

(SEAL)

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

MIDDLESEX, ss.

18 MISC 000596 (JSDR)

TOWN OF CONCORD,

Plaintiff,

v.

LITTLETON WATER DEPARTMENT,

Defendant

And

TOWN OF ACTON,

Intervenor-Defendant.

**MEMORANDUM OF DECISION
GRANTING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT AND
DENYING DEFENDANTS' CROSS-
MOTIONS FOR SUMMARY
JUDGMENT**

INTRODUCTION

This action was commenced by plaintiff Town of Concord ("Concord") with the filing of a complaint on November 8, 2018 against the defendant Littleton Water Department ("LWD")¹ seeking a declaration as to the extent to which LWD's claimed right to withdraw water from Nagog Pond pursuant to Chapter 201 of the Acts of 1884 ("the 1884 Act"), § 10, has been superseded by the Water Management Act, G.L. c. 21G ("WMA"), and, more particularly, the extent to which Concord's registration of rights under the WMA negates LWD's rights under the 1884 Act. On January 8, 2019, the Town of Acton ("Acton") filed a motion to intervene on the

¹ In an earlier decision in this matter, the court noted that Concord had named LWD, not the Town of Littleton ("Littleton"), as a defendant and requested that Concord determine whether LWD was the proper party to these proceedings. No motion to substitute was made thereafter, and so, for purposes of this memorandum of decision, the court treats LWD as representing Littleton's interests herein.

grounds that it, too, had rights under the 1884 Act comparable to those of Littleton, which motion was allowed by the court on March 14, 2019.²

At a hearing on March 14, 2019 on LWD's motion to dismiss this action, the parties agreed that the action should be transferred to the Superior Court, rather than dismissed, if LWD's motion was granted and that a briefing schedule for cross-motions for summary judgment should be established, to be filed and heard in this court if the motion to dismiss was denied, and to be transferred and heard in the Superior Court if the motion to dismiss was granted. A schedule was set, the motion to dismiss was denied by order dated March 19, 2019, motions and cross-motions for summary judgment and supporting papers were filed and a hearing was held on July 11, 2019. The parties thereafter filed supplemental memoranda and affidavits addressing issues raised at that hearing.

For the reasons set forth below, this court concludes that the 1884 Act was impliedly repealed by the WMA, as a result of which any rights granted to LWD and Acton under the 1884 Act were extinguished.

THE UNDISPUTED MATERIAL FACTS³

Concord petitioned the state legislature in the late 19th Century for authorization to withdraw water from Nagog Pond, a fresh water pond located along the border of the towns of Littleton and Acton. PSUMF ¶ 1. In 1884, the General Court passed *An Act to Authorize the*

² A motion to intervene was also brought on behalf of the Acton Water Department and was denied as to that entity by order dated March 19, 2019.

³ These are taken from Plaintiff's Statement Of Undisputed Material Facts ("PSUMF"), and were either admitted by LWD and Acton or were objected to by LWD on the grounds that the statements were irrelevant, that LWD had not undertaken discovery in this case, and that it should not be required to expend resources to investigate the accuracy of an immaterial statement. To the extent that the court disagrees with LWD's assessment of the relevance of these statements, it is noted that LWD did not seek relief pursuant to Mass. R. Civ. P. Rule 56(f) and did not file a motion to strike those statements. For purposes of these cross-motions only, the court accepts those statements as true. To the extent that LWD objected on the grounds that the statements were not based on admissible evidence, and the court agreed, those statements have been omitted.

Town of Concord to Increase its Water Supply, which gave Concord authorization to withdraw water from Nagog Pond and to undertake acquisitions by eminent domain to support its water withdrawal efforts. PSUMF ¶¶ 2-3.

In 1909, Concord recorded an instrument of taking in the Middlesex Registry of Deeds, Book 3457, Page 221. PSUMF ¶ 4. Since 1909, Concord has periodically obtained other parcels abutting Nagog Pond, installed an intake pipe and a dam to hold the water in Nagog Pond, and constructed a pump house, water mains, and an ozone treatment facility. PSUMF ¶¶ 5, 10, 22. Concord completed a major renovation of the dam at Nagog Pond in 2012. PSUMF ¶ 23. Presently, Concord owns approximately 40 acres of land in Littleton and 60 acres of land in Acton abutting Nagog Pond, which it acquired pursuant to the 1884 Act. PSUMF ¶ 7. Concord is presently in the process of replacing the intake pipe and constructing a new water treatment plant. Supplemental Affidavit of Alan H. Cathcart, sworn to on September 27, 2019, at ¶¶ 30-35.

In 1985, Massachusetts adopted the WMA. PSUMF ¶ 11. Pursuant to the WMA, the Massachusetts Department Of Environmental Protection (“the DEP”) adopted the regulations it deemed necessary to establish a “mechanism for managing ground and surface water in the commonwealth in a single hydrologic system ...” M.G.L. c. 21G, § 3. PSUMF ¶ 12. The DEP published regulations pursuant to the WMA at 310 CMR 36.00. PSUMF ¶ 13.

Prior to the January 1, 1988 deadline established in G.L. c. 21G, § 5, Concord filed with the DEP its registration statement documenting its historic use of Nagog Pond. PSUMF ¶ 14. In its registration statement, Concord sought registration for an aggregate of 2.1 million gallons per day (“MGD”) for its six historic water withdrawal resources, including surface and groundwater resources. PSUMF ¶ 15. Based on the underlying withdrawal volumes recorded by Concord

during the WMA Registration Eligibility Period, the volume attributable to Nagog Pond was 0.89 MGD. PSUMF ¶ 16.

DEP issued Concord a registration for Nagog Pond on May 30, 1991 and Concord has timely renewed its registration since then. PSUMF ¶¶ 20-21. LWD did not comment on any of Concord's registration renewals. PSUMF ¶ 34.

LWD did not seek to exercise any water withdrawal rights to Nagog Pond under the 1884 Act prior to the enactment of the WMA. PSUMF ¶ 30. LWD did not attempt to exercise any water withdrawal rights to Nagog Pond during the period from 1981 to 1985. PSUMF ¶ 31. LWD did not submit any comments on Concord's WMA registration statement to limit or condition Concord's registration in an effort to preserve rights that Littleton may have claimed to withdraw water from Nagog Pond under the 1884 Act. PSUMF ¶ 32. LWD registered four groundwater wells in Littleton, but did not establish or assert any active use of Nagog Pond in its registration statement. PSUMF ¶ 33.

LWD commissioned a water capacity analysis, the results of which are contained in a report entitled Water System Capacity Analysis Prepared For: Littleton Water Department Littleton MA dated July 31, 2017 ("Littleton Water Analysis"). Affidavit Of Nick Lawler In Support Of Defendant Town Of Littleton's Supplemental Memorandum In Support Of Its Motion For Summary Judgment, sworn to September 26, 2019 ("Lawler Aff."), at ¶ 8 and Ex. A. The Littleton Water Analysis projects that LWD will need additional capacity to meet expected demand on its water resources. *Id.* at ¶ 10. According to the General Manager of Littleton's Electric, Light & Water Department, Mr. Nick Lawler, any use of Nagog Pond by LWD will require a substantial commitment of time and money, as a result of which "it is imperative that Littleton and [LWD] extinguish, prior to commencing that process, the Town of Concord's

incorrect claims that Littleton lacks legal right and authority to exercise its rights to take, hold and use Nagog Pond's waters." *Id.* at 14.

On or about February 20, 2018, LWD gave notice to Concord of LWD's intent to exercise its rights under Section 10 of the 1884 Act. LWD Statement of Material Facts ("DSUMF"). Through correspondence and in meetings at various times in 2018, LWD and Concord discussed that notice of intent. DSUMF ¶ 37. LWD and Concord were unable to resolve their differences concerning the rights, interests and priorities to use the water from Nagog Pond. DSUMF ¶ 38.

Littleton is currently engaged in permitting new groundwater wells, known as "Cobbs Wells," at a site not far from Nagog Pond. Lawler Aff. ¶ 15. In proceedings before DEP, Concord has questioned the issuance of a permit for the Cobbs Wells because of a groundwater connection between those proposed wells and Nagog Pong. *Id.* at ¶ 16.

DISCUSSION

The central issue raised by these cross-motions for summary judgment is whether the WMA impliedly repealed the 1884 Act, such that LWD's and Acton's rights under the 1884 Act were thereby extinguished. There is, however, a threshold issue: whether this case presents an actual controversy ripe for resolution pursuant to G.L. c. 231A, § *et seq.*, because neither LWD nor Acton has yet applied to use the waters of Nagog Pond under the WMA, a statute to which both entities agree they are subject and under which they may be denied permits for reasons having nothing to do with the 1884 Act. As is set forth below, this court concludes that this action presents an actual controversy, and that the WMA impliedly repealed the 1884 Act.

Actual Controversy

As described in *Town of Hingham v. Dep't of Hous. & Cmty. Dev.*, 451 Mass. 501, 505 (2008), quoting *Massachusetts Ass'n of Indep. Ins. Agents & Brokers, Inc. v. Commissioner of Ins.*, 373 Mass. 290, 291 (1977) and G.L. c. 231A, § 9, “[t]he purpose of declaratory judgment is ‘to afford relief from uncertainty and insecurity with respect to rights, duties, status and other legal relations.’” “However, in order for a court to provide declaratory relief, an actual controversy – that is, a controversy appropriate for judicial resolution – must exist.” *Id.*

An actual controversy arises “where there is ‘a real dispute caused by the assertion by one party of a legal relation, status or right in which he has a definite interest, and the denial of such assertion by another party also having a definite interest in the subject matter, where the circumstances attending the dispute plainly indicate that unless the matter is adjusted such antagonistic claims will almost immediately and inevitably lead to litigation.’” *Libertarian Ass'n of Mass. v. Sec'y of the Commonwealth*, 462 Mass. 538, 546-547 (2012) quoting *School Comm. Of Cambridge v. Superintendent of Sch. Of Cambridge*, 320 Mass. 516, 518 (1946). “The phrase ‘actual controversy’ is, however, to be ‘liberally construed.’” *Wells Fargo Fin. Massachusetts, Inc. v. Mulvey*, 93 Mass. App. Ct. 768, 771 (2018), quoting *Boston v. Keene Corp.*, 406 Mass. 301, 304 (1989).

Here, all parties contend that there is an actual controversy between them that is ripe for resolution. While their consensus is not determinative, see *Perini Corp. v. Building Inspector of North Andover*, 7 Mass. App. Ct. 72, 76-77 (1979) (declining to issue declaration of rights despite request of both parties), the supplemental briefs and affidavits filed by the parties satisfy this court that there is a real dispute between them as to their respective rights under the 1884 Act and the WMA having immediate consequences. Concord continues to expend significant

time and resources preparing for the replacement of the original intake pipe at Nagog Pond and the construction of a new water treatment facility based on its right to draw water from Nagog Pond under the WMA, efforts that may be worthless if Littleton and Acton have superior rights to the waters of Nagog Pond. Littleton is currently engaged in permitting new groundwater wells in the vicinity of Nagog Pond with the DEP, and Concord has questioned that permitting in view of the impact of the proposed wells on Nagog Pond, a position that loses its merit if Concord's rights in Nagog Pond are subsidiary to Littleton's rights. Littleton also has longer range water needs that it must address, and having clarity as to its rights in Nagog Pond is important as Littleton expends significant time and money pursuing additional water resources. An actual controversy exists here.

Implied Repeal

In determining whether one statute repeals another, "it is the duty of the court to ascertain the legislative intent and to effectuate it." *Doherty v. Commissioner of Administration*, 349 Mass. 687, 690 (1965). "[T]he touchstone is 'the intent of the Legislature ascertained from all its words construed by the ordinary and approved usage of the language, considered in connection with the cause of its enactment, the mischief or imperfection to be remedied, and the main object to be accomplished, to the end that the purpose of its framers may be effectuated.'" *Skawski v. Greenfield Investors Property Development LLC*, 473 Mass. 580, 586-587 (2016), quoting *Weems v. Citigroup, Inc.*, 453 Mass. 147, 153 (2009), quoting *Boston Police Patrolmen's Ass'n v. Boston*, 435 Mass. 718, 720 (2002).

