

Response to Public Comments

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Hazardous Sites Cleanup Program

RESPONSE TO PUBLIC COMMENTS

Benner Township PFAS Investigation

May 16, 2025

DEP provided a public comment period concerning the November 13, 2024, Proposed Consent Order and Agreement (CO&A) between Pennsylvania State University (PSU) and DEP regarding the Benner Township PFAS Investigation. Notice of the public comment period was published in the PA Bulletin on December 7, 2024, with a legal notice published in the Centre Daily Times on December 8, 2024. *A revised PA Bulletin notice was published on December 13, 2024, due to a delay in availability of documents on the DEP web page.* Written comments were accepted during the comment period which extended from December 14, 2024, to February 12, 2025. DEP has compiled all comments, criticisms, and new data received during the comment period, from the following individuals.

Identification Number/Commentator

1. State College Borough Water Authority
1201 West Branch Rd, State College, PA 16801-7697
Municipal water authority
2. College Township
1481 E. College Ave, State College, PA 16801
Local municipal office
3. College Township Water Authority
1481 E. College Ave, State College, PA 16801
Municipal water authority
4. Nancy Cord-Baran
Submitted via e-mail
Local resident – Benner Township
5. Sierra Club Moshannon Group
Submitted via e-mail
Local advocacy organization

6. Mountain Research, LLC
825 25th St, Altoona, PA 16601
“obo” Walnut Grove Alliance
Local residents’ community organization
7. PA Senator Cris Dush
25th District, Pennsylvania
Senate Box 203025, Harrisburg, PA 17120
8. US Representative Glenn “GT” Thompson
15th District, Pennsylvania
400 Cannon House Office Bldg, Washington, DC 20515-3815
9. David Roberts
Submitted via e-mail
Local resident – Benner Township
10. Benner Township Supervisors
1224 Buffalo Run Rd, Bellefonte, PA 16823
11. Kathy Evey
604 Buffalo Run Rd, Bellefonte, PA 16823
Local resident, Benner Township supervisor
12. Clearwater Conservancy
2555 N. Atherton St, State College, PA 16803
Local advocacy group
13. Line Legal, LLC
6 Creekside Ln, Camp Hill, PA 17011
“obo” Walnut Grove Estates
Local residents’ community group
14. Steptoe & Johnson PLLC
One PPG Place, Ste 3300, Pittsburgh, PA 15222
“obo” Nittany Express
Local business – Benner Township
15. Robert Campbell, PhD
Submitted via e-mail

Private resident – Halfmoon Township

Each comment, the source of the comment identified by commentator number and categorized, and DEP's response are listed below.

Scope of this Consent Order and Agreement

As part of the ongoing investigation, the Authority requests that PA DEP expand the investigation area to include the groundwater monitoring wells at Penn State's Living Filter wastewater disposal operation and their associated recharge areas. A recent published study (Mroczko et al., 2022, *Spatiotemporal patterns of PFAS in water and crop tissue at a beneficial wastewater reuse site in central Pennsylvania*, Journal of Environmental Studies) indicates that multiple PFAS compounds have been detected in multiple Living Filter groundwater monitoring wells above drinking water maximum contaminant levels (MCLs), including PFOA (1.1 to 30 ng/L), PFOS (non-detect to 22 ng/L), and PFHxS (non-detect to 12 ng/L). The Living Filter is approximately one mile upgradient from the Authority's Wellfield 6 and falls within its Zone II Wellhead Protection Area and the delineated capture zone. This facility is a crucial component of the Public Water Supply system for the Centre Region.

Should PA DEP's expanded investigation confirm contaminant levels exceeding the state drinking water standards for PFOA, PFOS, PFBS, PFNA, or PFHxS then a feasibility study should be conducted to identify an alternative means for treated wastewater disposal or additional treatment methods to remove the compounds from the treated wastewater effluent prior to disposal at the Living Filter. (Commentator #1)

Page 14; Paragraphs 4a-d – Mountain Research recommends adding EDB [which is an abbreviation for Ethylene Dibromide] to the constituent list for future groundwater sampling of any monitoring wells installed at the Airport Property since EDB has routinely been detected in one of the residential supply wells in WGE ("Walnut Grove Estates") and an EDB detection has occurred at a time in the past at an on-lot supply well located on Airport Property and at the fish hatchery. The Airport Property is the likely source for the EDB. Underground storage tanks (USTs) from the 1970s were removed in 1995, but EDB wasn't analyzed. In addition, PADEP requested a site characterization and Site Characterization Report to be completed as a result of UST closure activities. Based on PADEP file review records, site characterization wasn't performed. (Commentator #6)

Benner Township has been exposed to the use of biosolids, wastewater discharges, and the use of aqueous fire-fighting films containing PFAs. Additional testing to identify the extent of the airport plume's impact is imperative since a vast majority of Benner Township properties' water supplies are by private wells. Impacted properties beyond those already identified should be afforded the same remedy as those properties receiving a POET system OR provided with an accessible public water. (Commentator #11) DEP failed to provide notice of this contamination to [Walnut Grove Estates] until 2021. The residents do not believe that this COA acknowledges

both DEP and the University's duty to notify them of the exposure in a reasonable amount of time in order to afford the opportunity to mitigate their exposure to the toxins. The delay in notifying residents of the contamination runs contrary to guidance issued by the National Academies and Commonwealth of Pennsylvania Executive Order 2018-08, which established a "PFAS Action Team" of whom the Secretary of the DEP was appointed Chairperson. (See National Academies of Sciences, Engineering, and Medicine. 2022. Guidance on PFAS Exposure, Testing and Clinical Follow-Up, Washington, DC: The National Academies Press. <https://doi.org/10.17226/26156>; Commonwealth of Pennsylvania, Executive Order 2018-08 (EO) September 19, 2018, published at 48 Pa.B. 6382 (October 6, 2018). (Commentator #13)

[R]esidents have been previously exposed to ethylene bromide ("EDB"), which is a common element of aviation gas. This COA and all related remediation plans, and associated waters and soils testing requirements, should also include testing for EDB. (Commentator #13)

DEP RESPONSE

This consent order and agreement ("CO&A") addresses only PSU's responsibility regarding PFAS contamination related to the historic use of fire-fighting foam at the State College Regional Airport ("Airport"). Groundwater impacts, if any, related to the operation of the Living Filter are beyond the scope of this CO&A. Any potential Living Filter impacts may be addressed in a separate investigation by the DEP or PSU unrelated to this CO&A.

The underground storage tanks referenced in Commentator #6's comment does not appear to have been related to the use of fire-fighting foam at the Airport. As such, neither the storage tanks nor any alleged EDB contamination from the storage tanks are addressed in this CO&A. Also, to date, EDB has been found in only one well in Walnut Grove Estates. Nothing in this CO&A prevents the DEP, PSU or anyone else from addressing the presence of EDB in that well or in the area separately from the CO&A.

Nothing in the CO&A prevents DEP from continuing to investigate PFAS contamination in Benner Township that may be related to other sources.

Characterization of the Extent of Contamination

Should the Authority's Wellfield 6 become contaminated now or in the future the Authority requests that funds be made available pursuant to Section 3.k of the November 13, 2024 Consent Order and Agreement between PA DEP and Penn State to construct the necessary treatment facilities ensuring the continued safe use of the wellfield as a public water supply.

