



**Media Contact:**  
Board President, **Peggy Case**  
[hildaheron@aol.com](mailto:hildaheron@aol.com)  
(main) 231-275-2244  
for texting (cell) 248-736-9703

### **Press Release:**

## **Blue Triton/Nestle Gives up Controversial Permit Seeks backdoor to increase withdrawal October 26, 2021**

Blue Triton Brands Inc., formerly Nestle Waters North America, sent a letter to EGLE on September 28, 2021 announcing that they “will not be utilizing the water withdrawal capacity authorized by the permit” for its White Pine Springs well north of Ewart (#1701 for 400 gpm). Despite the company’s reduction of pumping in an attempt to avoid a pending review of its operations by the Ingham County Circuit Court, Michigan Citizens for Water Conservation who, along with allies, have contested the legality of the White Pine Spring well for the last five years is not willing to stipulate that the case in Circuit Court regarding the contested case is moot. Blue Triton’s notification of its intent to reduce pumping to 288 gpm—416,000 gallons per day, does not resolve the legal issues over the well’s operation by Nestle in the past, and Blue Triton in the future. There are too many unresolved issues.

“It seems that Blue Triton has abandoned the 400-gpm permit to duck the more rigorous comprehensive review of impacts required by Part 327 and the Safe Drinking Water Act for a bottled water well that exceeds 200,000 gallons per day,” Ross Hammersley, environmental attorney for MCWC in the pending legal action, said. “But whether Nestle or now Blue Triton can avoid these requirements is one of the critical questions before the circuit court.

What does all of this mean? While MCWC is pleased that the company has withdrawn the 400-gpm permit, which we’ve said all along was improperly approved, significant impairment of the two blue-water trout streams and habitat has already occurred. It is not in the best interests of Blue Triton, affected landowners, or the public to pump at 400 gpm or even 200 gpm. After all, Nestle lost a similar 8-year court battle in Mecosta County, where the final amended order reduced pumping from 400 gpm to an average 125 gpm in summer months and 218 gpm the rest of the year to prevent further damage and restore the stream, a lake and adjacent wetlands. Given Michigan’s unique glacial geology and annual rainfall patterns, large-volume water wells near headwater creeks and wetlands are not sustainable. The company’s request to continue pumping at its proposed reduced rate cannot be permitted unless there is a full monitoring plan to measure the effects on flows, levels, and impacts, before and during pumping, to Twin and Chippewa Creeks.

MCWC’s analysis and riparian landowners and other members of MCWC who fish and know these creeks have already documented substantial drying up or alteration of the creeks to the point that they are unrecognizable. As a result, if Blue Triton wants to chart a different course and become a good corporate citizen in Michigan, MCWC urges the company to undertake the following actions:

- 1) implement a true monitoring plan, based on scientific data gathering on site rather than computer models, under the supervision of a neutral hydrogeologist and under the direction of the community impacted as well as state agencies charged with protecting the waters of the state;
- 2) reduce rather than increase its pumping rate until the monitoring plan is in place and a baseline of data is established, and the effects and impacts at existing levels of pumping, including the proposed level of 288 gpm, are determined;
- 3) pending implementation of the above and the determinations from a proper monitoring plan,

reduce pumping to 100 gpm or an agreed amount that will minimize impacts until the plan and determinations are made;

- 4) meet with MCWC and EGLE so that all affected stakeholders can work directly to resolve these issues. If this cannot be done, then MCWC, representing the integrity of our water and water laws, do not and cannot agree that the pending circuit court case is moot or that Blue Triton's pumping, past or proposed at 288 gpm, is lawful;
- 5) hold any permit for the 288 gpm in abeyance until the plan is in place and the determinations are made, and provide public notice, a period of public comment and participation as required by Part 327 and the SWDA.

EGLE has prematurely approved Blue Triton's request to pump at the increased 288 gpm, This was done without notice to the public, and without public comment or input. Moreover, EGLE appears to have abandoned its demand for a monitoring plan that would have verified whether current or the proposed 288 gpm would cause harm or leave adequate water in the streams and wetlands. The monitoring plan should not be abandoned, but should be a condition on any agreement by EGLE, who is responsible for protecting our lakes and streams. EGLE must continue to demand monitoring, provide for public participation, and agree to MCWC's participation in such a plan.

MCWC looks to EGLE to exercise its legal responsibility as trustee or steward of the lakes, streams, and connected groundwaters of the State. They are public and held in public trust for all citizens. And, as stated above, MCWC looks to Blue Triton to chart a different course in Michigan in full compliance with the rule of law and our constitution's mandate that the state protect our water and natural resources from impairment or pollution. MCWC and its members stand ready to cooperate in good faith to achieve these above actions to determine what if any amount Blue Triton can pump from the White Pine well and at the same time maintain adequate water in the creeks and wetlands for riparian owners, the health of the ecosystem, and the use and enjoyment of the public. It is MCWC's hope that Blue Triton officials and investors will work with EGLE and us to establish a new legacy for water protection in Michigan.

Private equity companies will find us not easily fooled by self-serving gestures that are the opposite of what they seem. 288 gallons per minute is not an improvement over 250. We welcome the partial victory of not having to oppose 400 any further but continue the battle for water protection.

We also urge Governor Whitmer and EGLE Director Clark to work with us by insisting that our water laws not be diluted, but are applied to the letter of the law. We ask EGLE to abandon any legal maneuvers that prevent public notice, participation, and compliance with the law's mandate to protect our water resources. Blue Triton has thanked EGLE for its cooperation in seeking approval of the modified 288 gpm. Regrettably, EGLE has not cooperated with the public or MCWC regarding the continued pumping or the rights of adjacent landowners or the two streams. Despite trying to get "on-the-ground" help from EGLE over the last several years to address the White Pine well and its impact, EGLE did not notify MCWC or its members, or the riparian owners on the streams, of Blue Triton's desire to abandon the 400 gpm or its proposed new 416,000 gallons per day removal of water from the groundwater and this headwater creek system.

EGLE did not provide notice until after Blue Triton filed its notice to re-register the permit. There must be public participation, comment, and an individual permit review. We need government accountability in the management of our lakes, streams, and the Great Lakes.

We stand ready now to meet with EGLE and Blue Triton to chart this new course, so that companies like Blue Triton who want to take or use the waters of our State understand that it is a privilege.

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