



Alerts of PBC Inc.

PO Box 212681
Royal Palm Beach, FL 33411
info@AlertsofPBC.com

October 26, 2104

City of West Palm Beach

Mayor and Commission

Jeri Muoio, Mayor. Email jmuoio@wpb.org

Sylvia Moffett, District 1 Commissioner. Email smoffett@wpb.org

Isaac Robinson Jr., District 2 Commissioner. Email irobinson@wpb.org

Kimberly Mitchell, District 3 Commissioner. Email kmitchell@wpb.org

Keith A. James, District 4 Commissioner. Email kjames@wpb.org

Shanon Materio, District 5 Commissioner. Email smaterio@wpb.org

Town of Palm Beach

Mayor and Council

Gail L. Coniglio, Mayor

Robert N. Wildrick, Town Council member

William J. Diamond, Town Council member

Michael J. Pucillo, Town Council member

Penelope D. Townsend, Town Council member

Email Mayor@townofpalmbeach.com

Email council@townofpalmbeach.com

Town of South Palm Beach

Mayor and Council

Dr. Donald W. Clayman, Mayor Email dclayman@southpalmbeach.com

Dr. Joseph M. Flagello, Vice-Mayor jflagello@southpalmbeach.com

Stella Gaddy Jordan, Council Member Email sjordansouthpalmbeach@gmail.com

Bonnie Fischer, Council Member Email: bfischer@southpalmbeach.com
Robert Gottlieb, Council Member Email: rgottlieb@southpalmbeach.com

Gina McCarthy, Administrator
mccarthy.gina@epa.gov
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Peter C. Grevatt, Director
grevatt.peter@epa.gov
Office of Groundwater and Drinking Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Ann Codrington, Director
codrington.ann@epa.gov
Drinking Water Protection Division
Office of Groundwater and Drinking Water
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Ed Bettinger, Program Consultant
Ed_Bettinger@doh.state.fl.us
Public Drinking Water Systems
Bureau of Environmental Health,
Water Programs
Florida Department of Health
4052 Bald Cypress Way, Bin A-08
Tallahassee, FL 32399-1710

Dear Sirs & Madams:

Re: Endangerment of drinking water supply for City of West Palm Beach and Town of Palm Beach and Town of South Palm Beach

The purpose of this letter is to bring to your attention the fact that the current Minto West land use application before the Palm Beach County Commission will have dramatically negative consequences for Grassy Waters Preserve, a primary source of drinking water for the City of West Palm Beach and the Town of Palm Beach and the Town of South Palm Beach. Specifically, the proposed development will reverse the direction of runoff from the Minto West property to travel north, instead of south in the M-2 canal. The stated reason for this proposal is so that the Minto West development can provide a "public benefit," by enlarging and augmenting the water quantity flowing in the Grassy Waters Preserve and the Loxahatchee River.

We oppose the Minto West proposal for myriad reasons which we will not address in this letter. The purpose of this letter is to provide basic documentation regarding our fear that the Minto West development will likely degrade the water supply for West Palm Beach and Palm Beach, in contravention of the federal Safe Drinking Water Act. We cannot understand why the Palm Beach County Commission has fast-tracked a proposal with grave implications for the public safety, health and welfare, without any inquiry into the negative consequences of this proposal.

POTENTIAL SAFE DRINKING WATER ACT VIOLATIONS (42 U.S.C. §§ 300f et seq.):

The current proposal will send water from the Minto West property to the Grassy Waters Preserve (West Palm Beach Water Catchment Area), which serves as a primary source of drinking water for the City of West Palm Beach and the Town of Palm Beach and Town of South Palm Beach. The Minto West proposal is made under a claim that such a water transfer will serve a public benefit by augmenting the water supply to Grassy Waters and the Loxahatchee River.

We urge you to visit the Grassy Waters Preserve website at <http://wpb.org/grassywaters/index.php> The website states, in relevant part:

The surface water supply for West Palm Beach, Palm Beach, and South Palm Beach is derived from annual rainfall captured and stored within the 27 square mile wetland system of Grassy Waters Preserve. This historical Everglades ecosystem feeds and maintains the twin lake reservoirs of Lake Mangonia and Clear Lake and encompasses nearly 50% of the City of West Palm Beach.