Due to the potential impacts on our Wellfield 6, the Authority requests an opportunity to provide comment on all related work plans and reports, including but not limited to the following investigation phases:

Site characterization

Remedial investigation

Risk assessment

Remediation plan

Remediation implementation and monitoring

Final investigation report

Any additional plans and/or reports that may be necessary to implement interim or final remedies (Commentator #1)

As part of the Remedial Investigation Work Plan to be undertaken by Penn State under the direction and supervision of PA DEP, College Township requests that the plan include provisions to identify the extents of the airport plume's impact, notably whether additional properties or wells beyond those already identified have been directly impacted by the airport plume. (Commentator #2)

As part of the Remedial Investigation Work Plan to be undertaken by Penn State under the direction and supervision of PA DEP, College Township Water Authority requests that the plan include provisions to identify the extents of the airport plume's impact, notably whether additional properties or wells beyond those already identified have been directly impacted by the airport plume. (Commentator #3)

HSCA Section 103 and 35 P.S. Section 6020.103 defines a “Site” as “Any building; structure; installation; equipment; pipe or pipeline, including any pipe into a sewer or publicly owned treatment works; well; pit; pond; lagoon; impoundment; ditch; landfill; storage container; tank; vehicle; rolling stock; aircraft; vessel; or area where a contaminant or hazardous substance has been deposited, stored, treated, released, disposed of, placed or otherwise come to be located. The term does not include a location where the hazardous substance or contaminant is a consumer product in normal consumer use or where pesticides and fertilizers are in normal agricultural use.” Page 12; Paragraph 3f – Clarification and agreement that WGE (“Walnut Grove Estates”) is part of the Airport Site. Per Mountain Research’s understanding of this paragraph, PFAS constituents have been deposited in the soils at the Airport property, these constituents then discharged /leached into the groundwater beneath the Airport Property which the groundwater then flowed beneath Walnut Grove Estates as a result of PFAS discharges at or from the Airport Property. (Commentator #6)

Page 14; Paragraph 4c – Does the investigation / characterization of the PFAS groundwater plume for the Remedial Investigation extend onto Walnut Grove Estates and beyond? PADEP Chapter 250 regulations require horizontal and vertical delineation of the groundwater contaminant plumes so a thorough site conceptual model can be developed along with groundwater fate and transport modeling to evaluate and identify current and potential future exposure pathways (particularly groundwater ingestion) and receptors? (Commentator #6)

One of the initial concerns is that the Airport Site, as defined in subparagraph 3.f of the Consent Order and Agreement, is not defined geographically. The geographic extent of the "Airport Site," will not be determined until the Remedial Investigation Report is provided, and the "Airport Site," geographic bounds may be further amended by the Cleanup Plan and/or the Final Report. Although we understand that the Pennsylvania State University needs to engage in additional investigatory activities in order to determine where any of the PFAS substances listed in subparagraph 3.f have been deposited, released, or disposed of, or where they may otherwise be located, leaving the geographic bounds of the Airport Site to be determined by future investigations seems to allow a level of uncertainty regarding where cleanup work may occur. We understand that the parties may have attempted to allow for flexibility in regard to future cleanup activities due to the current uncertainty, but it would be more appropriate, we believe, to redraft the language in such a fashion that the uncertainty would leave no areas of Benner Township that are currently contaminated, or which may be determined in the future to be contaminated, not available for cleanup under the Consent Order and Agreement. We also understand that Pennsylvania State University wishes to limit its exposure to liability for cleanup, but given that we do not know the full extent of the contamination, it does not seem appropriate to limit the cleanup by definition. (Commentator #10)

The actual remedial measures that will be implemented in the future are left uncertain in the Consent Order and Agreement. We understand that all potential remedial measures may not currently be known. However, one remedial measure that would be extremely useful at this point would be to install monitoring wells at locations as determined by personnel with the appropriate expertise in order to further identify and monitor the migration of the PFAS contamination. We believe this would assist with more accurately characterizing the extent and movement of contamination. Although installation of monitoring wells may be part of a Cleanup Plan ultimately implemented, we believe it would be preferable to have monitoring wells installed rather than leaving potential installation of monitoring wells uncertain. (Commentator #10)

The PA DEP must take immediate and appropriate action to restore the residents and their properties to their condition prior to the contamination. This would also include any additional properties identified with the contaminants listed above. (Commentator #11)

Nowhere in the COA has DEP identified the boundaries of the contamination "plume" or its migration. These investigatory inadequacies should be resolved prior to the parties engaging in this agreement. (Commentator #13)

[T]he COA fails to note that no soil testing has been performed by the DEP in the WGE community, in spite of the DEP's instruction to have residents mark their deeds as contaminated properties. (Commentator #13)

The COA should reflect that a thorough investigation has not been conducted, set the remediation strategy owed to these residents, and mitigate lasting consequences of this contamination of the private citizens of the Commonwealth. (Commentator #13)

The WGE [Walnut Grove Estates] community further requests that the Remedial Investigation Work Plan include remediation of affected soils pursuant to PA Code 25 Chapter 250.408(a), (b2) and (e). (Commentator #13)

Page 12, Paragraph 3f: This paragraph fails to specify whether the WGE [Walnut Grove Estates] community is located within the "airport site" such that it would be afforded the remedial measures of the Cleanup Plan or Final Report. (Commentator #13)

Page 15, Paragraph 4f: As mentioned above, the WGE [Walnut Grove Estates] community needs to be included in the "airport site" so that it is afforded all relief and benefits contemplated in the Cleanup Plan and Risk Assessment or Remedial Investigation Report. (Commentator #13)

The COA fails to indicate that any soil testing was performed in the WGE [Walnut Grove Estates] community and, as PFAS has been found in residential soils via private testing, this should be a part of the COA and contamination remediation. (Commentator #13)

DEP RESPONSE

The CO&A requires that PSU characterize the vertical and horizontal extent of the contamination from the historical use of fire-fighting foam use at the Airport ("the Airport Site") in accordance with the requirements of the Land Recycling and Environmental Remediation Standards Act (Land Recycling Act) and submit a Remedial Investigation Work Plan and a Remedial Investigation Report. The Remedial Investigation Work Plan will detail the work needed to meet the Land Recycling Act requirements. DEP anticipates that monitoring wells will be included in the Remedial Investigation Work Plan and installed to monitor the groundwater contamination as part of PSU's required investigation under the CO&A. The monitoring wells are necessary to assist Penn State in characterizing the vertical and horizontal extent of the contamination as required under the CO&A and 25 Pa. Code § 250.204.

If Wellfield 6, Walnut Grove Estates, or any additional properties are part of the Airport Site as identified in the Remedial Investigation Report or any amendment, PSU is required to take appropriate remediation action to meet a cleanup standard under the Land Recycling Act.

The CO&A also does not preclude further DEP investigation if other areas within Benner Township are found to have PFAS contamination. DEP will investigate and try to determine any potential source of PFAS contamination.

PSU Remediation Area

The Department Investigation Area as defined in Findings section I. page 13 is too limited and does not encompass the full extent of the spreading plume of PFAS impacting lands, wells, and water resources. A well serving the Bellefonte Trout Fish Hatchery and a new well near Houserville recently tested by DEP and have been found to contain PFAS. Both of these wells are outside of the investigation area defined in the consent agreement. (Commentator #9)

We are commenting on the proposed COA because it is our understanding that the Department of Environmental Protection's Area of Investigation stops less than 1 mile northwest of the Property. During due diligence for our Community Conservation Center, we tested the farmhouse well for PFAS in November 2024 and the sample exceeded the drinking water standard of 4.0 ppt for perfluorooctanesulfonic acid (a PFOS compound) at 5.2 ppt. A second sample was taken January 9, 2025 and PFOS was not found in that sample. (Commentator #12)

Given the high PFOS concentration at the edge of the area of investigation, the expanding nature of plumes, the karst conditions in the aquifer, and the uncertainty that Big Hollow Run will capture all the PFOS from the airport, we urge the Department to expand their area of investigation and extend the timeframe to ensure all potentially affected water supplies are accounted for and any necessary remediation is implemented. (Commentator #12)

DEP RESPONSE

The CO&A requires PSU to remediate releases of PFOS, PFOA, PFBS, PFNA and PFHxS at or from the Airport Property, an area defined in the CO&A as the "Airport Site," not the "Department Investigation Area." If the two identified wells, the farmhouse, or other areas are found to be within the Airport Site, PSU will be required to address them. If not, nothing in the CO&A prevents the DEP from taking further investigation or remedial action outside of the Department Investigation Area.

DEP collected both of the farmhouse well samples referenced in the comment from Commentator #12. DEP notes that the first sample result was flagged with a data qualifier stating that the result may be biased high and the second result did not show PFAS contamination. DEP further notes that the concentrations at the edge of the currently defined groundwater contamination are low, not high, when compared to other sample results.

