxic additives such as phthalates into the groundwater.[23] These bottles will take one thousand years to biodegrade.[24] Because plastic water bottles are recycled at very low rates, tens of billions of new bottles are manufactured each year from virgin materials – fossil fuels – to replace the bottles that were not recycled.[25] The project description states that waste PET bottles generated by the facility will be recycled and notes that consumers may recycle the bottles, but fails to acknowledge either that most plastic bottles manufactured today are not recycled,[26] or that this project will result in the production of thousands of bottles that will end up in landfills or the ocean.[27] This environmental impact should be disclosed.

Conclusion

The DEIR for the originally proposed bottling plant project is "so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment [is] precluded." (CEQA Guidelines, § 15088.5, subd. (a)(4).) As a result, the DEIR must be revised and recirculated. Fortunately, it appears that Nestle is redesigning the project, which will require a new EIR as well. We encourage the County to consider the issues raised in this letter as it proceeds with a new EIR. Thank you for the opportunity to offer these comments.

Sincerely,

DEBORAH R. SLON
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

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[23] J. Blumenfeld, S. Leal, *The Real Cost of Bottled Water*, San Francisco Chronicle (Feb. 18, 2007) available at www.sfgate.com.

[24] *Ibid.*

[25] E. Arnold and J. Larsen, *Bottled Water: Pouring Resources Down the Drain*, Earth Policy Institute (Feb. 2006), available at www.earth-policy.org/Updates/2006/Update51.htm.

[26] Even the National Association of PET Container Resources (NAPCOR) acknowledges that PET containers are recycled at a rate of only 23.5%. *2006 Rate Report Shows PET Container Recycling Rate Up for Third Year at 23.5%* (Oct. 2007), http://www.napcor.com/plastic/bottles/press07rr.html

[27] An average of 60% of items retrieved from beaches on the annually held Coastal Cleanup Day in the United States is comprised of plastic. *Eliminating Land-Based Discharges of Marine Debris in California* (California Coastal Commission, June 2006), at 16. Among the top 10 items collected overall are beverage containers and plastic bottle caps and lids. Plastic bottle caps are a ubiquitous litter item in part because they are readily discarded and are small enough to pass through the typical storm drain. Bottle caps pose serious dangers to seabirds and marine life because certain species ingest them as food. One way to mitigate this threat is to attach the cap to the bottle.