

## **Poland Spring permit: upheld Supreme Court supports LURC ruling on aquifer**

**By Donna M. Perry** , Staff Writer  
Sun Journal, July 16, 2008

FARMINGTON - The state's highest court affirmed a Franklin County Superior Court's decision to uphold state land regulators' permitting of a commercial groundwater extraction station in Dallas Plantation.

The Maine Supreme Judicial Court's split decision was issued Tuesday.

The Rangeley Crossroads Coalition had appealed the Maine Land Use Regulation Commission's decision in 2006 to permit Poland Spring's parent company Nestle Waters North America Inc. to develop a pumping station on about 1,000 acres the company owns off Redington Road in Dallas Plantation.

LURC's permit allows Poland Spring to extract up to 184 million gallons of water annually from Rangeley Water District's aquifers and to use 100 tanker trucks a day in and out of the station using portions of Route 4 and Route 16. The facility went on-line more than a year ago.

The coalition, an alliance that includes Rangeley Lakes Chamber of Commerce, had argued that LURC's decision was arbitrary, capricious, legally erroneous, unsupported by competent evidence in the record, and the category of permitted use under which Nestle's application was approved was unconstitutional on its face and as applied.

The majority of the supreme court justices found that Nestle's use is permitted under Category 30 and is consistent with requirements of the category in LURC's regulations. LURC oversees about 10.4 million acres of unorganized territory in Maine.

The decision also states that the category is constitutional on its face and is not void for vagueness.

Category 30 permits, in the general management subdistrict, "other structures, uses, or services which the commission determines are consistent with the purpose of this subdistrict and of the Comprehensive Land Use Plan and are not detrimental to the resources or uses they protect."

Two justices, Chief Justice Leigh Ingalls Saufley and Jon D. Levy, dissented.

Saufley wrote that rezoning, with its inherent public airing and thorough review of the newly proposed uses, should be undertaken before Nestle is allowed to engage in the extraction and transportation of the Rangeley Lakes Region's valuable water resources.

"Nestle proposes to withdraw millions of gallons of water from an aquifer in the region. Each day, up to 100 trucks would transport 8,250 gallons each of water from the area," Saufley wrote. "Nothing in the Land Use Regulation Commission's existing Comprehensive Land Use Plan or in its prospective zoning plan for the Rangeley Lakes Region explicitly contemplates, addresses, or permits such an extraction of the valuable water resource from the Rangeley Lakes Region."

Cathryn Thorup, co-founder of the Rangeley coalition said, "The community of Rangeley is obviously deeply disappointed with the split decision. We are pleased that two justices, including the chief justice, came down on our side, but obviously we wish we could have prevailed. I am very proud of the way in which Rangeley came together on this fight ... local officials, the business community, and nonprofits all worked together. To anyone who asks in five or 10 years, 'How could you let this happen?' We can say we took this fight just as far as we could."

"What is extremely important to remember is that this is not the end of the story," Thorup said. "Our state representatives have let us down. Augusta is not providing Maine with sufficient protection for this vital natural resource. As a result, communities around the state are being forced to take matters into their own hands to defend their water from Nestle Waters, a foreign-owned multinational company. Rangeley will continue to provide support and encouragement to these efforts statewide. We cannot afford to do otherwise."