Restoration of Water Supplies

In addition, language should be included in the COA to require qualified representative(s) of the University to attend and participate in meetings with the State College Borough Water Authority and Benner Township Water Authority to discuss options for providing PFAS affected properties with public water, including monetary compensation by the University, and any other identified responsible parties, to assist with the design and construction of a public water supply system if that option is selected for restoration of water supply. (Commentator #6)

Regarding Remedial Actions required by Penn State University, I believe the only viable and effective "final remedy" as noted in section 4(h)(i), is for the installation of a public water system. Understanding that feasibility studies for a public water system have been submitted and that the engineering and maintenance of such a system may have some difficulties as well as extensive costs, it is truly the most effective and desirable solution for residents who have found themselves in harm's way through no fault of their own. Penn State should bear a significant part of the financial responsibility for the development and maintenance of that system.

Although a Point-of-Entry Treatment system can be an effective filtration system, it is also my understanding that Penn State University will not be required to maintain those systems in perpetuity once they take further administrative actions to designate them as the "final remedy". At that point, residents of Walnut Grove Estates and surrounding areas will be on their own to provide themselves with safe water. I find this to be an unacceptable stipulation of the COA and prematurely releases Penn State from their responsibility. (Commentator #7)

[T]he Consent Order and Agreement (hereinafter "COA") fails to hold The Pennsylvania State University (hereinafter "University" or "PSU") fully accountable for the release of PFAS, PFOS, PFOA, PFNA, PFHxS, PFHpA, and PFBS (hereinafter referred to generally and collectively as "PFAS") contamination into the aquifer that supplies WGE residents with well water. (Commentator #13)

The COA is inadequate in specifying testing sites, the results of which serve to trigger certain action-items in the COA. (Commentator #13)

- What are the treatment options that will protect public health and the environment given the levels of PFAS PFOA found by PADEP in the drinking water well on my property? (Commentator #14)

DEP RESPONSE

While DEP's authority to require PSU to attend meetings is limited, the CO&A requires PSU to evaluate remedial alternatives to meet a cleanup standard under the Land Recycling Act, this evaluation should include point of entry treatment systems (POETS) and municipal water, among other potential mitigation and remediation activities. Any evaluation of the feasibility of supplying municipal water should include technical, operational, and funding issues. This will necessarily require some communication with local public water suppliers.

Remedial Investigation Work Plan

If "item v" is selected as an option, then Mountain Research requests piezometers / stilling tubes be installed in the affected WGE water supply wells. When groundwater samples are collected from the supply wells, the University's consultant should gauge the groundwater level of the supply well via the piezometer / stilling tube with the purpose of determining if any decrease in PFAS concentrations is related to the PFAS plume shrinking and not related to any changes in groundwater levels due to drought or recharge from significant precipitation events. During sampling of the supply wells, the University's consultant should analyze groundwater samples for field parameters including pH, temperature, conductivity, oxygen / reduction potential (ORP), and dissolved oxygen to determine any relation (if present) between PFAS concentrations and field parameters. (Commentator #6)

As a concerned resident, and elected Supervisor, of Benner Township, I am extremely concerned about the Remedial Investigation Work Plan to be undertaken by Penn State under the direction of PA DEP. My concerns regarding the actions in the COA are as follows:

The additional impact of contamination to the surrounding waters and soils caused by perfluorooctanoic acid "PFOA", and perfluorooctane sulfonic acid "PFOS" and variants of each, including but not limited to PFNA, PFHxS, PFHpA and PFBS in the State College Regional Airport property has caused great concern for the current identified neighborhood, Walnut Grove Estates (WGE), as well as the communities beyond the known contaminated areas.

(Commentator #11)

Page 5, Paragraphs K-L: These paragraphs are misleading and unnecessarily deflect the University's obligation to use aqueous film-forming foam (hereinafter "AFFF") responsibly and in the manner instructed by the manufacturer for use and disposal. It has been known since the late-1970s that AFFF had toxic properties which required that it be disposed of with care. (See "3M" Material Data Safety Sheet 7411, 3/77R FC-203, 3/77R FC-600, June 1977 FC-207B, Dec. 1978, Aug 1979, attached hereto as Exhibit "1") the residents believe that the statements in this paragraph should be stricken as the University and DEP had knowledge of the AFFF hazards and water patterns in WGE and yet still disregarded them. (Commentator #13)

The residents further do not believe that the "remedial response action" identified in these paragraphs sufficiently remediates the contamination as it exists on their properties.

(Commentator #11)

DEP RESPONSE

The CO&A requires the submission of a Remedial Investigation Work Plan, a document not required by the Land Recycling Act, as a means to allow DEP to review and approve the scope of PSU's investigation and characterization work. Through the approval of the Remedial Investigation Work Plan, DEP can ensure that all areas that may be impacted by releases at the Airport Property, including Walnut Grove Estates, are properly investigated.

The comments received by Commentator #6 are more appropriately aimed at the Remedial Investigation Work Plan required under Paragraph 4.c. of the CO&A and can be considered by DEP when the Remedial Investigation Work Plan is submitted.

Soil Sampling

There's no mention of soil testing. Soil tests must be performed to uniformly monitor contamination levels and areas. This should also apply prior to any further development within the township and beyond the township boundaries. This is of utmost importance with respect to the proposed sewer project through the contaminated development, along the route from Shiloh Road to Rock Road to Big Hollow Road to Walnut Grove Estates and along the waterway.

- a. This project includes two stream crossings (Spring Creek) where the environmental safety and effect on this designated "Class A" waterway is questionable. Documents have declared this waterway is contaminated with PFAs yet no "warning signs" are posted in the area.
- b. The COA is silent about isolating, sequestering and/or the soil left from the contaminated areas. The attitude of the municipal authority, and government, is that the PA DEP does not require the testing. A mandate by the PA DEP code must require soil testing before a project or development will disturb contaminated soils.

(Commentator #11)

Page 4, Paragraph I: The COA fails to note that the DEP has not dug any monitoring wells and which of the affected wells it relies upon for sample results. We note the possibility of choosing a well that provides favorable results, therefore, multiple wells need to be selected when testing is performed. (Commentator #13)

DEP has not conducted soil sampling within the WGE community. As such, the COA is incapable of identifying the contamination "plume" or its migration. These investigatory inadequacies should be resolved prior to the parties engaging in this agreement. (Commentator #13)

[T]he COA is silent on DEP's instruction to residents within the WGE community, and possibly elsewhere in the investigation area, to mark their property deeds in order to disclose to future owners that the properties contain hazardous substances. (Commentator #13)

Page 7, Paragraphs S-U: The COA fails to properly identify (1) that the DEP has not dug any monitoring wells in the investigation area to serve as a control for sampling and testing purposes, and (2) which of the existing affected wells it relies upon for sample results. (Commentator #13)

Additionally, the COA is silent as to any duties or obligations of the University or citizens within the Investigation Area concerning the isolation, sequester, and/or the non-removal of contaminated soils from the contaminated areas. At a minimum, the residents should be absolved of liability for the transfer of contaminated soils and the COA should contemplate and include any associated expense with the handling of these soils so as to not financially burden the residents. (Commentator #13)

DEP RESPONSE

In order to define the extent of contamination, as required by the CO&A, soil samples must be collected as part of PSU's investigation of the Airport Site. Any new development will have the benefit of the public documents produced by the investigation performed by PSU and DEP to inform decisions about proper soil management.

Water Sampling

Another part of the agreement that seems wrong to me is: (page 17, paragraph j)

8 consecutive quarterly water samples showing PFAS levels below threshold...

Are these samples taken from my POET system? Are they taken from my contaminated well? Who is responsible for changing the filters in my POET water system? It should be PSU for the rest of time, not just for two years! Even if we get eight consecutive clean water samples, the problem still exists. Our well has been contaminated and we need PSU to provide a working filtration system and pay to maintain it and remove the hazardous waste forever, not just for two years! (Commentator #4)

[T]here is concern that the "eight consecutive quarterly samples or a lesser number of events approved by the Department" is a transfer of the duty to test and maintain the POET systems to the residents far too quickly, as it could amount to a time frame of less than two years. (Commentator #13)

DEP RESPONSE

The eight quarterly samples would be samples of untreated groundwater from the well and would demonstrate that concentration of contaminants are below the Maximum Concentration Levels allowed for drinking water. This would mean treatment by a POET system would no longer be necessary.

