



Water Lines

A publication of the Higgins Lake Property Owners' Association

Fall 2007 -- Winter 2008

President's Message

by Pat Springstead, HLPOA President

Let me begin this update by thanking our loyal members for being steadfast in their support of the HLPOA and our causes. In this difficult time of economic issues in Michigan, the HLPOA members have been awesome. The HLPOA has more members this year than we did last year, and they have been more generous than in the past with donations to the legal, environmental and Political Action Committee (PAC). This influx of money allows us to represent you on the issues that are important to you and the lake at both the local and state level. **My hat goes off to all of our devoted and motivated members.**



We had a beautiful summer with an abundance of sun and a minimum of rain. I also thought, for the most part, it was a quiet and peaceful summer with the road ends being used properly in most cases. However, there are people out there who will continue to try to get the legislature to overturn the Jacobs ruling by legislation. At the present time, HB 4463 and HB 4464 are both in the Government Operations Committee in the Senate. As you are aware, these two bills would roll back the Jacobs decision and allow local townships to establish public marinas at road ends. This is the ultimate example of a special interest group attempting to take care of a very select small group of people. The vast majority of people who live off the lake and desire to have a boat moored on Higgins Lake would have an exceedingly small chance of it happening. There simply are not enough places to satisfy the growing number of people who are moving to or living in the Higgins Lake area in the summer. **The people who seek this legislation are being disingenuous when they tell their members that they will be able to get all of them road end access to Higgins Lake.**

Although our attorney feels confident that Higgins Lake would be immune because of past litigation and that the bills themselves would not stand up to legal review, we would prefer to defeat these bills at the legislative level, and will spend as much time and effort as required to succeed in this endeavor. We would be more than willing to work with the townships to seek as much legal access as we can for the people who live off the lake.

This past summer the road ends have been almost exclusively used as the platters of the subdivisions had intended. There were very few incidents of road ends being used in violation of the court order precluding overnight mooring. Later in the newsletter, there will be information explaining how illegal activities at road ends should be reported. (See page 15) As stated above, we still support all legal access to Higgins Lake. There is absolutely no reason that anyone who lives off the lake cannot get their boat on Higgins Lake, even on the busiest of holiday weekends. Higgins Lake has more public access than Houghton Lake, which is twice as large as Higgins. **We are supportive of the legal associations that are on our lake, and our only concern is that they do not expand beyond their current size and numbers.**

Recently, Huron Pines did a milfoil inventory survey of Higgins Lake. Although in general our lake is doing very well, there are three areas of concern regarding the Eurasian Water Milfoil. Later in the newsletter, Marv Bolton (the Milfoil Man), and Laurie Smith Tudor will address these areas and explain what is being proposed to handle these problem areas.

(continued on page 2)

INSIDE THIS ISSUE:

<i>President's Message</i>	<i>Page 1</i>
<i>Legislative Review</i>	<i>Page 2</i>
<i>HLPOA Legal Update</i>	<i>Page 3</i>
<i>Political Action Committee Report</i>	<i>Page 5</i>
<i>Request for Action</i>	<i>Page 6</i>
<i>Text of HB-4464</i>	<i>Page 6</i>
<i>Text of HB-4463</i>	<i>Page 7</i>
<i>Senate District Map</i>	<i>Page 8</i>
<i>Senator Contact Information</i>	<i>Page 9</i>
<i>Memorials</i>	<i>Page 10</i>
<i>Office Central</i>	<i>Page 10</i>
<i>Annual Meeting</i>	<i>Page 11</i>
<i>Swimmer's Itch Report</i>	<i>Page 11</i>
<i>Environmental Report</i>	<i>Page 12</i>
<i>Road End Reporting Procedures</i>	<i>Page 15</i>
<i>Board Directory</i>	<i>Page 15</i>
<i>Milfoil Report</i>	<i>Page 16</i>
<i>Did you know ???</i>	<i>Page 18</i>
<i>Indian Treaty</i>	<i>Page 19</i>



