



Vermont Department of Environmental Conservation

Watershed Management Division
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Agency of Natural Resources

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February 1, 2013

Jean Brewster Giddings
Fitts, Olson & Giddings, P.L.C.
16 High Street
Brattleboro, VT 05301-3001

Re: Petition for Kenny Pond

Dear Ms. Brewster Giddings:

Thank you for your letter of January 11, 2013 and your letter of January 18, 2013 with the enclosed survey of Kenny Pond a/k/a Grout Pond. I am the Staff Attorney for the DEC Watershed Management Division and will be responding to future correspondence.

As you are aware, the Vermont Use of Public Waters Rules defines a "private pond" as a natural or artificial pond of not more than twenty acres when such natural or artificial pond is located entirely upon lands owned by one person or entity. Your clients' survey is helpful in demonstrating that Kenny Pond is less than 20 acres in size. However, we still have questions as to whether the pond is located entirely upon lands owned by one person or entity. In particular, we need further information relating to: (1) whether the town's right of way grants public access to the Pond; and (2) whether the Pond lies on parcels owned by multiple owners.

As a result, we need further information on the town road records to confirm whether the town's right of way conveys public access. It appears from the survey that you provided that in certain locations the town right of way extends to the waters' edge or into the Pond itself. If it does, we may be unable to remove Kenny Pond from the list of public waters. In addition, your clients' survey of Kenny Pond indicates that the Pond may be located on the property of multiple property owners. Is Pinelands Trust a separate trust from the Martha K. Palmer Trust (a.k.a. Martha Kinne Palmer Trust)? It would be helpful if you could provide a tax survey of the land parcels under Kenny Pond and an explanation of the relationship between these trusts.

We cannot remove Kenny Pond from the list of public waters until we have the necessary facts to support the determination that the Pond falls within the definition of "private pond." Thank you for your cooperation and assistance in providing us with the requested information. If you have any questions about this letter, please call me at (802) 490-6103.

Sincerely,

A handwritten signature in blue ink that reads "Leslie Welts".

Leslie Welts, Esq.
Attorney, Watershed Management Division