

GTB newsletter notice:

Nestlé/Ice Mountain has applied for a state permit to more than double its allowed groundwater pumping from 150 to 400 gallons per minute (gpm) from White Pine Springs Well (PW-101) in Osceola County, Michigan. Background information is available at the FLOW web site:

<http://flowforwater.org/not-fast-nestle/>

A citizens' group proved a decade ago that a similar proposal would harm adjacent surface waters, wetlands, fish, and aquatic life. Moreover Nestlé's application for massive groundwater withdrawal does not take into consideration the existence of GTB's treaty rights confirmed in the November 2, 2007 consent decree because the well is located in the territory ceded to the United States in the March 28, 1836 Treaty of Washington.

<http://1836cora.org/documents/2007InlandConsentDecree.pdf>

Inland usufructuary rights reserved by GTB and the other 1836 Treaty Tribes "are property rights protected by the United States Constitution." *Grand Traverse Band of Ottawa and Chippewa Indians v. Director, Michigan Department of Natural Resources*, 971 F. Supp. 282, 288 (W. D. Mich. 1995), *aff'd*. 141 F.3d 635 (6th Cir. 1998), *cert. denied*, 525 U.S. 1040 (1998). These property rights in the fauna and flora resources dependent upon the Muskegon River tributaries and related wetlands may be adversely impacted by the proposed increase in water withdrawal.

Therefore GTB's Natural Resources Department is coordinating efforts with other Tribes and the expert witnesses from the prior litigation to develop facts establishing adverse impact. In the meantime the deadline for submitting public comments is March 3rd. Tribal Council encourages GTB tribal citizens to submit written comments to the Michigan Department of Environmental Quality (DEQ) either by letter or email.

<http://www.michigan.gov/deq/0,4561,7-135--396969--,00.html>

Following is a template that could be used in submitting comments.

Governor Rick Snyder
P.O. Box 30013
Lansing, Michigan 48909

Director Heidi Grether
Office of Drinking Water and Municipal Assistance
Michigan Department of Environmental Quality
P.O. Box 30241
Lansing, MI 48909-7741
deq-eh@michigan.gov

Dear Governor Snyder and Director Grether:

As a tribal citizen of the Grand Traverse Band of Ottawa and Chippewa Indians, I am writing to urge you to reject Nestlé/Ice Mountain's current permit application to more than double allowed groundwater pumping from 150 to 400 gallons per minute (gpm) from White Pine Springs Well (PW-101) in Osceola County, Michigan. Since 2001, Nestlé has removed more than 4 billion gallons of groundwater from the Muskegon River watershed. Facts established in the prior litigation demonstrate that Nestlé underestimated the harm to adjacent surface waters, wetlands, fish, and aquatic life caused by over-pumping from the groundwater aquifer.

Subsequent to commencement of the prior litigation, Michigan entered into the November 2, 2007 consent decree confirming the existence of my Tribe's off-reservation "treaty rights" including the area where the well is located. Thus it's crucial that you take into consideration our rights reserved in the 1836 Treaty before Michigan became a state.

Water is the lifeblood of Michigan's economy and our way of life here in the Great Lakes state. Privatizing our water for profit and export outside our watersheds should never be allowed. Not only is the State of Michigan required to protect this public trust resource on behalf of all citizens, but you have a special obligation under the March 28, 1836 Treaty of Washington to protect Treaty-reserved fauna and flora resources dependent upon the Muskegon River tributaries and related wetlands from being adversely impacted by the proposed increase in water withdrawal. Please honor our Treaty and deny Nestlé's permit application.

Sincerely,

If you have questions or desire additional information, contact:
NRD manager Desmond Berry [Desmond.Berry@gtbindians.com]
NRD inland fisheries biologist James Garavaglia [James.Garavaglia@gtbindians.com]
Tribal Attorney Bill Rastetter [bill@envlaw.com]