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Economic v. environmental impact: an agonizing neighbor-against-neighbor choice that Centre County citizens should move beyond, into win-win.

By Katherine Watt

In early January, the *Centre Daily Times* reported on CBICC (Chamber of Business and Industry of Centre County) plans to facilitate a Nestle Waters North America plan to open a groundwater extraction plant somewhere in Centre County, most likely in Spring Township.

The proposed extraction rate of 300 gallons per minute equals 432,000 gallons per day.

Since then, several area conservation groups including ClearWater Conservancy, Sierra Club Moshannon Group, and Nittany Valley Environmental Coalition (NVEC), have been working to learn more about the proposal and Nestle's corporate record of water extraction in other communities.

Several members of NVEC have submitted document requests under the Pennsylvania Right to Know Law to Centre County public entities involved in the recruitment and project review processes, and the group has set up a website to house the collected documents at stopnestlewaterextraction.wordpress.com.

The proposed Nestle plan pits possible much-needed living-wage jobs and public tax revenue against the public's right and duty to protect crucial water resources and high-quality cold-water fisheries for present and future generations.

Corporate investment packages can be structured to create decent jobs without undermining critical human life-support systems.

Let's push our county government leaders to articulate and implement an ecosystem-supporting community development vision, and not be complicit in the extractive corporate model.

BACKGROUND

In December 1970, the US Congress adopted the Susquehanna River Basin Compact, in response to water pollution and over-usage of water in the basin, which includes territory in Pennsylvania, New York and Maryland, and supplies half the freshwater flow to the Chesapeake Bay.

The compact was published by the Susquehanna River Basin Commission in May 1972, providing "the mechanism to guide the conservation, development, and administration of the water resources of the vast river basin."

The Spring Creek basin, one of the headwaters, falls under SRBC jurisdiction as part of the West Branch Susquehanna sub-basin. All of our county water authorities must apply for permits to withdraw, consume or divert water from our highly networked ground and surface sources.

Spring Township Water Authority is one of those public entities.

The precursor entity – Pleasant Gap Water Company – incorporated in 1910, and was granted permission in 1945 to withdraw up to 100,000 gallons per day from the area around Axemann Spring, Armour Run, Lonebargers Run and Brass Spring.

Those water sources flow into Gap Run, and then into the Logan Branch tributary of Spring Creek. The complex connections create steady flows of cold subsurface water into surface creeks and runs, key to maintaining the lower temperatures needed by cold-water fish populations, angler locals and tourists, and outdoor recreation businesses.

Spring Township Water Authority incorporated in 1967, adding Benner Township to its service area. In 1983 and 1984 – in response to the drought of 1980-1983, the Spring Township authority was authorized on an emergency basis to draw up to 300,000 gallons per day from the local springs and creeks, and later authorized for that same limit on a permanent basis.

In 1990 and 1991, the authority was notified that it was violating its permit, and moved to apply to SRBC for a permit allowing withdrawal of up to 600,000 gallons per day.

In September 1993, the SRBC approved the permit, stipulating: "the Commission reserves the right, based upon new findings, to reopen any project docket and make additional orders that may be necessary to mitigate or avoid adverse impacts or otherwise to protect the public health, safety, or welfare. Commission approval confers no property rights upon project sponsors."

If the Nestle project is approved, the 432,000 gallons extracted per day will export more than two-thirds of the Spring Township Water Authority's permitted daily withdrawal, out of the Spring Creek basin.

PROPOSED NESTLE PROJECT

Early November 2017

From the documents collected so far, the Centre County project appears to have hit the public government sector "several weeks" before November 28. According to Email 12 and Email 13 provided by Centre County via RTK, participants in the meeting (date and location unknown) included CBICC President Vern Squier; CBICC Vice President Jennifer Myers; Nestle Waters "Natural Resources Manager" Eric Andreus; Centre County commissioners; Kurt Knaus, Managing Director for Ceisler Media & Issue Advocacy firm (working with Nestle); and Centre County Administrator Margaret Gray.

The contents of the meeting as reflected in agendas, minutes and notes are unknown, despite having been specifically listed in the original request. These documents have been requested again in a follow-up RTK request.