Eight consecutive quarters of groundwater data provides a statistical basis for demonstrating attainment of a cleanup standard for groundwater under the Land Recycling Act. See 25 Pa. Code § 250.704. While fewer samples may theoretically be able to demonstrate attainment, acceptance or denial of fewer samples is within the DEP's discretion.

Entity Conducting Water Sampling

I also have concerns about PSU rather than DEP doing the water testing in the future. This is a conflict of interest. (Commentator #4)

The transfer of water sampling and testing from the DEP to the University gives the appearance of impropriety and conflict-of-interest as the University is best served to report clean water results in order to absolve itself of on-going maintenance of the residential POET systems.

Further, as mentioned above, a multitude of test sites should be required in order to limit the use of wells that yield favorable test results. (Commentator #13)

DEP RESPONSE

DEP is aware that PSU is presently using qualified environmental consultants and anticipates that PSU will continue to do so. All samples will be submitted to laboratories that are accredited by DEP. Sample analysis is thoroughly documented and the quality assurance documentation from the laboratories are submitted with the documents required under the Land Recycling Act. In addition, DEP is able to split samples with PSU's consultants in the field and do its own analysis. These methods significantly reduce the likelihood that PSU or anyone else can provide skewed testing.

Current Federal Maximum Contaminant Levels

We have carefully reviewed the information provided by PADEP in the proposed consent order and agreement and we find it to be incomplete. The lack of complete information has resulted in a dilemma for us prohibiting us from making well informed management decisions.

After reviewing the material provided several questions remain:

- What is the Pennsylvania ground water standard for PFOA and PFAS?
- What is the Pennsylvania drinking water standard for PFOA and PFAS?

(Commentator #14)

DEP RESPONSE

The current federal Maximum Contaminant Level for PFOA and PFOS is 4 ng/L, and that is the drinking water standard and the residential used aquifer Statewide Health cleanup standard for these two compounds.

Testing Methods for PFOA and PFAS

- What is the Pennsylvania approved testing methods for PFOA and PFAS? (Commentator #14)

DEP RESPONSE

DEP does not specifically approve test methods, but any EPA approved test method for PFAS in the media specified (i.e., soil or water) is acceptable.

Standard to Protect Public Health

- What standard based on the need to protect public health was used to determine that our small business was excluded from the remedy offered to homeowners with similar levels of PFOA and PFOS in their water supply? (Commentator #14)
- What data was used to determine that providing limited drinking water was sufficient to protect given the operations of this small business? (Commentator #14)

DEP RESPONSE

Under the CO&A, PSU is required to evaluate exposures and remedial options in accordance with the Land Recycling Act. This evaluation will include consumptive uses within the Airport Site. At present, interim remedial measures for commercial establishments with sample results exceeding Land Recycling Act standards included bottled water due to the anticipated lower volume of potable water consumed at these businesses, and the volume of water used for non-potable uses and the CO&A reflects that interim remedy. This does not prevent evaluation of a different final remedy. All business were offered bottled water to ensure that their employees had safe water to drink.

Private Water Wells for Businesses

- What data was reviewed during the approval process for the well owned and operated by Nittany Express that DEP approved in 2020?
- Why was this well permitted if PFOA PFAS was suspected?
(Commentator #14)

DEP RESPONSE

DEP does not regulate, approve the installation of, or provide permits for private water wells.

Monitoring for New Development

There's no mention of standardized water testing. Sample well must be drilled to uniformly monitor contamination levels. This should also apply to any new development within the township and beyond the township boundaries. (Commentator #11)

DEP RESPONSE

The remediation under the Land Recycling Act required by the CO&A must consider potential future uses of impacted groundwater with the Airport Site. The CO&A does not address potential PFAS contamination outside of the Airport Site, but that does not prevent DEP from continuing to investigate and address that potential contamination. Any new development will have the benefit of the public documents produced by the investigation performed by PSU and DEP to inform decisions about future water use.

POET Systems

Firstly, as a PFAS groundwater contaminant plume has been attributed to PSU as a Responsible Person and subsequent sampling identified that the plume had impacted not only businesses along the industrial park on High Tech Road, but also residential water supply wells located mainly south of the SCRA, and the HSCP provided an alternative water supply, first in the form of bottled water, and then Point of Entry Treatment Systems (POETs) to any residences within

the investigation area having detections above relevant State and Federal groundwater standards for PFAS, it must be incumbent on PSU to remedy the PFAS contamination of drinking water supplies in a permanent manner by the installation and maintenance of a potable and safe public water supply.

POET systems, although effective in the removal of PFAS when properly maintained, do not provide a satisfactory final remedy due to the necessity of professional maintenance and monitoring. It is not appropriate to slough off responsibility and obligations for PFAS remediation on businesses and home owners impacted by the spreading PFAS plume.

Therefore the Sierra Club Moshannon Group requests that any reference to POET systems as a potential final remedy must be removed from the Consent Agreement. (Commentator #5)

Page 15-16; Paragraph 4h: “POET System. Within 30 days after the Effective Date or after receipt of a signed access agreement from the property owner of the residences identified on Exhibit B, whichever comes last, the University shall begin the semi-annual sampling and maintenance of the POET systems at the residential properties identified on Exhibit B and continue until one of the following first occurs:

- i. Such properties are provided with public water;
- ii. POET systems are approved by the Department as the final remedy to provide safe drinking water to such properties in accordance with HSCA or the Land Recycling Act;
- iii. The Department approves another party becoming legally obligated to perform such sampling and maintenance;
- iv. The private drinking water well is determined to be outside the boundaries of the Airport Site, as defined pursuant to Paragraph 3(f); or
- v. Eight consecutive quarterly samples of raw water, or a lesser number of events approved by the Department, confirm that the concentrations of PFOS, PFOA, PFBS, PFNA, and PFHxS are below the applicable MCLs.”

Mountain Research requests “item ii” to be omitted as an option or revise the language in item ii to indicate POET system maintenance, performance sampling, and disposal of spent POET system treatment media be the responsibility of the University or other responsible parties, unless long term monetary compensation is provided to the affected property owners to maintain the POET system. The property owner did not cause or create the PFAS impacts to the groundwater, so the property owner should not be responsible and / or monetarily responsible for POET system maintenance. (Commentator #6)

4. Remedial Actions
Point of entry treatment (POET) systems installed to remove PFAS from contaminated

residential water supply wells are currently described as a “Remedial Response” by DEP.

However these “POET” systems are proposed as a potential “Final Remedy” in section h. ii. page 16 and in Section j. ii. page 17.

The consent agreement further stipulates that if POET systems are approved as a “Final Remedy” then Walnut Grove homeowners will assume the costs and responsibilities from Penn State for the perpetual maintenance of these POET filtration systems.

POET filtration systems are complicated, expensive, difficult to maintain and need professional monitoring including costly and regular effluent analysis for toxic PFAS. Spent POET filtration canisters saturated with PFAS are toxic waste that must be disposed of by a certified hazardous waste disposal service.

Penn State must not be relieved of the responsibility to install, maintain, and monitor POET systems if these systems are approved by DEP as a “Final Remedy”.
(Commentator #9)

In addition, we would like to make you aware that the Township is opposed to any property owner being responsible for maintenance of the POET systems for as long as any resident is required to maintain a deed restriction on property reflecting the need for the POET system.