President's Message *(cont'd from Page 1)*

We continue to monitor our lake to make sure that any issues are addressed as soon as possible. Rick Meeks will address water testing and lake level issues that affect shoreline erosion caused by wave action and the ice push in the winter. **Road ends continue to be a serious erosion issue due to concentrated run-off and wave and ice action.** We have a newly upgraded dam, but the DNR and DEQ still have issues regarding the water flow down the Cut River as it applies to fish in the river. We continue to work with the DNR and the Higgins Lake Foundation to install a boat wash at the North State Park.

The Higgins Lake Alliance continues to meet on environmental issues such as phosphorous fertilizer control, septic inspections, boat wash sites, shoreline erosion and lake level, milfoil and exotic species monitoring and eradication, waste water cluster sewers, greenbelts, boat noise control, grants for erosion control and vegetation greenbelts and restoration at road ends, and establishing a boat capacity standard for the lake. **We hope the Township Supervisors have the resolve and dedication to make positive things happen for Higgins Lake.**

Higgins Lake is not a renewable resource and we need to find the proper balance between usage and protecting the lake.

additional recreational activity on the lake. **Higgins Lake is a finite resource, and a proper balance needs to be found between usage and protecting the lake.**

It is past time for the townships to have a plan to protect this delicate balance. This next year will be a very critical election cycle, and the HLPOA will be extremely active at both the state and local level. We will be paying close attention to and will be working particularly hard at the local level. We continue to reach out to all the local units of government to improve our ability to communicate with them and to work on mutual problems.

Laurie Smith Tudor continues her great work with the Public Relations Committee and reaching out to the local community. The HLPOA assists the Gerrish Township Police Department with their Shop with a Cop Program, the Roscommon County Sheriff Department with their Side Scan Sonar Project, and Project Graduation. The Public Relations Committee continues to look for opportunities to help in our community.

Please check the HLPOA website regularly for updates - www.hlpoa.org. It is one way to keep our members up to date during the off season on issues that affect them and Higgins Lake .

Legislative Review

by Pat Springstead, HLPOA President



This past June, HB 4463 and HB 4464 were voted out of the House of Representatives and were sent to the Senate for consideration. These two bills now reside in the Senate Government Operations Committee, chaired by Majority Leader Mike Bishop of Rochester. These two bills were championed by Representatives Sheltrown and Gillard. Much arm twisting was needed to pass these awful bills. Even though the vote was held open while amendments were added, there were still barely enough votes to pass this unconstitutional legislation. One of the amendments was to exempt all lakes smaller than 2500 acres. Without this amendment, the bills had absolutely no possibility of passing. **This certainly sounds like special legislation for a certain special interest group that mainly impacts the large lakes of northern Michigan. For the most part, these bills were passed by the same legislators who just recently voted to raise your taxes.** I encourage you to go to our website (www.hlpoa.org) and follow the links to check how your particular representative voted.

In the House of Representatives, there are 110 members, and it is unfortunate that political maneuvering and trading favors occurs on a regular basis. Usually, there is a lack of in-depth understanding of the issues behind the legislation among the representatives. It is not unusual for a representative to vote based on what they are told instead of their knowledge of the subject. The leadership of the Democratically controlled House owed both Representative Sheltrown and Gillard favors for their support in the Democratic caucus. If it had not been for this situation, this legislation would never have had a chance of being considered by the House.

Fortunately, the situation in the Senate does not have the same political issues. Legislation is judged on its merits and is not dependent on political favors. The Senate is made up of 38 Senators and the same opportunities for political skullduggery are not as apparent. Also, the Senators are willing to

Legislation allowing marinas at public road ends was passed by the House of Representatives and now resides in the Senate.

take the time to thoroughly research the facts of the bills. **When these two bills are studied in the light of day, they will be exposed as the poor legislation they are, and it will be obvious they are intended to help only a very small special interest group.** The Michigan Township Association, Michigan United Conservation Club, DEQ, Michigan Lakes and Streams, Michigan Waterfront Alliance and the lake associations from around the State of Michigan are opposed to this legislation. Also, the Michigan Department of Natural Resources will not be exposed to the same political pressure they were by a certain Representative chairing a committee that affects their budget.