We've since learned that Penn State Vice President for Finance and Business David Gray – Margaret Gray's husband – also serves on the CBICC board of directors.

November 22, 2017

On November 22, 2017, the project appeared under "New Business" for the Spring Township Water Authority board meeting.

The minutes state:

"Nestle Water – Doug Weikel, Chairman, reported Nestle Water would like to purchase non-chlorinated water from The Authority. They are looking at other areas as well, however, with the new well site they are willing to pay for the pipeline and a replacement well in addition to the water. This would be a benefit to The Authority. They have submitted an Access Agreement to give them the right to have their contractors and consultants complete their own testing to prove the water is directly from a well non chlorinated etc. After some discussion, it was on a motion of John Schifffhauer seconded by Gary Catalano to approve ratifying the access agreement. Unanimously approved motion carried."

We've since learned from public databases that Weikel is Director of Civil Engineering for Herbert, Rowland, & Grubic, Inc. (HRG), and has served on the Spring Township Water Authority since 2004.

November 28, 2017

On November 28, Centre County Planning Director Robert Jacobs met with Nestle Waters' Andreus; CBICC's Myers; and Centre County Administrator Margaret Gray, according to information in Emails 9 to 12 from Centre County. Meeting contents unknown; minutes have been requested again, in a follow-up Right to Know request.

November 29 – December 1, 2017

On November 29, Jacobs emailed Andreus, copying Mrs. Gray and Ms. Myers. (Email 9)

Jacobs wrote to Andreus that he (Jacobs) had reviewed the zoning ordinances in Benner and Spring Townships and made the following comments:

"...Benner Township has Campus Industrial and Light Industrial zoning districts in the Benner Commerce Park. Both districts provide for "Manufacturing, packaging, storage and/or wholesaling" as a **permitted use by right**.

Although bottling water isn't a specific use identified in either district, I would argue that it fits this permitted use category.

The definition of "Manufacturing" in the Benner ordinance clearly provides for your proposed activity: Manufacturing – Production of goods from raw materials, by the assembly of constituent parts produced elsewhere, or by

a combination of these means, including the final packaging such goods for sale or shipment. Includes all activities included in the NAICS (q.v.) list of "manufacturing" activities....

Likewise, Spring Township has Light Industrial and Heavy Industrial zoning districts. The site you are considering is located in the Light Industrial district. This district does not specifically provide for your proposed activity. However, it allows for "medical device manufacturing", "Pharmaceutical production and packaging", and "Warehousing and wholesale trade establishments." These **permitted uses by right** in my opinion are in the same category of activity that you are proposing.

The Heavy Industrial district does provide for "Any production, manufacturing, assembly, processing, cleaning, repair, storage, or distribution of goods, materials, foodstuffs, and other products not involving a retail activity except as an accessory use." The definition of "Manufacturing" in the Spring ordinance clearly provides for your proposed activity:

Manufacturing use – The processing and/or converting of raw unfinished materials or finished materials or products, or any combination of them, into an article or substance of different character, or of use of a different purpose. Additionally, the term manufacturing shall include industries furnishing labor in manufacturing or in the refurbishing of manufactured articles. This use includes apparel and textile products, chemicals and allied products, electric and electronic equipment, fabricated metal products, food and kindred products, lumber and wood products, machinery, paper and allied products, petroleum and coal products, stone, clay and glass products, textile mill products, tobacco products, transportation equipment and miscellaneous industries including the manufacture of jewelry, silverware, musical instruments, toys and sporting goods, office and art supplies, costume jewelry, notions, etc.

The Light Industrial district in Spring Township may need to be amended but the intent of the district is to provide for your proposed activity – based on the information in their ordinance I would make the request for a **permitted use by right**.

Recommendation - You could make the argument in both Townships that your proposed activity is intended as a **permitted use by right** in all of the industrial zoning districts. Most likely they do not want to go through the ordinance amendment process (advertising, public hearings, etc.) for your proposed use because in my opinion it is not necessary.