Generally speaking, more recent statutes do not repeal earlier statutes absent express language to that effect or clear implication. *Skawski*, 473 Mass. at 586, quoting *Commonwealth v. Palmer*, 464 Mass. 773, 777 (2013) ("It is well established that '[a] statute is not to be deemed

to repeal or supersede a prior statute in whole or in part in the absence of express words to that effect or of clear implication.”). Repeal by implication is not favored. *Doherty*, 349 Mass. at 690 (principle of implied repeal “is one which the court, in deference to the Legislature, does not regard with favor and applies with caution”); *Homer v. Fall River*, 326 Mass. 673, 676 (1951) (“ordinarily the repeal of a statute by implication is not favored by the law”). Implied repeal must be by an “implication so clear that it overcomes our ‘strong presumption against implied repeal of a prior law.’” *Skawski*, 473 Mass. at 586, quoting *Dartmouth v. Greater New Bedford Reg’l Vocational Tech. Sch. Dist.*, 461 Mass. 366, 374 (2012).

However, “[i]mplied repeal is clear where ‘the earlier statute is so repugnant to and inconsistent with the later enactment covering the subject matter that both cannot stand.’” *Skawski*, 473 Mass. at 586, quoting *Dartmouth*, 461 Mass. at 374-375, and *Doherty*, 349 Mass. at 690. Accord *Alliance to Protect Nantucket Sound, Inc. v. Energy Facilities Siting Bd.*, 457 Mass. 663, 673 (2010), quoting *Dedham Water Co., v. Dedham*, 395 Mass. 510, 518 (1985) (“The longstanding test for the principle of implied repeal is whether the prior statute is so repugnant to, and inconsistent with, the later enactment that both cannot stand. Only then is the former statute repealed.”); *Boston Housing Authority v. Labor Relations Com.*, 398 Mass. 715, 718 (1986). “Repugnancy and inconsistency may exist when the Legislature enacts a law covering a particular field but leaves conflicting prior prescriptions unrepealed.” *Town of Dartmouth*, 461 Mass. at 375, quoting *Doherty, supra* and citing *Homer*, 326 Mass. at 676. See also 1A Sutherland Statutory Construction § 23.9 (7th ed.) (“It has been held that courts will infer the repeal of a statute only when: (1) it is clear that a subsequent legislative act conflicts with a prior act; or (2) a subsequent act of the legislature clearly is intended to occupy the entire field covered by a prior enactment.”).

The issue of conflicts between a comprehensive statute and prior laws was addressed at some length in *Town of Dartmouth*:

“Where such a conflict does appear it is the court’s duty to give effect to the Legislature’s intention in such a way that the later legislative action may not be futile. The earlier enactment must give way.” *Doherty v. Commissioner of Admin., supra*. In such circumstances, “the legislative intent to supersede local enactments need not be expressly stated for the State law to be given preemptive effect.” *Boston Teachers Union, Local 66 v. Boston, supra*. “Where legislation deals with a subject comprehensively, it ‘may reasonable by inferred as intended to preclude the exercise of any local power or function on the same subject because otherwise the legislative purpose of the statute would be frustrated.’” *Id.*, quoting *Bloom v. Worcester*, 363 Mass. 136, 155, 293 N.E.2d 268 (1973). See *Warr v. Hodges*, 234 Mass. 279, 281-282, 125 N.E. 557 (1920). “Thus, a statute designed to deal uniformly with a Statewide problem ‘displays on its face an intent to supersede local and special laws and to repeal inconsistent special statutes.’” *Boston Teachers Union, Local 66 v. Boston, supra*, quoting *McDonald v. Superior Court*, 299 Mass. 321, 324, 13 N.E.2d 16 (1938).

461 Mass. at 375-376.

In *Town of Dartmouth*, the Education Reform Act of 1993 was found to be a comprehensive statute governing school funding that impliedly repealed St. 1971, c. 428, which authorized the formation of a vocational regional school district and provided for an agreement between the municipalities in that district as to, among other things, the apportioning of school district expenses. In *McDonald v. Superior Court*, 299 Mass. 321 (1938), the dispute was over whether a member of the licensing board of Pittsfield could only be removed under the provisions of the special act creating the city charter, St. 1932, c. 280, § 30, which required action by the mayor and city council, or whether the act regulating alcoholic beverages passed in 1933 as St. 1933, c. 376, G.L. c. 138, providing for removal by the mayor acting alone, governed. According to the *McDonald* court:

The circumstances attendant upon the enactment of the new c. 138 show that it was the legislative purpose to deal with the whole liquor problem for the entire Commonwealth. It was enacted to take effect upon the repeal of the Eighteenth Amendment to the Constitution of the United States. Its manifest design was to deal with the problem of the control of intoxicating liquor as an entirety. That problem was State-wide. There was

importance to the uniformity in the law to govern the administration of the subject. A statute of that nature displays on its face an intent to supersede local and special laws and to repeal inconsistent special statutes. *Brown v. Lowell*, 8 Met. 172, 174. *Copeland v. Mayor & Aldermen of Springfield*, 166 Mass. 498, 504, 44 N.E. 605. *O'Connor v. Boyden*, 268 Mass. 111, 114, 167 N.E. 268.

299 Mass. at 324.

For other cases of similar import, see *Bond Liquor Store, Inc. v. Alcoholic Beverages Control Com.*, 336 Mass. 70 (1957) (“The scope of the new section 25C, which is constitutional, is such as to suggest strongly an intention ‘to cover the whole subject to which it relates.’”) (citations omitted) (holding that G.L. c. 138, § 23A, was impliedly repealed by G.L. c. 138, § 25C); *Doherty*, 349 Mass. at 690-691 (“We think that by St. 1962, c. 757, the Legislature, establishing the Executive Office for Administration and Finance, intended to cover comprehensively its structure, methods of operation and procurement of personnel) (holding that G.L. c. 7, § 4D, impliedly repealed G.L. c. 8, § 4); *Boston Housing Authority*, 398 Mass. at 719 (“the comprehensive nature of G.L. c. 150E must prevail over any limitations which might be read into G.L. c. 121B, § 29”). See also *Skawski*, 473 Mass. at 588 (“The comprehensive scope of the act ... suggests that the Legislature intended to be equally comprehensive in declaring which court departments would have original jurisdiction to adjudicate major development permit appeals.”) (holding that the 2006 enactment of G.L. c. 185, § 3A, establishing a permit session in the Land Court, impliedly repealed G.L. c. 40A, § 17, insofar as the latter statute gave jurisdiction to the Housing court to hear permit appeals).

Turning, then, to the language of the WMA,⁴ § 3 requires that DEP and the water resources commission of the Executive Office of Environmental Affairs (“the Commission”)

⁴ There have been only minor modifications to the statute since its enactment, the most notable of which are a 1990 amendment to § 5 adding provision allowing for the registration of water withdrawals of 10,000 to 99,999 gallons per day and a 2009 addition to the statute, G.L. c. 21G, § 20, requiring that well diggers and drillers be certified by DEP.

“cooperate in the planning, establishment and management of programs to assess the uses of water in the commonwealth and to plan for future water needs.” The Commission is required to “adopt principles, policies and guidelines necessary for the effective planning and management of water use and conservation in the commonwealth . . . as necessary and proper to ensure an adequate volume and quality of water for all citizens of the commonwealth, both present and future.” Those principles, policies and guidelines “shall be designed . . . to assure comprehensive and systematic planning and management of water withdrawals and use in the commonwealth.” DEP “shall adopt such regulations as it deems necessary to carry out the purposes of this chapter, **establishing a mechanism for managing ground and surface water in the commonwealth as a single hydrological system and ensuring, where necessary, a balance among competing water withdrawals and uses**” (emphasis added). With reference to this language, the Supreme Judicial Court stated: “In short, water management, including water conservation, is an important purpose of the Act.” *Water Dep’t of Fairhaven v. Dep’t of Env’tl. Prot.*, 455 Mass. 740, 747 (2010).

Section 4 sets a withdrawal volume threshold of 100,000 gallons per day (“GPD”). Section 5 requires that any “person”⁵ making an existing withdrawal in excess of the threshold volume file a registration statement with DEP on or before January 1, 1988 and bars any person from continuing an existing withdrawal in excess of the threshold volume after that deadline, unless the person has complied with the requirements of the WMA and the regulations promulgated thereunder. Section 5 further requires DEP to specify a schedule of expiration dates applicable to each water source from which there are existing withdrawals for which registration

⁵ A “Person” is defined in § 2 of the act as “any agency or political subdivision of the federal government or the commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, or any officer, employee or agent of said person, or any group of said persons.”

statements can be filed, and further provides that registration statements filed for existing withdrawals from the water source shall authorize withdrawals until the next applicable expiration date, not to exceed a term of ten years. “Upon the expiration of any initial or renewal registration statement under this section, the registrant shall be entitled, upon the filing of a renewal registration statement, to continue existing withdrawals specified in the registration statement for a period of ten years.” *Id.* With reference to this language, the *Fairhaven* court stated that “[t]he Act thereby guarantees that any registrant that registered before January 1, 1988, and timely renewed its registration statement may continue forever to withdraw water at the rate of its existing withdrawal,” 455 Mass. at 742, and that “the Act ‘grandfathered’ a registrant’s entitlement to existing withdrawals, provided the registrant timely filed a registration statement and renewals.” 455 Mass. at 747.

In contrast to the grandfathered status granted to persons who registered their existing withdrawals, new users of more than the threshold volume of water were barred from making those withdrawals “unless such person obtains a permit in accordance with the regulations adopted by the department.” WMA, § 7. The WMA sets forth a number of criteria and standards for obtaining permits, including “[t]he impact of the proposed withdrawal on other water sources which are hydrologically interconnected with the water source from which the withdrawal is to be made” *id.* at § 7 (1), “[t]he water available within the safe yield of the water source from which the withdrawal is to be made,” *id.* at § 7(3), and “[t]he use to be made of the water proposed to be withdrawn and other existing, presently permitted or projected uses of the water source from which the withdrawal is to be made.” *Id.* at § 7(5). As noted in *Fairhaven*,

[t]he department, in its sound discretion, “may issue permits for any new withdrawal of water if it determines that the withdrawal will conform to the regulatory standards established,” but it must deny a permit if the proposed withdrawal would exceed the water source’s safe yield. G.L. c. 21G, § 11. In granting a permit, the department may

attach any conditions it deems necessary to further the Act's purposes or to assure compliance with its regulations. *Id.*

455 Mass. at 478.

Section 14 of the WMA authorizes DEP to issue such enforcement orders "as are reasonably necessary to aid in the enforcement provisions of this chapter." Those orders include, but are not limited to "orders modifying, suspending or revoking permits, well driller certifications under section 20 of this chapter, and orders requiring persons to cease any activity which is in violation of the provisions of this chapter or any regulations adopted hereunder." While this provision does not purport to be exhaustive, the absence of any order modifying, suspending or revoking a registration is notable.

The history behind the WMA was described by the Supreme Judicial Court in *Fairhaven*:

The Act was a direct response to call for action issued by two separate studies, one commissioned by the executive branch and the other by the Legislature, that reviewed the Commonwealth's water supply and related policies in the late 1970's and early 1980's. . . . While acknowledging that "conflicts in water use are inevitable," the 1978 Water Supply Policy Statement [commissioned by the Executive Office of Environmental Affairs] expressed dismay over the lack of a comprehensive approach to water conservation in the Commonwealth, as well as "the lack of public awareness of the limitations of the water supply and the compromises necessary to assure continued supply. The study recommended the implementation of a centralized Statewide water conservation program.

In 1977, the Legislature established a Special Legislative Commission on Water Supply (special commission), that contracted with an independent law firm with expertise in environmental law "to research existing Massachusetts and federal groundwater law to identify gaps which needed to be filled in the Commonwealth, to look at laws of other states, and **to make recommendations concerning legislation which would provide a suitable water resources management framework for Massachusetts with regard to identification of water use, protection of existing users, allocation of water among competing demands, and the integration of ground and surface water as a single hydrologic system.**" The resulting report found the existing legal framework to be inadequate to promote water conservation in the Commonwealth. To rectify the inadequacy, it proposed legislative adoption of the Act, which the Legislature in 1985 enacted essentially as proposed.