(continued on page 3)



Legislative Review *(continued from Page 2)*

Even though we have confidence that the Senators will see through this legislation, we are not going to be complacent. We must be pro-active to explain our position to the Senators.

We encourage each and every one of you to take the time to write a letter (best method) to your Senator expressing your opposition to these bills. If writing a letter is not possible, please either e-mail or call your Senator. Later in this newsletter, we will have a section that gives you the information you will need to contact your Senator. There will also be talking points to refresh your

Please take a moment to send a letter to your Senator and tell them you oppose these bills and why. For reference, see the talking points and Senator list on pages 6 to 9.

memory regarding the important facts. This is an issue so important to our lake that we cannot afford to have our members be apathetic. So please, immediately contact your Senator. Also, please check our website regularly for any updates - often

things happen fast, and the website is our best way of reacting and keeping our membership informed.

If you have an e-mail address and have not given it to us yet, please do so. Send an e-mail to our office at hlpoa@charter.net and let Pam know you want to be included on our e-mail list. We periodically send out e-mails with pertinent information regarding legislation or other information of interest to our members. It gives us the opportunity to reach our members immediately when something of importance arises regarding Higgins Lake.

We want to let you know that we will work as long as it takes and spend whatever resources are necessary to make sure the type of legislation in HB 4463 and HB 4464 never passes into law.

The HLPOA also anticipates that the issues of phosphorous fertilizer and septic inspections will be coming up in Lansing and also at the local level in the not-too-distant future. It is important that these issues are addressed at both levels of government, as they directly affect the quality of the water in Higgins Lake. We will actively work to pass state statute and local ordinances to ban phosphorus fertilizers near the lake and mandate septic inspections.

We will be watching both the local and state officials to see how they vote on all issues that affect Higgins Lake and our riparian members. We will pass this information on to the Higgins Lake Political Action Committee (HLPAC), and they will make recommendations on which candidates in the upcoming election should receive our support and our votes. **We will continue to expend as much effort as necessary to protect Higgins Lake and the riparian members who love this treasured lake. Thank you, our loyal members, once again, for your continued support and trust. Best wishes for a safe and happy winter and holiday season.**

Thank you

HLPOA Legal Update

*by William L. Carey
and Richard Jaskowski
Counsel to the HLPOA*



The HLPOA has been active in legal matters affecting the use of Higgins Lake and the riparian interests of its members. This legal report will summarize the legal activities of the HLPOA as well as other matters of interest through September 2007.

Jacobs Enforcement

As a result of the contempt orders issued by the Roscommon County Circuit Court in preceding years, we are pleased to report that the number of Jacobs enforcement cases has been substantially reduced. Currently, there are two enforcement actions pending, which will likely be brought to trial/motions for summary disposition in late 2007 or early 2008.

Sunseekers Funnel

HLPOA has been involved in a proceeding which is commonly referred to as the Sunseekers funnel. In Lyon Township (Shoppenagon Lodge Subdivision) eight families purchased a 25' lakefront lot for the purpose of maintaining a marina. At various times the Sunseekers group maintained a dock of almost 200' in length with eight mooring sites. Sunseekers were advised repeatedly that they were operating a marina illegally. Sunseekers refused to cease and desist their operation.

Because Sunseekers would not cease their illegal operations, HLPOA and the riparian owner who adjoined the illegal operation brought suit. HLPOA and the adjoining riparian owner argued that the Sunseekers activity was a nuisance because it violated State law (operating a marina without a DEQ Operating Permit), and because it violated the Lyon Township zoning ordinance.

