

Battling over bottled water



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One of the last places in the world one would expect to find a battle over water is Michigan.

Michigan, who once displayed “ Water Wonderland” on its license plates, features more than 11, 000 lakes and 36, 000 miles of streams and one is never more than six miles from enjoying any one of them (Michigan Outdoors). Why then has a dispute over water rights escalated into several lawsuits? The purpose of this paper is to analyze the water rights case of Nestle versus Michigan Citizens for Water Conservation (MCWC) from the perspective of the libertarian, utilitarian, and Rawlsian theories of justice. During the year 2000, Ice Mountain, a Nestle water bottling company, moved into Mecosta County, Michigan. Many Mecosta residents were thrilled to learn that Nestle decided to build their water bottling plant in their county. The plant employs about a hundred people and pays hundreds of thousands of dollars in local taxes, much to the delight of some residents and local government. They also built a 12-mile pipeline between their plant and 850 acres of private property for the purpose of pumping and selling up to 262 million gallons of water per year, much to the displeasure of the MCWC.

The MCWC filed suit against Nestle alleging that the company had gone beyond reasonable use and is endangering the surrounding environment and future uses of the water. Scientists reported an adverse environmental impact, including a lowered water table and northern pike spawning difficulties. Nestle and local government officials, however, contend that the water bottling plant provides economic benefits to the community that far outweigh the small amount of water that is pumped which was reported at less than 1% of the annual recharge rate (Shaw & Barry, 2010). Is it fair to

the owners of this private property to restrict the use of its water?

Alternatively, does the community have a right to existing and future uses of water that usurps private property ownership rights? The Libertarian Approach Libertarians believe people have an inherent right to live as they please without interference as long as he or she does not prevent others from doing the same.

Property rights are paramount to libertarians. Libertarians feel that property owners have the right to use their property in any way they choose as long as the property had been acquired legitimately. Libertarians believe free markets are effective and necessary to exercise the fundamental rights of individuals. In the Nestle water case, a libertarian would likely oppose the MCWC for the libertarian supports a laissez-faire capitalistic economy. Even in the case of an increasingly scarce public resource such as water, the Cato Institute appears to support water markets for water management: “ The demands of current and projected water management challenges can best be met through a greater reliance on water markets for water management. Specifically, water management must shift toward recognition of transferable rights in water that facilitate voluntary exchanges and the market pricing of water resources” (Adler, 2008).

Having a strong commitment to a free market, libertarians generally would not require Nestle to help the community or environment maintain its water levels. According to Shaw and Barry (2010), this staunch position indicates their commitment to property rights. However, the libertarian would have to admit that Nestle’s water rights should be comparable with the water rights of the neighboring property owners. A potential problem with the libertarian

approach is that, according to Shaw and Barry (2010), free markets do not always lead to the distribution of commodities where they are needed the most. For example, although Ethiopia, Ireland, and Bengal had no shortage of actual food, they experienced famines because some their population could not afford to purchase it. Although it is honorable that libertarians encourage charity, simply encouraging a person to be charitable is not enough to provide for human needs.

Since water is vital for human life, I do not believe that one person's right to own and use property trumps another person's right to ample, safe drinking water. The Utilitarian Approach Utilitarians are concerned with creating the most happiness for the greatest number of people in society. As happiness is the only thing that is good in and of itself, the utilitarian needs to know the details of a situation and its possible consequences in order to decide what is ethically right and wrong. The outcome determines moral correctness and a utilitarian tends to favor an equal distribution of income and resources. For a utilitarian ethicist, the outcome of the Nestle water issue needs to result in the greatest happiness for all. He or she would consider the possible economic advantages of the company as well as their effect on equal access to water.

Making a reasonable argument that the community's water supply would be significantly diminished, a utilitarian would oppose Nestle's water bottling plant. If not, however, then the utilitarian would cite the mutual benefit of improved economic conditions as grounds for approving the Nestle water bottling plant. Although improved job opportunities for a large number of people promotes happiness and economic distribution, a water shortage is

possibly irreversible. It would be difficult or expensive to sustain a community at all without water. An expensive water supply, therefore, would skew distribution of basic resources in favor of its affluent citizens.

The Rawlsian Approach John Rawls believed in fairness and the moral equality of people for its own sake. There are two principles to his theory: First, that there should be a guarantee of fundamental liberties, and second, that there should be social and economic equality. Inequalities were acceptable only if they benefited the least advantaged members of society. Because a Rawlsian ethicist is primarily concerned with society as a cooperative unit and not individuals, he or she would ask if the Nestle plant was providing mutual benefit while preserving its right to equal liberties. If we believe the scientists' claims of harm to the environment, and the community, a Rawlsian would oppose the Nestle plant because their actions primarily benefit the company and are not mutually beneficial.

If we believe that Nestle's water pumping is not harming the natural resources of the community, a Rawlsian would vote to preserve the right of Nestle to have equal liberties in its use of private property and its water. In addition, he or she would argue that the Nestle plant was providing substantial benefits in the form of additional jobs and tax revenue to the local government. Therefore, benefitting the least advantaged members of the community with high paying jobs. However, if Nestle continues to pump at high rates and the community's water supply becomes scarce, it would likely become an expensive commodity and the least advantaged members of society would no longer be able to acquire it.

This would violate Rawls' second principle of social and economic equality in which the solution needs to be the "greatest expected benefit to the least advantaged members of society" (Shaw & Barry, 2010). Conclusion All three theories raise important issues of individual and community rights. None of the cases completely solves the issue at hand. The libertarian theory was the most convincing because it addresses the ramifications of excessive governmental interference in personal lives. Rawls' theory of justice, however, was the most helpful as it seems to incorporate both libertarian and utilitarian theories to address specific issues.