Michigan Chamber of Commerce Files Brief in Support of Stay Pending Court Decision on Ice Mountain Appeal

Economic consequences of ruling could be devastating for entire state

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The Michigan Chamber of Commerce today filed a motion and brief with the Michigan Court of Appeals to stay the order by the Mecosta County Circuit Court that prohibits Nestle Waters North America, Inc. ("Nestle"), from using its sole source of spring water pending disposition of the company's appeal. Nestle operates a bottling plant for the Ice Mountain brand of water in Mecosta County.

"Given the fragile condition of Michigan's economy, with the loss of over 260,000 jobs in the last three years, the last thing Michigan needs are restrictions on water use that are not based on sound science," said Michigan Chamber President & CEO Jim Barrett. "The sweeping ruling by the Mecosta County Circuit Court has created a sense of uncertainty about our state's regulatory structure. The court's ruling requiring groundwater users to receive both wetlands permits and inland lakes and streams permits is outside the bounds of anything the Michigan Legislature every envisioned or intended."

Prior to opening its Mecosta County facility, Nestle discussed with representatives of MDEQ the permits that would be needed. MDEQ informed Nestle that the proposed water extraction required for the facility's operation would not need permits under the Inland Stream and Lakes Act ("ISLA") or the Wetlands Protection Act ("WPA"). In rendering its decision, the Mecosta County Circuit Court acknowledged that this was the information provided to Nestle by MDEQ; however, it concluded that the MDEQ was incorrect, and, in fact, permits were required under the ISLA and WPA.

"The Nestle bottling facility has brought some 150 direct jobs to Mecosta County. These are not minimum wage jobs but, rather, pay anywhere from $14.00 to $23.00 an hour," Barrett noted. "By 2003, Nestle's Mecosta County payroll was in excess of $6 million annually, and it was paying more than $1.3 million in taxes to Mecosta County and communities within the county."

Despite the economic benefits associated with the facility, a group called Michigan Citizens for Water Conservation ("MCWC") filed suit in 2001 to force Nestle to discontinue its water extraction operations in Mecosta County. Following a lengthy trial, the Mecosta County Circuit Court ordered Nestle to discontinue its operations.

"If the operations must be shut down during the pendency of Nestle's appeal, some 120 employees will be laid off. The effects of the lower court's opinion, if not stayed during the pendency of the appeal, will be severe indeed," added Barrett. "In addition to putting large numbers of Nestle employees out of work during the 2003 holiday season, there will also inevitably be an effect on other Michigan businesses.

"Under the circumstances of this case, we are asking the Michigan Court of Appeals to exercise its discretion to grant a stay of the lower court's judgment pending resolution of Nestle's appeal," Barrett concluded.

The Michigan Chamber of Commerce is a statewide business organization which represents over 6,500 employers, trade associations and local chambers of commerce. The Michigan Chamber was established in 1959 to be an advocate for Michigan's job providers in the legislative, political and legal process.

SOURCE: Michigan Chamber of Commerce

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