

To: Paula Elaine Kay, Deputy Town Attorney Thompson and Fallsburg
Patrice Chester, Chairperson, and Thompson Planning Board

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From: Rock Hill Neighborhood Coalition, P.O. Box 196, Rock Hill 12775

Re: **The Need for TEC to Obtain DEC Permits and Develop SWPPP Prior to Well Drilling**

Date: March 18, 2016

Dear Ms. Kay, Ms. Chester and Members of the Planning Board,

TEC's Request for Well Drilling Permit -- We are writing you about a time-sensitive matter of considerable urgency: Thompson Education Center's request for a well drilling permit on this 568-acre environmentally sensitive tract of land off Wild Turnpike that is constrained by 220± acres of protected NYSDEC freshwater wetlands containing WO-42, WO-43 & WO-54 (Harlen Swamp).¹

We respectfully urge the Planning Board to reject applicant's request at this time. Please review the points outlined below in support of our claim that TEC's project sponsor should not be authorized to begin well drilling on the project site. If you concur, please do not authorize issuance of well drilling and/ or land disturbance permits prior to applicant first having obtained required permits from the DEC. Our reasoning follows:

- No DEC Permits Obtained - Last week NYSDEC Region 3 Environmental Analyst Joseph Murray confirmed that the project sponsor has yet to contact the Department and that, to his knowledge, there are no permit applications pending for Thompson Education Center;
- "Minor Disturbances" - TEC Attorney John Privitera has requested that applicant be permitted to drill test wells because, as he contends, activities such as drilling and putting in access roads constitute "*minor disturbances*" needed to do EIS preparation work.² While that may often be the case, this project is a notable exception for the following reasons:
- BKAA Engineer's Soil Disturbance Estimate - As per Andrew Willingham's important April 22, 2015 letter to the Planning Board, he estimates that drilling 7 test wells in close proximity to the edge of the wetlands (depicted in Pietrzak & Pfau's 8/19/14 TEC Well Drilling Map) would require installing 2.75± miles of access roads throughout this sensitive site and is estimated to result in over 8 acres of soil disturbance!
- SWPPP and SPDES Permits Needed Prior to Land Disturbance - The amount of soil disturbance calculated by Mr. Willingham: (a) directly contradicts Mr. Privitera's characterization of such activities as "*minor disturbances*"; and (b) far surpasses the 1-acre threshold that automatically triggers the requirement that project sponsor develop an SWPPP (Stormwater Pollution Prevention Plan) and obtain a SPDES Permit from the DEC prior to being allowed to commence land disturbance, as confirmed by Region 3 Permit Administrator Daniel Whitehead (next bullet point);

¹ see Thomas J. Shepstone's (Shepstone Mgmt Corp) Sept, 2013 CCOA Master Plan Wetland Map which estimates that Lot 26.-1-6 contains 148± acres of wetlands plus 71.5± acres of 100-foot adjacent areas (based on a Sept 12, 2008 NYSDEC validation)

² see John Privitera, Esq.'s February 18, 2015 and March 23, 2015 letters to Paula Kay, Esq.

- The DEC's April, 2015 Response to RHNC et al and John Lyons - In response to our 4/8/15 group letter ³ and BKAA Attorney John Lyons' April 7, 2015 inquiry as to whether TEC must obtain DEC permits prior to construction, Mr. Whitehead confirmed that is, in fact, the case:

"Before commencing construction activity, the owner or operator of a construction project that will involve soil disturbance of one or more acres must obtain coverage under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity. Permittees are also required to prevent discharges of construction-related pollutants to surface waters. If TEC is proposing to disturb one or more acres, it must gain coverage under the General Permit (GP-0-15-002) and develop a SWPPP." (emphasis added) -- D. Whitehead, April 14, 2015

Thompson, Mamakating & Fallsburg residents are understandably concerned about the scope of this proposed 4.5 million sq ft educational facility, a project based on: (1) density calculations and project design bearing little apparent relation to allowable RR-2 guidelines for dorm density, townhouses, etc.; and (2) the questionable validity of TEC's submissions (site plan application, EAF, zoning analysis, site plan map) due in part to applicant's apparent unwillingness to disclose that Lot 26.-1-6 will need to be subdivided into as many as 10 tax map parcels as a precondition of Ms. Li obtaining any partial releases from her \$6.9 million Dec, 2014 mortgage agreement w/ Parkwood, and in accordance w/ P&P's 5/11/14 Phase Plan Map appended thereto. Hopefully when this project comes back before the Planning Board, these unresolved issues will be addressed. ⁴

The drilling issue takes on new urgency with Fallsburg's March 15th lifting of the Stop Work Order on Ms. Li's adjoining 5-acre Renner Road lot (65.-1-11.59) where they've posted a large temporary "Thompson Education Center" sign, cleared trees and are installing a 1,243 ft long driveway back to the Thompson line: a roadway through which to bring in drilling rigs and heavy equipment. No one wants to deny TEC or any property owner the right to move ahead on their project, but the well drilling / land disturbance being proposed is not "minor." It far exceeds the one acre threshold and requires that the project sponsor first obtain needed permits, as corroborated by Department of Environmental Conservation officials.

Thank you for your consideration to this important matter.



Toby L. Boritz, Sylvia Schwartz, Christina Wallace & RHNC March 18, 2016

ROCK HILL NEIGHBORHOOD COALITION
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³ Our 4/8/15 group letter to Daniel Whitehead was submitted on behalf of Rock Hill Neighborhood Coalition, the BKAA, Yankee Lake Preservation Assn, Wanaksink Lake Club, Wolf Lake, Mamakating Park Property Owners Civic Assn & SC Audubon Society.

⁴ Since May, 2013, Toby Boritz has submitted numerous letters to the Town of Thompson -- taking issue with CCOA/ TEC's density, project design, the questionable validity of submissions (site plan applic., EAF, site map, zoning analysis), & raising concerns about implics. of TEC's Mortgage Agreement w/ Mr. Gelb (Instr. #2014-8329) as to undisclosed need to subdivide into as many as 10 lots.

cc. Deputy Supervisor Richard Sush & Thompson Town Board
Michael Mednick, Thompson Town Attorney
Richard McGoey, Thompson Town Engineer
Robert Geneslaw, Town of Thompson Consulting Planner re: TEC
Marilee Calhoun, Thompson Town Clerk
Logan Morey, Thompson Code Enforcement Officer
Supervisor Steve Vegliante, Town of Fallsburg
Mollie Messenger, Fallsburg Code Enforcement Officer
Will Illing, Fallsburg Town Engineer
Supervisor Bill Herrmann, Town of Mamakating
Freda Eisenberg, Sullivan County Planning Commissioner
Joseph Murray, Environmental Analyst NYSDEC Region 3
Daniel Whitehead, Regional Permit Administrator, NYSDEC Region 3
Andrew Willingham, P.E., Consulting Engineer for Basha Kill Area Association
John Lyons, Esq., Grant & Lyons LLP, Consulting Attorney for BKAA