



For Immediate Release

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SLAPP Suit Threatened Against Delaware Riverkeeper For Opposing Proposed Development on Contaminated Site

East Whiteland, Chester County, PA: Developer Brian O'Neill, along with his corporate counter parts O'Neill Developers and Constitution Drive Partners, threatened to file a lawsuit against the Delaware Riverkeeper Network and Maya van Rossum, the Delaware Riverkeeper for opposing his proposal to pursue state funds and permitting to initiate partial clean up of a highly contaminated site in East Whiteland Township, PA in order to accommodate construction of a housing development. The threat of legal action was sent to the Delaware Riverkeeper Network offices as well as Maya van Rossum's home.

"The threatened lawsuit is what is known as a SLAPP suit, a strategic lawsuit against public participation," explains Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network. "The suit is clearly designed to silence our opposition to his partial clean up and associated development plan and seems obviously meant to send a chilling effect to all the residents who are opposed to this project. But, as with all work at the Delaware Riverkeeper Network, our opposition is based on the truth, facts and science and so we will not be bullied into silence. We will not allow Mr. O'Neill to strip us of our constitutional rights to free speech, freedom of assembly and our obligation to carry out the mission of the Delaware Riverkeeper Network."

The Bishop Tube Site is a former metals processing plant located in East Whiteland Township, PA. The site is bordered by Little Valley Creek, a tributary to the exceptional value Valley Creek. Portions of the site proposed for development are wooded. As a result of the historic uses at the site it has been designated as a Brownfields site. In addition, while not included in the National Priority List for federal clean up, the US Environmental Protection Agency has included the Bishop Tube site on its website page of identified superfund sites, making note that the state is supposed to be taking the lead on securing site clean up.

Groundwater, soil and surface water at the Site are contaminated with TCE, which is classified as a

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probable human carcinogen by the EPA and also as causing other significant health problems. Other contaminants of significant concern are also known to be present at the site.

Brian O’Neill and Constitution Drive Partners are proposing a 228 unit residential development, including with townhomes. The Delaware Riverkeeper Network is concerned that partial cleanup of the site will allow ongoing contamination of the environment, including Little Valley Creek, and will bring more families into its proximity. “In addition, there are known responsible parties and so we are concerned that the state seems poised to approve development of the site and to consider a \$1 million grant to support partial site cleanup rather than ensure the responsible parties are held fully accountable for the clean up. In addition, we support the goal of many in the community that upon its full clean up the site be utilized as public open space, including protecting the woodlands and a healthy stream buffer,” added van Rossum.

As discussed by Dr. Tom Myers in an expert report secured by the Delaware Riverkeeper Network:

“Developing this site would expose the existing contamination to wind and rain which would cause it to erode and pass downstream or downwind where it would contaminate additional areas. Also, much of the contamination would remain in place, especially in groundwater and soils outside of the targeted excavation zone. Other than the additional contamination caused by water and wind erosion, this residential development and remediation will expose substantial amounts of contamination that would be left in place to increased erosion. The development would not contribute substantially to the necessary remediation of downstream and downgradient resources.”

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[Delaware Riverkeeper Network \(DRN\)](#) is a nonprofit membership organization working throughout the 4 states of the Delaware River Watershed including Pennsylvania, New Jersey, Delaware and New York. DRN provides effective environmental advocacy, volunteer monitoring programs, stream restoration projects, public education, and legal enforcement of environmental protection laws.