The Department of Public Utilities Watershed Management Division is dedicated to protect, preserve, and restore the

ecological integrity of Grassy Waters Preserve by preventing the proliferation of invasive species, promoting best management practices in water quality and conservation, and educating the public about the importance of this ecosystem.

The Watershed Management Division carries out the daily task of providing operational maintenance to pump stations and control structures throughout the watershed while performing water quality and compliance monitoring to ensure the long-term health of the City's water supply. (Emphasis added.)

The website also states:

Remember you are dependent upon the Preserve for water and the Preserve is dependent upon you for protection. Please help to ensure that Grassy Waters Preserve continues to meet both human and ecological freshwater needs for generations to come.
(Emphasis added.)

Please be aware that this proposal has been submitted without any independent study or review of what potential impacts to the water supply could result from the flow of water from Minto West into this pristine preserve.

Attached hereto are the following documents for your review:

1. July 24, 2013 Jurisdictional Determination for Callery Judge Groves
2. Seminole Improvement District, Water Quality Data, September 21, 2009
3. September 2, 2009 article "Acreage fields irrigated with potentially radioactive water." Fox 29

On its face, the pending Minto West application appears to run afoul of the federal Safe Drinking Water Act. The attached decision, **CITY OF WAUKESHA, ET AL., PETITIONERS v. ENVIRONMENTAL PROTECTION AGENCY**, 320 F.3d 228 (D.C. Circuit 2003) specifically addresses the maximum contaminant level goal ("MCLG") and the maximum contaminant level ("MCL") for radium-226 and radium-228, naturally occurring uranium, and various beta/photon emitters. This MCLG is set at 5 picocuries/Liter [*232] (pCi/L) 1 for the isotopes radium-226 and radium-228; a combined MCL of 4 millirems (mrem) .

The Seminole Improvement District Water Quality Data states that the concentrate amounts of Radium 226 and 228 total 39 pCi/L which is 7.8 times the EPA MCL of 5.0. The Raw water amount of 6.0 pCi/L also exceeds the EPA limits. We do not have data on any of the thousands of pollutants that may be present in the stormwater, surface water, groundwater and soil on the Minto West tract. This investigation and analysis is desperately needed.

The Safe Drinking Water Act generally applies to "each public water system in each State," 42 U.S.C. § 300g, and authorizes EPA to set standards for drinking water contaminants therein, 42 U.S.C. § 300g-1 (b). Source Water Protection is a fundamental goal of the Safe Drinking Water Act. The best way to protect a drinking water source is to prevent contaminants from entering the water in the first place.

It is worth noting that in 2005 another federal court reviewed the contaminant levels established for radium. See, **STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, v. GLOUCESTER ENVIRONMENTAL MANAGEMENT SERVICES, INC**, 2006 U.S. Dist. LEXIS 40999 (2006):

During its 2000 rulemaking, the EPA noted that its use of its model for radionuclides "is entirely consistent with all past and current observations and recommendations" of a number of national and international science organizations and that "the U.S. Department of Energy, the U.S. Nuclear Regulatory Commission, and other Federal and State agencies with regulatory authority over radioactive materials also apply this model as the basis for setting regulations and guidelines for radiation protection." 65 Fed. Reg. at 76,721; see also FGR-13 at v ("Several recent expert panels ([United Nations Scientific Committee on the Effects of Atomic Radiation 1993, 1994; National Radiation Protection Board 1993; and the National Council on Radiation Protection and Measurements 1997]) have concluded that the LNT model is sufficiently consistent with current information on carcinogenic effects of radiation that its use is scientifically justifiable for purposes of estimating risks from low doses of radiation. **As a practical matter, the LNT approach is universally used for assessing the risk from environmental exposure to radionuclides as well as other carcinogens**"). (Emphasis added.)

The July 24, 2013 Jurisdictional Verification letter from the US Army Corps of Engineers provided the following information regarding the "Chemical Characteristics" of the water coming off the Minto West tract:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: low water quality due to pesticides, herbicides stained water.

Identify specific pollutants, if known: silt, nutrients, oils greases.

Question: What will the impacts to the water quality in Grassy Waters be when this water is dumped into the preserve? The Palm Beach County Commission has not bothered to inquire.

"[S]afe drinking water is essential to the protection of public health." Safe Drinking Water Act Amendments of 1996, Pub. L. No. 104-182, section 3(1). To ensure the safety of public drinking water

systems, the Safe Drinking Water Act requires the protection of such systems from contamination.

