

## Once Again Nestle/Blue Triton Dodges Justice

Ever since Nestle applied for the permit to increase pumping at the White Pine Springs well (PW 101) in Evart for its bottling operation in Stanwood in 2016, MCWC has been contesting this outrageous water grab. We have argued in public forums, educated across the state about the injustices this grab represents to the people and ecosystems of Michigan, and worked with organizations and citizens who submitted thousands of comments opposing the more than 200,000 gallons a day increase. Failure of the Michigan Department of Environment, Great Lakes and Energy (EGLE) to deny this increase has left two former trout streams badly damaged. We have had a few victories along the way, but without strict enforcement by EGLE, the damage will continue.

After EGLE granted an increase of 150 gallons per minute from the original PW 101 well up to a total of 400 gpm, state officials at least required Nestle to install a more stringent monitoring plan as a condition of exercising the right to pump at 400 gpm. However, the State would not let MCWC participate in the plan —only Nestle, the US Geological Survey, and EGLE. This meant Nestle's consultants would control the plan, which meant the plan would not provide adequate warning of damage. The creeks were already damaged and there had been no warning about it so far from the State or Nestle.

When Nestle sold its North American bottled water wells and operations to hedge-fund investor backed Blue Triton, Blue Triton secretly worked out a deal with EGLE officials, without advance notice to MCWC or the public, allowing Blue Triton to withdraw the 400 gpm permit so it could get out from under any monitoring plan. EGLE then let Blue Triton "reduce" its pumping to 288 gpm (or 416,000 gallons a day) which is twice the threshold for a bottled water permit under the State's water laws. EGLE confirmed this 288 gpm pumping includes Nestle's original PW 101 permit for 150 gpm, an increase by 100 gpm approved without comment in 2015, plus the approved registration of another 33 gpm.

**By interpreting Michigan's water laws to apply only to the most recent increment of 33 gpm, Blue Triton was able to dodge an evaluation of the effects of the cumulative removal of 288 gpm on the trout streams and watershed, and it no longer had to implement a monitoring plan that would catch these effects at these higher rates of pumping.**

Though the North American operations of Nestle were sold to two private equity firms almost a year ago, the same staff remains to carry out the same policies of Nestle. The same staff remains at EGLE also. The environment is not a concern. Only the bottom line matters as they develop strategies to increase profits prior to flipping the company to another investor in a few years.

Our efforts to argue the merits of our case that the 400 gpm permit should be denied, beginning with the filing of the Contested Case with the Administrative Law Judge at EGLE, have been met with a small army of lawyers and modeling experts who are adept at masking the actual effects of pumping and maneuvering around legal requirements. In one step after another we have had to argue that the court had jurisdiction, that we had standing as representatives of riparian owners impacted, that EGLE has a constitutional responsibility to protect the environment and the waters of the commons,

that EGLE and the Attorney General's office should have used the available laws as required to defend the water instead of throwing the weight of her office behind defending the illegal actions of EGLE in granting the permit in the first place. We have spent a large amount of the people's money just trying to get a proper hearing for the water in a state that prides itself on its water resources.

The final round occurred as a result of a clever maneuver on the part of Blue Triton (formerly Nestle). We had filed a petition for a hearing with the Ingham County Circuit Court following the adverse ruling coming out of the court at EGLE on our contested case. That ruling had continued the argument that we were not even entitled to mount a contested case. Again, we were still wrapped up in procedural matters that denied us the opportunity to argue the merits of our opposition to the permit. We had hoped the Circuit Court would at least be able to hear our case on several related matters left open by Judge Pulter's ruling.

But to evade the court's review Blue Triton decided to pull a fast one and declared that they were not going to use the permit, asking instead that EGLE re-register the amount they would withdraw from their previous permit for 250 gpm so that they would take 288 gpm. They called this a reduction and expected to get away with looking like they were reducing pumping and being good citizens. We were no more fooled than a third grader would be. 288 is a higher number than 250, not lower and an increase in a water system that has already seen immense damage is unacceptable.

**But EGLE went along with it immediately and withdrew the permit, granting the re-registration, and agreeing with Blue Triton that this meant legally they didn't need a new permit or a monitoring plan, according to their interpretation of law and the case should be declared moot. They then filed a motion to have the case in Circuit Court declared moot on the basis that no permit now existed so no contested case either. We argued that there were several outstanding issues still open and therefore we should proceed and resolve them. The Judge ruled against us and in favor of Blue Triton's trick. Case declared moot and we were out the door in 25 minutes.**

We are currently exploring our options for moving forward. Of course, there has been no justice here for Twin or Chippewa Creeks, or the people of Michigan who are still held captive by a private corporation still running the show at EGLE. The headwaters are still bone dry, the mudflats growing, the trout seldom found in two inches of water where they once swam free.

EGLE has suggested that if there are problems or gaps with Michigan water laws, then these flaws should be corrected by the legislature. Perhaps that's not a bad idea in terms of some of the loopholes left when the Great Lakes Compact, our groundwater and bottled water laws were amended in 2008. Article 4, section 52 of Michigan's Constitution declares that the protection of water resources from harm is a paramount public interest over efforts to extract water for private sale from Michigan and the Great Lakes. Perhaps it's time for our Governor, Attorney General, and EGLE to get behind this effort on behalf of citizens who have carried the load. If water is paramount and our government has a duty to protect it above all else, we ask ourselves why should citizens be forced to do the job of the state and legislature.

The question for the people is how to get those laws properly introduced, supported and enforced and the Constitution based on public trust mandates put forward once again as the guiding principle behind agency actions. We welcome any suggestions from the real stakeholders in this venture, the people of Michigan, the Tribes with Treaty rights, and those who commit their lives to defending water and universal access to it.