The Sunseekers case was presented at trial in the Roscommon County Circuit Court. Roscommon County Circuit Court Judge Michael J. Baumgartner ruled in favor of the HLPOA position on all counts. Sunseekers members were ordered to stop their illegal activities so that the nuisance they had created would be abated. The court ruled that their activities constituted operating a marina. The court also ruled that their activities violated the Lyon Township zoning ordinance. The Sunseekers decision has been reversed by the Court of Appeals which ruled that HLPOA did not show sufficient harm to its membership to warrant nuisance abatement. The case is now on appeal to the Michigan Supreme Court.



(continued on page 4)



Legal Update (continued from page 3)

Kelly Beach Boat Ramp

A boat ramp has recently been installed at Kelly Beach in the Michigan Central Park First Addition Subdivision, and while HLPOA and the First Addition homeowners association do not oppose the installation of the ramp, legal proceedings have been instituted by those groups to ensure reasonable township controls on use. Action has also been commenced to ensure that no dredging will occur, relative to ramp usage. Finally, HLPOA and the homeowners association seek to eliminate all boat mooring at that site.

A significant issue in the case is whether the DEQ acted properly in granting the ramp permit to a private citizen as opposed to a local unit of government. This legal issue will be briefed by the parties and will be decided by the administrative law judge.

A resolution of the Kelly Beach boat ramp matter is expected to be reached in late 2007.

Townline Road Update

Earlier this spring, dredging was done at the Townline Boat Ramp that was beyond the limits set in the agreement. The dredging area has been refilled to the satisfaction of the DEQ. The township has been informed that the area will be inspected in the spring and will be closely monitored every year.

Other cases of Interest:

HLPOA members have stepped up in their own subdivisions where they have issues and are pursuing legal action. At this point the HLPOA is not involved in these cases, although we continue to monitor them closely.

Roscommon County Road Commission vs. Shy

In a recently filed action, the Roscommon County Road Commission (RCRC) has sued a front lot owner whose land is adjacent to Sam-O-Set Boulevard, a developed roadway running along the lake shore in Lyon Township. The lot owners, who have been sued, are using the land between the developed roadway and the water's edge to maintain a historical lakeside deck and docking area. The RCRC claims they have the right to remove private structures all the way to the water's edge, despite the fact that it is not using that land to maintain Sam-O-Set Boulevard. The lot owners claim a lawful right to use any portion of the boulevard which is not being maintained by the RCRC as a public way.

This matter is still in the late stages of pretrial discovery. A trial date is set for November 2, 2007. The Court, by pretrial order, has determined that any land between the 66' platted width of the boulevard and the water's edge belongs to the Shy's and can be used by them privately.

Higgins Lake Shores Appeal

The last of the "Jacobs" style subdivision cases on Higgins Lake was taken to trial in late April, 2007. Judge Baumgartner heard the case. The lakefront property owners

received a favorable ruling in this plat consistent with all of the other platted road-end cases around the lake. Certain back lot defendants have filed an appeal. The grounds upon which their appeal is based have not yet been published. Transcripts of the trial have now been filed and the appellants' brief will be due in November, 2007.

Hitchcock

Summary Disposition was previously granted to Plaintiffs in this matter, which prohibited non-temporary mooring of water craft from the road end. The only remaining issues in the case are Defendants' claims to shoreline activities at the upland portion of the road end. A Scheduling Order was recently entered by the Court, and it is anticipated that a trial date will be scheduled for early 2008.

Almeda Beach - Don M. Boulevard

The Higgins Lake Civic Association has initiated a lawsuit against the lakefront property owners living adjacent to Don M. Boulevard. Don M. Boulevard is a lakeside boulevard located in the Plat of Almeda Beach Subdivision. Almeda Beach Subdivision is located just easterly of the Higgins Lake South State Park. In that case, the Higgins Lake Civic Association claims that the rights of its members to use Don M. Boulevard have been infringed upon by the lakefront property owners. The Civic Association claims various encroachments on the boulevard, along with the way the front lot owners are using the boulevard, preclude, or make difficult, easy access for the Civic Association members. The Civic Association, in its lawsuit, also claims that the front lot owners have, from time to time, harassed the Civic Association members for using Don M. Boulevard. Most importantly, the Civic Association, in its lawsuit, claims that the public has the right to picnic, lounge, sunbathe, and enter Higgins Lake from Don M. Boulevard.