We understand that Penn State University did not intentionally create this problem. The use of aqueous film-forming foam firefighting material was part of the Federal Aviation Administration regulations for operation of an airport for many years. (Commentator #10)

The COA also fails to account for the economic impact to residents, as it contemplates shifting the financial burden of water filtration management onto homeowners for a forever chemical issue that was not of the residents' creation but is now to be their financial burden forever.
(Commentator #13)

[T]he remediation plan transfers the financial burden of maintaining the Point of Entry Treatment systems (hereinafter "POET") to the homeowners, including the disposal of the filters themselves, which are deemed to be hazardous materials and require disposal in accordance with hazmat guidelines. (Commentator #13)

[T]he COA transfers the burden of maintaining the POET systems from the "responsible party" to the "innocent victims" of this contamination. The COA fails to require the University to ensure that the residents of WGA are provided with clean drinking water in perpetuity. (Commentator #13)

[T]he COA fails to require the University to supply clean drinking water to the WGE residents in perpetuity- by whatever means necessary, including but not limited to the supply of public drinking water, installation of a water tower, or perpetual maintenance of the POET systems.
(Commentator #13)

The COA fails to consider that the WGE residents are the innocent victims of this contamination and without financial resources sufficient to maintain and replace, if necessary, the POET systems and their filters on an on-going basis, in perpetuity. (Commentator #13)

Many residents have lost the quiet enjoyment as a result of not knowing whether the water they are consuming or bathing with is safe or will ever be safe again. (Commentator #13)

The COA fails to identify a standardized location of water testing; no sample wells have been dug to uniformly monitor contamination levels. (Commentator #13)

The COA transfers the financial burden of maintaining water filtration systems installed at residential properties back onto the residents after a certain amount of time has elapsed. (Commentator #13)

There is additionally no language concerning water filtration system failures and who is responsible for the costs of replacement. (Commentator #13)

DEP RESPONSE

As acknowledged in the comment from Commentator #5, the installation of POET systems provides a safe and effective treatment for site-related constituents. While POETS are an acceptable alternative, provisions for the long-term operation and maintenance of these systems will need to be addressed by PSU as part of the remedial alternatives evaluated in the Land Recycling Act process contemplated by the CO&A. The CO&A does not require residents to assume the costs and responsibilities from PSU for the perpetual maintenance of the POETS if they are determined to be the final remedy. Additionally, the CO&A does not prevent residential homeowners from addressing the maintenance and costs of these systems with PSU.

POET System Filtration Locations

The COA does not insure the water filtration systems filter both interior and exterior (hose connections).

- a. The failure to filter both connection areas negates the use of all the residents' water sources, including gardens, fruit trees, etc.
- b. The failure to remediate the contaminated soil does not allow eating the vegetables, fruits, etc. without ingesting harmful contaminants.

(Commentator #11)

The COA further fails to account for soil contamination within the WGE [Walnut Grove Estates] community and is silent on matters related to soil usage including the harvesting of fruits and vegetables from contaminated soils watered with contaminated waters, as the water filtration systems installed by DEP offer limited protections to outside water sources, such as hose bibs. (Commentator #13)

It further needs to be insured that water filtration systems filter water fed to both the interior of the homes and outdoor hose bibs. The failure to filter hose bibs negates the residents' abilities to water vegetable gardens and fill swimming pools with non-contaminated waters. (Commentator #13)

DEP RESPONSE

PSU is required to evaluate exposures to site-related constituents in groundwater under the Land Recycling Act. PSU's evaluation of remedial alternatives should address the potential exposures identified in the above comments. The POET systems provide a safe and effective source of drinking water treatment, and past decisions of where the POET system was installed were based on the plumbing of the house. Some treatment systems do in fact treat water before it reaches outside taps.

PSU's investigation required by the CO&A will include additional soil sampling and analysis. To date, DEP is not aware of any soil sample results above the Land Recycling Act cleanup standards within Walnut Grove Estates.

Final Remedy Alternatives

Regarding Remedial Actions required by Penn State, I believe the only viable and effective long-term solution, as noted in section 4(h)(i) of the COA, is for the installation of a public water system. Understanding that feasibility studies for a public water system have been submitted and that the engineering and maintenance of such a system may have some difficulties as well as extensive costs, it is truly the most effective and desirable solution for residents who have found themselves in harm's way through no fault of their own. Penn State should bear a significant part of the financial responsibility for the development and maintenance of that system.

Although a Point-of-Entry Treatment system can be an effective filtration system, it is also my understanding that Penn State will not be required to maintain those systems in perpetuity once they take further administrative actions to designate them as the "final remedy." At that point, impacted residents and surrounding areas will be on their own to provide themselves with safe water. I find this to be an unacceptable stipulation of the COA which prematurely releases Penn State from their responsibility to provide a permanent solution.

I recognize that Penn State was acting under federal guidelines from the Federal Aviation Administration in the airport's use of aqueous film-forming foam, and they were most likely unaware of the potential environmental and health effects of its use. Be that as it may, Penn State has been deemed a "responsible person" in the mitigation and remediation of the effects of PFAS in the investigation area according to the COA, and they should not be absolved of future responsibilities to impacted communities.

To that end, I strongly recommend that, in their quest to be a good neighbor as they have historically been, Penn State works with local municipal water authorities to develop a public

water system that will bring safe, potable water to impacted residents. In the meantime, it is my continued hope that DEP will continue to fulfill its mission to protect these communities and ensure the health and well-being of those impacted by this investigation.

It is my understanding that similar comments have been filed by Senator Chris Dush, and we stand ready to provide assistance to residents and businesses in Benner Township in their ongoing pursuit of a public water system. (Commentator #8)

5. Emphasis must be placed on the installation of a public potable water supply to the residences and businesses impacted by PFAS contamination in their water supply wells.

The “Benner Township Walnut Grove Estates Development Water Line Feasibility Study” of May 2023 concluded that the State College Borough Water Authority is the most capable water authority to install a potable water system for Walnut Grove. SCBWA ranked number one in all areas including constructibility and cost; operations and maintenance; water quality and reliability; property, utility, and easement impacts; and environmental and permitting criteria.

Unfortunately SCBWA has declined to install a potable water line to Walnut Grove Estates due to their estimation of operation and maintenance costs.

The operation and maintenance cost of a potable water line should be part of Penn State’s response in the consent agreement as it is neither the actions of Walnut Grove residents or the SCBWA that has resulted in the toxic PFAS contamination of Benner Township’s drinking water aquifers.

(Commentator #9)

Although there are many negative aspects of PFAS contamination, one of the most significant of those negative aspects is the fact that PFAS gets into drinking water that is consumed by humans. We appreciate and recognize the provisions of the Consent Order and Agreement that provide for installation and maintenance of point of entry treatment systems (POET systems). This will, of course, help alleviate the immediate concerns with consumption of contaminated water, but it still leaves the long-term impacts uncertain. It would be more appropriate if those impacted by contaminated drinking water were provided with a safe public water supply. There have been ongoing discussions regarding extension of the public water supply system currently operated by the State College Borough Water Authority in the Airport vicinity to those private property owners that have been impacted by the contaminated drinking water. We request that the Department consider the possibility of including provisions in the Consent Order and Agreement that would make the provision of safe public water to affected property owners more certain. (Commentator #10)

DEP RESPONSE

The DEP appreciates the concerns raised regarding the installation of a public water system as a potential final remedy. Public water feasibility studies were conducted but revealed significant implementation issues, including engineering complexities and significant costs. While DEP

understands the desirability of a public water system, the feasibility and sustainability of such a solution must be carefully considered.

PSU will be required to evaluate remedial alternatives to meet a cleanup standard under the Land Recycling Act. This evaluation should include point of entry treatment systems (POETS) and municipal water, among other potential mitigation and remediation activities. Any evaluation of remedial alternatives should include technical, operational, maintenance and funding issues.