455 Mass. at 745-746 (citations omitted) (emphasis added).

The referenced report⁶ (“the 1983 Report”) includes other statements relevant to the present controversy. In its description of the WMA in its introduction, the 1983 Report states that “[t]he Act’s requirement of water withdrawal permits for subsequent new users above the threshold amount would not apply to existing withdrawals of water at the time of its effective date.” 1983 Report at 7. Furthermore, “DEQE [now DEP] regulations under this Act will establish a mechanism for managing ground and surface waters as a single hydrologic unit, in order to ensure, where necessary, an appropriate balance among competing interests.” *Id.* at 8.

“Institutional and legal inadequacies” were among the “groundwater problems” identified by the 1983 Report:

Despite the many state, regional and local authorities whose activities are focused on pieces of water management process, no coherent overall management program exists in Massachusetts. Two shortcomings of particular concern are the failure to manage ground and surface water as a single interconnected system, and the lack of a program for the management of water allocation and use in the areas where aquifer stress may make this necessary. Although some local authority exists to deal with allocation and demand management problems, particularly during water shortage emergencies, local authority is geographically limited and often does not match the regional span of underground aquifers and other water sources.

1983 Report at 12. According to the 1983 Report, “[f]or Massachusetts to develop a coherent water management program,” the Commonwealth needed to address the problem areas identified in the 1983 Report and, more particularly, “address four essential management problems,” one of which was “how to assure that water is allocated properly among those users.” *Id.* at 13.

In addition, the 1983 Report included, as “a key finding of this report,” that ground and surface water are part of a single hydrological system and “whatever restrictions are imposed on surface water withdrawals and use should be applied equally to groundwater.” 1983 Report at

⁶ Report of the Special Commission Established (Under Chapter 13 of the Resolves of 1977 and Most Recently Revived and Continued by Chapter 9 of the Resolves of 1982) To Make Investigation and Study Relative to Determining the Adequacy of the Water Supply of the Commonwealth. Senate, January 27, 1983.

17. After canvassing the available mechanisms for protecting groundwater, including the Zoning Act and the Wetlands Protection Act, the 1983 Report concluded that “[l]ocal zoning and non-zoning controls exist and their use to promote water management goals can be supervised by the state, but state regulation of the groundwater system, fully integrated with other state regulatory programs, appears to be called for.” *Id.* at 27.

The 1983 Report also considered existing methods of groundwater allocation under the common law with respect to private land owners, and under specific statutory enactments allowing public entities to withdraw or alter the flow of water, and found them to be inadequate. The authors of the 1983 Report described the WMA, with its limited requirement of a water withdrawal permit only for new withdrawals and not existing withdrawals, as “the minimum level of allocation regulation consistent with its management objectives. The resulting data gathering, registration and permitting system would enable comprehensive regulation of ground and surface water withdrawals in Massachusetts.” 1983 Report at 50.

In addition to the 1983 Report, the record in this proceeding also contains documents from the State Library of Massachusetts-Special Collections Department, Special Collection of Senator Carol C. Amick, including materials maintained by Sen. Amick as Senate Chair of the Special Commission that authored the 1983 Report. A review of those documents indicates that members of the Special Commission were aware of pre-existing water rights in Massachusetts, aware that New Jersey had done away with such rights in its statute and was expecting “massive litigation” as a result,⁷ and informed by their consultant, Mr. Miyares, that the proposed

⁷ Affidavit of Gail E. Magenau Hire, Esq., in Support of Plaintiff’s Motion for Summary Judgment dated April 17, 2019 (“Hire Aff.”), Ex. C, Memorandum from Lee Dane to Special Legislative Commission on Water Supply dated September 24, 1982.

legislation (what would become the WMA) would grandfather existing withdrawals except under emergency conditions.⁸

Based on the language of the WMA and its history, this court concludes both that the 1884 Act is repugnant to and inconsistent with the WMA and that the WMA is a comprehensive statute that was designed to address a state-wide problem—the preservation and allocation of water resources—for a resource that does not respect municipal or other political boundaries. Regarding the conflict between the two statutes, a grant to Littleton and Acton of the right to take the waters of Nagog Pond “whenever said towns or either of them require the same” and authorizing them to “take the waters of Nagog Pond or any part thereof which the town of Concord may have taken under this act” cannot be reconciled with either the WMA’s registration of Concord’s existing water withdrawal, described in *Fairhaven* as a right that “continue[s] forever” so long as the registration is timely renewed, or the WMA’s imposition of permitting requirements on Littleton and Acton, under the terms of which Littleton and Acton may, or may not, be permitted to take waters from Nagog Pond.

Regarding the comprehensive nature of the WMA and the state-wide issue—water management—that it was intended to address, the language of the statute and the history of the Act are replete with references to both. Of particular note are § 3’s requirement that the Commission adopt principles, policies and guidelines designed “to assure comprehensive and systematic planning and management of water withdrawals and use in the commonwealth,” and the WMA’s regulation of all water withdrawals by any “person” above the threshold within the Commonwealth, whether by way of registration or permit. The WMA “displays on its face an

⁸ Hire Aff. Ex. F, Memorandum from Lee Dane to Special Legislative Commission on Water Supply dated November 8, 1982.

intent to supersede local and special laws and to repeal inconsistent special statutes.” *McDonald*, 299 Mass. at 324.

The history of the WMA further supports this conclusion. The 1983 Report identified the lack of a comprehensive water management program as a key problem: “no coherent overall management program exists.” The 1983 Report described what the authors saw as necessary “to develop a coherent water management program” and recommended, among other things, that “state regulation of the groundwater system, fully integrated with other state regulatory programs, appears to be called for.”

Part of that history also includes a concern for pre-existing rights created by special acts of the Legislature, such as the 1884 Act here. The General Court chose to address that concern by registering existing water withdrawals and continuing those registrations, upon timely renewal, “forever,” presumably to avoid the “massive litigation” expected by New Jersey. The decision to grandfather pre-existing withdrawals appears to have had the desired effect: in the 34 years since the WMA was enacted, and with the exception of this case, research has not revealed any other case in the courts of Massachusetts where a party has relied on water rights granted by a special act, as opposed to the WMA, as the source of their right to take water.

A review of the special acts provides further support for the Legislature’s choice. Research has revealed approximately 650 special acts enacted between 1840 and 1984 granting the right to take and hold waters in the Commonwealth.⁹ The subjects of these acts are various: permitting municipalities to take waters within their own borders; permitting one municipality to take waters situated within another municipality’s borders; permitting one or more municipalities to take water from a particularly identified body of water; and acts incorporating water

⁹ These special acts are compiled in an appendix attached to this memorandum of decision.

companies so that they might do the same. To the extent that the recipients of those water rights were actually using them and, upon enactment of the WMA, registered their water withdrawals pursuant to them, the special acts and the WMA are consistent. Because of this grandfathering, there was no need to repeal the special acts, and the prospect of litigation over pre-existing rights was substantially diminished.

Of the approximately 650 special acts identified, this court found only four where one town was granted the right to take water from a source located in another or other towns and where those other towns were granted a priority if the water supply proved insufficient: the 1884 Act at issue here; St. 1872, c. 188, *An Act To Supply The Towns Of Concord And Lincoln With Pure Water*; St. 1911, c. 438, *An Act to Regulate The Drawing Of Water From Sandy Pond By The Towns Of Concord And Lincoln*; and St. 1910, c. 450, *An Act To Authorize The Town Of Sudbury To Supply Itself And Its Inhabitants With Water*. In another four special acts, the Legislature specified priorities between municipalities for withdrawals from a source located within or partially within the municipality's borders.¹⁰ And, in two other special acts, a water company was granted the right to take waters located within the borders of its municipality and to supply other municipalities, with the other municipalities being granted priority.¹¹

¹⁰ St. 1872, c. 335, *An Act To Supply The Towns Of Wakefield And Stoneham With Water* (granting Wakefield priority over Stoneham for waters located in Wakefield); St. 1879, c. 139, *An Act To Incorporate The Hingham Water Company* (also authorized to supply part of Hull but Hingham granted priority for waters located partially in Hingham); St. 1881, c. 59, *An Act In Addition To "An Act To Incorporate The Hingham Water Company"* (authorizing extension of service into Hull and Cohasset, but Hingham and then Hull granted priority); and St. 1912, c. 361, *An Act To Authorize The Town Of Paxton To Supply Itself And Its Inhabitants With Water* (granting Paxton authority to take the waters of Asnebumskit Pond located within its borders, but reserving sufficient water from Leicester to supply itself).

¹¹ St. 1883 c. 160, *An Act To Incorporate The East Weymouth Water Company* (granted the right to take waters from Weymouth Great Pond and to connect to the Hingham Water Company, with the Hingham, Hull and Cohasset granted priority); St. 1884, c. 108, *An Act To Incorporate The Lancaster Water Company* (granted the right to take waters from Spectacle Pond in Lancaster and can connect to the Clinton water supply, with Clinton granted priority).

In sum, out of the 650 special acts identified, only ten establish priorities between municipalities with regard to water resources. Leaving aside the 1884 Act, there is no evidence in the record as to whether any of the municipalities granted priority withdrawal rights under the other nine acts registered those rights under the WMA, thus obviating any conflict between those special acts and the WMA insofar as the allocation of water is concerned. Only one special act, the 1884 Act, has been the subject of litigation over how the grant of water rights contained therein exists within the construct of the WMA.

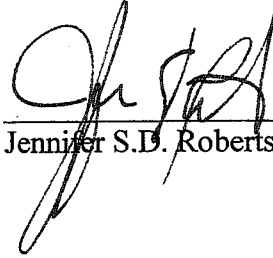
LWD argues, among other things, that the lack of express language repealing the special acts indicates a legislative intent not to repeal them and that the Legislature's concern about litigation if the special acts were terminated "provides a practical reason for the General Court's being in no rush to tinker with hundreds of prior Special Acts."¹² To the contrary, it appears that the Legislature concluded that, with the grandfathering of existing withdrawals, repeal was unnecessary and litigation would be avoided. It is reasonable to infer, instead, that the Legislature impliedly repealed the 1884 Act to the extent that it grants priority to LWD and Acton over Concord to the waters of Nagog Pond in derogation of the requirements of the WMA.

CONCLUSION

For the foregoing reasons, Plaintiff's Motion For Summary Judgment is **ALLOWED** and The Littleton Water Department's Cross-Motion For Summary Judgment Pursuant to Mass. R. Civ. P. 56 and Acton's Cross-Motion For Summary Judgment are **DENIED**. Judgment shall

¹² The Littleton Water Department's Brief In Support Of Its Cross-Motion For Summary Judgment And In Opposition To The Town Of Concord's Motion For Summary Judgment at pp. 8, 10, 14.

enter on Concord's complaint declaring that the WMA impliedly repealed the 1884 Act and any rights granted to Littleton and Acton thereunder.



