

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

March 3, 2020

Mr. Fernando Mercé
President and Chief Executive Officer
Nestlé Waters North America
900 Long Ridge Road, Building 2
Stamford, CT 06902-1138

Dear Mr. Mercé:

The Subcommittee on Environment is seeking documents and information related to the bottled water industry's practices, specifically regarding the extraction, bottling, and selling of America's groundwater for financial gain. The Subcommittee is concerned that Nestlé is taking a critical public resource from communities in need without equitably reinvesting in those communities and ensuring long-term environmental sustainability.

Nestlé Profiting from Selling America's Groundwater

Nestlé Waters North America and its subsidiaries have financially benefited from low-cost or no-cost permits from communities across the United States as well as the federal government. For example, Nestlé customarily pays approximately \$200 per facility to extract groundwater from Michigan cities and communities.¹

In addition, despite significant public criticism, Nestlé recently increased its water extraction in Michigan by obtaining a new water pumping permit to allow the company to increase the volume and rate of water withdrawals. Between 2005 and 2015, Nestlé extracted 3.4 billion gallons of groundwater in Michigan.²

In 2016 alone, Nestlé made more than \$343 million in sales of bottled water coming from water sourced in Michigan.³

¹ *How Does Nestle Get Michigan Water for Practically Nothing?*, MLive (Sept. 11, 2019) (online at <https://mlive.com/news/2019/09/how-does-nestle-get-michigan-water-for-practically-nothing.html>).

² *10 Things to Know About Nestle's New Permit to Extract More Groundwater*, MLive (Sept. 19, 2019) (online at www.mlive.com/news/erry-2018/04/c4f53fc3a99620/10_things_to_know_about_nestle.html).

³ *Nestlé Makes Billions Bottling Water It Pays Nearly Nothing For*, Bloomberg News (Sept. 21, 2017) (online at <https://bloomberg.com/news/features/2017-09-21/nestl-makes-billions-bottling-water-it-pays-nearly-nothing-for>).

When Flint, Michigan was in the midst of a lead contamination crisis, Nestlé continued to extract spring water from Michigan communities like Evart for the purpose of selling the water outside of the state, though this town was located just two hours from Flint.⁴ In California, Nestlé has been criticized for extracting water for commercial purposes during periods of drought when Californians were ordered to reduce their water use.⁵ In Florida, Nestlé is currently working with Seven Springs to increase its extraction of Florida spring water from areas where independent studies show that the springs have decreased below a sustainable level.⁶

Plastics in Bottled Water and Associated Health Risks

In addition to concerns regarding the extraction process, the Subcommittee is concerned about the safety of water once it is bottled. In a study, researchers found that in one bottle of Nestlé Pure Life, plastic “concentrations were as high as 10,000 plastic pieces per litre of water.”⁷

These plastic particles are small enough to pass through the body’s protective tissues and into the bloodstream and organs, and testing has shown that microplastics can be passed on during pregnancy to unborn offspring. Researchers have found that plastics and related chemical pollutants are associated with serious negative health implications, including obesity, “metabolic diseases such as diabetes and heart disease, as well as cancer and reproductive problems and neural problems like attention deficit disorder.”⁸

Microplastics have also been shown to disrupt the health of marine life, and researchers have found that microplastics can be found in “every level of the food chain,” ranging from zooplankton to large marine mammals.⁹

The bottled water industry is largely self-regulated. The Food and Drug Administration (FDA), which is responsible for overseeing the bottled water industry, relies on bottled water manufacturers to periodically conduct its own water tests as well as maintain these records,

⁴ *Nestlé Pays \$200 a Year to Bottle Water Near Flint—Where Water is Undrinkable*, The Guardian (Sept. 29, 2017) (online at www.theguardian.com/us-news/2017/sep/29/nestle-pays-200-a-year-to-bottle-water-near-flint-where-water-is-undrinkable).

⁵ *Nestlé: Bottling Water in Drought-Hit California*, British Broadcasting Corporation (May 3, 2016) (online at www.bbc.com/news/business-36161580).

⁶ *The Water Is Already Low at a Florida Freshwater Spring, But Nestlé Wants More*, National Public Radio (Nov. 8, 2019) (online at www.npr.org/2019/11/08/776776312/the-water-is-already-low-at-a-florida-freshwater-spring-but-nestl-wants-more).

⁷ *WHO Launches Health Review After Microplastics Found in 90% of Bottled Water*, The Guardian (Mar. 14, 2018) (online at <https://theguardian.com/environment/2018/mar/15/microplastics-found-in-more-than-90-of-bottled-water-study-says>).

⁸ *Your Bottled Water Probably Has Plastic In It. Should You Worry?*, Time Magazine (May 29, 2019) (online at <https://time.com/5581326/plastic-particles-in-bottled-water/>).

