



# Town of Concord

22 Monument Square, PO Box 535  
Concord, Massachusetts 01742  
Phone: (978)-318-3000

FOR IMMEDIATE RELEASE  
March 26, 2019

Erin Stevens  
Public Information and  
Communications Manager  
estevens@concordma.gov  
978-318-3052

Nagog Pond Water Rights Litigation,  
Town of Concord Prevails on Two Additional Rulings in Land Court

CONCORD, MA— On November 8, 2018 the Town of Concord filed a complaint in Land Court against the Town of Littleton to defend Concord’s water rights as they relate to Nagog Pond. Nagog Pond has been a critical water supply for Concord for more than a century. Over the years, Concord has proven to be a wise steward of that resource by acquiring 100 acres of land surrounding the pond to protect its water quality and the ecosystem, developing a comprehensive resource protection plan, constructing water supply infrastructure and establishing a water conservation plan.

In addition to being a good steward of this important water resource, Concord holds a Registration from MassDEP under the 1985 Water Management Act which grandfathered and protected its historic right to withdraw water from Nagog Pond.

Concord’s action in the Land Court was in response to a series of letters and demands from the Town of Littleton Water Commissioners which purported to provided notice to Concord that Littleton “intends to exercise the full extent of the rights conferred [by Chapter 201 of the Acts of 1884] to withdraw water from Nagog Pond” despite Concord’s Registration.

Given the importance of Nagog Pond to Concord’s public drinking water infrastructure, Concord has asked the Land Court to confirm that Concord’s Registration under the 1985 Water Management Act is superior to Littleton’s claim under Chapter 201 of the Acts of 1884.

Recently, on March 19, 2019, Judge Jennifer S.D. Roberts issued two decisions in the Nagog Pond litigation in the Land Court favorable to Concord. The Land Court denied Littleton’s Motion to Dismiss and the Acton Water District’s Motion to Intervene.

In denying Littleton's Motion to Dismiss, Judge Roberts ruled that the Land Court has jurisdiction to hear Concord's lawsuit seeking a declaratory judgment to determine if its right to withdraw water from Nagog Pond pursuant to its Registration issued by MassDEP under the 1985 Water Management Act is superior to any rights reserved to Littleton and Acton in Chapter 201 of the Acts of 1884.

Judge Roberts also denied the Acton Water District's Motion to Intervene because the Water District failed to make a "compelling showing" to warrant intervention. The Land Court declined to exercise its discretion to grant the Acton Water District's request for intervention since "the Water District's claimed interest in the litigation is adequately represented by Acton and the addition of the Water District will likely result in delay and increased complexity."

These decisions follow a favorable ruling in the Massachusetts Supreme Judicial Court (SJC) in which Justice Budd granted the Town of Concord's Motion to Dismiss a Complaint filed by the Town of Littleton. Littleton's Complaint with the Single Justice of the SJC sought the appointment of commissioners to determine the water damages it must pay Concord for taking water from Nagog Pond. Justice Budd dismissed that action stating, "[t]here is no need to appoint commissioners to assess water damages...unless and until it has been determined in the Land Court litigation that the 1884 act remains viable in light of the Water Management Act." A complete copy of the three rulings can be [viewed here](#) or by visiting [concordma.gov](http://concordma.gov).

These actions are critical steps in Concord's continued preservation of its rights to withdraw water from Nagog Pond pursuant to its Water Management Act Registration. The Town of Concord looks forward to a favorable resolution of its case in the Land Court.

# # #