The front lot owners being sued in this litigation have answered the lawsuit. In that lawsuit, the front lot owners deny any acts of harassment or illegal encroachments. The front lot owners further note, in their defense of this lawsuit, that the boulevard is under the jurisdiction of the Roscommon County Road Commission. The Roscommon County Road Commission has not voiced any objection to the manner in which the front lot owners have used Don M. Boulevard. Finally, the front lot owners, collectively, deny that the public has a right to picnic, sunbathe, and lounge on Don M. Boulevard.

This matter is in the early stages of pretrial discovery. A status conference has been requested by the lakefront owners. No court dates have been established.

Sovereign Park Plat Amendment - Lake Drive

A lawsuit seeking to change the dedication language of the plat of Sovereign Park is currently pending before Judge Michael Baumgartner in the Roscommon County Circuit Court. The purpose of the lawsuit is to have the judge rewrite the plat dedication language so as to allow for uses of the roads within the plat for boat mooring, sunbathing, picnicking and lounging.

(continued on page 5)



Legal Update

(continued from page 4)

The lawsuit tacitly recognizes that the rule of Jacobs precludes using the roads within the plat for boat mooring, sunbathing, picnicking and lounging. Now the plaintiffs in that lawsuit are asking the judge to change the language so that Jacobs cannot apply.

The riparian residents of the plat have filed a uniformed defense to the plat amendment action. A status conference is set in the matter for November 5, 2007. The plaintiffs in the Sovereign Park case have argued that while their case is pending they should not be subjected to enforcement rules on road end use. In essence they argued that their lawsuit immunizes them from complying with current court decisions. Judge Thomas has held to the contrary and in very straightforward terms advised the plaintiffs in the Sovereign Park case that if they do not comply with the terms of the current Court of Appeals decisions they will be subjecting themselves to his contempt powers.

Sheridan Drive

In a June 14, 2006 meeting between representatives of Sheridan Drive Association, and the Roscommon County Road Commission (RCRC) a settlement agreement was reached which, in addition to other terms, required that Sheridan Drive be maintained at a width of no more than 8 feet, in consideration of its historical width. Subsequent to the meeting, numerous proposed settlement memorandums were prepared and endorsed by representatives of Sheridan Drive Association, and submitted to counsel for the RCRC for signature.

Despite repeated requests from counsel for Sheridan Drive Association, several months passed, and the RCRC had yet to sign and return the settlement memorandum to the Sheridan Drive Association. As a result, counsel for Sheridan Drive Association scheduled a hearing for May 7, 2007. Approximately four days prior to the scheduled hearing, counsel for Sheridan Drive Association received the settlement memorandum signed by the RCRC which resolved the above matter.

Grosbeak Blvd.

The Roscommon County Road Commission has removed the encroachments along Grosbeak Blvd, which has only served to exacerbate the situation within the neighborhood. There continue to be issues concerning Grosbeak Blvd, and we are hopeful that something can be worked out between the interested parties in the near future.

Conclusion

HLPOA and its homeowner association partners continue to work toward protection of the environmental quality of Higgins Lake. HLPOA and its subdivision partners also are working to ensure that all riparians on Higgins Lake enjoy their property and their associated riparian rights. HLPOA will be diligent and comprehensive in its efforts to protect the interest of Higgins Lake and its riparian members.