⁹ *Microplastics Found in Every Marine Mammal Surveyed in UK Study*, The Guardian (Jan. 31, 2019) (online at www.theguardian.com/environment/2019/jan/31/microplastics-found-every-marine-mammal-uk-study).

which are later reviewed by FDA inspectors. However, FDA inspections of bottled water facilities have declined by 33 percent between 2008 and 2018, and several years can pass between visits. As a result, FDA might not become aware of a contamination issue until months or years later.¹⁰

This is especially concerning given that consumer groups have found contaminants, such as arsenic, in plastic water bottles.¹¹

Industry's Contribution to Pollution and Climate Change

The Subcommittee is also concerned with the sheer amount of plastic produced and disposed of by the bottled water industry. Nestlé is one of the world's largest producers of plastic waste.¹² In 2018 alone, Nestlé created 1,700,000 tons of plastic.¹³

Since plastics often contain additives that can extend the product's life, it has been estimated that it could take more than 400 years for these plastics to break down in the environment. These slow-deteriorating plastics often end up in landfills and oceans, with approximately 8 million tons of plastic waste entering the oceans each year. As a result, almost 700 species have been affected by plastics pollution.¹⁴

The bottled water industry's reliance on plastics is also a major contributor to the climate crisis. A study conducted last year by the Center for International Environmental Law found that "emissions from global plastic production and incineration could reach 1.34 gigatons annually in 2030, roughly the amount of carbon dioxide released by 295 coal plants in a year."¹⁵ At a time when serious, immediate action to address climate change is needed, your company's continued reliance on the plastic industry is of great concern.

¹⁰ *The FDA Knew the Bottled Water Was Contaminated. The Public Didn't.*, Consumer Reports (Nov. 21, 2019) (online at www.consumerreports.org/bottled-water/the-fda-knew-the-bottled-water-was-contaminated-the-public-didnt/).

¹¹ *Should We Break Our Bottled Water Habit?*, Consumer Reports (Oct. 9, 2019) (online at www.consumerreports.org/bottled-water/should-we-break-our-bottled-water-habit/).

¹² *Branded: Identifying the World's Top Corporate Plastic Polluters*, Greenpeace (2019) (online at www.breakfreefromplastic.org/wp-content/uploads/2020/02/branded-2019-web-FINAL-v2.pdf).

¹³ *Greenpeace Calls for Nestle to Act Over Single-Use Plastics*, Reuters (Apr. 11, 2019) (online at <https://reuters.com/article/us-nestle-greenpeace/greenpeace-calls-for-nestle-to-act-over-single-use-plastics-idUSKCN1RN1X8>).

¹⁴ *The World's Plastic Pollution Crisis Explained*, National Geographic (June 7, 2019) (online at www.nationalgeographic.com/environment/habitats/plastic-pollution/#close).

¹⁵ *Plastics Plants Are Poised to Be the Next Big Carbon Superpolluters*, Scientific American (Jan. 24, 2020) (online at www.scientificamerican.com/article/plastics-plants-are-poised-to-be-the-next-big-carbon-superpolluters/).

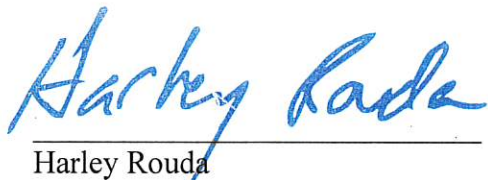
For these reasons, the Subcommittee requests that you produce the following information and documents regarding Nestlé and/or its subsidiaries by March 17, 2020, for the period covering 2014 to the present:

1. A complete list of all water extraction locations, whether currently in use or previously used within the time period, in the United States and its territories (including their closure dates if no longer in operation);
2. For each year, the amount of water in gallons extracted from all current and former water extraction locations in the United States and its territories, listed by location;
3. Revenues earned from bottled water sales in the United States, listed by year and by state or territory;
4. All documents and communications regarding or referring to health risks associated with bottled water;
5. All documents and communications containing or referring to water quality test results for contaminants in bottled water, including but not limited to arsenic, lead, and per- and polyfluoroalkyl substances;
6. The yearly amount spent on advertising and marketing bottled water, including but not limited to digital, print, and television advertisements, listed by state or territory;
7. The yearly amount of plastic used, listed by water bottle manufacturing facility; and
8. All documents regarding the amount of plastics, whether recyclable or non-recyclable, the company and its subsidiaries plan on purchasing over the next five years.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. An attachment to this letter provides additional instructions for responding to the Committee’s request. If you have any questions regarding this request, please contact Subcommittee staff at (202) 225-5051.

Mr. Fernando Mercé
Page 5

Sincerely,



Harley Rouda
Chairman
Subcommittee on Environment



Rashida Tlaib
Vice Chairwoman
Subcommittee on Environment

Enclosure

cc: The Honorable James Comer, Ranking Member

Responding to Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee on Oversight and Reform, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building. When documents are produced to the Committee on Financial Services, production sets shall be delivered to the Majority Staff in Room 2129 of the Rayburn House Office Building and the Minority Staff in Room 4340 of the O'Neill House Office Building. When documents are produced to the Permanent Select Committee on Intelligence, production sets shall be delivered to Majority and Minority Staff in Room HVC-304 of the Capital Visitor Center.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a

part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.