Opportunity for Public Comment on PSU Document Submissions

Due to the potential impacts on our Wellfield 6, the Authority requests an opportunity to provide comment on all related work plans and reports, including but not limited to the following investigation phases:

Site characterization

Remedial investigation

Risk assessment

Remediation plan

Remediation implementation and monitoring

Final investigation report

Any additional plans and/or reports that may be necessary to implement interim or final remedies (Commentator #1)

College Township Council requests an opportunity to provide comments on draft documents developed during the remediation effort, including, but not limited to:

- a. Remedial Investigation Work Plan
 - b. Remedial Investigation Report
 - c. Cleanup Plan and Risk Assessment and/or Final Report
- (Commentator #2)

College Township Water Authority requests an opportunity to provide comments on draft documents developed during the remediation effort, including, but not limited to:

- a. Remedial Investigation Work Plan
 - b. Remedial Investigation Report
 - c. Cleanup Plan and Risk Assessment and/or Final Report
- (Commentator #3)

Page 14; Paragraph 4b – Will the proposed Remedial Investigation Work Plan schedule be made available for public comment or at the minimum can Benner Township be provided a copy of the proposed schedule? Walnut Grove Alliance (WGA) has already submitted a formal document to Benner Township for the township to request Public Involvement once the University submits the Notice of Intent to Remediate. (Commentator #6)

Page 14; Paragraph 4c – Is the Remedial Investigation Work Plan going to be available for public comment or at the minimum can Benner Township be provided a copy of the Work Plan? WGA has already submitted a formal document to Benner Township for the township to request Public Involvement. (Commentator #6)

Although the ability of various public entities to comment on the various documents that will be prepared as specified in the Consent Order and Agreement may be assumed as a result of regulation, we would request that the Consent Order and Agreement be clarified to specifically provide that Benner Township will have the opportunity to review and comment on all aspects of Penn State University's activities toward remedial actions as specified in paragraph 4 of the Consent Order and Agreement, including but not limited to the following items:

1. Notice of Intent to Remediate;
2. Remedial Investigation Work Plan;
3. Remedial Investigation Report;
4. Cleanup Plan and Risk Assessment; and
5. Final Report (if a cleanup plan and risk assessment is not required).

(Commentator #10)

Page 14, Paragraph 4a-d: The WGE residents request that the Remedial Investigation Work Plan that proposes the required remedial efforts be made available to them, as well as Benner Township, for comment and possible modification of the plan based upon comments received. (Commentator #13)

DEP RESPONSE

The Land Recycling Act provides opportunity for public comment on the documents listed in the comment, and DEP will always consider public comments associated with a cleanup. DEP also plans to post all reports or plans on DEP's Benner Township HSCA website.

Potential Additional Impacted Properties

If there are additional impacted properties identified within the [State College Borough Water] Authority's service area, the study should evaluate funding options for potential extension of public water service as an alternative to installing permanent POETs. (Commentator #1)

Should the Remedial Investigation Report identify additional impacted properties from the airport plume at levels exceeding the state drinking water standard for PFOA, PFOS, PFBS, PFNA, or PFHxS, such properties should be afforded the same opportunities and procedures in obtaining a POET system as those properties currently receiving a POET system. (Commentator #2)

Should the Remedial Investigation Report identify additional impacted properties from the airport plume at levels exceeding the state drinking water standard for PFOA, PFOS, PFBS, PFNA, or PFHxS, such properties should be incorporated into a general feasibility study, similar to the HSCA/GTAC7 study of May 2023.

Should the feasibility study identify impacted properties within the College Township Water Authority service area, the study should evaluate funding options for potential public water service in lieu of long-term POETs management. (Commentator #3)

I recently learned that the new site for Clearwater Conservancy in Houserville has PFAS in their well. THIS COULD MEAN THAT ALL THE HOUSES BETWEEN 338 BIG HOLLOW AND HOUSERVILLE HAVE CONTAMINATED WELLS ALSO.

THIS WOULD INDICATE THAT THE AREA IS MUCH LARGER THAN PREVIOUSLY THOUGHT AND THIS AGREEMENT SHOULD NOT BE AGREED UPON! (Commentator #4)

Secondly, as PFAS has been detected in water supply wells outside of the established investigatory area, PFAS remediation in water supplies as only within the current investigatory boundary must be modified to extend to any future plume boundary discovered in a more complete investigation.

Therefore the Sierra Club Moshannon Group requests that the limitation of remediation to within the current, limited investigatory area be removed from the COA or modified to include future discoveries of the PFAS plume's extent. (Commentator #5)

DEP RESPONSE

If PSU identifies additional impacted properties within the Airport Site through its further site characterization work required by the CO&A, PSU will be required to evaluate remedial alternatives to meet a cleanup standard under the Land Recycling Act. This evaluation should include point of entry treatment systems (POETS) and municipal water, among other potential mitigation and remediation activities. Any evaluation of the feasibility of supplying municipal water should include technical, operational, and funding issues.

Notification of Potential Additional Impacted Wells

PA DEP and Penn State University notify College Township of any additional qualifying private drinking water supplies impacted by the airport plume pursuant to 4.i of the Consent Order. (Commentator #2)

PA DEP and Penn State University notify the College Township Water Authority of any additional qualifying private drinking water supplies impacted by the airport plume pursuant to 4.i of the Consent Order. (Commentator #3)

DEP RESPONSE

College Township will be notified via email of any additional drinking water wells impacted within College Township. Updates will continue to be made to DEP's Benner Township HSCA webpage so that the information is available to the community.

Responsible Party

The agreement states the "PSU is the responsible party" for the release but PSU does not admit responsibility. They actually call themselves 'harmless'. This is misleading and confusing. (Commentator #4)

DEP RESPONSE

As indicated in the CO&A, PSU is a responsible party under the Hazardous Sites Cleanup Act for releases of PFOS, PFOA, PFBS, PFNA and PFHxS at or from the Airport Property. See Paragraph CC of the CO&A. Nothing in the CO&A refers to PSU as "harmless."

Potential Additional Responsible Party Liability

The [State College Borough Water] Authority requests that if other potentially responsible parties are found liable for PFAS contamination that may impact the Authority's facilities, such as Wellfield 6, that those parties shall also be environmentally and financially liable to the Authority where legally appropriate. (Commentator #1)

DEP RESPONSE:

Nothing in the present CO&A prevents the identification of, or pursuit of cost recovery from, other responsible persons under the Hazardous Site Cleanup Act. The ability of private entities or third parties to recover costs or damages from responsible persons for contamination or costs associated with contamination is governed by the Hazardous Sites Cleanup Act and civil law. Parties such as the commentor should consult their own attorney to determine their ability to recover.

Medical Monitoring

Question - Why is there no requirement for the University to perform medical surveillance monitoring (including but not limited to blood serum testing), health assessment, and / or no cost access to medical professionals with expertise in PFAS and related health issues? This lack of action leaves residents and individuals who have experienced long-term exposure to PFAS through the ingestion pathway from contaminated water supply wells without the necessary medical support and evaluation? (Commentator #6)

PFAs is known for adverse medical effects. Residents have and are experiencing adverse medical effects, including unexplained death, in the Walnut Grove Estates community. Require medical monitoring of all the residents in the areas affected by PFAs contamination, i.e., contact and monitoring via the Department of Health. (Commentator #11)

The remediation plan fails to consider medical monitoring and/or medical treatment for residents who have not only consumed the contaminated waters, but who have also tested positive for PFAS in their blood or have otherwise suffered adverse medical consequences from exposure to the toxins. (Commentator #13)

[T]he COA does little to recognize the "costs" of the residents in WGE [Walnut Grove Estates] who have been deprived of clean water and soil as a result of this contamination. The COA fails to contemplate long-term costs by incorporating medical monitoring and/or treatment for residents who consumed these toxic waters for years before being informed by DEP or the University that such contamination existed. (Commentator #13)

The PFAs family is known for adverse medical effects. There is no medical monitoring established for the residents. Residents have had blood-positive test results and are experiencing adverse medical effects, including sudden death, in the community since the contamination. (Commentator #13)

The issue with the water has caused families to re-plan child birth as the consequences to a fetus from the blood-borne toxins is too great a risk to take. (Commentator #13)

DEP RESPONSE

The CO&A does not require medical monitoring, and the DEP is not proposing any medical monitoring for the Airport Site at this time. The effective treatment of groundwater through the interim remedial POET systems lowers the concentrations of PFAS related contamination to below the drinking water maximum contamination levels which are based on chronic (long term) exposures. The CO&A does not prevent individuals that believe they are experiencing medical issues related to PFAS exposure from seeking medical monitoring or reimbursement from responsible persons as defined under the Hazardous Sites Cleanup Act. DEP has provided contact information for the Pennsylvania Department of Health ("PA DOH") to residents

individually, on the DEP's Benner Township HSCA webpage, and to those who participated in the multiple phone calls with the PA DOH about this site.