We contend that the Great Lakes and the surface and ground waters which make up the entire watershed can never be for sale and should never be controlled by private corporations for the profit

of the few. We contend that State government must also remain under the control of the electorate rather than the whims of big money donors who not only try to buy water and turn it into a commodity, but buy politicians who serve them in weakening the laws meant to protect natural resources.

—Peggy Case (input from Jim Olson)

MCWC has decided not to pursue further appeals or motions for reconsideration regarding our contested case. We have done everything legally and financially possible to challenge this withdrawal in the courts.

**We did have successes. Thanks to collaboration with other water warriors in Michigan including People’s Water Board Coalition, Fresh Water Future, FLOW, Clean Water Action, Sierra Club, the Grand Traverse Band of Ottawa and Chippewa Indians, we did succeed in our role with the combined forces opposing Nestle in driving Nestle to sell out and abandon its North American bottling operations. We succeeded in forcing the abandonment of the permit for 400 gallons per minute. We succeeded in promoting and helping to build coalitions of groups dedicated to ending the privatization of water. We joined coalitions promoting water justice at the national and international level. Though the Circuit Court has declared us moot, we have no intention of becoming such.**

We will remain allied with other organizations and the public to promote enforcement of existing laws, repair those laws where needed, and build momentum for the full establishment in statute of the public trust doctrine so our state agencies can have no doubt about their responsibilities to protect water. We will continue to do our own citizen monitoring of the two creeks to record the continuing damage and maintain a record for use in future actions if needed.

We will also continue our role in education and advocacy around the related water issues facing the Great Lakes Basin: equal access and affordability of clean drinking water and sanitation; ending pollution from PFAS, injection wells, fracking, and agricultural run-off; shutting down oil & gas pipelines such as Line 5 and the dangers they impose; exposing solution mining operations threatening our groundwater and wetlands; educating around the global water grabs of private corporations that threaten the human right to water and ecosystem requirements worldwide.



Tabling during pandemic at Elberta Farmer’s Market.



Tabling in Grand Rapids.

**Look for some MCWC webinars coming your way in the coming year to highlight some of these issues. They will be posted on our soon-to-be updated website and social media.**

**When the pandemic recedes enough to allow it, we look forward to engaging in events where we can share information in person. We need members to find speaking engagements for us. Call Peggy at 231-275-2244 to arrange.**

**We will be tabling at farmers markets this summer where we have volunteers available to staff them. If you want to help and have a market you would like to be present for, please contact us and we will arrange materials and support. You can reach us at [info@savemiwater.org](mailto:info@savemiwater.org)**

## **Baltimore Residents Win Water Affordability Program - Water4All**

Residents of Baltimore, Maryland have won a major victory in their fight for affordable water. On February 8th, Mayor Scott announced the initiation of the Water4All program. Baltimore is the second major US city, after Philadelphia, to determine water and sanitation bills based on income and family size, for all who are eligible.

Baltimore's affordability program is modeled on a program designed for Detroit in 2005. At that time, Roger Colton, expert on developing affordability programs for utilities, was brought to Detroit by the Michigan Poverty Law Program, Michigan Legal Services and Michigan Welfare Rights Organization. After months of research, a program was developed which included making the water affordable for all, managing past bills, protecting consumers who are unable to pay late fees and protecting families from service shutoffs. Detroit's City Council passed this plan but it was never implemented.

The problems in Detroit worsened over the years and resulted in water and sewer bills over 10 percent of a family's income and tens of thousands of families having their water shutoff. The Peoples' Water Board Coalition was formed in 2008 and has continued this fight. A moratorium on the shutoffs was implemented in Detroit during the pandemic. It is unclear what will happen at the end of 2022 when the moratorium is lifted. Activists are working with progressive legislators in the state and federal government to make water affordable.

Baltimore's program is now open to all whose income falls below 200% of the federal poverty level. The Baltimore Sun estimates this would be a family of four with an income of \$53,000. No one in this program will pay more than 3% of their income.

Other features of the program include paying down the amount in arrears when a customer pays their bill on time

**Rate hike:** The Great Lakes Water Authority (GLWA) will increase wholesale water rates 3.7% and sewer rates 2.4% in July, triggering rate hikes in the 88 communities it serves across Metro Detroit. Similar hikes are planned for the following year, and GLWA projections show a need for 3% hikes for the fiscal years of 2025 to 2027. "If we continue on this trajectory, more people are going to have challenges affording their water and more communities are going to run into problems," said Jen Read, director of the University of Michigan Water Center. Her previous research showed that low-income Detroit households spend around at least 25% of their disposable income on water and sewer service. Detroit's water shutoff moratorium is set to expire at the end of 2022, raising the possibility of widespread disconnections if the city fails to create a plan for water affordability. (Detroit News)



and the hiring of a Consumer Advocate to independently mediate customer complaints fairly, timely and with transparency.

This water affordability program in Baltimore came about after years of work by a coalition of a broad range of stakeholders, including water rights activists, elected officials, legal assistance, community activists writing letters to the editor, opinion pieces, attending meetings, the passage of the Water Accountability and Equity Act by City Council in 2019 and the support of the mayor.

————— Diane Weckerle

## Line 5: Where do we go from here?

For the past decade, Michigan residents have been standing together, pushing for the shutdown of Enbridge Energy's nearly 70-year-old Line 5 pipeline. After years of inaction from the Snyder administration, Governor Whitmer and AG Nessel have done everything they can to shut down Line 5 before it causes a catastrophic oil spill into the Straits of Mackinac, but the fight isn't over yet. With all the ongoing processes around the existing pipeline in court, and the oil tunnel proposal in several regulatory agencies, it can be easy to get confused about what our next steps are towards ending this threat to the Great Lakes for good. For ease of reference, we're going to split this topic into the pieces concerning the existing pipeline, and pieces concerning the tunnel.

### Existing Pipeline

There are currently two lawsuits that are in progress concerning the existing pipeline. On top of that, there are discussions about the future of the pipeline going on between the US Department of State and Canada over Canada's invocation of a 1977 transit pipeline treaty that has never been used before.