Jennifer S.D. Roberts, Associate Justice

Dated: October 11, 2019

APPENDIX

St. 1845, c. 220 An Act for supplying the City of Boston with Pure Water; St. 1846, c. 167 An Act for supplying the City of Boston with Pure Water; St. 1848, c. 265 An Act to incorporate the North Adams Water Company; St. 1848, c. 281 An Act in addition to “An Act to incorporate the Williamstown Water Company”; St. 1849, c. 187 An Act in addition to “An Act for supplying the City of Boston with Pure Water”; St. 1850, c. 273 An Act in further addition to “An Act to incorporate William Gray, junior, and others, for the purpose of bringing Fresh Water into the towns of Salem and Danvers, by subterranean pipes”; St. 1850, c. 285 An Act authorizing George W. Otis and Benjamin Iresan, Jr., to Conduct Water from an Artificial Pond to their Factory in Lynn; St. 1851, c. 210 An Act to incorporate the Stockbridge Water Company; St. 1852, c. 210 An Act for supplying the Town of Pittsfield with Pure Water; St. 1854, c. 338 An Act for supplying the City of Worcester with Pure Water; St. 1854, c. 351 An Act to authorize the Town of Plymouth to procure a supply of Water; St. 1855, c. 61 An Act in addition to an Act to Authorize the Town of Plymouth to procure a supply of Water; St. 1855, c. 435 An Act for supplying the City of Lowell with Water; St. 1856, c. 189 An Act in addition to an Act to supply the City of Worcester with Pure Water; St. 1856, c. 194 An Act authorizing the Fitchburg Gas Company to supply the Inhabitants of Fitchburg with Water; St. 1857, c. 204 An Act to incorporate the Lenox Water Company; St. 1858, c. 86 An Act in further addition to “An Act for supplying the City of Boston with Pure Water”; St. 1861, c. 105 An Act for supplying the City of Charlestown with Pure Water; St. 1861, c. 118 An Act in addition to an Act for supplying the City of Worcester with Water; St. 1861, c. 205 An Act to incorporate the Brookline Water Company; St. 1863, c. 72 An Act in addition to an Act for supplying the City of Worcester with Water; St. 1863, c. 163 An Act for supplying the City of New Bedford with Pure Water; St. 1864, c. 104 An Act for supplying the City of Worcester with Pure Water; St. 1864, c. 165 An Act to provide an additional supply of Pure Water for the City of Springfield; St. 1864, c. 268 An Act for supplying the City of Salem with Pure Water; St. 1864, c. 271 An Act in further addition to “An Act for supplying the City of Boston with Pure Water”; St. 1865, c. 57 An Act authorizing the City of Roxbury to divert the waters of Stony Brook; St. 1865, c. 177 An Act for supplying the Town of Fitchburg with Pure Water; St. 1865, c. 190 An Act for supplying the Town of Adams with Pure Water; St. 1865, c. 198 An Act for supplying the Town of Great Barrington with Pure Water; St. 1866, c. 175 An Act to supply the City of Newburyport with Pure Water; St. 1867, c. 84 An Act to supply the Town of Easthampton with Pure Water; St. 1867, c. 118 An Act to incorporate the Lenox Water Company; St. 1867, c. 208 An Act to incorporate the Spot Pond Water Company; St. 1867, c. 343 An Act to authorize the City of Roxbury to procure a supply of Water; St. 1868, c. 300 An Act to incorporate the Great Barrington Water Company; St. 1869, c. 351 An Act in addition to “An Act for supplying the City of Lowell with Water”; St. 1869, c. 462 An Act for supplying the City of Lynn with Pure Water; St. 1870, c. 95 An Act for supplying the Town of Fitchburg with Pure Water; St. 1870, c. 160 An Act in addition to an Act to incorporate the Spot Pond Water Company; St. 1870, c. 216 An Act in addition to “An Act for supplying the City of Charlestown with Pure Water”; St. 1870, c. 222 An Act for supplying the Town of Greenfield with Water; St. 1870, c. 321 An Act to amend Chapter Three Hundred and Fifty-one of the Acts of the Year Eighteen Hundred and Sixty-nine, for supplying the City of Lowell with Water; St. 1871, c. 16 An Act for supplying the Town of Northampton with Pure Water; St. 1871, c. 95 An Act to incorporate the Westfield Water Works; St. 1871, c. 133 An Act for supplying the City of Fall River with Pure Water; St.

1871, c. 218 An Act to supply the City of Lynn with Pure Water; St. 1871, c. 245 An Act relating to the Arlington Lake Water Company; St. 1871, c. 249 An Act for supplying the Town of Leominster with Pure Water; St. 1871, c. 307 An Act to supply the Town of Woburn with Pure Water; St. 1871, c. 361 An Act in addition to an Act for supplying the City of Worcester with Pure Water; St. 1871, c. 377 An Act to incorporate the Ashburnham Water Company; St. 1872, c. 62 An Act to supply the Town of Holyoke with Pure Water; St. 1872, c. 79 An Act to supply the City of Lawrence with Water; St. 1872, c. 95 An Act to authorize the Town of Milford to take and convey Water to Vernon Grove Cemetery; St. 1872, c. 177 An Act to authorize the City of Boston to obtain an additional supply of Pure Water; St. 1872, c. 188 An Act to supply the Towns of Concord and Lincoln with Pure Water; St. 1872, c. 198 An Act to authorize the Collins Paper Company to take Water from Nine-Mile Pond; St. 1872, c. 256 An Act to provide a further supply of Water for the City of Lynn; St. 1872, c. 265 An Act to supply the Town of Winchester with Pure Water; St. 1872, c. 335 An Act to supply the Towns of Wakefield and Stoneham with Water; St. 1872, c. 336 An Act to supply the Town of West Roxbury with Water; St. 1872, c. 337 An Act to supply the Town of Waltham with Water; St. 1872, c. 343 An Act to authorize the Town of Brookline to take Water from Charles River; St. 1872, c. 344 An Act to supply the Town of Newton with Water; St. 1872, c. 345 An Act to supply the City of Springfield with Water; St. 1873, c. 75 An Act to amend an Act to supply the City of Springfield with Water; St. 1873, c. 76 An Act to supply the Town of Natick with Pure Water; St. 1873, c. 77 An Act to supply the Town of Westborough with Pure Water; St. 1873, c. 184 An Act to supply the Town of West Stockbridge with Pure Water; St. 1873, c. 197 An Act for supplying South Adams with Pure Water; St. 1873, c. 271 An Act to supply the Village of Attleborough with Water for the extinguishment of fires and for other purposes; St. 1873, c. 274 An Act to establish the Lexington Water Company; St. 1873, c. 277 An Act in addition to an Act to supply the Town of Winchester with Pure Water; St. 1873, c. 322 An Act to supply the Town of Westfield with Pure Water; St. 1874, c. 125 An Act to supply the City of Newton with Water; St. 1874, c. 134 An Act to supply the Town of Orange with Pure Water; St. 1874, c. 163 An Act in addition to an Act for supplying the Town of Pittsfield with Pure Water; St. 1874, c. 191 An Act to supply the Town of Danvers with Pure Water; St. 1874, c. 208 An Act to amend an Act to supply the City of Springfield with Pure Water; St. 1874, c. 209 An Act to incorporate the Lenox Water Company; St. 1874, c. 256 An Act to supply the Town of Marlborough with Pure Water; St. 1874, c. 288 An Act to incorporate the Flax Pond Water Company; St. 1874, c. 400 An Act to authorize the City of Boston to obtain a further supply of Pure Water and establish and maintain reservoirs for the storage of Water in the Mystic Valley; St. 1875, c. 41 An Act to incorporate the Cheshire Water Company; St. 1875, c. 119 An Act to supply the Town of Southbridge with Pure Water; St. 1875, c. 158 An Act to incorporate the Rockport Water Company; St. 1875, c. 165 An Act to provide a further supply of Water for the City of Cambridge; St. 1875, c. 199 An Act to supply the Town of Watertown with Pure Water; St. 1875, c. 217 An Act to provide the City of Taunton with Pure Water; St. 1875, c. 228 An Act to preserve the purity of the Water of Lake Cochituate; St. 1876, c. 66 An Act for procuring an additional supply of Pure Water for the use of the City of Worcester; St. 1876, c. 98 An Act to supply the Town of Clinton with Pure Water; St. 1876, c. 130 An Act to supply the Town of Hingham with Pure Water; St. 1876, c. 138 An Act to incorporate the Dedham Water Company; St. 1877, c. 73 An Act to incorporate the Junction Water Company of Pittsfield; St. 1877, c. 103 An Act to incorporate the Chicopee Water Company; St. 1877, c. 121 An Act to incorporate the Athol Water Company; St. 1877, c. 122 An Act to supply the Town of Hopkinton with Water;

St. 1877, c. 142 An Act in addition to an Act for supplying the City of New Bedford with Pure Water; St. 1878, c. 29 An Act to incorporate the Lee Water Company; St. 1878, c. 80 An Act to supply the Town of Wayland with Pure Water; St. 1878, c. 140 An Act to provide a further supply of Water for the City of New Bedford; St. 1878, c. 240 An Act to supply the City of Newburyport with Water; St. 1879, c. 20 An Act to supply the Town of Middleborough with Pure Water; St. 1879, c. 139 An Act to incorporate the Hingham Water Company; St. 1879, c. 196 An Act to supply the Village of Foxborough with Pure Water; St. 1880, c. 27 An Act to incorporate the Wannacomet Water Company; St. 1880, c. 73 An Act to incorporate the Southbridge Water Supply Company; St. 1880, c. 127 An Act to incorporate the Berkshire Water Company; St. 1880, c. 179 An Act to incorporate the Amherst Water Company; St. 1880, c. 191 An Act to supply the Town of Marlborough with Pure Water; St. 1880, c. 203 An Act to supply the City of Gloucester with Pure Water; St. 1880, c. 235 An Act to incorporate the Newburyport Water Company; St. 1881, c. 59 An Act in addition to “an Act to incorporate the Hingham Water Company”; St. 1881, c. 76 An Act to incorporate the Uxbridge Water Company; St. 1881, c. 77 An Act to incorporate the Milford Water Company; St. 1881, c. 79 An Act in addition to “An Act for supplying South Adams with Pure Water.”; St. 1881, c. 129 An Act in addition to the Acts for the purpose of supplying the City of Boston with Pure Water; St. 1881, c. 167 An Act to incorporate the Gloucester Water Supply Company; St. 1881, c. 171 An Act to enable the Town of Peabody to improve its Water Works and increase its Water Supply; St. 1881, c. 174 An Act to supply the Town of Weymouth with Pure Water; St. 1881, c. 206 An Act to supply the Town of Framingham with Pure Water; St. 1881, c. 267 An Act to incorporate the Lexington Water Company; St. 1881, c. 268 An Act in addition to the Acts to supply the City of Worcester with Pure Water; St. 1882, c. 14 An Act in addition to the Acts to supply the Town of Clinton with Pure Water; St. 1882, c. 69 An Act to enable the South Adams Fire District to furnish an additional supply of Water; St. 1882, c. 119 An Act to incorporate the Spencer Water Company; St. 1882, c. 142 An Act to incorporate the Revere Water Company; St. 1882, c. 145 An Act to incorporate the Gardner Water Company; St. 1882, c. 192 An Act to supply the Town of Northborough with Water; St. 1883, c. 132 An Act to supply the Town of Cottage City with Water; St. 1883, c. 149 An Act to supply the Town of Hudson with Water; St. 1883, c. 152 An Act to supply the Town of South Abington with Water; St. 1883, c. 160 An Act to incorporate the East Weymouth Water Company; St. 1883, c. 161 An Act to incorporate the Powow Hill Water Company; St. 1883, c. 162 An Act to incorporate the Quincy Water Company; St. 1883, c. 163 An Act to incorporate the Marblehead Water Company; St. 1883, c. 166 An Act to supply the Town of Wellesley with Water; St. 1883, c. 171 An Act to incorporate the Palmer Water Company; St. 1883, c. 177 An Act to incorporate the Sharon Water Company; St. 1883, c. 181 An Act to incorporate the North Attleborough Water Company; St. 1883, c. 182 An Act to incorporate the Franklin Water Company; St. 1883, c. 186 An Act in and of, and relating to a Water supply for, the North Adams Fire District; St. 1883, c. 201 An Act to incorporate the Naukeag Water Company; St. 1883, c. 247 An Act to enable Fire District Number One of Greenfield to increase its Water supply; St. 1883, c. 256 An Act authorizing the City of Lynn to take an additional Water supply; St. 1883, c. 261 An Act to authorize the Town of Natick to supply the Town of Wellesley with Water; St. 1884, c. 59 An Act to supply the Town of Middleborough with Water or to authorize the Middleborough Fire District to furnish a Water supply; St. 1884, c. 67 An Act in addition to the Acts to supply the City of Holyoke with Pure Water; St. 1884, c. 91 An Act to incorporate the Hyde Park Water Company; St. 1884, c. 106 An Act to incorporate the Holliston Water Company; St. 1884, c. 107 An Act to incorporate the

