

My name is Richard McFarland. My wife, Erika Carpenter, and I settled in McCloud, California 20 years ago. We started a small business, which has grown considerably and is now the largest employer in our small town of 1800 people. We also started a family and our three sons are also growing rapidly.

McCloud sits at the base of 14,000’ Mt. Shasta, a dormant volcano that dominates the landscape of far Northern California. The area is very scenic, abounds with both winter and summer recreational opportunities and draws many visitors from the larger urban areas to the south. It has become a preferred vacation destination over the more congested and upscale resorts of the Lake Tahoe basin and the Sierra Nevada Mountains.

McCloud is a former lumber “company town”. Until the 1960’s, the McCloud River Lumber Company, a.k.a., “Mother McCloud”, owned the entire place. In the 60’s, the homes and other real estate were sold to the employees and the timberlands and mill were sold to Champion International. Champion cut 100 years worth of timber in a decade and closed up shop in 1979. Since then, there was one small sawmill in operation until 2005, when it too closed.

When I settled here in 1987, many of the downtown commercial buildings were boarded up and many of the homes lacked foundations and were in a state of serious disrepair. In fact, the reason my wife and I were able to purchase a home here was that property values were far below the rest of the California market and, as first time homebuyers, we were able to afford to become homeowners. In the past two decades, there has been significant capital investment in McCloud. One “old timer” recently told me that the town has “never looked better”. Most of the old mill homes have been restored. The historic McCloud Hotel has been renovated. The McCloud Mercantile building, the centerpiece of our downtown was recently rescued from disrepair and is a commercial center for a number of shops and restaurants. Many of the homes have been purchased as vacation and retirement homes. Property values have dramatically increased and to the objective visitor, McCloud would appear to be thriving.

McCloud is unincorporated. We have no City Council. The McCloud Community Services District (MCS D), a California Special District provides our de-facto city government. A five member, elected, Board of Directors, governs them. A General Manager oversees day-to-day operations. They are chartered to provide basic services such as water, sewer, trash collection, alley plowing, etc. to our community. Economic development is not part of their charter.

McCloud is blessed with a spring-fed municipal water supply that provides exceptional quality, untreated, cold spring water to every tap in town.

In the fall of 2003, our community was given the requisite notice of a Public Hearing regarding a proposal to sell municipal water to Nestle Waters of North America (N W N A), who proposed to build a bottling plant in McCloud. The Public hearing was held to a standing room only crowd in our Elementary School Gym. Our community was introduced for the first time to the N W N A representative, Mr. Dave Palais, who presented a very slick Power Point presentation touting the benefits of the proposed contract (which had been available to the public for only about 48 hours) to our community. He promised jobs and revenue for the always-struggling MCS D. After an hour or so of questions and concerns from the public, the MCS D, voted to approve the contract between MCS D and N W N A. The audience was shocked. We had assumed that this hearing was going to be the beginning of a public process. In fact, it was the

culmination of a back room negotiation between Nwana and a few local politicians and public servants. The “negotiating committee” for the MCSD consisted of three significantly under-qualified locals, while Nwana had the best legal and business resources that money can buy on their team. It was not a fair match.

As the details of contract began to emerge, community concern over the terms of the deal increased. The contract is egregiously one sided. It gives Nwana access to both spring water and groundwater. The MCSD is getting far below market rates for unlimited quantities of some of the best fresh water on the planet (compare \$26 per acre-foot vs. \$80 per acre-foot average lease price in California in 2004 dollars). The terms of the 100-year contract contain no provisions for inflation or for the increase in the value of the resource over the life of the contract. Indeed, total payments to the District are projected to be less than 1/10th of 1% of the proposed bottling plants "wholesale revenues." The MCSD is left with all of the potential risks and Nwana with the benefits.

Concerns over the contract and proposed project grew. Nestle and the MCSD launched a PR campaign around the promise of jobs and economic growth.