In Lansing.

Enbridge v Michigan is currently in the Western District of Michigan Federal Court. In this case, Enbridge is seeking to prohibit Michigan from enforcing the revocation of the 1953 easement that the state granted Enbridge to operate Line 5. Enbridge is moving for summary judgment; the state is moving for dismissal of the case. Both motions will be fully briefed this spring, and Judge Neff could rule at any point after that.

Nessel v Enbridge was filed in Ingham County Circuit Court in 2019, and recently Enbridge has sought to move this case to federal court. AG Nessel is seeking to remand this case to state court, and arguments on whether or not to remand to state court will be fully briefed by late March. If this case is returned to state court as it ought to be, it could potentially move quickly and result in the existing Line 5 pipeline being decommissioned.

Lastly, the US Department of State is in the early stages of talks with Canada over the future of Line 5. We are urging President Biden to protect our Great Lakes by rejecting Canada's broad interpretation of the 1977 Treaty, and revoking the Presidential Permit for Line 5. You can sign our petition to President Biden here.

## Line 5 Tunnel Scheme

Enbridge's oil tunnel is still a long way from being approved, however critical steps in this process are coming up soon and there will be many opportunities for public engagement. The Michigan Public Service Commission (MPSC) is expected to rule on whether or not to approve the Line 5 oil tunnel this year. The contested case before MPSC will be fully briefed by mid-March and they could rule any time after that. We need Michigan residents to show up and comment at MPSC meetings starting on March 17th at 1 PM in Lansing. Comments can be made virtually during the meeting or in-person, and you can sign up at <https://www.oilandwaterdontmix.org/join> to be updated on future meetings as well.

The last process to happen concerning the Line 5 tunnel will be the Army Corps Environmental Impact Statement (EIS). The EIS will likely take at least 2-3 years to complete and there will be several opportunities for public comment throughout the process. From what we know so far, this tunnel is very poorly planned, unnecessary, and could even cause an explosion either during or after construction. Further, Enbridge has asked the Federal Energy Regulatory Commission (FERC) to depreciate their entire pipeline system over a 20-year period. Why would they bother to take ten years and likely at least \$2 billion to build an oil tunnel that would only be used for another decade before the entire pipeline system is worthless?

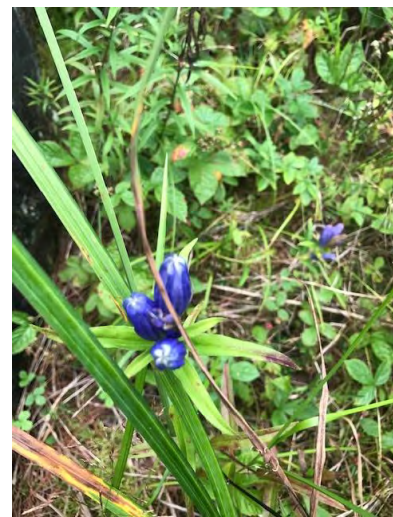
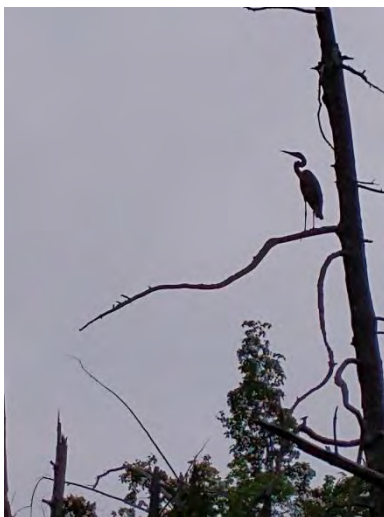
Enbridge has played their cards well, and we always knew that defeating one of the most powerful industries in the history of the world would not be easy. With sustained effort from Michigan residents who know the value of our Great Lakes, we will protect the Great Lakes from a catastrophic oil spill.

—Sean Mcbrearty, OWDM



MCWC in Lansing.

For all living  
beings...





# Benton Harbor Update and Back Story

*Our Fall issue reported on the situation in Benton Harbor with lead poisoning and the grassroots effort to force government to deal with it in a timely manner. We focused on the public health emergency it represented. The following is most of an article written by Claire McClinton from the Flint Democracy Defense League. The Benton Harbor experience certainly resonates with the grassroots organizers in Flint who have led in the fight for justice and clean affordable water in communities that are either poor or majority Black, or both.*

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## **Benton Harbor: State of Michigan Sows Water Disaster in Another Michigan City The People of Benton Harbor Fight a Corporate State for Clean Water.**

In 2018, Benton Harbor resident Emma Kennard's daughter came to visit from Texas. She wanted to take a bath only to discover a tub full of discolored and particle-filled water. Alarmed, the family took it to the mayor and city commissioners to have it tested. The city wouldn't even look at the tainted water, much less send it away to be tested. Hurt and upset, before even leaving city hall, Mrs. Kennard called community organizer Reverend Edward Pinkney. Pinkney ensured the contaminated water was sent for testing at a lab at the University of Michigan.

The test registered lead content at almost 300 parts per billion. (Under the Lead and Copper rule 15 parts per billion is deemed acceptable, although no amount of lead is safe). This sparked a community response that formed the Benton Harbor Community Water Council. One of the few almost all Black cities in the nation, with a population of 10,000, Benton Harbor faced a life-threatening situation.

### **Toxic Water, Toxic System**

The ghost of the State of Michigan-imposed Emergency Manager Law hovers over the tragic water disaster in Benton Harbor. From 2011 to 2017, the city was under state control through a state appointed Emergency Manager, an unelected official empowered to void or modify local contracts (outsource union work), hire or fire local employees, set aside local charters, initiate bankruptcy, dissolve or merge local municipalities, and most famously, sell assets. During this time, neither the mayor, the city commission, nor the city manager could make decisions on behalf of residents.