Respectfully submitted by:
William L. Carey and Richard J. Jaskowski
Legal Counsel for HLPOA

Higgins Lake Political Action Committee (HLPAC)



After watching all the unfortunate activity in Lansing the last six months, it should be obvious why the HLPAC looks at this upcoming political cycle as critical. Our members have been very generous in donating to our Political Action Committee this fall.

As everyone knows, money is critical to be able to influence issues that are important to Higgins Lake.

In the House of Representatives, Democrats Gillard and Sheltroun have championed HB 4463 and HB 4464, which would circumvent the Jacobs ruling which prohibits overnight mooring at road ends. We have been talking to Republican leadership in the Senate to explain why these are bad bills as written and are also unconstitutional. Thanks to you for your contributions that give us the opportunity to be able to communicate effectively with the legislature.

Also in Representative Sheltroun's Democratic Committee is HB 5613, which would strip the DEQ of their control over marina permits. These are all reasons why our political action committee needs to be vigilant to the actions of our legislators who do not have the best interest of Higgins Lake's delicate environmental balance in mind.

At the local political level, the 2008 elections will be critical to the health of Higgins Lake. Although not the only elections that are important to us, the townships of Gerrish and Lyon and the Roscommon County Road Commission (RCRC) are of special interest to us. The RCRC has been politicized by its current chairman, Larry Paxton. His self-stated opposition to the HLPOA is in total contrast for a public official who is supposed to represent all the people of Roscommon County on an objective basis. There are also people who have held positions within the Townships who have been a disappointment due to their lack of pro-activity in protecting the environment and the health of Higgins Lake.

The one person who has NOT been a disappointment is Lyon Township Supervisor Paul Tatro. He was worked tirelessly to bring a sewer system to the American Legion area. The system is being built and should be finished by the end of next summer. We need to work very hard to elect people who follow Paul Tatro's example of leadership and share an interest in Higgins Lake and its environment.

As we draw closer to the 2008 election, the HLPAC will let you know who is running for the various political positions and which candidates have your interests and the interests of Higgins Lake at heart. Again, thank you for being generous and pro-active in your commitment to the environment and the political process which affects the health and well-being of our precious natural resource, Higgins Lake.

Sincerely,
The Political Action Committee



Legislative Action Requested

The Spring/Summer 2007 Issue of Waterlines had extensive coverage of the two house bills that were before the House of Representatives in Lansing, and we asked you to write to your representatives asking them not to pass this legislation. Unfortunately, as you learned in Pat's Legislative Review earlier in this issue, the House did pass these two bills, and they have now been sent to the Senate.

We would again urge you to write to your Senator and let them know your opinion on these bills and that you oppose them. The other side is working very hard in Lansing to try and get these bills passed by the Senate, and the HLPOA needs to do everything we can to prevent that from happening. To that end, we recently sent a letter to Senator Michelle McManus, the senator for the Roscommon area, along with a legal summary from the offices of Carey & Jaskowski, legal counsel for the HLPOA, and all other senators received a copy. While we are not printing a copy of those letters in this newsletter, the information contained in them is condensed for you into "talking points" that you may cite in your communication with your Senator.

We urge you to write a letter - the old fashioned way - that is the best method of communication. If you are unable to write a letter, please e-mail or telephone and convey your opinion to your Senator.

Included in the newsletter you will find the complete versions of the two bills, HB 4463 and HB 4464 as passed by the House of Representatives, talking points, and a map of senate districts and a list of senators and all of their contact information. You may also visit www.mi.gov, and click on legislature to view these bills online as well as other bills you may be interested in. Our website also contains quick links to legislative information for your convenience - www.hlpoa.org.

Talking points for use in contacting your Senator about HB4463 and HB4464

Pat's Legislative Review (Page 2) contains a bit of background and history, and also some excellent talking points.

The HLPOA is very STRONGLY opposed to these two bills, and believes they are legally flawed. They fail to address some very practical issues and arguments.