Compensation Generally

No compensation has been offered to the residents in an effort to support soils remediations, medical monitoring and/or treatment, property devaluation, and the loss of use and inconveniences associated with this contamination. (Commentator #13)

In short, the COA is conspicuously and intentionally devoid of any language addressing remediation and compensation to those in the WGE [Walnut Grove Estates] community that have been harmed in the manners described above. This issue cannot be concluded until this has been properly addressed. (Commentator #13)

DEP RESPONSE

The CO&A addresses PSU's responsibility for the investigation and cleanup of the contamination from the use of fire fighting foam use at the Airport. Nothing in the CO&A prevents residents from addressing these compensation issues directly with responsible parties.

Potential Property Value Loss

The loss of their property values is the very least they can be paid along with free, safe public water (Commentator #11)

The COA further fails to contemplate the property devaluation and associated stigma of requiring the residents of WGE to mark their property deeds to reflect the contamination to these properties. (Commentator #13)

DEP RESPONSE

The Hazardous Sites Cleanup Act does not include property value loss as a response cost that can be recovered by DEP from responsible persons. Accordingly, the CO&A does not address, nor does it preclude, property owners from seeking to recover property value diminution, if any.

Relief of Liability

Page 14, Paragraph 4c. The residents of Walnut Grove Estates (WGE) are going to want PADEP relief of liability for their properties. But the PADEP relief of liability only applies to areas where environmental investigations have occurred, and current and future exposure pathways evaluated. Per PA Code 25 Chapter 250.408(a)(b2) and (e)-Characterize the vertical and horizontal extent of contamination above the selected standard within each medium (soil and groundwater) of concern. Will the University include Walnut Grove Estates properties in the environmental investigation for the Remedial Investigation Report and other associated reports so relief of liability can be provided to WGE property owners? (Commentator #6)

Page 15; Paragraph 4f – The affected properties of Walnut Grove Estates should be included in the “Site” / Airport Site, and as a result be included in the overall PADEP relief of liability once the Final Report has been reviewed and approved by PADEP. (Commentator #6)

There is no language that removes liability and hold residents harmless from discharging contaminated waters or soils from their properties. (Commentator #11)

These paragraphs [Paragraph 17 of the CO&A] should further include a subpart "d" that contemplates that the residents of WGE [Walnut Grove Estates] whose soils and wells have been affected by the contamination are forever discharged and relieved of any and all liability for spreading the existing contamination, in perpetuity or for as long as the deed restriction exists on their properties. (Commentator # 13)

[T]he residents should be indemnified and held harmless for any consequences of exposure to any third parties who may come into contact with or be exposed to the contaminated waters and soils in their community. (Commentator # 13)

There is no language in the COA that indemnifies and holds residents harmless from discharging contaminated waters or soils from their properties. (Commentator # 13)

DEP RESPONSE

Section 501(a)(1) of the Land Recycling Act, 35 P.S. § 6026.501(a)(1), provides that liability relief extends to “[t]he current or future owner of the identified property or any other person who participated in the remediation of the site.” Property owners and any resident who participated in the remediation of the site by, among other things, accepting point of entry treatment systems (POETS), will be relieved of liability under the Land Recycling Act.

Further, the CO&A requires PSU to meet a Land Recycling Act cleanup standard for soil and groundwater at the Airport Site which will be protective of residential exposures to residents and third parties.

Response Cost Recovery

The COA is lacking in many ways to properly protect our water resources and the health and safety of Benner’s residents.

I call attention to specific deficiencies in the consent agreement as follow:

1. Response Costs
Section JJ, page 10 and Exhibit E. Response costs incurred by Pennsylvania tax payers is given as \$892,487.16. However the consent agreement Item 6. page 18 only requires Penn State to reimburse the Commonwealth \$564,767.29

The consent agreement lacks any clear reason for this discrepancy of \$327,719.87.
(Commentator #9)

DEP RESPONSE

DEP and PSU negotiated PSU's payment of DEP's past costs for response actions in the Department Investigation Area. Because PSU argues its responsibility does not extend to the entire Department Investigation Area, it agreed to pay less than the full amount of DEP's response costs. The amount paid by PSU reimburses the DEP for the majority of its contracting costs but does not recoup DEP's internal expenditures for DEP personnel.

Covenant Not To Sue

I am very concerned for the residents at Walnut Grove Estates as well as every resident in Benner Township. It is unconscionable to think about the stress, health, welfare, and possible loss of life that these residents have been living with for way too long. They did not cause this problem. They deserve safe, public water in perpetuity. They do NOT need public sewer.

The problem has been ignored way too long. A plan must be immediately implemented to protect the entire Township from becoming a hazardous community. I am appealing to the PA DEP for the sake of my family, the future of Benner Township and its residents, and especially for the residents of Walnut Grove Estates to revise the COA. Where is the accountability? Why is there a hold harmless clause? The firefighting foam was tested in the name of public safety for the airline travel industry, yet there is no mention to public safety of residents affected by PFAs ground water contamination. You do something in the name of public safety. But in doing so, is doing harm to others also in the name of public safety? It is time to enforce your own mission "protect the state's air, land, and water resources, to the ensure the health and safety of Pennsylvania residents and visitors". (Commentator #11)

DEP RESPONSE

DEP understands and appreciates that finding out that there is groundwater contamination in your community can be stressful and acknowledges that the residents did not cause the contamination. DEP immediately took action once it became aware of the problem and has since provided POET systems to ensure a safe source of water to all residents whose well water exceeded the Maximum Contaminant Levels (MCLs). The CO&A does account for continued safe drinking water for impacted residents.

DEP understands your comment about the "hold harmless clause" to address the covenant not to sue language in Paragraph 10 of the CO&A which is subject to the DEP's reservation of rights in Paragraph 11. Paragraph 10 and Paragraph 11 provide that the DEP will not pursue further enforcement action or recovery of costs against PSU provided PSU is completing its obligations under the CO&A, which include, but are not limited to, the full investigation and completion of

all steps required by Act 2 for the releases of PFOS, PFOA, PFBS, PFNA and PFHxS at or from the Airport Property in accordance with the Land Recycling Act.

Hazardous Sites Cleanup Act Definitions

3. “Remedial Response” and “Final Remedy” are important terms that are not clearly defined in the consent agreement.

Clear definition is needed for these terms since these terms are being used as potential determining factors for required remedial actions in the consent agreement.
(Commentator #9)

DEP RESPONSE

As provided in Paragraph 3 of the CO&A, unless otherwise defined expressly in Paragraph 3, terms used in the CO&A shall have the meaning assigned to them in the Hazardous Sites Cleanup Act (HSCA). A “response” is defined in HSCA as “[a]ction taken in the event of a release or threatened release of a hazardous substance or a contaminant into the environment to study, assess, prevent, minimize or eliminate the release in order to protect the present or future public health, safety or welfare or the environment...” A “remedial response” or “remedy” is defined in HSCA as “[a]ny response which is not an interim response.” To provide additional clarity, an “interim response” is defined in HSCA as a response which does not exceed 12 months in duration or \$2,000,000 in cost. See 35 P.S. § 6020.103.

Subparagraphs 4.h., i., and j. of the Consent Order and Agreement

Page 17-18; Clarification on “The University’s agreement pursuant to subparagraphs 4.h., I., and j. shall not be construed as an admission that any PFAS impacts at the residential properties within the Department Investigation Area or otherwise identified on Exhibits B or C are or were caused by the release of PFOS, PFOA, PFBS, PFNA, or PFHxS at or from the Airport Property or that such residences are within the boundaries of the Airport Site.” Then who are we saying is the responsible party then?

Based on a forensic PFAS total oxidizable precursor (TOP) assay laboratory analysis completed on a groundwater sample from a residential supply well in Walnut Grove Estates, the results were compared to the PFAS constituents identified in soil samples collected by PADEP at the Airport Property and also compared to the PFAS constituents found in AFFF. The TOP assay analytical results closely matched PFAS constituents found at the soils at the Airport Property and close patched PFAS constituents originating from AFFF discharges. (Commentator #6)

These paragraphs further contradict the DEP's identification of the University as the "responsible party" on Page 9, Paragraph CC, as it states on Pages 17-18, that:

subparagraphs 4.h, i. and j. shall not be construed as an admission that any PFAS impacts at the residential properties within the Department Investigation Area or

otherwise identified on Exhibits B or C are or were caused by the release of PFOS, PFOA, PFBS, PFNA or PFHxS at or from the Airport Property or that such residences are within the boundaries of the Airport Site.