Not satisfied with the theft of the community's beloved lake front Jean Klock public park, which had been turned into a golf course in an effort led by the Whirlpool Corporation and its allies, the Emergency Manager attempted to sell and or lease the water plant. That effort was unsuccessful. The emergency manager did however, cut water treatment staff in half and fired the water plants' supervisor.

The emergency manager finally left in 2017, but that was simply a change in tactics. In 2018, the state's environmental quality agency, Environment, Great Lakes and Energy (EGLE), dispatched their team to the city. By 2019, they'd force the city into an Administrative Consent Agreement. These consent agreements are a part of the Emergency Manager Law and are designed to coerce impoverished communities to enter into "partnerships" with the state to resolve issues. The consent order raises water rates, in part, supposedly to pay for oversight of the water plant. In other words, the new partnerships make the very same people who have already been hurt by the very same

emergency manager law pay even more in order to clean up the mess caused by the law in the first place.

EGLE ordered the city to hire an outside private firm to staff the plant. Meanwhile, the specter of lead in the water continued to grow. The state agency toyed with the situation as the crisis persisted. Lead test results continued to be off the charts. All of this happened while the water plant is still publicly owned by the people of Benton Harbor and stands as Benton harbor's richest asset

The Benton Harbor Community Water Council did everything humanly possible to secure clean water for its residents. They sounded the alarm about the need to drink and cook with bottled water. They distributed thousands of gallons of water and continue to do so today. They even assisted the local supervisor and collected samples for testing.

Still, lead levels have continued to rise in testing conducted over the past three years. Individual homes have shown extremely high levels this year, including results of 107, 109, 469, 605 and as high as 889-ppb, according to state data. While EGLE had oversight of Benton Harbor water, the lead kept showing up. Finally, enough was enough. The residents had had it.

On September 9th, 2021 the Benton Harbor Water Council teamed up with twenty Michigan-based and national organizations to file a petition with the US Environmental Protection Agency.... Among other things, the petition called for the water to be declared unsafe and that all residents be notified immediately. It also made clear the need to provide free alternative sources of drinking water and to replace all service lines by September 2022.

When Governor Whitmer got wind of the September 9th release of the petition ahead of time, she headed down to Benton Harbor on September 8th to do damage control. She announced promises of a "whole-of-government" approach to provide lead line replacement money and speed up the response to the problem.... This response showed the power of the people. The filing of the petition finally allowed the long-suffering residents of Benton Harbor to be heard. The EPA has responded to the petition condemning both the city and the state, while outlining steps going forward.

How could there be a Benton Harbor in 2018, when we had a Flint in 2014 in the same state?!! ... As illustrated in Flint, poisoning poor and particularly Black residents in impoverished cities for profit is [still] the state of Michigan's way of doing business. Markets are using the state and its Emergency Manager Law to push privatization, no matter the human cost, no matter the loss of lives, and no matter the permanent damage this push is inflicting on the people's (especially the children's) brains, nervous systems and kidneys.

In December 2020, Business Insider published a stunning headline. It read, "Water Futures Set to Join Likes of Gold and Oil and Trade on Wall Street for First Time Ever." This signifies a giant step in the privatization drive that is well underway here in Michigan. These financial maneuvers led to the tragic Flint water disaster, and they are facilitated by the fact that Michigan is the home of the Great Lakes, the largest basin of fresh water in the world.... Safe, clean, affordable, and publicly owned water is not too much to fight for in water rich Michigan. The people of Benton Harbor are showing all of us the way.

———Claire McClinton

*The Governor may be moving to speed the process along in Benton Harbor but she is not totally in control of state responses. The Legislature must feel continuing pressure from citizens to promote and support laws that make these injustices a clear thing of the past and mandate remediation efforts.*



## **Why are we collecting stories about what happens to a family when they cannot afford their water bill?**

The People's Water Board has been working to ensure everyone has clean, affordable running water since 2008. We are a coalition of three dozen grassroots groups, NGO's, faith-based, community-based and labor organizations who have come together to fight for the human right to water. Water is held in the public trust for the benefit of all people in Michigan. That means water should not be privatized for profit. It must be available to all people regardless of income; and it must be protected from pollution. But that is not what's been happening.

When the pandemic broke out in 2020 the PWB and allies demanded that Governor Whitmer stop all water shutoffs and turn the water back on where they have already been shut off. The governor and legislators approved a temporary halt in water shutoffs. It was obvious to all that during the pandemic not having water created conditions for deepening this major public health crisis. All shutoffs were stopped throughout the state until March 31, 2021.

When water companies applied for federal Covid relief funds for compensation, they had to provide data on how many residents were unable to pay their water and sewerage bills. For the first time in Michigan, the facts were made public that showed water bills were unaffordable for thousands of families in every corner of the state. This is clearly not a Detroit problem alone. It's a statewide problem burdening residents of all races, creeds and citizenship status.

Shutoff notices are again being sent out to thousands of residents in Warren, Oak Park, Hazel Park, East Point and other cities. Threats of water shutoff, adding water bills to taxes, late fees, threats of home foreclosure are again causing stress and hardship. Peoples' Water Board is collecting (anonymous) stories of anyone who has gone through any part of this trauma in the last few years in Oakland and Macomb Counties, to help the public and legislators understand this problem so we can find ways of making water affordable for all regardless of income.

Water is a human right. Let's find ways of ensuring our residents have clean, running water to meet their basic needs. Tell your story.

