



December 8, 2021

Andrew Gottlieb
Executive Director

The Honorable Carolyn Dykema, House Chair
The Honorable Rebecca Rausch, Senate Chair
Joint Committee on Environment, Natural Resources and Agriculture
State House
Boston, MA 02133

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RE: Written Testimony in Support of An Act to Protect Cape Cod's Environment and Water Supply (H.4022)

Dear Chair Dykema and Chair Rausch:

The Association to Preserve Cape Cod (APCC) submits the following written testimony in strong support of An Act to Protect Cape Cod’s Environment and Water Supply (H.4022) and respectfully requests the Joint Committee on Environment, Natural Resources and Agriculture to report this bill out with a favorable recommendation.

Founded in 1968, APCC is the Cape region’s leading nonprofit environmental advocacy and education organization, working for the adoption of laws, policies and programs that protect, preserve and restore Cape Cod’s natural resources. APCC focuses our efforts on the protection of groundwater, surface water, and wetland resources, preservation of open space, the promotion of responsible, planned growth and the achievement of an environmental ethic.

The Massachusetts National Guard’s multipurpose machine gun range proposal that the greater Cape Cod community is currently contending with has shown that there are deficiencies in the vetting process for proposed activities at the Upper Cape Water Supply Reserve, making protection of the water supply, habitats and natural resources on the Reserve vulnerable to threats that would cause adverse impacts to those resources. This is evident despite legislation that was originally created to establish and protect the reserve through the adoption of Chapter 47 of the Acts of 2002.

Chapter 47 was adopted to establish the Upper Cape Water Supply Reserve with the primary purpose of protecting the groundwater (the source of drinking water for the towns of Sandwich, Falmouth, Bourne, Mashpee and portions of Barnstable and Yarmouth), globally significant pine barrens, and habitat for dozens of state-listed species on the northern 15,000 acres of Joint Base Cape Cod. Chapter 47 includes a provision to allow only light military training that is compatible with the purposes of natural resource protection on

the Reserve.

Despite the current language of Chapter 47, the Massachusetts National Guard has proposed to clear-cut 170 acres of pine barren forest and rare species habitat on top of the Upper Cape's water supply to construct a heavy-caliber machine gun range, and to commandeer over 5,000 acres (one third of the Water Supply Reserve) as a danger zone where projectiles will land. This, in addition to a flawed public process and lack of proper vetting of the proposed gun range project, plus concerns about other future incremental alterations of the Reserve, have demonstrated that additional measures to ensure protection of the Cape's drinking water and sensitive natural habitats are urgently needed.

H.4022 would create more protective safeguards and would help fill in the gaps in the review process for proposed actions on the Reserve. The legislation provides a mechanism for revising the environmental protection standards for the Reserve, allowing the standards to evolve according to emerging science and to be responsive to new proposed activities that were not foreseen when the legislation was originally adopted. It would ensure that there is robust and open public engagement, and—equally important—it would establish a formal process for key agencies that represent the public's interest to weigh in on any activities that have the potential to do harm to this extraordinarily important natural resource area.

Accompanying this written testimony, we are including a recommended redline amendment to H.4022 that corrects and clarifies language that inadvertently confuses the meaning of a key sentence.

APCC thanks the chairs and committee members for this opportunity to provide written testimony. We urge the committee to support this legislation.

Sincerely,



Andrew Gottlieb
Executive Director

cc: Rep. Dylan Fernandes
Sen. Julian Cyr
Sen. Susan Moran
Rep. Sarah Peak
Rep. Timothy Whelan
Rep. Kip Diggs
Rep. David Vieira
Rep. Steven Xiarhos

HOUSE No. 4022

The Commonwealth of Massachusetts

PRESENTED BY:

Dylan A. Fernandes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to protect Cape Cod's environment and water supply.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>6/21/2021</i>

HOUSE No. 4022

By Mr. Fernandes of Falmouth, a petition (subject to Joint Rule 12) of Dylan A. Fernandes for legislation to further regulate Cape Cod's environment and water supply. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to protect Cape Cod's environment and water supply.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 5 of Chapter 47 of the Acts of 2002, (“An Act relative to the Environmental
2 Protection of the Massachusetts Military Reservation”) is hereby amended by adding at the end
3 thereof the following:

4 Any proposal for new or expanded activity within the Reserve that will result in the
5 alteration of ten or more acres, including but not limited to habitat destruction or clearcutting of
6 forested land, shall be categorically required to complete a full Environmental Impact Report
7 under the Massachusetts Environmental Policy Act. Upon the issuance of a MEPA certificate by
8 the Secretary of the Executive Office of Energy and Environmental Affairs, the Commission
9 shall not approve any such activity without receiving a written recommendation from a) the
10 Community Advisory Council; b) the Science Advisory Council; c) the Upper Cape Regional
11 Water Supply Cooperative and d) the Cape Cod Commission, after each has made a finding
12 ~~whether that~~ the proposed activity ~~does not~~ violates and is not otherwise inconsistent with any of
the

13 environmental performance standards included in the final environmental impact report
14 regarding activities on the Reserve; and the proposed activity is deemed to be consistent with the
15 purposes of this Act and with the establishment of the Upper Cape Water Supply Reserve.

16 If following receipt of the aforesaid recommendations the Commission determines a) that
17 the proposed activity is consistent with and does not violate said standards, or b) adjusting said
18 standards is warranted before making a decision on the proposed activity, the Commission shall
19 hold a public hearing in Sandwich, Mashpee, Falmouth, or Bourne on its proposed
20 determination. The hearing shall be held prior to the Commission making a final determination
21 on whether to approve the proposed activity or on any adjustments to the environmental
22 performance standards.