I would use the info above to make your request as a **permitted use by right**. If you would like assistance with this, please let me know and we can discuss this with the municipalities." (Emphasis added)

Andreus replied on December 1, noting he "appreciated" Jacobs' "interpretation of the zoning ordinances relating to manufacturing facilities."

December 20, 2017

On December 20, the Spring Township Water Authority held its monthly meeting. The minutes noted:

“SOLICITORS REPORT: John Miller, Solicitor – Mr. Miller reported he reviewed the Loan Documents and the Access Agreement with Nestle Water and has no comments, document is fine.

CORRESPONDENCE/INFORMATION: Nestle Water – Doug Weikel, Chairman, reported he has talked with Eric Andreus of Nestle Water and they are at 99.9% go, will perform draw down test next. He will be at the January meeting to introduce himself and explain status.”

January 4, 2017

Scheduled for 8:00 a.m. on January 4 at the CBICC Offices (131 S. Fraser St. in State College) - the day after the proposal would come to public attention through the *Centre Daily Times* – invitees and possible participants included CBICC executives; Centre County Government; Spring Township: Spring Township Water Authority; Benner Township; SBWJA; Bellefonte Wastewater Authority; West Penn Power; DEP; and State government representatives.

This meeting was referenced in “Email re: Jan. 4 meeting” provided by Centre County, but again, no other documents such as agendas, minutes and notes were provided, despite specific enumeration of those items in the original RTK request. Therefore, the contents of the meeting are currently unknown, but the supporting documents have been requested again, in a follow-up RTK request.

January 17, 2018

On January 17, the Spring Creek Watershed Commission met in Bellefonte. Following the regular meeting, there was limited public discussion of Nestle bottling plant proposal, in which commissioners reportedly stated the commission has no oversight role regarding water extraction project proposals. (The video of the meeting may be at C-Net, but the author couldn't find it during a quick search on Feb. 22.)

Mid-January 2018

While the format is unknown (whether telephonic, electronic or in-person), CBICC President Vern Squier “counseled” Nestle Waters executives regarding the corporation's highly-publicized bottled water donations to the Mountaintop community, which has been struggling with a decaying public pipeline system, water shortages due to conventional gas drilling water withdrawals (see Jan. 26, 2018 *CDT* report by Sarah Rafacz), and boil water notices for many years, reaching crisis proportions in early January.

According to Email 17 provided by Centre County, during the counseling session, Squier steered Nestle to PA

Rep. Mike Hanna's office, Centre County Commissioner Michael Pipe, other commissioners, and Centre County Administrator Margaret Gray.

January 22, 2018

Centre County Commissioner Mark Higgins met on January 22 with Centre County Democratic Committee Vice-Chair Betsy Whitman, and Jessica Buckland, Patton Township Supervisor, cited in a text message from Higgins to Commissioner Michael Pipe on January 18 and in “Email 48,” both provided by Centre County via RTK.

Again, no minutes or other content information about this meeting was provided, so a follow-up request has been made, seeking the information again.

January 24, 2018

The Spring Township Water Authority board met January 24, attended by Spring Township resident and Sierra Club-Moshannon Group leader Lynne Heritage and other concerned citizens.

Heritage later reported that Doug Weikel, chair of the Spring Township Water Authority, previously worked for Nestle in Stroudsburg, PA, likely as a consulting engineer.

Heritage reported Weikel did all the talking at the water authority meeting and stated there will be no public hearing or meeting to allow citizens to weigh in on the proposed deal with Nestle.

January 25, 2018

On January 25, Nittany Valley Environmental Coalition issued a public statement on the proposed Nestle project, reprinted in full:

“The availability and public access to clean drinking water is a global issue, particularly in an era of climate change and increased corporate control of water resources. The waters of Centre County are exceptionally clean and abundant; they support our families and businesses, not to mention our agriculture, fishing and hunting tourism, and watershed flora and fauna.

With care, Spring Creek should provide water for many decades of continued local population growth.

However, when millions of people opt out of drinking tap water there is less political and public support for taking care of public water supplies.

The water used by the Spring Township Water Authority comes from surface and subsurface flows around Logan Branch. Nestle Waters' extraction of an additional 158 million gallons each year will reduce flows into Spring Creek by an equal amount, taking the water outside our community.