[Peoples' Water Board: https://www.peopleswaterboard.org/](https://www.peopleswaterboard.org/)  
[FB: https://www.facebook.com/peopleswaterboard/](https://www.facebook.com/peopleswaterboard/)

To schedule an interview: Call or text 313-753-9283

———— Diane Weckerle, PWB



**Water is Life – No Shut Offs!**

# MCWC LETTER TO CADILLAC NEWS

*Note: This letter was never printed by the Cadillac news*

Is Michigan Potash and Salt Company finally prepared to launch a billion-dollar mining venture in Osceola County? They say yes. We say look more closely. The company's latest press-release (11/26 Cadillac News article, "Truly Shovel-Ready") followed the routine re-issuance of an expired air-emissions permit by Michigan's Dept. of Energy, Great Lakes, and Environment (EGLE). Members of Michigan Citizens for Water Conservation (MCWC), lodged a number of objections to the draft permit, prompting significant changes. [ MCWC continues to take issue with provisions allowing the release of deadly hydrogen-sulfide gas.]

On numerous occasions over the past 6 years, Michigan Potash has pronounced their project to be "shovel-ready" with groundbreaking imminent. Usually, as now, they state that they are "finalizing" their financing (totaling approximately a billion dollars).

## **But what does Michigan Potash mean by "Shovel-Ready"?**

- Does it mean that MPSC has assessed drainage patterns on and around their property and identified possible avenues to widespread contamination of ground and surface waters from unintended releases of hot, concentrated brine solutions? If that's a part of being "shovel-ready", then they are not.
- Does it mean that MPSC knows what lies beneath their site thru soil-borings and analysis, shallow aquifer identification and location, groundwater flow-mapping, etc.? If that's a part of being "shovel-ready", then they are not.
- Does it mean that MPSC has performed sustained pumping tests to determine whether the local aquifer can meet their extraordinary water demands without destruction of local wells and of the aquifer itself? If that's a part of being "shovel-ready", then they are not.
- Does it mean that MPSC has cooperated with the Osceola County Planning Commission in its efforts to predict and prepare for the impacts which a large mining operation will have on the area? If that's a part of being "shovel-ready", then they are not.



Bull Kill Marsh near proposed Potash Mine site.

It is not entirely Michigan Potash's fault that they have neglected to do so much of what should be required of a company attempting to start a billion-dollar solution- mine. Michigan's DEQ (now EGLE) has fallen far short on its duty to vigorously enforce provisions of Michigan's Environmental Protection Act (MEPA) which were intended to minimize damage to the environment. Instead of requiring a full Environmental Impact Assessment (EIA) to study, test, evaluate, and compensate for the limitations of a deeply flawed site, EGLE merely required a 4-page, fill-in-

the-blanks questionnaire (partially filled out) to which the company was allowed to attach hundreds of pages copied from a bonafide EIA prepared by PPG industries 40 years ago. Since the old PPG site is situated upon dramatically different terrain, most of that material is irrelevant.

Since the testing and studies necessary to comply with the letter and spirit of MEPA are both time-consuming and costly, EGLE appears to have done Michigan Potash a great favor by allowing this substitution. In truth, they did the company a tremendous disservice. MEPA's environmental review process, when fully carried out, provides a rigorous framework whereby a company can confidently say to all stakeholders that they have done their best to ensure the long-term viability of their venture. This process is especially valuable for small companies which have never engaged in mining before. **It is MCWC's contention that Michigan Potash should not even think about breaking ground until they have done the work needed to establish that their site is safe.**

For almost four years, the Osceola County Planning Commission has repeatedly requested that Michigan Potash appear and answer questions regarding their plans, but the company has stalled and ultimately ignored these reasonable requests. Meanwhile, intense pressure has been brought to bear on the Commission to curtail its inquiries. Whenever a local unit of government, tasked with forecasting and adapting to future growth and change is actively hindered in its efforts, red flags should be raised!



**MCWC Founding President Terry Swier**  
**March 18, 1944 - December 5, 2021**  
**Leader, Organizer, Water Defender, Community Builder**

When Nestle moved into Mecosta County in 1998 and set up its bottled water operations it had no idea it would be butting heads with a retired librarian living peacefully on Horsehead Lake with husband Gary. But then they didn't know Terry. In 2000 when the community discovered the damage Nestle's operation was doing to Deadstream and several small lakes in her area, Terry took the lead in assembling massive opposition. Along with other concerned citizens she helped gather over 2000 people in a public meeting and laid the groundwork for the formation of MCWC. Terry became the first president, MCWC hired Jim Olson as its attorney, the lawsuit was filed, and the rest is history. A victory against one of the largest corporations in the world.

Over the years Terry led MCWC and also traveled around the state and country helping other groups organize to oppose bottled water operations. After the settlement of the lawsuit in 2009, as many took a justified rest from the work of MCWC, Terry stayed on for another two years to make sure the organization would continue as a model grassroots, all volunteer organization, since obviously the water issues she had engaged were not at all resolved. She continued to help with fundraising and rebuilt the Board to carry on the work. When she retired from the board in 2011, she continued to mentor the new leadership for many years.



Terry's son Chris had joined his parents in moving the work of MCWC and returned to a leadership position in recent years, serving as Treasurer until last fall when he too retired to focus on family and farm. Here are his words describing his mother's work:

"In one of the first concerned citizen, community meetings focused on the Nestle plan (and it was nothing but a plan in early stages at that point), Mom was armed with information and ideas. She was clearly willing to speak up, and was prepared to face the challenge. When the suggestion of a nonprofit citizens group was raised, a number of people gathered looked directly to Mom. After some back and forth, Mom stepped forward.



Terry (center) with Amy Goodman and board members at her house on Horsehead Lake, 2016.

"Mom was able to take advantage of her lifetime Librarian skills managing mountainous reams of materials. She was willing and able to dedicate her time and efforts in retirement. And it took more time and more effort than imaginable. Mom was part of an early team of dedicated Board Members, all capable and committed, all working tirelessly and skillfully toward understanding the issues at hand, and finding ways to tackle them. Mom had an especially supportive and involved Board. And a Vice-president of equal dedication and determination, Rhonda Huff. The two were peas in a pod. Neither blinked when faced with the ever-present insurmountable challenges. Their belief was unshakable, founded on moral grounds and concerns for future generations, including their kids and grandkids and beyond.