This language is an unconscionable exclusion of liability favorable to the University and against Commonwealth citizens which DEP has a duty to protect. This statement, by leaving the residents of WGE out of the geographic designation of the "airport site," and specifically disclaiming that the PFAS contamination could have been caused by the University, connotes to the WGE residents that they have been intentionally excluded from any meaningful remediation of this "forever" situation; a situation which has resulted in adverse medical conditions, death within the community, and the obvious contamination of soils and waters prompting DEP's required marking of their property deeds to reflect that their properties now contain hazardous substances. That such language would be included, and endorsed, by a government agency vested with the obligation to protect its residents is an affront to the promises afforded by the Constitution of the Commonwealth of Pennsylvania and the mission statement of the DEP. In sum, this paragraph serves to negate the duty to provide relief to the WGE residents and, as such, amounts to a clean-up plan of government-owned airport property only. (Commentator #13)

DEP RESPONSE

Paragraphs 4.h., i., and j. address the interim provision of point of entry treatment systems (POETS) while further site characterization of the Airport Site is ongoing. Because PSU is agreeing to provide treatment before the Airport Site is fully delineated, this language is included to address any assumption that may arise from providing the treatment before the characterization of the Airport Site is done.

Paragraph 16 of the Consent Order and Agreement

Page 22-23; Paragraph 16; “The University shall not, by act or omission, cause any further contamination and/or otherwise exacerbate any PFAS contamination of the Airport Site or the release of PFAS at the Airport Site. Migration or runoff of PFAS discharged at or from the Airport Site prior to the Effective Date of this Consent Order and Agreement shall not be considered a breach of this Paragraph 16.” Mountain Research’s interpretation of this paragraph is upon signature of the COA on November 13th, 2024, any stormwater containing concentrations of PFAS above the drinking water MCL that is being discharged from the Airport Property is a direct violation of the PA Clean Stream Laws and as result the University will be in breach of the COA. How is the University going to immediately address the discharge of stormwater containing PFAS above the PADEP drinking water MCL to avoid being in breach of the COA and in violation of PA Clean Stream Laws? (Commentator #6)

DEP RESPONSE

The CO&A requires PSU to remediate releases of PFOS, PFOA, PFBS, PFNA and PFHxS at or from the Airport Property under the Land Recycling Act. PSU will need to address potential

migration of contamination as part of the Land Recycling Act process. The second sentence of Paragraph 16 reflects that this runoff or migration is not considered an exacerbation that would violate the CO&A. Accordingly, this comment is not a correct interpretation of the CO&A.

Paragraphs V-W of the Consent Order and Agreement

Pages 7-8, Paragraphs V-W: These paragraphs need to be rewritten as they are self-contradictory and unclear as to whether or not soil samples taken from the airport were at or above the 0.007mg/kg threshold. Testing locations, sampling dates and times the samples were procured may be helpful to clarifying these paragraphs. (Commentator #13)

DEP RESPONSE

Paragraph V addresses samples on the Airport Property and differentiates between samples taken by DEP and samples taken by PSU. Paragraph W addresses soil samples not taken on the Airport Property.

Paragraph X of the Consent Order and Agreement

Page 8, Paragraph X: This paragraph speaks to policy of the federal government regarding PFAS contamination enforcement but fails to acknowledge the host of laws within the Commonwealth, including the Pennsylvania Constitution, that prohibit the degradation of water supplies. (Commentator #13)

DEP RESPONSE

The DEP's authority to require the investigation and remediation of groundwater is described in Paragraph A and Paragraph 1 of the CO&A.

Paragraph 2 of the Consent Order and Agreement

Page 11, Paragraph 2: This paragraph should further state plainly that this agreement has no effect, limiting or otherwise, on private legal actions for compensation by affected parties. (Commentator #13)

DEP RESPONSE

Paragraph 2 addresses the effect of the Findings as between DEP and PSU only and does not prevent private legal actions for compensation by affected parties. Additional language regarding private causes of action is neither authorized under the Hazardous Sites Cleanup Act nor required to preserve the rights of private parties.

Paragraph 13 of the Consent Order and Agreement

The statement that the University "has fully resolved its liability to the Department for the Airport Site and Past Response Costs for the Department Investigation Area" highlights that this

agreement is merely a clean-up plan of government-owned, airport property. This Paragraph omits any discussion of the remedial measures due to the properties within the "Investigation Area" that are geographically adjacent to the "Airport Site." Further, this paragraph essentially states that no further remediation or compensation is owed to those beyond the "Airport Site." (Commentator #13)

DEP RESPONSE

This comment refers to Paragraph 13, "Contribution Protection", of the CO&A that addresses only PSU's responsibility for the Airport Site and the past costs incurred by the DEP as set forth in the CO&A. Nothing in the CO&A prevents further investigation or remediation of areas geographically adjacent to the Airport Site.

Paragraph 17 a. – b. of the Consent Order and Agreement

Page 23, Paragraph 17 a.-b.: These paragraphs should include a subpart "c." that contemplates that nothing in this agreement precludes or restricts the rights of third parties to sue either or both the University and the DEP for civil, criminal, and/or administrative damages, including but not limited to punitive damages, for either or both, the contamination and the responsive remediation necessitated by this COA. (Commentator #13)

DEP RESPONSE

Any basis for private claims of "civil, criminal, and/or administrative damages, including but not limited to punitive damages" is found in common law or statutes other than the Hazardous Sites Cleanup Act and not appropriately included in this CO&A.

Spring Creek

The COA is silent on environmental remediation and the effect on Spring Creek, which statutorily holds the designation as "Class A" waters ideal for recreational and food-supply fishing. Warning signs should be posted throughout the Investigation Area and in particular areas of recreation, informing hunters, anglers and recreational swimmers of the contamination and its known impact upon one's health if exposure occurs. (Commentator #13)

DEP RESPONSE

Due to contamination of Spring Creek unrelated to the Airport Property, there are already restrictions and warning signs on Spring Creek that prohibit the consumption of fish from this stretch of the stream. In addition, the CO&A requires that PSU characterize the vertical and horizontal extent of the contamination the Land Recycling Act, so all exposure pathways must be addressed.

Benner Hatchery and Bald Eagle Creek Fishery

The COA is silent on the environmental remediation owed to the Benner Hatchery and Bald Eagle Creek Fishery for contamination they have suffered and their right to clean water. (Commentator #13)

DEP RESPONSE

If the remedial investigation report required to be submitted by PSU finds contamination at the Benner Hatchery associated with releases at the Airport Property, the CO&A requires PSU to address it under the Land Recycling Act. While it is not clear what the commentor means by the “Bald Eagle Creek Fishery,” it would be similarly addressed.

Construction of Proposed Sanitary Sewer Extension

It would be in the University’s best interest to ensure Spring Benner Walker Joint Authority (SBWJA) adheres to PADEP’s Clean Fill / Management of Fill Policy during construction of the proposed sanitary sewer extension line at the Airport Property and Airport Site. Considering the fact that SBWJA’s PADEP Permit Application for Discharges of Stormwater Associated with Construction Activities omitted details that a portion of the construction activities would intersect areas of PFAS contamination. Excavation, drilling, and disturbance of PFAS impacted soils during construction activities could cause further contamination and/or otherwise exacerbate existing PFAS contamination at the Airport Property and Site both in the soil and groundwater media. (Commentator #6)

DEP RESPONSE

Nothing in the CO&A relieves PSU or the Spring Benner Walker Joint Authority from their obligations to comply with permits and not to spread contamination while conducting the construction mentioned in this comment.

Request for More Information

In regards to the proposed settlement between The Pennsylvania State University and Benner Township residents, I have just today learned of the public comment period. I am a homeowner in the nearby Halfmoon Township and have concerns that the contamination has affected my on-site well water. How can I find out more information about the extent of contamination that has occurred? (Commentator #15)

DEP RESPONSE

DEP contacted the commentor and is following up with them. DEP’s Benner Township HSCA website also has a great deal of information concerning this matter.