

MAY 30, 2017, UNIVERSITY PARK PA

OPEN LETTER: NITTANY VALLEY WATER COALITION TO PENN STATE COMMUNITY

Dear Penn State President Barron, Provost Nick Jones, Trustees, staff, faculty, students and alumni of Penn State:

Penn State is committed to protecting our natural resources, which is why one of the major themes of the Strategic Plan (2016-2020) is *Ensuring a Sustainable Future*.

The goal of this theme is for Penn State to be "***a leader in creating comprehensive solutions to mitigate the dangers of climate change and address the challenges of providing safe and abundant water, clean and renewable energy sources, and plentiful and nutritious food.***" [1]

Such is the importance of sustainability that it is the only part of the strategic plan that quotes at length another source: the Constitution of the Commonwealth of Pennsylvania:

"Pennsylvania's public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the commonwealth shall conserve and maintain them for the benefit of all the people." Article 1, Section 27 of the Constitution of the Commonwealth of Pennsylvania.

These are fine words and it is right and proper that Penn State, as our State's sole Land Grant University, should quote them to underscore its resolve to be good stewards of our shared environment.

It is therefore concerning that Penn State has agreed to sell 44 acres of prime agricultural land to Toll Brothers, an out-of-state developer with infractions of the Clean Water Act in 370 sites in 23 states, for which the EPA fined the corporation more than \$740,000 [2]. It is of further concern that that the land to be sold lies within the Zone 2 wellhead protection area of the Thomas-Harter wells that provide up to two-thirds of the daily drinking water for 75,000 Penn State students and year-round residents of the State College area.

We are confident that Dr. Barron, a geologist, and Dr. Jones, an engineer, share our concerns. Building on this watershed should be avoided, but especially when the area of proposed construction is karst rock with existing sinkholes, an intermittent stream and a prominent swale that could take pollutants to the Slab Cabin Run and the wells. In 2006, dye trace studies conducted by the State College Borough Water Authority (SCBWA) showed that a released dye would be in the wells within two days [3]. A commissioned report [4] confirmed this, and the same report stated that the proposed project "does increase the risk of sinkhole formation." Speaking at a joint meeting of the SCBWA and Ferguson Supervisors in July 2015, Jeff Kern, a SCBWA board member, stated quite clearly that the 2004 rezoning of the land from farmland to high density housing was "just the wrong thing." [5]

Yet despite the obviousness of the risk involved in building high-density housing on a karst dolomite hill with existing sinkholes right above the water supply for more than 75,000 people, the plan went ahead.

In 2012, the Penn State Board of Trustees chose Toll Brothers to develop the site. It was disturbing that not only was a developer with a long list of infractions against the Clean Water Act chosen, but that the proposed plan situated the stormwater detention basin on 5.5 acres of agricultural land, which was clearly

illegal as was pointed out to the Ferguson Township Board of Supervisors by Centre Region Planning Agency senior planner Autumn Radle on Jan. 29, 2015 [6] and by Ferguson Township's Planning & Zoning Director Maria Tranguch on February 19, 2015 [7]. The illegality and continued public concern for water safety were expressed to the Ferguson supervisors throughout 2015, but they still went ahead and approved the illegal plan in a 4-0 vote on November 16, 2015.

Penn State as a Land Grant University did not speak up.

It was left to a group of 15 citizens to sue Ferguson Township with the help of Nittany Valley Water Coalition. If ever there was a David and Goliath story played out in Happy Valley, this was it. We raised over \$25,000 in donations to support the litigation, and the suit was successful, as Centre County Court of Common Pleas Judge Jonathan Grine ruled on July 18, 2016 that the development was illegal and vacated the Ferguson Township plan approvals. But Goliath was not yet finished. Toll Brothers took NVWC to the appellate court, which reversed Grine's decision on a technicality because our objection was not lodged with 30 days of the "tentative" plan approval on March 2, 2015.

We would like you, Penn State, to know that the citizens are not yet finished. We will appeal to the Supreme Court of Pennsylvania. We will bake cakes and sell jams, shake cans and cajole friends and raise the funds we need. But it may be too late. We are aware that while this development is illegal, there is nothing to stop the Toll Brothers from breaking ground.

Nothing, that is, except one of the nation's top Land Grant schools and its noble words printed in its strategic plan. We therefore ask you, as your neighbors, staff, employees, alumni and friends to help stop this development. Reach out to Toll Brothers to find another site for this development. Do not allow them to build on this farmland and threaten our water. This risk is too great.

We understand that Toll Brothers is a big and powerful corporation and could sue Penn State. But do not let that risk break your resolve. Protect us, your neighbors, and we will stand with you.

[1] 2016-2020 Penn State Strategic Plan - <http://strategicplan.psu.edu/the-plan/>

[2] <https://www.epa.gov/enforcement/toll-brothers-inc-clean-water-act-settlement>

[3] July 2007 State College Borough Water Authority Slab Cabin Run Dye Trace Study, N.A. Water Systems

[4] Oct. 31, 2014 Aqualith Technologies LLC Report, "Groundwater Protection Considerations for The Cottages at State College Housing Development proposed by Toll Brothers, Ferguson Township"

[5] July 7, 2015, Joint Work Session – State College Borough Water Authority and Ferguson Township Board of Supervisors. Transcribed from C-Net video at 73:20.

[6] Jan. 29, 2015 CRPA letter to Ferguson Township, "Regional Review of The Cottages at State College - Final Subdivision and Lot Consolidation Plan"

[7] Feb. 19, 2015 Ferguson Township Planning & Zoning Director memo to supervisors, "The Cottages at State College Tentative PRD"

How to get involved

- Express your concern by writing a letter to the Editor of the *Center Daily Times* and to Penn State's President, Dr Eric Barron at president@psu.edu (814-865-7611).
- Put a yard sign up to show your support. Also get your neighbors involved.
- FB <https://www.facebook.com/Nittany-Valley-Water-Coalition-411453045714666/>
- Check our page for more information <http://nittanyvalleywatercoalition.org>
- Donate. Checks to CommunityWise, P.O. Box 1256, State College, PA 16804 or PayPal communitywisesc@gmail.com
- Send us an email to get on our newsletter NittanyValleyWaterCoalition@gmail.com