Terry Swier and Jim Olson at annual meeting in Mecosta, 2018.

"Mom charged forward, her determination and grit, her full commitment never wavering. Dad and Mom spent countless hours most days hashing and rehashing minute details and the broadest picture. This extended into the many miles traveling across the state raising awareness, garnering support, fund raising, building coalitions, meeting with elected and appointed officials up and down the ladder of politics.

"As the many years passed, Mom found the need to pass this work on. She had focused on her plate and was nearing clearing it. She was growing older, as were her grandkids. Time became ever more precious.

"The work did not end. And continues today. The torch now lies within each of our grasps/hands."

We will continue to do our best today to live up to her legacy.

—Peggy Case & Chris Swier

**Terry Swier** (sent to the viewing at the funeral home after her passing)

Over the last 22 years thousands of people have come to know the name of Terry Swier as a model for water protectors across the country. Her ground breaking work in helping to found and then to lead the grassroots organization that took on Nestle and won has helped to shine a light on a number of related issues of water justice.

Those of us who inherited that organization when she finally decided to retire from her voluntary position have always been proud of her legacy and sought to maintain it. Terry was known for her persistence, humility honesty, hard work, ability to connect the dots to the larger issues that guided her work. She knew this wasn't just about one well in Mecosta and she kept the larger perspective always in front of us. She knew how to gather people together and lead thousands to work as volunteers for a common cause because they believed in it. Her principles were tight. No corporate money, no government money. We wouldn't waste any money on an office or staff but rather build on the commitments of those who joined us. It was a unique organization and it has remained so to this day. It is with deep gratitude that we share in laying to rest a hero for the planet who has earned every moment of that rest.

Peggy Case for Board of  
Michigan Citizens for Water Conservation



**Tribute to Terry from We Advocate Through Environmental Review,  
Mount Shasta, California**

January 18, 2022

Hello Fellow Water Protectors,

We would like to make a donation in memory of Terry and Gary Swier. We remember when we were fighting the Nestle plans to open a water bottling plant in McCloud, California back in 2004, Terry visited us and offered us valuable insights and support in our struggle and spoke at one of our first community meetings in McCloud. Her passion and dedication were an inspiration to us in what felt like a lonely struggle. We prevailed and Nestle never did open that plant! More recently we have been involved in fighting a Crystal Geyser beverage plant in Mount Shasta. Our struggle to enforce California environmental reviews resulted in Crystal Geyser also abandoning its project. You can see more details at our website [www.cawater.net](http://www.cawater.net)

We wish you success in your projects and mourn the loss of such dedicated activists.

# Fracking and Injection Wells Still with Us

The **proposal to ban fracking and frack wastes** might appear on the 2022 ballot this fall, if four individuals prevail in court to have their signatures count. After the Committee to Ban Fracking in Michigan's court cases came to an end last year, four individual signers took up the charge and filed a separate lawsuit. The plaintiffs in *Graziano et al v Director of Elections*, seek to have their signatures count--and all signers like them--in a challenge of the signature-gathering law restricting signature gathering to just 180-days. Like in the Committee to Ban Fracking's cases, no court yet has ruled on the merits of the case: that the law restricting signatures for statutory initiatives is unconstitutional. The *Graziano* case is now in the Michigan Court of Appeals.

Michigan's over 1,400 **injection wells** are still under the authority of the Environmental Protection Agency, after the Michigan Department of Environment, Great Lakes and Energy (EGLE) applied for "primacy" from the EPA. A year ago in April, the ban fracking organizations called on MCWC members to write comments to the EPA opposing primacy--the shifting of primary control of Class II injection wells (for oil, gas and fracking wastes) from the EPA to EGLE. EGLE's hopes were to quash the holding of any public hearings on any injection wells. After 80 public comments were submitted, EPA withdrew the federal Rule, and Michigan's application is in limbo.

The State's primacy application omitted any information about how EGLE dealt with violations, the history of contaminations, well casing failures, citizen complaints, and other required information. At the same time as the public comments, a key employee in the oil and gas division, Joseph Pettit, was charged by the Michigan Attorney General with embezzlement. Pettit was the guy in charge of taking the oil and gas companies' bond money to make sure they complied with state law, and was the key compliance officer. Clearly EGLE has an oil and gas injection well problem that has not been sorted out.

EPA continued holding public hearings on a few new injection wells. However, even these hearings do not go very well, and EPA almost always permits the applications. The Riverside injection wells in Antrim County were approved despite comments in opposition. These "enhanced gas recovery" wells are to pump CO<sub>2</sub> downhole, just to continue to produce more "natural" gas (methane), which in turn produces more CO<sub>2</sub>. There's no "clean energy" going on here.

Ellis Boal, of Ban Michigan Fracking, participated in the Governor's Council on Climate Solutions, and proposed two recommendations. One would adopt one of the measures of the Committee to Ban Fracking's ballot initiative -- that the Michigan statutory language requiring EGLE regulators to "foster" the oil-gas industry "favorably" and "maximize" oil-gas production -- be repealed.

The other takes aim at a common practice in Michigan's naturally-fractured "Antrim Shale" which arcs across the northern counties of the Lower Peninsula. When operators extract natural gas, for this particular type of rock, CO<sub>2</sub> also comes up with it. The operators pipe the natural gas away for sale, but they vent the CO<sub>2</sub> freely to the atmosphere. The vented CO<sub>2</sub> sums to a million tons a year, according to one analyst. But under current law, CO<sub>2</sub> is "waste," and the law absolutely prohibits venting of waste. This proposal simply asks the governor to tell EGLE to start enforcing existing law.

The Climate Council is still in the process of accepting proposals from the public. That period will end on March 14. For now, the two proposals are still in the hopper. No one on the Council has spoken publicly against them, not even the oil-gas industry. March 14 is when the real fight will begin.