Sunderland Water Company; St. 1884, c. 108 An Act to incorporate the Lancaster Water Company; St. 1884, c. 110 An Act to incorporate the Braintree Water Company; St. 1884, c. 136 An Act to incorporate the Bradford Water Company; St. 1884, c. 137 An Act concerning a Water supply for the Fire District of the Town of Dalton; St. 1884, c. 189 An Act to enable the Athol Water Company to improve and increase its Water Supply; St. 1884, c. 201 An Act to authorize the Town of Concord to increase its Water Supply; St. 1884, c. 244 An Act to supply the Town of Abington with Water; St. 1884, c. 251 An Act to incorporate the Watertown Water Supply Company; St. 1884, c. 254 An Act authorizing the Haverhill Aqueduct Company to increase its Water Supply; St. 1884, c. 256 An Act to provide a further supply of Water for the City of Cambridge; St. 1884, c. 257 An Act to provide a further supply of Water for the Town of Waltham; St. 1884, c. 262 An Act to incorporate the Housatonic Water Company; St. 1884, c. 271 An Act to incorporate the Framingham Water Company; St. 1885, c. 82 An Act to supply the Town of Norwood with Water; St. 1885, c. 95 An Act to supply the Town of Canton with Water; St. 1885, c. 100 An Act to incorporate the Hill Water Company; St. 1885, c. 187 An Act to supply the Town of Erving with Water; St. 1885, c. 206 An Act to supply the Towns of Rockland, Abington and South Abington with Water; St. 1885, c. 217 An Act to supply the Towns of Braintree, Randolph and Holbrook with Water; St. 1885, c. 239 An Act to supply the Town of Kingston with Water; St. 1885, c. 294 An Act to furnish the Town of Beverly with Water, and to increase the supply thereof; St. 1885, c. 296 An Act to supply the Town of Belmont and its inhabitants with Water; St. 1885, c. 311 An Act to incorporate the Williamstown Water Company; St. 1885, c. 381 An Act to incorporate the Reading Water Company; St. 1886, c. 52 An Act to supply the Town of Ware with Water; St. 1886, c. 88 An Act to enable the Hingham Water Company to increase its Water supply; St. 1886, c. 127 An Act to incorporate the Plainville Water Company; St. 1886, c. 128 An Act to incorporate the Cohasset Water Company; St. 1886, c. 168 An Act in addition to an Act to supply the Town of Canton with Water; St. 1886, c. 198 An Act in addition to an Act to incorporate the Quincy Water Company; St. 1886, c. 211 An Act to incorporate the Hassanamisco Water Company; St. 1886, c. 235 An Act to incorporate the Saugus Water Company; St. 1886, c. 240 An Act to incorporate the Stoughton Water Company; St. 1886, c. 269 An Act to incorporate the Braintree Water Supply Company; St. 1886, c. 297 An Act to supply the Town of Cottage City with Pure Water; St. 1886, c. 310 An Act to incorporate the Bradford Water Company; St. 1886, c. 311 An Act to incorporate the Berkshire Heights Water Company of Great Barrington; St. 1886, c. 312 An Act to authorize the Town of Plymouth to obtain an additional supply of Water, and to issue notes, bonds or scrip for that purpose; St. 1886, c. 325 An Act to supply the Towns of Marblehead with Water; St. 1886, c. 336 An Act to supply the Village of Mansfield with Water; St. 1886, c. 353 An Act in relation to the Water supply of the City of Fall River; St. 1887, c. 152 An Act to supply the Town of Ayer with Pure Water; St. 1887, c. 157 An Act to incorporate the Vineyard Haven Water Company; St. 1887, c. 169 An Act to incorporate the North Easton Water Company; St. 1887, c. 192 An Act to incorporate the Bridgewater Water Company; St. 1887, c. 223 An Act to incorporate the Greylock Institute Water Company; St. 1887, c. 275 An Act to incorporate the Pleasant Valley Water Company; St. 1887, c. 381 An Act to amend an Act to incorporate the Berkshire Heights Water Company of Great Barrington; St. 1887, c. 388 An Act in further addition to an Act to incorporate the Spot Pond Water Company; St. 1887, c. 402 An Act to incorporate the Mansfield Water Company; St. 1887, c. 416 An Act to provide a further supply of Water for the City of Malden; St. 1887, c. 439 An Act to supply the Town of Andover with Water; St. 1888, c. 79 An Act to supply the Town of Brookfield with Pure Water; St. 1888,

c. 121 An Act to authorize the Town of Peabody to further increase and preserve its Water Supply; St. 1888, c. 131 An Act to provide an additional Water supply for the Town of Brookline; St. 1888, c. 145 An Act to amend an Act to incorporate the Powow Hill Water Company; St. 1888, c. 162 An Act to incorporate the Monson Water Company; St. 1888, c. 171 An Act to supply the Centre Village of Leicester with Water; St. 1888, c. 196 An Act to incorporate the Fairhaven Water Company; St. 1888, c. 210 An Act to provide a further Water supply for the City of Malden; St. 1888, c. 241 An Act to incorporate the Riverside Water Company; St. 1888, c. 398 An Act to supply the Town of Ashburnham with Pure Water; St. 1888, c. 404 An Act to supply the Town of Millbury with Water; St. 1888, c. 407 An Act to supply the Town of Maynard with Water; St. 1888, c. 411 An Act to incorporate the Milton Water Company; St. 1888, c. 412 An Act to incorporate the Brush Hill Water Company; St. 1888, c. 444 An Act to supply the Town of Winchendon with Water; St. 1889, c. 56 An Act to further amend an Act to supply the Town of Marblehead with Water; St. 1889, c. 144 An Act in aid of and relating to an additional Water supply for the North Adams Fire District; St. 1889, c. 155 An Act in addition to an Act for supplying the Town of Pittsfield with Pure Water; St. 1889, c. 200 An Act to authorize the Ludlow Manufacturing Company to supply the Town of Ludlow with Water and with Electricity for lighting and other purposes; St. 1889, c. 201 An Act to authorize the Town of Medford to improve its Water supply and issue bonds for the payment and refunding of a portion of its Water debt; St. 1889, c. 236 An Act to supply the Town of Avon with Water; St. 1889, c. 244 An Act concerning a Water supply for the Fire District and inhabitants of the Town of Hinsdale; St. 1889, c. 276 An Act to supply the Town of Provincetown with Water; St. 1889, c. 302 An Act to provide an additional Water supply for the City of Newton; St. 1889, c. 359 An Act to supply the Town of Ipswich with Water; St. 1889, c. 368 An Act to authorize the City of Springfield to issue additional Water bonds and to supply the Town of Ludlow with Water for certain purposes; St. 1889, c. 382 An Act authorizing the Revere Water Company to take an additional Water supply; St. 1889, c. 405 An Act to supply the Town of Reading with Water; St. 1889, c. 424 An Act to supply the Town of North Brookfield with Pure Water; St. 1889, c. 430 An Act to authorize the Stockbridge Water Company to furnish additional Water supply; St. 1890, c. 151 An Act to incorporate the Cottage City Water Company; St. 1890, c. 174 An Act to incorporate the Brant Rock Water Company; St. 1890, c. 303 An Act to provide an additional Water supply for the City of Springfield; St. 1890, c. 313 An Act to supply the Town of Ipswich with Water; St. 1890, c. 344 An Act to incorporate the Dracut Water Supply Company; St. 1891, c. 95 An Act to supply the Town of Manchester with Water; St. 1891, c. 252 An Act to supply the Town of Easthampton with Water; St. 1891, c. 253 An Act to provide an additional Water supply for the City of Waltham; St. 1891, c. 331 An Act to supply the Town of Methuen with Water; St. 1891, c. 348 An Act relating to the Water supply of the City of Haverhill; St. 1892, c. 56 An Act to authorize Fire District Number One of Attleborough to increase its Water supply; St. 1892, c. 60 An Act to authorize the City of Fitchburg to increase its Water supply; St. 1892, c. 61 An Act to supply the Town of Orange with Water; St. 1892, c. 185 An Act to provide an additional Water supply for the City of Pittsfield; St. 1892, c. 246 An Act to incorporate the Millis Water Company; St. 1892, c. 294 An Act to authorize the Town of Clinton to increase its Water supply and to incur indebtedness therefor; St. 1892, c. 310 An Act to incorporate the Methuen Water Company; St. 1892, c. 321 An Act to incorporate the Willimansett Water Company; St. 1892, c. 322 An Act to incorporate the Medfield Water Company; St. 1892, c. 326 An Act to authorize the Naukeag Water Company to increase its Water supply; St. 1892, c. 334 An Act to incorporate the Onset Water

Company; St. 1892, c. 335 An Act to incorporate the Medway Water Company; St. 1892, c. 336 An Act to authorize the Williamstown Water Company to increase its Water supply; St. 1892, c. 349 An Act to authorize the Lexington Water Company to improve and increase its Water supply; St. 1892, c. 384 An Act to authorize the City of Chicopee to introduce a public Water supply; St. 1892, c. 386 An Act to authorize the City of Marlborough to acquire an additional Water supply; St. 1892, c. 417 An Act for the protection of the Water supply of the City of Haverhill; St. 1893, c. 155 An Act to supply the Town of Webster with Water; St. 1893, c. 202 An Act to supply the Town of North Andover with Water; St. 1893, c. 206 An Act to provide for an additional Water supply for the Town of West Springfield; St. 1893, c. 214 An Act to incorporate the Millbury Water Company; St. 1893, c. 240 An Act to supply the Town of West Bridgewater with Water; St. 1893, c. 277 An Act to supply the Town of Walpole with Water; St. 1893, c. 281 An Act to incorporate the Rockport Water Company; St. 1893, c. 309 An Act to provide an additional Water supply for the Town of Melrose; St. 1893, c. 319 An Act to supply the Town of West Boylston with Water; St. 1893, c. 364 An Act to provide an additional Water supply for the City of Salem; St. 1893, c. 391 An Act to incorporate the Scituate Water Company; St. 1893, c. 393 An Act to provide a Water supply for the State Camp Ground at Framingham; St. 1893, c. 400 An Act to provide an additional Water supply for the City of Lynn; St. 1893, c. 442 An Act to authorize the Town of Whitman to take an additional Water supply; St. 1893, c. 471 An Act to supply the City of Newburyport with Water; St. 1894, c. 78 An Act to supply the Town of Rockport with Water; St. 1894, c. 179 An Act to provide for a Water supply for the Fire District and inhabitants of the Town of Chester; St. 1894, c. 187 An Act relating to the Water supply of the Towns of Stoneham and Wakefield; St. 1894, c. 215 An Act to authorize Fire District Number One of Greenfield to increase its Water supply; St. 1894, c. 289 An Act to authorize the Southbridge Water Supply Company to increase its capital stock and to take an additional source of Water supply; St. 1894, c. 290 An Act to supply the Town of Monson with Water; St. 1894, c. 362 An Act to incorporate the Blackstone Water Company; St. 1894, c. 365 An Act to incorporate the Barre Water Company; St. 1894, c. 369 An Act to incorporate the South Deerfield Water Company; St. 1894, c. 386 An Act to supply the Town of Winchendon with Water; St. 1894, c. 400 An Act to incorporate the Falmouth Heights Water Company; St. 1894, c. 417 An Act to supply the Town of Mendon with Water; St. 1895, c. 82 An Act to provide for a Water supply for the Fire District and inhabitants of the Town of Norton; St. 1895, c. 123 An Act to incorporate the Sheffield Water Company; St. 1895, c. 158 An Act to supply the Town of Rutland with Water; St. 1895, c. 191 An Act to supply the Town of Hatfield with Water; St. 1895, c. 192 An Act to supply the Town of Paxton with Water; St. 1895, c. 204 An Act to authorize the Town of North Attleborough to increase its Water supply; St. 1895, c. 205 An Act to authorize the Town of Uxbridge to increase its Water supply; St. 1895, c. 230 An Act to authorize the Leicester Water Supply District to increase its Water supply and make an additional Water loan; St. 1895, c. 235 An Act to incorporate the Plainville Water Company; St. 1895, c. 303 An Act to supply the Town of Wenham with Water; St. 1895, c. 335 An Act to authorize Fire District Number One in Greenfield to increase its Water supply; St. 1895, c. 360 An Act to incorporate the Horse Neck Water Company; St. 1895, c. 377 An Act to provide an additional Water supply for the Town of Bradford; St. 1895, c. 384 An Act to authorize the City of Worcester to increase its Water supply and make an additional Water loan; St. 1895, c. 451 An Act to supply the City of Gloucester with Water; St. 1895, c. 478 An Act relative to the protection of the Water Supply of the City of Fall River; St. 1895, c. 487 An Act to incorporate the Dighton and Somerset Water Company; St. 1896, c. 150 An Act to supply the Village of

