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May 3, 2018

Robert Mix, Esq.
Solicitor, State College Borough Water Authority
115 E High Street
Bellefonte, PA 16823

RE: Proposed Sewer Line Route Through Preserved Property

Dear Mr. Mix:

We are writing on behalf of the Nittany Valley Environmental Coalition regarding the proposed sewer line route that would cross the Authority's land. As you are aware, the Authority purchased this property to protect the recharge areas for the Authority's wells. Indeed, the deed for the property restricts the uses of the property to accomplish this purpose. Specifically, the deed between the Authority and Penn State University states, in part:

It is the understanding of the parties that the Authority shall use this Property to protect a water recharge area and that the Property shall remain in an undeveloped state or used by the Authority . . . for agricultural, passive park, conservation area, preserve, or wetland uses, to include unpaved roadways and walkways, and beneficial reuse uses. This property is restricted to such uses and this restriction has the effect of a covenant running with the land.

The proposed land disturbance, installation, and operation of a sewage line through this property is inconsistent with this deed restriction. First, such development is not among the uses specifically listed as being allowed. Second, such development is not of the same character as the uses specifically allowed because installation of a sewage line requires significant land disturbance whereas the permitted uses do not. Third, installing a sewage line through the property is inconsistent with maintaining the property in an undeveloped state. The term "develop" is defined as, *inter alia*, "convert[ing] (land) to a new purpose by constructing buildings or making other use of its resources."¹ This is precisely what installing a sewer line is – converting land to a new purpose, and doing so for a use that the deed does not allow.

¹ <https://en.oxforddictionaries.com/definition/develop>

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Further, risks associated with construction and operation exist. The local geology, being limestone and dolomite, increases the risks of construction-related contamination to the very water supplies the Authority is tasked with protecting. The proposed sewage line poses risks of contamination via leaks or damage that are also inconsistent with using the property as a protected water recharge area.

It is our understanding that there are several alternatives to the currently-proposed sewer line route that would avoid the Authority's conserved property. As a trustee of public natural resources under Article I, Section 27 of the Pennsylvania Constitution, the Authority has an obligation to investigate those other options to determine if they will cause less degradation to the local environment. Based on the information available, it appears that the two alternatives – using a PennDOT right-of-way and hooking up to the Borough's sewer system – would cause less degradation and allow the Authority to comply with both its constitutional trustee obligations and the deed restriction on its property.

Because the proposed construction, installation, and operation of a sewage line will violate both the deed restriction and Article I, Section 27 of the Pennsylvania Constitution, we respectfully urge you to reject the proposal.

Please feel free to contact us if you wish to discuss this matter further. Thank you for your anticipated cooperation.

Very truly yours,



Jordan B. Yeager
Lauren M. Williams
For CURTIN & HEEFNER LLP