———Ellis Boal & LuAnne Kozma



## Tune in for Water Wednesdays

Every Wednesday at 12pm catch the People's Water Board Coalition's (PWBC) Water Wednesday show — a unique webcast hosted and produced by Detroit mothers who discuss a variety of local to international water-related topics with special guests. Each show is broadcast live on Facebook, You Tube and Twitter. You'll find recorded shows on the People's Water Board Coalition's YouTube channel. Subscribe today to keep up with each informative and lively show!

**Did you know** that MCWC President, Peggy Case, was a featured guest on Water Wednesdays on December 21st, 2021?

If you want to view it, check out the links below (Facebook is the easiest way to find it).

To learn more head over to:

Facebook: [facebook.com/peopleswaterboard/videos](https://www.facebook.com/peopleswaterboard/videos)

Twitter: [twitter.com/PeoplesWaterDet](https://twitter.com/PeoplesWaterDet)

Youtube: [bit.ly/3hsEZMr](https://bit.ly/3hsEZMr)

## Save the dates for World Water Week 2022

WATER. IS. LIFE. – We all know this. It is essential for life and we have a special duty in Michigan to take action. On March 22 every year, UN World Water Day (WWD) recognizes the importance of water around the world.

This year's theme?

***“GROUNDWATER - MAKING THE INVISIBLE VISIBLE”***

From Blue Triton's bottled water operations (formerly Nestle) to the injection well and fracking committees. We all know that the work that MCWC volunteers do every day fits directly into this theme. There is always more to do and this is a great way to get acquainted with issues impacting communities around the state and to take meaningful action yourself!

Due to the impact the pandemic has had on World Water Week over the past couple of years, a hybrid in-person and virtual option has been adopted and allowed us to host more than a single day event. We will continue that trend this year and in future years. We couldn't be happier with the successes that this model has given folks that are geographically, physically, or financially unable a way to participate.

St. Patrick's Day - Thursday, March 17th - is the kickoff with a press conference raising awareness on three Public Trust bills in the state legislature. Partners in the People's Water Board Coalition, including MCWC, honor this day and more. Save the dates now because each day through Friday, March 25th we will share amazing films, art, legislative action, educational events (and more) to celebrate the water and take actions to protect this precious resource.

The planning team, that includes our very own MCWC Vice President, Shannon Abbott, will be sure to give you details as we get a bit closer to the events. If you are not signed up for our emails, please do so right away by reaching out to us at [info@savemiwater.org](mailto:info@savemiwater.org) or follow us on Facebook at [facebook.com/SaveMIWater](https://www.facebook.com/SaveMIWater).

***Dates: Thursday March 17, 2022 - Friday March 25, 2022***

See you there!

# **WE ARE NOT ALONE**

## **News from the Troubled Waters Network**

The Water Watchers is a non-profit organization, born out of Guelph Ontario that has been dedicated to protecting water for the past 15 years. This small but mighty organization has successfully mobilized communities to take on Nestlé and challenge water taking permits in Ontario. After a 12 year battle and grassroots pressure, they not only won a moratorium on all new water taking permits in 2017, but they were also an important part of the movement to kick Nestlé out of Canada! Fast forward to today, Nestlé's bottling operations now belong to a more dangerous predator and equity firm, Blue Triton. The fight against the privatization and theft of water is far from over. Water Watchers are taking a more proactive approach to Blue Triton and has created a dedicated committee to refresh its strategy. The issue of water theft must be viewed through an intersectional lens with the end goal of climate justice and Indigenous sovereignty. Water is a right and we cannot allow it to be commodified and stolen for profit.

———Horeen Hassan, Water Watchers - Ontario

### **Water Board Hearings in California Have BlueTriton Sweating**

The Los Angeles Times front page story called it “a bitter feud” and the Desert Sun story cited “years of outcry...coming to a head.” Both were describing the California Water Board's investigation and ongoing hearings this winter into BlueTriton's controversial withdrawal of water from southern California's San Bernardino National Forest.

Last year, the company removed nearly 60 million gallons from springs on these public forest lands to bottle as Arrowhead Mountain Spring Water. The Board is considering a draft Cease & Desist order that would force the company to either dramatically reduce—or even stop—its water take after nearly 100 years.

MCWC-partner Story of Stuff Project and others brought the Water Board complaint against BlueTriton predecessor Nestle in 2016 after it became clear that the story the company had spun for years about its supposedly sacrosanct water rights were just that—a story—and a fictional one at that!

During the hearings that began in January, BlueTriton has been on the defensive, with Water Board prosecutors and other interested parties, including Story of Stuff, poking major holes in the company's water rights claims. The Hearing Officer's evenhandedness has rattled BlueTriton and its team of attorneys, who are clearly used to the soft touch they often receive from regulators.

Unsurprisingly, BlueTriton's legal team has found the Hearing Officer's deference to public participation particularly galling, including testimony and cross-examination by local whistleblowers and non-lawyers Steve Loe, a retired Forest Service biologist, and Amanda Frye, whose volunteer research produced hundreds of historical documents that were introduced into evidence. To add insult to injury, during a site visit to the spring sites by the Hearing Officer and interested parties in March, BlueTriton was forced to “open up,” showing the vaults, borings, tunnels, pipeline and other infrastructure it uses to pipe out the public's water, a first look for most of the advocates.

The hearings resume in late March and should conclude by late April, with an order then sent to the full board for its consideration. It's as close as advocates have ever gotten to shutting down the operation, but despite the forward momentum they continue to press hard. BlueTriton, for its part,

appears to be building a case for appeal, an acknowledgement that they're between a rock and a hard place, specifically water regulators skeptical of their claims and citizens committed to returning the water they bottle to Strawberry Creek where it belongs. Stay tuned!