Millers Falls with Water; St. 1896, c. 180 An Act to supply the Town of Holden with Water; St. 1896, c. 217 An Act to incorporate the Weston Water Company; St. 1896, c. 278 An Act to provide an additional Water supply for the City of Pittsfield; St. 1896, c. 419 An Act to authorize the City of Holyoke to increase its Water supply; St. 1896, c. 433 An Act relative to the Board of Water Commissioners and the Water supply of the City of Haverhill; St. 1896, c. 493 An Act to incorporate the Belchertown Water Company; St. 1897, c. 102 An Act to authorize the Town of Wellesley to obtain an additional Water supply and to make an additional Water loan; St. 1897, c. 242 An Act to enlarge and improve the Water supply of the Town of Hudson; St. 1897, c. 251 An Act to authorize the Trustees of the Medfield Insane Asylum to acquire an additional Water supply for said Asylum; St. 1897, c. 338 An Act to incorporate the Groton Water Company; St. 1897, c. 471 An Act to supply the Town of Billerica with Water; St. 1897, c. 473 An Act to supply the Town of Stoneham with Water; St. 1898, c. 66 An Act to incorporate the Falmouth Water Company; St. 1898, c. 222 An Act to provide for enlarging and improving the Water supply of the Town of Hudson; St. 1898, c. 344 An Act to provide for a Water supply for the Fire District and inhabitants of the Town of Huntington; St. 1898, c. 375 An Act to authorize the Cheshire Water Company to increase its Water supply; St. 1898, c. 385 An Act to incorporate the Northfield Water Company; St. 1898, c. 426 An Act relative to the Water supply of the Town of Needham; St. 1899, c. 267 An Act to supply the Town of Longmeadow with Water; St. 1900, c. 391 An Act to provide an additional Water supply for the Town of Brookline; St. 1900, c. 394 An Act to provide for an additional Water supply for the Hyde Park Water Company; St. 1901, c. 241 An Act to authorize the Fire District in the Town of Dalton to take water from certain brooks in the Town of Windsor; St. 1901, c. 313 An Act to authorize the temporary taking of Water for emergency purposes by Cities and Towns; St. 1901, c. 349 An Act to authorize the Town of Williamsburg to supply itself with Water; St. 1901, c. 406 An Act to authorize the Town of Norton to establish a system of Water supply or to contract for the supply of Water; St. 1901, c. 410 An Act to authorize the City of Chicopee to take an additional Water supply and to make an additional Water loan; St. 1901, c. 508 An Act to authorize the City of Lynn to take an additional Water supply; St. 1902, c. 122 An Act to authorize the Town of Hamilton to supply itself and its inhabitants with Water; St. 1902, c. 129 An Act to authorize the Town of Ashfield to supply itself with Water; St. 1902, c. 145 An Act to amend the Charter of the Scituate Water Company and to authorize said Company to acquire additional Water supply; St. 1902, c. 163 An Act to authorize the Town of Lexington to obtain an additional Water supply; St. 1902, c. 182 An Act to authorize the Town of Williamsburg to increase its Water supply and to incur indebtedness or the purpose; St. 1902, c. 193 An Act to authorize the Town of Easthampton to take an additional Water supply and to make an additional Water loan; St. 1902, c. 245 An Act to authorize the Great Barrington Fire District to increase its Water supply and to issue bonds for that purpose; St. 1902, c. 285 An Act to authorize the Town of Sunderland to supply itself and its inhabitants with Water; St. 1902, c. 287 An Act to authorize the Town of Gardner to supply itself and its inhabitants with Water; St. 1902, c. 307 An Act to supply the Town of Milton with Water; St. 1902, c. 351 An Act to authorize the City of Worcester to increase its Water supply; St. 1902, c. 486 An Act to provide for supplying the Village of South Deerfield with Water, and for establishing the South Deerfield Water Supply District; St. 1902, c. 488 An Act to provide for supplying the Town of Wakefield with Water; St. 1903, c. 105 An Act to authorize the Town of Shrewsbury to supply itself with Water; St. 1903, c. 119 An Act to provide for supplying Shirley Village with Water, and for establishing the Shirley Village Water District; St. 1903, c. 139 An Act relative to the Water supply of the Town of Williamsburg; St. 1903, c. 172 An Act to

incorporate the Barnstable Water Company; St. 1903, c. 184 An Act to authorize the Town of Groveland to supply itself with Water; St. 1903, c. 186 An Act to authorize the Town of Russell to supply itself with Water; St. 1903, c. 197 An Act relative to the rights of the Town of Whately in the Waters of Roaring Brook; St. 1903, c. 198 An Act relative to the Water supply of the Amherst Water Company; St. 1903, c. 217 An Act to incorporate the Ashfield Water Company; St. 1903, c. 240 An Act to incorporate the Conway Water Company; St. 1903, c. 281 An Act to authorize the Town of Merrimac to supply itself and its inhabitants with Water; St. 1904, c. 77 An Act relative to the Water supply of the Ashfield Water Company; St. 1904, c. 86 An Act to authorize the Town of Wrentham to supply itself with Water; St. 1904, c. 193 An Act to incorporate the Oxford Water Company; St. 1904, c. 225 An Act to authorize the Town of Uxbridge to increase its Water supply; St. 1904, c. 235 An Act to incorporate the Aspinwall Water Company; St. 1905, c. 389 An Act to provide for an increased Water supply for the City of Lawrence; St. 1905, c. 469 An Act to provide for supplying Water to the Danvers Insane Hospital; St. 1905, c. 477 An Act to provide for a Water supply system for the Town of Winthrop; St. 1907, c. 131 An Act to authorize the Town of Bedford to supply itself with Water; St. 1907, c. 175 An Act to incorporate the Westford Water Company; St. 1907, c. 178 An Act to provide for a Water supply for the Wareham Fire District and the inhabitants of Wareham; St. 1907, c. 268 An Act to authorize the Town of Marion to supply itself with Water; St. 1907, c. 380 An Act relative to the Water supply system of the Town of Framingham; St. 1907, c. 478 An Act to authorize the Town of Manchester to take additional sources of Water supply; St. 1907, c. 483 An Act to authorize the Town of Provincetown to supply itself with Water.; St. 1907, c. 514 An Act to authorize the City of Pittsfield to take the Waters of Roaring Brook as an additional Water supply; St. 1907, c. 515 An Act relative to the Aspinwall Water Company; St. 1908, c. 111 An Act to authorize the Town of Pepperell to supply itself and its inhabitants with Water; St. 1908, c. 283 An Act to establish the Blandford Fire District and to provide for supplying the same with Water; St. 1908, c. 291 An Act to authorize the Town of Medway to supply itself and its inhabitants with Water; St. 1908, c. 310 An Act to establish the Belchertown Fire District and to provide for supplying the same with Water; St. 1908, c. 403 An Act relative to the Water supply of the City of Newburyport; St. 1908, c. 404 An Act to authorize the Town of Plainville to supply itself and its inhabitants with Water; St. 1908, c. 406 An Act to amend the Charter of the Choasset Water Company; St. 1908, c. 449 An Act to establish the Lake Pleasant Water Supply District in the Town of Montague and to provide for supplying the same with Water; St. 1908, c. 451 An Act to authorize the Town of Manchester to take additional sources of Water supply; St. 1908, c. 456 An Act to authorize the Town of Ashland to supply itself and its inhabitants with Water; St. 1908, c. 490 An Act relative to the Water supply of the Town of Brookfield; St. 1908, c. 548 An Act relative to the Wannacomet Water Company; St. 1908, c. 592 An Act to provide for an additional Water supply for the Fire District and inhabitants of the Town of Huntington; St. 1908, c. 618 An Act to incorporate the Sagamore Water Company; St. 1909, c. 226 An Act to authorize the City of Waltham to take additional sources of Water supply; St. 1909, c. 252 An Act to authorize the Town of Dudley to supply itself and its inhabitants with Water; St. 1909, c. 337 An Act to authorize the Town of Douglas to supply itself and its inhabitants with Water; St. 1909, c. 406 An Act to authorize the City of Chicopee to take an additional Water supply and to make an additional Water loan; St. 1909, c. 462 An Act relative to the Williamstown Water Company; St. 1910, c. 286 An Act relative to the Berkshire Water Company; St. 1910, c. 337 An Act relative to the Water supply for Fire District Number Two in the Town of South Hadley; St. 1910, c. 381 An Act to supply

with Water the Villages of Cherry Valley and Rochdale in the Town of Leicester, and to incorporate the Cherry Valley and Rochdale Water District; St. 1910, c. 402 An Act to authorize the Town of Middleton to supply itself and its inhabitants with Water; St. 1910, c. 432 An Act to authorize Fire District Number One in the Town of Greenfield to take additional sources of Water supply; St. 1910, c. 450 An Act to authorize the Town of Sudbury to supply itself and its inhabitants with Water; St. 1910, c. 466 An Act to incorporate the Norton Water Company; St. 1910, c. 486 An Act to incorporate the Granville Centre Water Company; St. 1910, c. 595 An Act to incorporate the Somerset Water Company; St. 1910, c. 613 An Act to provide for a Water supply for the Town of Millbury; St. 1911, c. 226 An Act to establish the Dighton Water Supply District and to provide for supplying the same with Water; St. 1911, c. 233 An Act to establish the Worthington Fire District and to provide for supplying the same with Water; St. 1911, c. 245 An Act to establish the East Foxborough Water Supply District and to provide for supplying said District with Water; St. 1911, c. 248 An Act to authorize the Town of Hanover to supply itself and its inhabitants with Water; St. 1911, c. 286 An Act to incorporate the Barnstable Water Company; St. 1911, c. 373 An Act to authorize the Town of West Brookfield to supply itself and its inhabitants with Water; St. 1911, c. 407 An Act to authorize the City of Pittsfield to take as an emergency supply the Waters of Roaring Brook and Onota Lake; St. 1911, c. 408 An Act to establish the Deerfield Fire District and to provide for supplying the same with Water; St. 1911, c. 525 An Act to incorporate the Tewksbury Water Company; St. 1911, c. 559 An Act to authorize the Town of Norwood to provide an additional Water supply and to make an additional Water loan; St. 1911, c. 617 An Act to authorize the Town of Littleton to supply itself and its inhabitants with Water; St. 1911, c. 640 An Act to authorize the Town of Peabody to extend and increase its system of Water supply; St. 1911, c. 641 An Act to establish the West Groton Water Supply District; St. 1911, c. 644 An Act to provide for a Water supply for the Shelburne Falls Fire District and its inhabitants; St. 1912, c. 220 An Act to authorize the Town of Mattapoisett to supply itself with Water; St. 1912, c. 326 An Act to establish the West and South Water Supply District of Acton and to provide for supplying said District with Water; St. 1912, c. 328 An Act to authorize the Town of Ashburnham to supply itself and its inhabitants with Water; St. 1912, c. 350 An Act to incorporate the Belchertown Water Company; St. 1912, c. 361 An Act to authorize the Town of Paxton to supply itself and its inhabitants with Water; St. 1912, c. 436 An Act to incorporate the South Egremont Water Company; St. 1912, c. 612 An Act to incorporate the North Egremont Water Company; St. 1913, c. 128 An Act to authorize the Town of Sharon to increase and extend its Water supply; St. 1913, c. 345 An Act to establish the Luther's Corners Water Supply District in the Town of Seekonk; St. 1913, c. 497 An Act to authorize Fire District Number One in the Town of Greenfield to take additional sources of Water supply; St. 1913, c. 561 An Act to authorize the Town of Sandwich to supply itself with Water.; St. 1913, c. 641 An Act to establish the Chelmsford Water District; St. 1913, c. 661 An Act to authorize the Town of Blackstone to supply itself with Water; St. 1913, c. 683 An Act to provide for an additional Water supply for the City of Newton; St. 1913, c. 684 An Act to provide for an additional Water supply for the Town of Brookline; St. 1913, c. 698 An Act to authorize the Town of Peabody to increase its Water supply; St. 1913, c. 699 An Act to authorize the Town of Danvers to increase its Water supply; St. 1913, c. 700 An Act to provide an additional Water supply for the Cities of Salem and Beverly; St. 1914, c. 109 An Act relative to the authority of the City of North Adams to take land, Water rights and Water courses for Water supply purposes; St. 1914, c. 254 An Act to authorize the Town of Somerset to supply itself and the Town of Swansea with Water; St. 1914, c. 313 An Act to establish the Duxbury Fire and Water District and to provide for