Other communities that have let Nestle extract local water have lost control of their water supplies, especially when confronted with drought. The callous corporate practices of Nestle in their interactions with these communities are well documented and required expensive litigation.

While we are sympathetic to the promise of jobs from Nestle, the relative benefit of job creation may not be worth the long-term cost, especially if our groundwater becomes the target for even more bottling companies, or Nestle asks for an increased water allotment.

The water under Spring Township does not belong to Spring Township alone. Nittany Valley Environmental Coalition opposes the extraction of water from Spring Creek or groundwater in the Centre Region for bottling by Nestle Waters and other water bottling companies.”

Late January 2018

On a date unknown in late January, Centre County Commissioner Mark Higgins met with Centre County Planning Director Robert Jacobs, as documented in “Email 48” provided by Centre County.

Again, the county has not provided minutes or other content information about the meeting; again, those records have been requested in a follow-up RTK request.

February 13, 2018

Email 4 from the first Centre County RTK response included an invitation to local officials to attend a tour of Nestle’s Lehigh Valley bottling plant on February 13.

Tour participation is unknown; Centre County did not provide information about local responses to the invitation, planning for the trip or attendance records. Those have been requested in a follow-up RTK request.

Also on Feb. 13, *Bailiwick News* posted the following to Facebook:

“Let’s suppose you’re a concerned citizen who wants to volunteer a few hours to help your community protect groundwater and surface water – in Spring Creek and downstream to the Chesapeake Bay – from extractive water withdrawals by the Nestle corporation.

Suppose you start looking for the right entity or entities to petition with your concerns, to understand the proposal review and risk assessment process, and to identify the people who will make the key decisions to protect or fail to protect a critical natural resource.

Here’s who you might find are on the list.

- Spring Township Water Authority
- Spring-Benner-Walker Joint (Sewer) Authority
- Spring Township Board of Supervisors and Township Manager
- Benner Township Board of Supervisors and Township Manager
- Spring Township Zoning Board
- Benner Township Zoning Board
- State College Borough Water Authority
- University Area Joint (Sewer) Authority
- Chamber of Business and Industry of Centre County
- Centre County Economic Development Partnership
- Centre County Industrial Development Corporation
- Centre County Commissioners

- Centre County Planning & Community Development Office
- Centre County Planning Commission
- Centre County Conservation District
- Centre Region Council of Governments
- Centre Region Planning Commission
- Centre Region Planning Agency
- Spring Creek Watershed Commission
- Spring Creek Watershed Association
- Spring Creek Chapter – Trout Unlimited
- ClearWater Conservancy
- Sierra Club – Moshannon Group
- National Wildlife Federation Climate Change Campaign – Pennsylvania Chapter
- PA State Rep. Kerry Benninghoff
- PA State Rep. Mike Hanna
- PA State Sen. Jake Corman
- PA Department of Environmental Protection
- PA Department of Community and Economic Development
- PA Department of Conservation and Natural Resources
- Susquehanna River Basin Commission
- Chesapeake Bay Program
- US Rep. Glenn Thompson
- US Environmental Protection Agency

Where would you focus your volunteer time?
Where would you try to make your voice heard?”

February 20, 2018

On February 20, ClearWater Conservancy issued a public statement, signed by Deb Nardone, Executive Director, and Andy Warner, Board President, calling for “time, science and transparency” in decisions about the future of Centre County groundwater and for an “integrated water resource management plan” for the region, reprinted in full:

“At a time when our community continues to prosper and grow, there’s an intensifying need to value, plan for and manage our water. A clean, reliable water supply is the lifeblood of our community, providing for our families in our homes, sustaining our environment and outdoor recreation, and supporting a vibrant regional economy.

These discussions require time, science, and transparency...

When our community leaders consider new proposals such as the Nestle project recently proposed to be located in Spring/Benner Townships, the highest possible standard must be set to protect the integrity of our water supply, now and in the future. Thoroughly weighing benefits and risks of increasing demands on our water supply takes time, good science, and transparency in the decision-making process.