————Michael O'Heaney - Story of Stuff - California

**Unbottle and Protect Chaffee County Water**, a nonprofit group based in Salida Colorado, aims to remove the big blue trident piercing their community using their own three-prong approach of --> TRUTH: researching and reporting past shady business practices --> TRANSPARENCY: watchdogging current permit compliance --> TRANSFORMATION: working toward future sustainable solutions. Currently, the company (BlueTriton/Nestle) is permitted to suck and truck 65 million gallons of water every year from Chaffee County to Denver - hundreds of miles away - where it is bottled and in single-use plastic and sold across the country as Arrowhead Brand Spring Water.

—Jennifer Swacina - Unbottle and Protect Chaffee County Water - Florida

We are **Our Santa Fe River, Inc.**, non -profit grass roots and all volunteer organization dedicated to protect the Santa Fe River and underlying aquifer. We are located near Fort White, Florida, in a rural area of North Central Florida. Our main focus battling BlueTriton has been to attempt to stop the renewal of an expired pumping permit which allows nearly one million gallons per day. In spite of garnering nearly twenty thousand letters opposing the permit which were sent to the water management district, staging lively demonstrations, filing legal challenges and writing op-eds in newspapers, we lost the battle. The permit will expire in four more years so we are gearing up to continue the fight. We will not give up.

—Merrilee Jipson - Our Santa Fe River - Florida

**Community Water Justice** is a network of front-line communities against water privatization in Maine, working to protect the integrity of the commons. We are based in the western mountains of Fryeburg where we have been challenging Nestle / BlueTriton's Poland Spring brand bottled water for the past decade. Poland Spring extracts water from 10 communities, totalling well over 1 billion gallons per year. We are continuing to block developments and have successfully prevented a 4th bottling plant from being built. Currently, the USGS will be conducting a groundwater study, which we hope will reveal the scientific explanation of why some of our surface waters are disappearing over the central part of our aquifer where Poland Spring mines water from.

— Nickie Sekera -  
Community Water Justice - Maine



MCWC with Our Santa Fe River in Florida.



## Public Trust Bills to be Re-introduced in Legislature

Three important bills will be introduced in the Legislature on March 17th. Once again the people will be looking to the Legislature to do the right thing for water and for the people they serve. These bills are not new and it is important that the public loudly get behind them so the slow moving legislature finally sees their importance and gets them passed this year. We will post the bill numbers on our website and social media as soon as they are introduced and give you suggestions for how to contact your reps and build momentum in the public arena.

So far corporations such as Nestle have been able to get away with selling the public's water for a profit because the public trust has been interpreted as applying only to surface water under the constitutional mandate, not groundwater. Groundwater has been treated as a private commodity, not a public good. So private companies have been allowed to seriously impact our aquifers for years, lowering levels for farmers and rural well users alike. Aquifers in urban areas suffer as well. The aquifer in Ewart which Nestle contracted to draw down through capture of two city wells is down 14 feet from historic levels and not recharging.

Outfits like Nestle and Blue Triton try to stir up fear of the public trust doctrine claiming we are trying to restrict the use of water for agriculture. This is the exact opposite of the intent of the public trust. It is meant to protect that water so it is available to farmers as well as everyone else, and not grabbed by private entities and shipped out of the watershed

The bill to be introduced by **Representative Rhabi** will **declare that all ground water is to be treated under the public trust doctrine as a public good just like the Great Lakes are treated.** It is long overdue for this to be clearly established in our statutes so state agencies can have no doubt about their responsibilities.

Representative Hood will be introducing the **bill that closes a serious loophole in the Great Lakes Compact and fixes the statutes** amended at the time of its establishment. It will get rid of the exception to shipping our water out of the basin when it is in containers of less than 5.7 gallons. This loophole has allowed the likes of Nestle to take basin water all over the world for its profit.

**Representative Pulotski** will introduce the **bill that gives state agencies the teeth they need to actually enforce the laws that uphold the public trust** and put the needs of people and ecosystems before the needs of private corporations seeking profit.

MCWC will be advocating ways to get behind these bills and build the momentum of public bi-partisan support for their passage. Stay tuned.



**Put Groundwater Under Public Trust!**  
**Fix Loopholes in the Compact!**



Mudflats on Chippewa Creek.

Still much work to do.



Headwaters on Twin Creek.

## Let's pay off our debt by the end of 2022!

**That's the Goal for MCWC and you are the ones who will meet it. Remember we take no corporate or government money.**

We have paid down our legal bills to a remaining sum of

**\$50,000**

Originally over \$200,000!!!

Since we don't anticipate further court related bills this year, we hope to rid ourselves of debt so we can focus more of our energy and resources on developing educational materials and returning to public engagement and advocacy events and initiatives.

**There is so much work to do yet for water. Your continued support makes it possible for our volunteers to do their share of that work.**

Contribute online at [saveMIwater.org](http://saveMIwater.org)  
or mail a check to  
MCWC, PO Box 1, Mecosta, MI 49332



For our great grandchildren.

We work for them.



For our children and grandchildren.

Michigan Citizens for Water Conservation  
P.O. Box 1  
Mecosta, MI 49332

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info@saveMIwater.org

Help preserve natural resources – recycle this newsletter by sharing it with a friend!



Your Donation and Membership is how we fund our organization.

MCWC is A 501c3 grassroots group organized in December 2000. Our mission is to protect our surface and ground waters from pollution, plunder and privatization through education, advocacy and actions. We work to protect and promote human and ecosystem rights to water and defend the public trust doctrine. All staff are volunteer. Your donation is tax-deductible.

Please send your check to P.O. Box 1, Mecosta, MI 49332

Or pay via our Website: [www.saveMIwater.org](http://www.saveMIwater.org)

We promise to apply your donation to the work of saving our waters into the 7<sup>th</sup> Generation.



**Please help support MCWC as we continue to support communities through research, information distribution, and coalition building. Together, we can help to stop the privatization and commodification of our natural water resources.**

**Water is Life.**

**HELP BY DONATING TODAY**

