

7 Shady Lane, P.O. Box 1149  
Sterling, MA 01564-1149  
March 18, 2008

Office of Attorney General Martha Coakley  
Environmental Protection Unit  
One Exchange Place, 3<sup>rd</sup> Floor  
Worcester, MA 01608

Re: Impending Violation of Ch. 14 of the Acts of 1882 by Town of Clinton—Enforcement  
Action by Attorney General's Office Requested

Dear Sir or Madam:

Under Ch. 14 of the Acts of 1882 the Town of Clinton was authorized to take the waters of Wekepeke Brook in the Town of Sterling, any surface waters flowing into that brook as tributaries, and impoundments (reservoirs) thereof, for the Town of Clinton and its inhabitants, only. The Legislature granted the Town of Clinton the power to take land in the Town of Sterling for those purposes, and for the purpose of acquiring a pipeline right of way to convey those Wekepeke surface waters from Sterling to Clinton, only. In 1882 the Town of Clinton acquired the 564 acre Wekepeke Reservation in Sterling upon which it constructed five (5) basins or reservoirs as the Town of Clinton's water supply and also acquired the pipeline right of way.

The Wekepeke Brook is one of the finest cold water brooks in eastern Massachusetts and sustains one of eastern Massachusetts's relatively rare populations of native brook trout. A U.S. Geologic Survey-commissioned study shows that in certain drought conditions the Wekepeke Aquifer feeds and sustains the Wekepeke Brook and, hence, its native brook trout population.

The Town of Clinton Selectmen have been negotiating with Nestle Waters North America an arrangement whereby Nestle Waters would enter the Wekepeke Reservation and pump ground water out of the Wekepeke Aquifer for commercial sale as 'spring' water. Such an activity would be wholly illegal and a violation of Ch. 14 of the Acts of 1882. The law in this area is settled. See *Inhabitants of Town of Holliston v. Holliston Water Co.*, 306 Mass. 17 (1940).

I call upon your office to send a 'cease and desist' order to the Town of Clinton Selectmen to forestall their impending violation of Ch. 14 of the Acts of 1882 and I also call upon your office to bring a Superior Court action against the Clinton Selectmen to enforce Ch. 14 of the Acts of 1882 if need be.

As a trial lawyer I have met with Sterling residents to plan a Superior Court action against the Clinton Selectmen, in the nature of *Mandamus*, should your office fail in its duty to uphold Ch. 14 of the Acts of 1882. See enclosed March 4, 2008 letter for your reference.

Sincerely,

James F. Gettens, Esq.

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Enc.

cc:

Office of Attorney General Martha Coakley, Boston Office  
Mass. DEP

Town of Clinton Selectmen

Town of Sterling Selectmen

Jean Laquidara Hill, Worcester Telegram & Gazette

Publisher, Sterling Meetinghouse News

The Local Independent

Mr. Russell Philpot

Doris Bennett, Esq.

Mr. Walter Churchey