

McCLOUD WATERSHED COUNCIL

Supporting a sustainable community and protecting natural resources
by providing advocacy and stewardship for the greater McCloud River watershed.



January 2, 2009

McCloud Community Services District (MCSD)
PO Box 640
McCloud, CA 96057
Attn: MCSD General Manager and Board of Directors

To the MCSD General Manager and Board of Directors:

The Protect Our Waters Coalition, of which McCloud Watershed Council is a member, recently received a legal memorandum written by Shute Mihaly and Weinberger and Donald Mooney. The memorandum called our attention to an October 2008 California Supreme Court ruling, Save Tara v. City of West Hollywood, which is directly relevant to discussions of a potential water bottling plant in McCloud. We wanted to share this information with you in light of the fact that Nestlé has approached the District to discuss the parameters of a new contract.

As you are undoubtedly aware, a previous Board of the MCSD approved the prior contract with Nestle without first conducting environmental review under the California Environmental Quality Act (CEQA). That contract has since been cancelled. The Supreme Court's ruling in Save Tara provides clear direction that any commitment by the MCSD to *new* contract terms prior to complete environmental review would violate CEQA.

In Save Tara, the Supreme Court stated that it is improper for a public agency to commit to a development project prior to environmental review in circumstances where the project's features are well defined and therefore subject to environmental analysis. The fact that Siskiyou County is currently preparing an environmental impact report in connection with Nestlé's application for the plant in McCloud indicates that the project is defined well enough to be subject to this ruling.

We hope the attached memorandum helps the MCSD understand the Save Tara ruling as it relates to the proposed Nestlé plant. Based on this fundamental change in the legal landscape, the MCSD now has time to consider many economic options for the town. If water bottling is one opportunity the community decides it wants to pursue, developing a process for evaluating potential bottlers would then be in order. Whatever the outcome of this process might be, we hope the MCSD will continue to work with the community to develop a comprehensive long-term economic vision for McCloud. We also trust that, in considering any future agreement with Nestlé (or any other water bottler), the MCSD

will act in a manner consistent with the Supreme Court's Save Tara ruling and ensure that environmental review occurs prior to the approval of any contract terms.

Thank you for considering these issues.

Sincerely,

McCloud Watershed Council Board of Directors

cc: David G. Palais, Ph.D., CHG
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