



TOWN OF HOPEDALE

78 Hopedale Street - P.O. Box 7
Hopedale, Massachusetts 01747

Tel: 508-634-2203 ext. 212
Fax: 508-634-2200

Board of Water & Sewer
Commissioners

Ed Burt, Chair
James Morin

February 5, 2021

Dear Hopedale Board of Selectman, Attorney Peter Durning:

The Hopedale Water and Sewer Commission ("Commission") hereby requests that the Hopedale Board of Selectmen ("BOS") cease and desist from any further negotiations or agreements with the Grafton Upton Railroad and an associated real estate trust with respect to water rights for the Town of Hopedale.

The Commission has sole and "exclusive charge and control of the water department and water system." G.L.c. 41, § 69B. All "water rights" and "all works" shall be "managed, approved, and controlled" by the Commission. G.L.c. 40, § 39E. The Commission may exercise police powers to protect the water supply and watershed. G.L.c. 111, §§ 173A & 173B. The town, through the Commission, "may develop and use any source of water supply within its limits," G.L.c. 40, § 38, and may exercise eminent domain power to secure, protect, and expand the water supply. G.L.c. 40, § 39B.

Despite these and other clear mandates in the General Laws that confer vast powers upon the Commission, the BOS has voted to approve a "settlement term sheet" that seeks to abrogate and impair the authority of the Commission. Specifically, the "settlement term sheet" contains the following provisions relative to the water supply within the exclusive jurisdiction of the Commission:

- (1) build a bridge over a waterway and install a public water supply well (¶ 1(b) and (¶ 4));
- (2) commence activities for siting a new public water supply (¶ 2(a));
- (3) establish conditions before new well testing may commence (¶ 2(b));
- (4) limit the trust's obligations to ensure a new well field complies with Department of Environmental Protection regulations (¶ 2(c));
- (5) establish a funding formula to share costs of water testing (¶ 2(e));
- (6) provide trust with "sole discretion" to install monitoring wells (¶ 2(f));
- (7) record a deed relative to ground water protection (¶ 3(b));
- (8) establish a "riparian buffer zone" (¶ 3(c));
- (9) limit trust's notice to state and local authorities regarding development plans (¶ 3(d));
- (10) establish deadline for town to identify "a financeable and feasible public drinking water supply well" (¶ 5 and ¶ 6(a));
- (11) divest the Commission of any decision-making authority with respect to the trust and the railroad (¶ 6 (f)).

Please be advised that the Commission has not authorized these provisions or any other provisions in the "settlement term sheet." The Hopedale BOS lacks authority to speak on behalf of the Commission or limit the powers of the Commission. To the extent that you believe that you have reached an agreement on such matters involving current or future water rights of the Town of Hopedale, you are hereby notified that any agreement is null and void.

Respectfully, Hopedale Water & Sewer Commissioners

Ed Burt, Chair
Jim Morin

CC: Hopedale Conservation Committee