These steps include source-water protection, water treatment, water-quality monitoring, and providing information to the public. See “Understanding the Safe Drinking Water Act,” http://water.epa.gov/lawsrgs/guidance/sdwa/upload/2009_08_28_sdwa_fs_30ann_sdwa_web.pdf.

We cite for your review the Florida DEP webpage addressing drinking water protection (<http://www.dep.state.fl.us/swapp/barrier.asp>):

Whether your tap water comes from surface or groundwater, all drinking water sources are vulnerable to a variety of contaminants from a variety of activities. The origin of contaminants might be in your neighborhood or many miles away. When rain falls, it picks up and carries away pollutants, depositing them into lakes, rivers, wetlands, coastal and even underground sources of drinking water. Because we know these activities have the potential to contaminate the source of our drinking water, we have created four major barriers to protect our source water from contamination. Preventing pollution is critical to protecting drinking water from contamination and reducing the need for costly treatment. Community involvement and individual action are key to providing a safe supply of drinking water.

Risk Prevention Barrier

The best way to protect drinking water is to keep contaminants from entering source water. Multiple federal, state, and local laws, programs and individual actions help communities identify the sources of drinking water and potential threats. This work enables communities to take appropriate steps to protect the watershed.

Risk Management Barrier

The public water system is the first line of defense to reduce or eliminate contaminants in source water. The Safe Drinking Water Act, which regulates these systems, develops standards and guidance to help them reach the goal of providing safe and reliable drinking water. They must collect and treat water, hire trained and qualified operators and have an emergency response plan in case of natural disaster or terrorist attack.

Risk Monitoring and Compliance Barrier

Dealing effectively with risks to drinking water requires constant evaluation of the water quality. Water is monitored at the source; at the treatment plant, after it has been treated and disinfected; at the distribution system, which delivers water through pumps and pipes to your home; and in some cases, at the consumer’s tap. If systems have difficulty meeting regulations and providing safe, reliable drinking water, assistance can be provided to help them. If all this fails, enforcement action can be taken against the system.

Individual Action Barrier

Constant vigilance to protect water before it becomes your drinking water is essential and involves all of us. An informed, involved and supportive public is the foundation of drinking water protection. What we do in the watershed can directly impact the quality of water that arrives at the treatment plant. The more you know about drinking water, the better equipped you are to help protect it.

This doesn't appear to be happening in the case of the Minto West application. It appears that a major drinking water source is threatened with contamination. Given the initial information presented herein, the question is raised: why is the Minto West application being fast tracked by the Palm Beach County Commission without **ANY INDEPENDENT REVIEW AND STUDY** of the impacts to the Grassy Waters Preserve and the Loxahatchee River? The public health of many thousands of people who live in Palm Beach County and pay taxes deserve better from the County Commission and the myriad governmental entities that purport to represent them.

Please demand a complete, impartial expert assessment of the threats to Grassy Waters Preserve and the Loxahatchee River that will result from approval of the Minto West application.

To the elected officials of the City of West Palm Beach, the Town of Palm Beach and the Town of South Palm Beach, we urge you to be mindful of the statement from Grassy Waters:

**Remember you are dependent upon the Preserve for water
and the Preserve is dependent upon you for protection.**

Please do not hesitate to contact us if you have any questions or comments.

Sincerely yours



Patricia Curry
President, Alerts of PBC, Inc.

Attachments:

- July 24, 2013 Jurisdictional Determination for Callery Judge Groves
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- September 2, 2009 article "Acreage fields irrigated with potentially radioactive water." Fox 29
- **STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, v. GLOUCESTER ENVIRONMENTAL MANAGEMENT SERVICES, INC., 2006 U.S. Dist. LEXIS 40999 (2006)**
- **CITY OF WAUKESHA, ET AL., PETITIONERS v. ENVIRONMENTAL PROTECTION AGENCY, 320 F.3d 228 (D.C. Circuit 2003)**

cc:

Florida Department of Environmental Protection

Chris.Stahl@dep.state.fl.us

suzanne.e.ray@dep.state.fl.us

Palm Beach County Board of County Commissioners

svana@pbcgov.org

PTaylor@pbcgov.org

hvaleche@pbcgov.org

SAbrams@pbcgov.org

pburdick@pbcgov.org

MBerger@pbcgov.org

jsantama@pbcgov.org