In 2004, Concerned McCloud Citizens (CMC) filed a lawsuit challenging the contract. In March 2005 Siskiyou County Superior Court ruled in favor of the plaintiff and declared it “an abuse of discretion” for the MCSD to have approved the contract—ruling it “null and void.” January 2nd 2007 the Third District Court of Appeals reinstated the contract. In March 2007 Concerned McCloud Citizens appealed to the California Supreme Court and in May 2007 the Supreme Court declined a review of the case. Thus the contract stands today.

Local business owners and citizens founded the McCloud Watershed Council (MWC) in 2004 to provide stewardship and advocacy for the McCloud River Watershed.

The McCloud River is a hydro-geologically unique, spring fed river. It’s crystal clear, ice-cold waters are well known as a world-class trout stream. The McCloud was home to the first fish hatchery in California. Rainbow trout from the McCloud River have provided the genetic stock for most of the Rainbow trout hatcheries all over the world. It is a major tributary of the Sacramento River, the backbone of California’s public water system.

The proposed Nestle project, with a contract that allows them to pump unlimited groundwater, will tap into the springs and groundwater system at the headwaters of the McCloud River. At a proposed one million square feet, this would be the largest bottling plant in North America. The MWC is publicly opposed to this project as it is currently proposed.

In January 2005, I, along with other members of the MWC, CMC and the Mount Shasta Bioregional Ecology Center was served with a subpoena from Nestle attorneys. The subpoenas demanded, among other things, personal financial information and documents pertaining to the Nestle controversy. It was a tactic that, in hindsight, was designed to harass and intimidate. A local judge ruled that the subpoenas were overreaching and had no merit.

A Draft Environmental Impact Report (DEIR) released in August 2006 generated over 4,000 comments, most of them expressing opposition to the proposed project (See MWC comments at www.mccloudwatershedcouncil.org and California Trout and Trout Unlimited comments at www.protectourwaters.org) A key area of concern is the lack of available baseline data on the area’s hydrogeology upon which to make a credible

scientific assessment of the projects potential impacts. One scientist characterized the DEIR as “Swiss cheese”, voluminous, but lacking substance. In August of this year, Nestle withdrew the DEIR and, presumably, is planning to revise it and re-release it in the future. It is important to note that an EIS was not completed.

We have seen how Nestle has behaved in other rural communities around the country and are very wary of their intentions. They came into our community and negotiated an egregiously unfair contract behind closed doors. They have meddled with, and influenced local politics, engaged in an aggressive and misleading Public Relations campaign that has divided our community and cost our community dearly in time spent on the issue. Certainly their “Good Neighbor Policy” is not working for them in McCloud.

The Mt. Shasta area is already home to four other bottling plants. We feel that there is a need to conduct good science, understand the water balance in the system and protect the area from a mass proliferation of bottling plants exploiting an invaluable public resource. California does not have any comprehensive, statewide groundwater legislation and, therefore, leaves open the possibility of serious misuse...such as allowing Nestle to have unlimited pumping for 100 years.

In light of the aforementioned, I would make the following request of the sub-committee:

- Consider federal support and/or assistance for state and local efforts to protect community water resources. Specifically helpful would be support for USGS scientific inquiry, especially USGS efforts to monitor and characterize ground and surface water resources, particularly in the face of climate change impacts on California’s water supply (Mount Shasta being a key headwater region for the Central Valley Project this is especially important).
- Ensure that the USFS completes an EIS for the Nestle project in McCloud. The pipelines for the project travel through several miles of Forest Service land on public easements intended for municipal use.
- Investigate the practices and impacts of Nestle and other large water bottlers in McCloud and other small rural communities.
- Consider enacting legislation or polices that protect tax/rate payers large investment in Public Water Supply infrastructure from corporate exploitation.

Thank you very much for hearing my testimony.

Sincerely,

Richard McFarland
Board of Directors of the McCloud Watershed Council