

# NEWS

December 8, 2006

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## **MEDIA ADVISORY**

### **SAVE OUR GROUNDWATER AND THE NEIGHBORHOOD GUARDIANS CALL FOR A STATE ETHICS INVESTIGATION IN USA SPRINGS, INC. CASE**

Save Our Groundwater and the Neighborhood Guardians, grassroots organizations of residents gravely concerned about the proposed USA Springs, Inc. water bottling operation in Nottingham and irregularities in the state permitting process as applied in this case, call on Governor John Lynch to initiate an ethics investigation of all state permitting related to this project. We are also calling on Department of Transportation Commissioner Carol Murray to rescind the prematurely issued and possibly illegal DOT driveway permit number 06-351-296 for this project.

The latest state permitting misadventure in this case occurred just before Thanksgiving, on November 14, when USA Springs, Inc. attorney and NH State Representative Tony F. Soltani faxed the New Hampshire Department of Transportation a request for extension of a driveway permit (DOT No. 06-351-296, that the company had failed to renew in September), on behalf of the company's affiliate that owns the land, Garrison Place Real Estate Investment Trust. The fax stated the permit was under appeal.

A DOT adjudicative appeal hearing process initiated by both our organizations (DOT Case Number 2006-04) began in February 2006. The District Six DOT office in Durham approved this extension based on the facsimile request only three days later, despite the fact that there had been no ruling on the appeal; in fact a formal hearing had never taken place. The company needed this last outstanding permit to obtain a building permit from the Town of Nottingham, which they received November 22. The company commenced earthmoving operations on their site located along U.S. Highway Route 4 just after the holiday.

Representatives of our organizations were not allowed to review the District Six DOT file until Monday, December 4 despite requests the previous week. The file records show communications outside the appeal process among DOT officials, the state Attorney General's office and attorneys for USA Springs, Inc. (all of whom were at the DOT appeal pre-hearing conference), and the Town of Nottingham's Planning Board attorney. We believe this behavior to have tainted the permitting process and to be unethical.

True to form in this case, the DOT hearing officer subsequently issued a ruling dismissing our

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appeal on November 28, based on the pre-hearing conference held July 25. We are dismayed by this latest action, but sadly no longer surprised that we should be summarily dismissed after the fact.

We have long believed, based on documented fact and observation, that there has been a trade of necessary permits to this company in exchange for cleaning up contamination. Contamination from an adjacent site was drawn further into the aquifer as a result of the company's November 2002 pump test, which was required for a large groundwater withdrawal permit under the state's Groundwater Protection Act, RSA 485-C. The company's refusal to clean up the site was documented by a DES engineer in a letter to the company dated September 29, 2003.

The contamination, estimated by state officials to cost about \$1 million to clean-up, was one of 27 scientific reasons that the Department of Environmental Services gave for denying the large groundwater withdrawal permit and the company's appeal of this denial in December 2003. The company reapplied to DES Commissioner Michael Nolin later that month and July 1, 2004, DES reversed its decision and issued a conditional large groundwater withdrawal permit, laying the groundwork for all subsequent state and local permits the company needed. The company cleaned up the contamination and every state permit application since has been decided in their favor.

The list of irregularities surrounding the USA Springs, Inc. project is long and well documented. Our volunteers have spent many hours in file reviews, wading through a morass of state permits concerning wetlands, groundwater withdrawal, transportation and more. We have initiated court processes, participated in meetings with our state legislators and local officials, and testified at public hearings all to no avail. The state permitting process in this case is an unstoppable as a tidal wave, threatening the public health, safety and property values of our communities.

Justice delayed is justice denied. We are calling for justice to roll down like water from the lofty heights of the State House in Concord and flow through Nottingham, Barrington and communities all the way to Portsmouth that are potentially affected by this project. We call for an ethics investigation with sworn testimony and criminal penalties for lying. Our request is simple: one standard of justice and one standard of conduct applied fairly to all in our state.

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