1. The road endings were created by plat predating 1978, and a court of competent and final jurisdiction has already adjudicated the scope of the dedication of road ends to preclude seasonal mooring.
2. The proposed legislation would deprive the majority of the public of the space in the water at public road ends. Swimming and recreational activities at these road ends would become extremely hazardous when mixed in with excessive boat traffic in and out.
3. The proposed bills would create commercial marinas in mostly single family residentially zoned areas. How would you like it if your township decided to make a seasonal RV parking lot on the road in front of your house?
4. The legislation would overturn a century of court decisions and would allow non-riparian owners to seize public road ends and create overpowering marinas for their own use and benefit.
5. The proposed legislation is flawed and unconstitutional.

Please contact your Senator and express your opposition to these bills. The other side is working hard to get them passed. These bills are bad for Higgins Lake as well as all other lakes in Michigan. See Senator contact info on Page 9.

TEXT OF HOUSE BILL 4464 as passed by the House June 27, 2007

A bill to amend 1967 PA 288, entitled "Land Division Act," by amending section 253 (MCL 560.253).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 253. (1) When a plat is certified, signed, acknowledged, and recorded as prescribed in this act, every dedication, gift, or grant to the public or to any person, society, or corporation marked or noted as such on the plat shall be considered to be sufficient conveyance to vest the fee simple of all parcels of land and noted, as a dedication, gift, or grant and shall be considered a general warranty against the donors, their heirs, and their assigns to the donees for their use for the purposes in the dedication, gift, or grant and no other.

(2) Except as provided in Subsection (3), the purposes of a dedication, gift, or grant under Subsection (1) or a road, street, or alley terminating at a lake or stream, or terminating at a common area, a right-of-way, or a public park that is contiguous to the shoreline of a lake or stream, shall be presumed to include the seasonal mooring of boats, sunbathing, and lounging as otherwise authorized by law. This presumption is conclusive unless rebutted by competent evidence

before the Circuit Court in the County in which the land is located, showing that the plat proprietor intended to prohibit the seasonal mooring or boats, sunbathing, and lounging at the end of the road, street, or alley.

(3) If the dedication, gift, or grant includes the language "for road use only" or substantially similar language, the presumption described in Subsection (2) is not created.

(4) The land intended for streets, alleys, commons, parks, or other public uses as designated on the plat shall be held by the municipality in which the plat is situated in trust to and for those uses and purposes.

(5) A reservation or an ownership interest in mineral rights or underground gas storage rights in land does not constitute the holding of title for the purpose of signing the proprietor's certificate.

(6) Subsection 2 does not apply to road ends that are owned by the State of Michigan, or road ends that are immediately adjacent to properties that are owned by the State of Michigan.

TEXT OF HOUSE BILL 4463 as passed by the House June 27, 2007

A bill to amend 1994 PA 451, entitled "Natural Resources and Environmental Protection Act," by amending section 30106 (MCL 324.30106), as added by 1995 PA 59, and by adding section 30106a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 30106. (1) Subject to Subsection (2), The department shall issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights. In passing upon an application, the department shall consider the possible effects of the proposed action upon the inland lake or stream and upon waters from which or into which its waters flow and the uses of all such waters, including uses for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry. The department shall not grant a permit if the proposed project or structure will unlawfully impair or destroy any of the waters or other natural resources of the state. This part does not modify the rights and responsibilities of any riparian owner to the use of his or her riparian water. A permit shall specify that a project completed in accordance with this part shall not cause unlawful pollution as defined by part 31.

(2) The Department shall issue a permit under this part for a marina if all of the following conditions are met:

(A) The applicant is a local unit of government and the location of the marina is a road end under the jurisdiction of the local unit of government that provides public access to an inland lake that is larger than 2,500 acres in size, and to which the presumption in section 253(2) of the Land Division Act, 1967 PA 188, MCL 560.253, applies.

(B) The local unit of government is applying for the marina permit for the purpose of constructing, installing, or maintaining a seasonal dock.

