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[Original 2015 Petition to Ferguson Township Supervisors \(Closed in 2016\)](#)

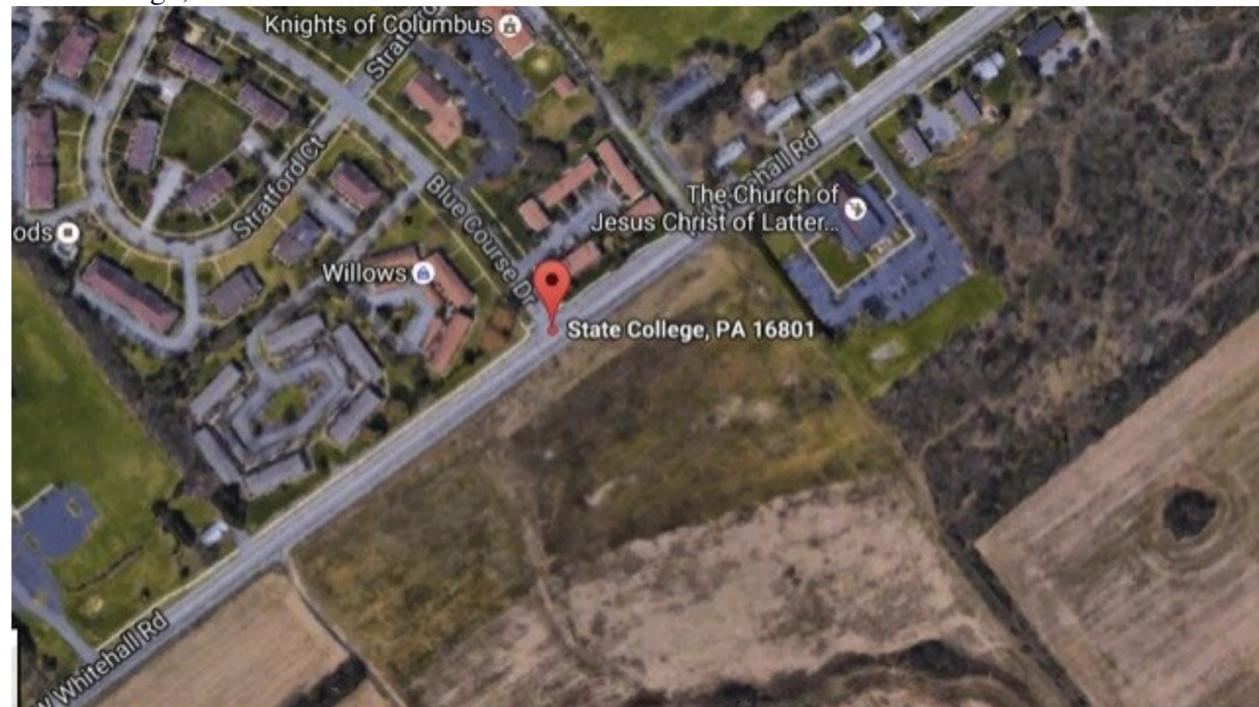
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Petition update

Status of the lawsuit to stop the Toll Brothers development. Oct. 9, 2016



Nittany Valley Environmental Coalition
State College, PA



Oct 11, 2016 — The 43 acres Toll Brothers proposes to develop into a massive, luxury student apartment complex for 1000 students is located on the southeast side of

Whitehall Rd. at Blue Course Dr. (to the edge of the Church). This site comprises part of roughly 500 acres of University-owned cropland, traversed by a tributary swale feeding Slab Cabin Run, and sloping steeply down to the Harter-Thomas water wellfields, which ultimately feeds into Spring Creek and the Chesapeake Bay. This land naturally filters 2/3 of the 5 million gallons of drinking water supplied daily to 75,000 customers by the State College Borough Water Authority (SCBWA). The wells are shallow (20-30 feet deep) and the watershed geology is unstable karst limestone and bedrock, putting the wells at high risk of contamination from introduced pollutants.

The Toll Brothers' project was designed to include large stormwater detention basins on the 5.5 acres of land inside the Township's agricultural district, and outside the Regional Growth Boundary, in violation of Ferguson Township zoning laws and regional planning protocols, via subdivision. Because the Ferguson Township Supervisors approved this development on November 16, 2015 against the advice of the Regional and Township planners, the Planning Commission, and sound legal advice, 15 homeowners and farmers formed the Nittany Valley Water Coalition (NVWC) to challenge this development approval. Represented by Attorney Jordan Yeager, NVWC filed a land use appeal on Dec.16, 2015 under the PA Municipalities Planning Code, asking the Court to overturn the Township approval of the plan. Plaintiffs argued that the final plan violated one of the conditions of the tentative plan (compliance with local ordinances) and two zoning ordinances related to stormwater management and allowable uses in agricultural districts; that the supervisors did not have the authority to nullify those zoning ordinances; and that the improper attempt to circumvent Township ordinances governing land use was an abuse of discretion.

On July 18, 2016, Judge Grine of Centre County Court of Common Pleas ruled in favor of the plaintiffs, reversing and vacating the supervisors' approval. Toll Brothers appealed the judge's ruling to the Commonwealth Court in Harrisburg, where review is now pending. The Nittany Valley Water Coalition's attorney will actively fight this appeal and the outcome is expected in 2017.

Another reason to protect the Harter-Thomas wellfields: SCBWA had our water tested at several locations in 2014 by Eurofins/Eaton Analytical and Fairway Laboratories. Results raise some serious concerns, including several test results that showed contaminant levels that SCBWA must report to an EPA database whenever local contamination matches or exceeds the EPA Minimal Reporting Level (MRL). Lab tests found excess levels of Chromium-6 or Hexavalent Chromium – associated with increased risk of stomach and other cancers and brought to public awareness by the movie Erin Brokovich – in all the 2014 test results obtained by KW Investigations (Baliwick News, October 7, 2016 <https://steadystatecollege.wordpress.com/>).

Twenty samples of water from SCBWA tanks, wellfields and taps (10 in March and 10 in September) all fell above 0.20 ppb and far exceeded the EPA minimum reportable level of 0.03 ppb. Four sites showed contamination at levels of 0.57 to 0.60. Even more worrisome, all SCBWA Chromium-6 results exceeded peak levels reported in Hinkley, California in the Erin Brokovich case (0.20 ppb) and all those reported by the Environmental Working Group in a 2010 study of drinking water in 31 cities. In that study, Los Angeles had the highest tested levels, at 0.20 ppb.

The 2014 lab tests did not, to our knowledge, find reportable contamination in the water at the Harter and Thomas wellfields. Since those two wellfields provide about two-thirds of the total daily water supply, their relatively high quality helps dilute the contaminants entering the system through some of the other wellfields. This is a key reason why it's important to stop land development activity in the Slab Cabin Run watershed that feeds the Harter-Thomas wells. We do not have other wellfields of equal or greater volume and purity to replace the Harter-Thomas supplies if they are compromised.

This report by KW Investigations referenced above about high levels of chromium 6 was originally sent to the Centre Daily Times in 2015, and the editor refused to publish it. The CDT finally published a story about this issue one year later when Penn State was prepared to report how it is starting to address the problem on campus (<http://www.centredaily.com/news/local/article104751726.html>).

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