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March 27, 2018

Spring Township Water Authority
1309 Blanchard Street
Bellefonte, PA 16823
c/o administrator@springtownship.org
bmacmath@springtownship.org
supervisors@springtownship.org

Re: Proposed Water Supply Agreement with Nestlé Waters North America, Inc.

Dear Authority Members:

Please note that we represent residents of Spring Township and the Nittany Valley Environmental Coalition in connection with the above-referenced matter. We understand that the Authority is in the process of negotiating an agreement with Nestlé that would convert public resources to Nestlé.

Based on the information available, there is significant concern that the Authority's contemplated action would be in violation of the Authority's obligations under Pennsylvania law. Among these obligations are the Authority's duties under Article I, Section 27 of the Pennsylvania Constitution ("the Environmental Rights Amendment"), which provides, in part, as follows:

...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.

The Authority is bound by these duties to the same extent as other Pennsylvania agencies and officials. Robinson Twp. v. Commonwealth, 83 A.3d 901 (Pa. 2013)(Robinson II), and Pennsylvania Env'tl. Def. Found. v. Commonwealth, 161 A.3d 911 (Pa. 2017)(PEDF). Indeed, as the Pennsylvania Supreme Court has explained,

Trustee obligations are not vested exclusively in any single branch of Pennsylvania's government, and instead *all agencies* and entities

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of the Commonwealth government, both statewide and local, *have a fiduciary duty to act toward the corpus with prudence, loyalty, and impartiality*. See *Robinson Twp.*, 83 A.3d at 956–57; see also Pa. L. Journal, 154th General Assembly, No. 118, Reg. Sess., 2269, 2271 (1970).

PEDF, 161 A.3d at 932 n.23 (emph. added); id. at 940 (Baer, J., concurring).

The water resources that are the subject of the Authority’s contemplated agreement are clearly among the resources protected under the Environmental Rights Amendment. Robinson II, 83 A.3d at 955, 975 (noting that at a minimum, the “public natural resources” protected include “not only state-owned lands, waterways, and mineral reserves, but also resources that implicate the public interest, such as ambient air, surface and ground water, wild flora, and fauna (including fish) that are outside the scope of purely private property”).

The Environmental Rights Amendment “requires each branch of government to consider in advance of proceeding the environmental effect of any proposed action on the constitutionally protected features.” Robinson II, 83 A.3d at 952.

We understand that residents have sought information concerning the proposed agreement, only to be met with delays and denied full access. Please note that, in addition the requirements of the Sunshine Act and Right to Know Law, you have constitutional obligations to promptly provide full information concerning this matter. Robinson II, 83 A.3d at 983 (noting trustee’s “duty of gathering and making available to the beneficiaries complete and accurate information as to the nature and amount of the trust property), citing In re Rosenblum's Estate, 459 Pa. 201, 328 A.2d 158, 164–65 (1974) (citing Restatement (Second) of Trusts § 173) (right of access to trust records is essential part of beneficiary's right to complete information concerning administration of trust; right of inspection has independent source in beneficiary's property interest in trust estate); see also Restatement (Second) of Trusts § 173 cmt. c (“[B]eneficiary is always entitled to such information as is reasonably necessary to enable him to enforce his rights under the trust or to prevent or redress a breach of trust”).

Please be guided accordingly.

Sincerely,



Jordan B. Yeager
For Curtin & Heefner LLP