ClearWater Conservancy is driven by our core values – to focus on the future, act with integrity, and apply sound science to the responsible management of our natural resources. Based on our values, we believe the concept of an

industry dependent on continuous extraction and export of our region's groundwater raises questions and concerns that have not yet been adequately addressed.

A water budget is a good first step...

While our region's groundwater system recharges over time, there are many factors that impact the rate of recharge and the amount of water available. Drought, commercial and industrial demands, population growth, and climate change all impact the reliability of our water supply.

ClearWater supports proactive, responsible management of our water supply, and believes our growing region would benefit from an Integrated Water Resources Management Plan. Such a plan would include a water budget that would clearly quantify the amount of available water and assess current and potential future water uses, without compromising our community or economy. This type of tool must be developed before sound, science-based decisions can be made regarding potential mass mining of water.

More opportunities for community feedback...

Additionally, ClearWater Conservancy understands that proactive source water protection and land conservation efforts are valued by our community. Our community should have input into future demands on our water supply, which observes no municipal boundaries. We would ask Spring Township and the Township Water Authority to convene town hall meetings to seek input from its residents – and all those who rely on adequate ground water for drinking water in this region – to discuss the proposal and solicit community feedback.

Lastly, Nestle and all decision makers involved have a responsibility to provide our community with both short and long-term plans for water extraction. For Nestle, this means being transparent through public forums about current and future intent regarding water withdrawals. Likewise, separate water rules and rates for commercial consumptive use should be determined, because water that is permanently exported from the region is not recycled back into our local water supply.

We expect community leaders will address the questions and needs we've identified above, beginning with the facilitation of constructive community conversations about our water and its use before any key decisions are made about consumptive water withdrawals for Nestle.

Please share your thoughts with us.

Please share your feedback regarding the proposed water bottling facility via email to ClearWater Conservancy's executive director, Deb Nardone: deb@clearwaterconservancy.org. We will share your thoughts with partnering organizations and decision-makers, unless requested not to.

As always, we will keep you up to date on ClearWater's efforts to proactively protect our region's local natural resources for all future generations through land conservation, water resources stewardship, and environmental outreach across Central Pennsylvania."

February 21, 2018

On February 21, Nestle announced the release of an economic impact study completed by a corporate consultant. The full document is available at stopnestlewaterextraction.wordpress.com, under "Nestle Public Relations."

CRITICAL ANALYSIS

First off, Bob Jacobs' "opinions" and "interpretations" about why Nestle shouldn't bother with pesky public hearings or amendments to zoning ordinances, but should proceed as if they are entitled to extract millions of gallons of water per year for bottling and export "by right," are bullshit.

Extraction and manufacturing are not the same things.

Jacobs' interpretations are arguably intended only to spare Nestle and its boosters the headaches of public review and public condemnation of the plan's intrinsic myopia.

That aside, the problem is not the likely economic impact. We unquestionably need good jobs: the dozens potentially available through Nestle's local investment and hundreds more.

The problem is the environmental costs that come with economic benefits when the business model is extractive and brittle rather than productive and resilient.

Nestle's proposal to invest \$50 million could be excellent for our local economy if our County Commissioners made a counterproposal designed to simultaneously protect our relatively fragile groundwater system and high-quality cold water fisheries (and related tourism), and to increase profit margins and access to markets for Centre County dairy, vegetable and fruit farmers, to advance the goal of strengthening our agriculture economy.

Specifically, the commissioners could propose that instead of extractive water bottling, Nestle invest \$50 million in a Centre County food processing facility creating food processing jobs, to produce frozen fruits and vegetables and dried milk products from local, sustainably produced crops and milk, for distribution and sale to consumers in the mid-Atlantic regional market.

This vision is in better alignment with our community's values, which include both good jobs *and* sound natural resource stewardship.

It also aligns with comments Ferguson Township Supervisor Laura Dininni made after a Bellefonte-Milesburg greenway community forum held on Feb. 22.

Dininni described a vision of "economic development based on conserving our important ecological areas and acknowledging that people really value nature and that can be not only the ecological foundation for investment in the community but also nature can drive the social and economic aspects and investment in the community."

Amen, sister.

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