supplying the same with Water; St. 1914, c. 319 An Act to authorize the Town of Cummington to supply itself with Water; St. 1914, c. 339 An Act to incorporate the Lunenburg Water Company; St. 1914, c. 417 An Act to authorize the Town of Pembroke to supply itself with Water, to purchase Water from the Towns of Abington and Rockland and to sell Water to the Town of Hanover; St. 1914, c. 488 An Act to incorporate the Norwell Water Company; St. 1914, c. 550 An Act to incorporate the Cummington Water Company; St. 1914, c. 613 An Act to incorporate the Marshfield Water Company; St. 1914, c. 685 An Act to incorporate the Humarock Beach Water Company; St. 1914, c. 772 An Act to authorize the Town of Blackstone to take additional land for Water supply purposes; St. 1915, c. 232 An Act to establish the South Easton and Eastondale Fire and Water District; St. 1915, c. 243 An Act to incorporate the Salisbury Water Supply Company; St. 1915, c. 267 An Act to authorize the Town of Warren to supply itself and its inhabitants with Water; St. 1915, c. 281 An Act to authorize the Town of Georgetown to supply itself and its inhabitants with Water; St. 1915, c. 287 An Act to authorize the Town of Belchertown to supply itself and its inhabitants with Water; St. 1915, c. 322 An Act to Authorize the Town of Sterling to supply itself and its inhabitants with Water; St. 1915, c. 375 An Act to incorporate the Cape Cod Water Company; St. 1916, c. 227 An Act to authorize the Town of Bernardston to supply itself and its inhabitants with Water; St. 1916, c. 238 An Act to authorize the Town of Rowley to supply itself and its inhabitants with Water; St. 1916, c. 260 An Act to authorize the Town of Wenham to supply itself and its inhabitants with Water; St. 1916, c. 302 An Act to authorize the City of Fall River to increase and protect its Water supply; St. 1916, c. 320 An Act to authorize the Town of Hanson to supply itself with Water and to purchase Water from the City of Brockton and the Towns of Rockland and Abington; St. 1916, c. 344 An Act to authorize the Town of Dunstable to supply itself and its Inhabitants with Water; St. 1917, c. 150 An Act relative to the Water supply of the Town of Ashland; St. 1917, c. 175 An Act to authorize the Town of Dighton to supply itself with Water and to sell Water to adjoining Towns; St. 1917, c. 267 An Act to incorporate the Monterey Water Company; St. 1917, c. 287 An Act to authorize the Town of Sturbridge to supply itself and its inhabitants with Water; St. 1917, c. 290 An Act to incorporate the North Reading Water Company; St. 1917, c. 314 An Act to authorize the Town of Gosnold to supply itself with Water; St. 1918, c. 172 An Act to establish the Erving Water District and to provide for supplying the same with Water; St. 1919, c. 115 An Act relative to the taking of Water from the Ipswich River by the Cities of Lynn, Peabody, Salem and Beverly and the Town of Danvers; St. 1919, c. 203 An Act to establish the Tewksbury Fire and Water District; St. 1919, c. 241 An Act to incorporate the Auburn Water Company; St. 1920, c. 390 An Act to establish the Warren Water District; St. 1920, c. 391 An Act to authorize the Town of Townsend to supply itself and its inhabitants with Water; St. 1920, c. 405 An Act to authorize the Town of Marshfield to supply itself and its inhabitants with Water; St. 1920, c. 543 An Act to authorize Palmer Fire District Number One of Palmer to establish a system of Water supply; St. 1920, c. 639 An Act to authorize the Town of Stockbridge to supply itself and its inhabitants with Water; St. 1921, c. 205 An Act authorizing the Town of Medfield to supply itself and its inhabitants with Water; St. 1922, c. 150 An Act establishing the Acushnet Fire and Water District; St. 1922, c. 327 An Act authorizing the Department of Mental Diseases to acquire an additional Water supply for the Gardner State Colony; St. 1922, c. 505 An Act to establish the Belchertown Water District in the Town of Belchertown; St. 1923, c. 257 An Act to incorporate the Fieldston Water Company; St. 1923, c. 341 An Act establishing the Housatonic Fire and Water District in the Town of Great Barrington; St. 1923, c. 348 An Act authorizing the Town of Clinton to take Water for Water supply purposes from the Wachusett Reservoir of the

Metropolitan Water System; St. 1923, c. 474 An Act establishing the Fayville Fire and Water District in the Town of Southborough; St. 1923, c. 490 An Act to incorporate the Harwich Water Company; St. 1924, c. 326 An Act to authorize the Town of Auburn to supply itself and its inhabitants with Water; St. 1924, c. 400 An Act authorizing the Cities of Fall River, New Bedford and Taunton to increase and protect their Water supply; St. 1924, c. 408 An Act authorizing the Onset Fire District to take over the Onset Water Company and thereafter to establish and maintain a general Water supply system; St. 1924, c. 445 An Act to establish the Lynnfield Water District in the Town of Lynnfield; St. 1925, c. 15 An Act authorizing the Town of Bridgewater to supply itself and its inhabitants with Water; St. 1925, c. 60 An Act establishing the Baldwinville Water District in the Town of Templeton and authorizing it to take sources of Water supply in the Towns of Templeton and Winchendon; St. 1925, c. 75 An Act establishing the Sterling Water District in the Town of Sterling; St. 1925, c. 119 An Act to authorize the Town of Westwood to supply itself and its inhabitants with Water; St. 1925, c. 128 An Act relative to the Water supply of the Town of Wakefield; St. 1925, c. 261 An Act to authorize the Town of Millville to supply itself and its inhabitants with Water; St. 1925, c. 277 An Act authorizing the Department of Public Health to acquire an additional Water supply for the Lakeville State Sanatorium; St. 1925, c. 282 An Act to provide additional Water supply for the City of Attleboro; St. 1926, c. 15 An Act to authorize the Baldwinville Water District in the Town of Templeton to take Water from a certain pond or lake and its watershed in the Town of Phillipston; St. 1926, c. 200 An Act authorizing the Town of Danvers to take additional sources of Water supply in the Town of Middleton and improve its Water system; St. 1926, c. 276 An Act to authorize the Town of Wilmington to supply itself and its inhabitants with Water, and to sell Water to the Commonwealth and to the Towns of Reading, North Reading and Tewksbury and to the City of Woburn; St. 1926, c. 318 An Act relative to emergency Water supply; St. 1926, c. 324 An Act to authorize the City of Leominster to take the Waters of Monoosnoc Brook, a tributary of Nashua River, for an addition to its water supply, and to improve its Water system; St. 1926, c. 339 An Act authorizing the Town of Somerset to obtain additional sources of Water supply and to supply the Town of Dighton with Water; St. 1926, c. 346 An Act to incorporate the Chatham Water Company; St. 1927, c. 321 An Act making additional provision for the Water supply needs of the Metropolitan Water District and for communities which now or hereafter may require Water therefrom, by the development of an adequate future Water supply from the Swift River; St. 1928, c. 61 An Act further extending the time during which the Cities of Lynn, Peabody, Salem and Beverly and the Town of Danvers may take Water from the Ipswich River for emergency purposes; St. 1929, c. 153 An Act relative to additional Water supply for the Amherst Water Company; St. 1929, c. 311 An Act authorizing the Town of Tewksbury to supply itself and its inhabitants with Water, and to buy Water from or sell Water to the Towns of Wilmington and Andover, the City of Lowell and the Commonwealth; St. 1929, c. 324 An Act to authorize the Town of Methuen to take the Waters of Peter's Pond and Bartlett's Brook and their tributaries in the Towns of Methuen and Dracut for an addition to its Water supply and to improve its Water system; St. 1929, c. 330 An Act establishing the North Seekonk Water District of Seekonk; St. 1930, c. 39 An Act authorizing the Town of Hanover to supply itself and its inhabitants with Water; St. 1930, c. 69 An Act authorizing the Shelburne Falls Fire District to take Water from additional sources; St. 1930, c. 93 An Act establishing the Bernardston Fire and Water District; St. 1930, c. 225 An Act establishing the South Seekonk Water District of Seekonk; St. 1930, c. 280 An Act authorizing the Town of Pembroke to supply itself and its inhabitants with Water; St. 1931, c. 149 An Act authorizing the Town of Norwell to

supply itself and its inhabitants with Water; St. 1931, c. 172 An Act to authorize the Town of Burlington to supply itself and its inhabitants with Water, and to sell Water to the City of Woburn; St. 1931, c. 232 An Act authorizing the Town of Raynham to supply itself and its inhabitants with Water; St. 1931, c. 235 An Act relative to emergency Water supply; St. 1931, c. 339 An Act authorizing the Town of Southampton to supply itself and its inhabitants with Water; St. 1931, c. 340 An Act relative to the taking of the Waters of Quinapoxet River and South Wachusett Brook and their tributaries by the City of Worcester for Water supply purposes; St. 1931, c. 410 An Act authorizing the City of Pittsfield to take Waters and other property for the purpose of increasing its Water supply; St. 1931, c. 425 An Act establishing the West Warren Water District; St. 1931, c. 239 An Act establishing the Pinecroft Water District of West Boylston and authorizing the City of Worcester to supply said District with Water; St. 1933, c. 229 An Act authorizing the Department of Correction to acquire an additional Water supply for the Bridgewater State Farm; St. 1933, c. 339 An Act establishing the East Chelmsford Water District of Chelmsford; St. 1933, c. 352 An Act establishing the West Boylston Water District of West Boylston; St. 1934, c. 53 An Act authorizing the Cheshire Water Company to acquire, hold and protect further sources of Water supply in the Town of Cheshire; St. 1934, c. 100 An Act establishing the Sudbury Water District of Sudbury; St. 1934, c. 102 An Act establishing the Whately Fire and Water District in the Town of Whately; St. 1934, c. 261 An Act authorizing the Town of Essex to supply itself and its inhabitants with Water; St. 1935, c. 165 An Act authorizing the Town of Harwich to supply itself and its inhabitants with Water; St. 1935, c. 220 An Act establishing the Easton Center Water District in the Town of Easton; St. 1935, c. 230 An Act establishing the South Chelmsford Water District of Chelmsford; St. 1935, c. 244 An Act authorizing the Cotuit Fire District to supply itself and its inhabitants with Water for the extinguishment of fires and for domestic use; St. 1935, c. 256 An Act authorizing the Town of Braintree, for the purpose of increasing its Water supply, to take, hold and use certain Waters and Lands within said Town; St. 1935, c. 385 An Act establishing the Woodland Water District in the Town of Auburn; St. 1935, c. 386 An Act establishing the Elm Hill Water District in the Town of Auburn; St. 1936, c. 38 An Act authorizing the Town of West Newbury to supply itself and its inhabitants with Water and validating action taken in relation to such Water supply prior to such authorization; St. 1936, c. 48 An Act authorizing the Town of North Reading to supply itself and its inhabitants with Water; St. 1936, c. 298 An Act establishing the Ring's Island Water District in the Town of Salisbury; St. 1936, c. 321 An Act authorizing the Bernardston Fire and Water District to develop a Water supply in the Town of Bernardston and relative to exempting certain property in said District from taxes assessed by it; St. 1936, c. 336 An Act establishing the Maple Hillside Water District of Millbury; St. 1937, c. 104 An Act authorizing the Town of Harvard to supply itself and its inhabitants with Water; St. 1937, c. 138 An Act establishing the Topsfield Water District of Topsfield; St. 1937, c. 145 An Act establishing the Buzzard's Bay Water District in the Town of Bourne; St. 1937, c. 169 An Act authorizing the Centerville-Osterville Fire District to supply itself and its inhabitants with Water; St. 1937, c. 179 An Act Establishing the Manchaug Water District of Sutton; St. 1938, c. 10 An Act authorizing the Town of West Springfield to take Water from additional sources in Southwick and Westfield and to supply Water to Southwick; St. 1938, c. 252 An Act providing for the establishment of the Berkshire Village Fire and Water District; St. 1938, c. 255 An Act providing for the establishment of the Lanesborough Village Fire and Water District; St. 1938, c. 269 An Act relative to Water supply sources for the Housatonic Water Works Company; St. 1938, c. 441 An Act establishing the Bourne Water District in the Town of Bourne; St. 1939, c. 290 An Act

