

**Comments presented by Robert Sekuler on
Concord's request for a three-year extension to permit**

My name is Bob Sekuler. I live in Acton at 17 Parkland Lane. Thanks for allowing me to comment on Concord's request to the Commission. I will be brief.

Carolyn Kiely and Dr Kim Kastens called your attention to a host of consequential legal and serious environmental concerns that are raised by Concord's request for a three-year extension to the permit issued to it in January 2016. As the Commission weighs what it has heard from Ms. Kiely and Dr. Kastens, I would like to suggest some options and alternatives that it might take, short of an outright denial of Concord's request.

First, the Commission could modify its order of conditions to include a reasonable, but effective monitoring program that would track the environmental impact by Concord's project. As the Commission heard tonight, OARS, our highly respected regional watershed organization, has described what such a monitoring program might entail. And OARS' recommendations could be appended to the Commission's original order of conditions. Incidentally, there are clear precedents for including a monitoring program in the Conservation Commission's order of conditions. For example, when the Commission was scrutinizing plans for the Quail Ridge golf course, the Commission's order of conditions laid out a detailed monitoring program. It seems quite reasonable now that the Commission include something similar for the environmentally sensitive project Concord is proposing.

Second, the Conservation Commission could protect Nagog Pond, Acton's largest body of water, by setting a reasonable limit on the level to which Concord could draw down Nagog Pond's water level. As you heard, the pipe that Concord has presented as a mere replacement would be considerably longer —running all the way to the Littleton border— and appreciably deeper than the one it would replace. I liken this to a situation in which I got my wife's permission to "replace" my well-used, environmentally-sensitive small car, only to return home with a new Ford F-250 Super Duty truck.

The “replacement” pipe’s additional length and depth would allow Concord to draw more water from the Pond, including during the summer months and during periods of prolonged drought. Even if Concord stayed within a safe annual average withdrawal (0.86 MGD, not 1.0 MGD as stated by Alan Cathcart), if Concord concentrated its withdrawal in summer months or during drought conditions, that withdrawal would damage not only the Pond, but also the sensitive surrounding wetlands, and downstream cold water fishery resources. And that damage would likely be permanent. After all, once begun, any eutrophication would be very difficult to reverse.

To guard against that damage, the Commission could amend its order of conditions to limit the drawdown of the Pond to no more than three feet below the level of the existing sill. If the water fell below that level, the Commission’s order of conditions could require Concord to suspend withdrawals until the level had recovered. Incidentally, Concord agreed to precisely such a limit when it settled the litigation over its Legislatively mandated right to water from Sandy Pond in Lincoln. I should note that the 1872 Legislative Act that granted Concord right’s to draw water from Sandy Pond was actually the model for the later Act of 1884 that granted Concord conditional rights to water from Nagog Pond

Third, the Conservation Commission could hold off granting a permit extension until it had detailed plans for the entire project. Concord asks for a three extension of the permit that the Commission granted in January 2016. Surprisingly, though, Concord’s application fails to give detailed plans for what it would do during most of the three-year extension it seeks. The application describes only Phase One, which Concord says would be completed by May 2019. Given the incomplete plans it has been given, the Commission would be well within its rights to deny Concord’s extension request until it receives complete plans —not just for the the project’s first six months, but for all three years of the large, environmentally impactful project. That is particularly important in light of the consequential new information that Dr. Kastens described to the Commission. Alternatively, the Commission could limit any permit extension to just the six months for which Concord has actually submitted plans.

In conclusion, I want to make one thing really clear. Nothing that Carolyn Kiely or Dr. Kastens or I am suggesting would infringe on Concord's permitted annual water withdrawals from Nagog Pond. All of us understand and respect the authority of MassDEP under the Water Management Act. Rather, we merely ask the Commission to recognize that there is new information not available to it in January 2016. And that the Commission respond by exercising its lawful and proper authority to insure that Concord's project cannot harm to our Town's natural environment.

Thank you.