establishing the North Sagamore Water District in the Town of Bourne; St. 1939, c. 336 An Act establishing the Lynnfield Center Water District in the Town of Lynnfield; St. 1941, c. 197 An Act further extending the time during which the Cities of Lynn, Peabody, Salem and Beverly and the Town of Danvers may take Water from the Ipswich River for emergency purposes; St. 1941, c. 408 An Act further regulating the taking and holding by the Town of West Springfield of Water Within the Town of Southwick; St. 1941, c. 521 An Act authorizing the Dracut Water Supply District to obtain additional resources of Water supply; St. 1941, c. 568 An Act establishing the Charlton Water District in the Town of Charlton; St. 1941, c. 636 An Act to authorize the Town of Newbury to supply itself and its inhabitants with Water; St. 1941, c. 644 An Act authorizing the Town of Southborough to take Water for Water supply purposes from the pressure aqueduct and tunnel of the Metropolitan Water System; St. 1943, c. 325 An Act authorizing the Three Rivers Fire District of the Town of Palmer to establish a system of Water supply; St. 1945, c. 262 An Act establishing the South Sagamore Water District in the Town of Bourne; St. 1945, c. 277 An Act establishing the Dennis Water District in the Town of Dennis; St. 1945, c. 314 An Act establishing the Dennis South Water District in the Town of Dennis; St. 1945, c. 381 An Act establishing the Seekonk Water District of Seekonk; St. 1945, c. 606 An Act relative to the taking of Water for public Water supply purposes in certain cases of emergency; St. 1945, c. 618 An Act relative to the source of Water supply of the Towns of Rockland, Abington and Whitman; St. 1946, c. 11 An Act to authorize the Town of Rowley to supply itself and its inhabitants with Water; St. 1946, c. 220 An Act establishing the Upton Center Water District in the Town of Upton; St. 1946, c. 320 An Act establishing the Thorndike Fire and Water District in the Town of Palmer; St. 1946, c. 528 An Act authorizing the Town of Mendon to supply itself and its inhabitants with Water; St. 1947, c. 198 An Act relative to the Water supply of the Cherry Valley and Rochdale Water District; St. 1947, c. 222 An Act establishing the Raynham Center Water District in the Town of Raynham; St. 1947, c. 280 An Act to establish the Sandwich Water District in the Town of Sandwich; St. 1947, c. 285 An Act authorizing the City of Pittsfield to take Waters and other property for the purpose of increasing its Water supply; St. 1947, c. 419 An Act establishing the Byfield Water District in the Town of Newbury; St. 1947, c. 465 An Act relative to the acquisition of additional Water supply by the Town of Marion; St. 1947, c. 481 An Act relative to the acquisition of additional Water supply by the Town of Scituate; St. 1947, c. 496 An Act to authorize the Town of Norwell to supply itself and its inhabitants with Water; St. 1947, c. 585 An Act establishing the Auburn Water District in the Town of Auburn; St. 1948, c. 353 An Act authorizing the Town of Templeton to supply itself and its inhabitants with Water; St. 1948, c. 461 An Act establishing the Dunstable Water District in the Town of Dunstable; St. 1948, c. 485 An Act establishing the South Grafton Water District in the Town of Grafton; St. 1949, c. 137 An Act establishing the Swansea Water District in the Town of Swansea; St. 1949, c. 414 An Act to establish the Gilbertville Water District in the Town of Hardwick; St. 1949, c. 419 An Act establishing the Morningdale Water District in the Town of Boylston; St. 1949, c. 483 An Act establishing the North Raynham Water District in the Town of Raynham; St. 1949, c. 635 An Act establishing the Burlington Water District in the Town of Burlington; St. 1950, c. 82 An Act authorizing the Town of Halifax to supply itself and its inhabitants with Water; St. 1950, c. 338 An Act to regulate the drawing of Water from Upper Naukeag Pond by the Towns of Winchendon and Ashburnham; St. 1950, c. 358 An Act establishing the Hillcrest Water District in the Town of Leicester; St. 1950, c. 359 An Act establishing the Dighton Water District in the Town of Dighton, and repealing Acts establishing the Dighton Water Supply District and the South Dighton Fire and Water District;

St. 1950, c. 369 An Act authorizing the Town of Westminster to supply itself and its inhabitants with Water; St. 1950, c. 616 An Act establishing the Sunderland Water District in the Town of Sunderland; St. 1950, c. 632 An Act authorizing the Town of Norwood to increase its source of Water supply; St. 1951, c. 61 An Act authorizing the Town of Tewksbury to supply itself and its inhabitants with Water; St. 1951, c. 314 An Act authorizing the Town of Freetown to supply itself and its inhabitants with Water; St. 1951, c. 421 An Act establishing the Boylston Water District in the Town of Boylston; St. 1951, c. 464 An Act to establish the Wheelwright Water District in the Town of Hardwick; St. 1951, c. 598 An Act establishing the Kenwood Water District in the Town of Dracut; St. 1951, c. 651 An Act authorizing the Town of Clarksburg to supply itself and its inhabitants with Water; St. 1951, c. 732 An Act authorizing the City of Fitchburg to acquire Waters and other property for the purpose of increasing its Water supply; St. 1951, c. 748 An Act authorizing the North Easton Village District to increase and protect its Water supply; St. 1952, c. 415 An Act authorizing the Town of Southborough to take Water for Water supply purposes from the Sudbury Reservoir; St. 1952, c. 439 An Act authorizing the Town of Provincetown to supply itself and its inhabitants with Water; St. 1953, c. 105 An Act establishing the Westhampton Water District in the Town of Westhampton; St. 1953, c. 107 An Act establishing the Montague Center Water District in the Town of Montague; St. 1953, c. 217 An Act authorizing the Barnstable Fire District to supply itself and its inhabitants with Water for the extinguishment of fires and for domestic use from sources outside the limits of the Barnstable Fire District and within the Town of Barnstable; St. 1953, c. 271 An Act authorizing the Centerville-Osterville Fire District to supply itself and its inhabitants with Water for the extinguishment of fires and for domestic use from sources outside of the limits of the Centerville-Osterville Fire District and within the Town of Barnstable; St. 1953, c. 357 An Act establishing the Kalmia Woods Water District in the Town of Concord; St. 1953, c. 418 An Act authorizing the Town of Orleans to supply itself and its inhabitants with Water; St. 1953, c. 659 An Act authorizing the City of Holyoke to increase its Water supply; St. 1954, c. 112 An Act relative to the Cherry Valley and Rochdale Water District; St. 1955, c. 664 An Act establishing the Mount Pleasant Water District in the Town of Leicester; St. 1960, c. 392 An Act authorizing the Southbridge Water Supply Company to take an additional source of Water supply in the Town of Sturbridge; St. 1961, c. 502 An Act relative to the acquisition of additional Water supply by the Town of Amherst and authorizing the Town of Amherst to sell Water within the Town of Belchertown; St. 1961, c. 628 An Act to authorize the City of Springfield to increase its Water supply; St. 1962, c. 470 An Act establishing the Griswoldville Water District in the Town of Colrain; St. 1962, c. 540 An Act to authorize the South Deerfield Water Supply District to obtain an additional Water supply; St. 1962, c. 566 An Act authorizing the Turners Falls Fire District to take Water from additional sources and to sell Water to certain individuals; St. 1963, c. 436 An Act authorizing the Town of Nantucket to supply itself and its inhabitants with Water; St. 1963, c. 788 An Act establishing the Holmes Park Water District in the Town of Westminster; St. 1964, c. 249 An Act authorizing the South Deerfield Water Supply District to obtain an additional Water supply; St. 1965, c. 450 An Act establishing the Northfield Water District in the Town of Northfield; St. 1965, c. 552 An Act authorizing the Town of Brewster to supply itself and its inhabitants with Water; St. 1965, c. 734 An Act establishing the West Northfield Water District in the Town of Northfield; St. 1965, c. 872 An Act authorizing the City of Gloucester to obtain an additional source of Water supply by diverting Water from the Ipswich River; St. 1966, c. 315 An Act authorizing the West Barnstable Fire District to supply itself and its inhabitants with Water; St. 1966, c. 457 An Act authorizing the Department of

Natural Resources to acquire certain Lands and Waters within the Farmington River Watershed; St. 1967, c. 343 An Act authorizing the City of Gloucester to obtain Water from the Ipswich River; St. 1968, c. 590 An Act authorizing the City of Pittsfield to acquire certain Waters and other property in the Towns of Dalton, Hinsdale and Windsor for the purpose of increasing its Water supply; St. 1968, c. 606 An Act authorizing the Lynnfield Center Water District to use and sell the Waters of the Ipswich River; St. 1969, c. 302 An Act establishing the Bondsville Fire and Water District and dissolving the Bondsville Fire District; St. 1969, c. 746 An Act authorizing the City of Pittsfield to take the Water rights to Onota Lake in said City; St. 1969, c. 844 An Act authorizing the County Commissioners of Berkshire County to take the Water rights to Richmond Pond by eminent domain; St. 1970, c. 274 An Act establishing the Riverside Water District in the Town of Gill; St. 1971, c. 145 An Act Establishing the West Warren Water District in the Town of Warren; St. 1971, c. 433 An Act establishing the Whately Water District in the Town of Whately; St. 1971, c. 835 An Act establishing the Oakwood Heights Water District of Millbury; St. 1972, c. 583 An Act authorizing the Town of Weymouth to develop all Ground Water and Surface Water sources within the boundaries of said Town; St. 1972, c. 808 An Act establishing the Oldtown Water District in the Town of Newbury; St. 1976, c. 408 An Act authorizing the Town of North Reading to obtain Water from the Ipswich River; St. 1976, c. 456 An Act authorizing the Town of Ipswich to obtain Water from the Ipswich River; St. 1976, c. 476 An Act establishing Stiles Lake Water District in parts of the Towns of Leicester and Spencer; St. 1977, c. 268 An Act authorizing the Town of Danvers to obtain Water from the Ipswich River; St. 1977, c. 404 An Act establishing the Granby Water District in the Town of Granby; St. 1977, c. 532 An Act authorizing the City known as the Town of Methuen to obtain Water from the Merrimack River; St. 1980, c. 267 An Act establishing the Ashfield Water District in the Town of Ashfield; St. 1980, c. 483 An Act establishing the Briggsville Water District in the Town of Clarksburg; St. 1981, c. 341 An Act authorizing the Town of Tewksbury to take Water from the Merrimack River; St. 1982, c. 25 An Act relative to previously abandoned sources of Water supply by members of the Metropolitan Water District; St. 1982, c. 270 An Act providing for an adequate Water supply for the City of Brockton; St. 1982, c. 516 An Act establishing the Tyngsborough Water District.

(SEAL)

COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT

MIDDLESEX, ss.

18 MISC 000596 (JSDR)

TOWN OF CONCORD,

Plaintiff,

v.

LITTLETON WATER DEPARTMENT,

Defendant,

And

TOWN OF ACTON,

Intervenor-Defendant.

JUDGMENT

This action was commenced by plaintiff Town of Concord (“Concord”) with the filing of a complaint on November 8, 2018 against the defendant Littleton Water Department (“LWD”) seeking a declaration as to the extent to which LWD’s claimed right to withdraw water from Nagog Pond pursuant to Chapter 201 of the Acts of 1884 (“the 1884 Act”), § 10, has been superseded by the Water Management Act, G.L. c. 21G (“WMA”), and, more particularly, the extent to which Concord’s registration of rights under the WMA negates LWD’s rights under the 1884 Act. On January 8, 2019, the Town of Acton (“Acton”) filed a motion to intervene on the grounds that it, too, had rights under the 1884 Act comparable to those of the Town of Littleton (“Littleton”), which motion was allowed by the court on March 14, 2019.

Cross-motions for summary judgment and supporting papers were filed and a hearing was held on July 11, 2019. Thereafter, the parties filed supplemental memoranda and affidavits

addressing issues raised at that hearing. The court has determined in a decision of even date that summary judgment shall issue declaring that the 1884 Act was impliedly repealed by the WMA, as a result of which any rights granted to Littleton and Acton under the 1884 Act were extinguished.

In accordance with the court's decision, it is hereby

ORDERED that Plaintiff's Motion For Summary Judgment is **ALLOWED** and The Littleton Water Department's Cross-Motion For Summary Judgment Pursuant to Mass. R. Civ. P. 56 and Acton's Cross-Motion For Summary Judgment are **DENIED**.

It is further

ORDERED, **ADJUDGED**, and **DECLARED** on Concord's complaint that the WMA impliedly repealed the 1884 Act and extinguished any rights granted to Littleton and to Acton thereunder.

It is further

ORDERED and **ADJUDGED** that this Judgment is a full adjudication of the parties' claims in this case, and all prayers for relief by any party to this action that are not granted in the preceding paragraphs are denied.

SO ORDERED.

By the court (Roberts, J.)

Attest:

Deborah J. Patterson, Recorder

Dated: October 11, 2019

A TRUE COPY
ATTEST:

Deborah J. Patterson
RECORDER