(C) The local unit of government has adopted an ordinance in compliance with Section 30106A, and the proposed marina will otherwise be in compliance with all local ordinances.

Sec. 30106A. (1) A local unit of government may adopt an ordinance, subject to the permit requirement under Section 30106, that authorizes a marina at a road end under the jurisdiction of the local unit of government.

(2) An ordinance adopted under subsection (1) shall provide for all of the following:

(A) Not more than 1 nonexclusive public dock shall be allowed at the road end. The local unit of government shall conduct a survey to determine the location of the dock to ensure that the dock remains within the right-of-way of the road as extended into the waters of the inland lake or stream and does not encroach onto or over the riparian bottomland of adjacent property. The survey shall be performed by a professional land surveyor licensed in the State or Michigan. If a survey was previously conducted at the road end and the survey stakes from that survey are identifiable, that survey may be used to make the determination under this subdivision.

(B) The dock shall not be installed prior to May 1 and shall be removed not later than September 30 of each year.

(C) The dock shall not exceed 250 feet in length.

(D) The dock shall be not more than 5 feet in width or the width required by state or federal law, whichever is greater.

(E) The dock shall be constructed to allow access for law enforcement or emergency personnel.

(F) The length of the dock shall not unreasonably interfere with the safety and navigability of the waters or the inland lake or stream.

(G) The auguring or driving or any boat mooring post or the placement of any permanent or seasonal boat anchoring device, other than a permitted boat hoist, within the area of the road end as extended into the inland lake or stream shall be prohibited.

(H) The construction, installation, or maintenance of boat hoists on the road end and in the adjacent waters to establish seasonal

overnight mooring or docking of unoccupied vessels, including, but not limited to, all of the following requirements:

(i) Boat hoists shall be placed in a uniform straight line running away from and parallel to the shoreline in such a manner as to assure that the hoist and associated moored watercraft remain within the right-of-way of the public road as extended into the waters of the inland lake or stream. The ordinance shall require that, when moored in its hoist, a watercraft shall not encroach onto or over the riparian bottomland of adjacent property.

(ii) Boat hoists shall be placed a minimum of 20 feet offshore and shall not unreasonably interfere with the ingress, egress, safety, and navigability of the waters of the inland lake or stream. A hoist shall not be located farther than 250 feet offshore.

(iii) Boat hoists shall not be placed in such a way as to impede access for law enforcement or emergency personnel.

(iv) Boat Hoists shall not be installed prior to May 1 and shall be removed no later than September 30 of each year.

(I) A road end shall not be altered, improved, or maintained in any manner without first obtaining an appropriate land use permit for the desired activity. The provisions may require that additional permits be obtained from the county road commission or drain commission.

(J) Provisions for the use of a lottery to allocate the use of boat hoists and boat slips if the demand for the use of these facilities is greater than the supply.

(K) If fees are to be charged for the use of the marina facilities, an itemization of the specific fees. Fees assessed shall be used by the local unit of government only to pay for the installation, removal, and maintenance of docks and boat hoists, for necessary surveys related to the marina or road end, and for law enforcement activities.

(L) Provisions for fees for use of boat slips and boat hoists at the marina that are equivalent to fees for similar services charged at other marinas on that inland lake or stream or at a comparable inland lake or stream.

(M) Provisions for violations consistent with Subsection (4).

(3) An ordinance adopted under Subsection (1) may allow for use of the waterfront within the boundaries of the road end for sunbathing and lounging activities. Any allowance of such activities shall be accompanied by rules specifying what uses are permitted and what uses are prohibited. Any allowance of such activities shall also be accompanied by rules specifying the hours of operation for these activities. The hours of operation for these activities shall not exceed sunrise to sunset.

(4) A person who violates an ordinance adopted under this Section is responsible for a municipal infraction and may be ordered to pay a fine of not more than \$500.00 per violation.

(5) A marina operated by a local unit of government in compliance with this section shall not be found to be a public or private nuisance.

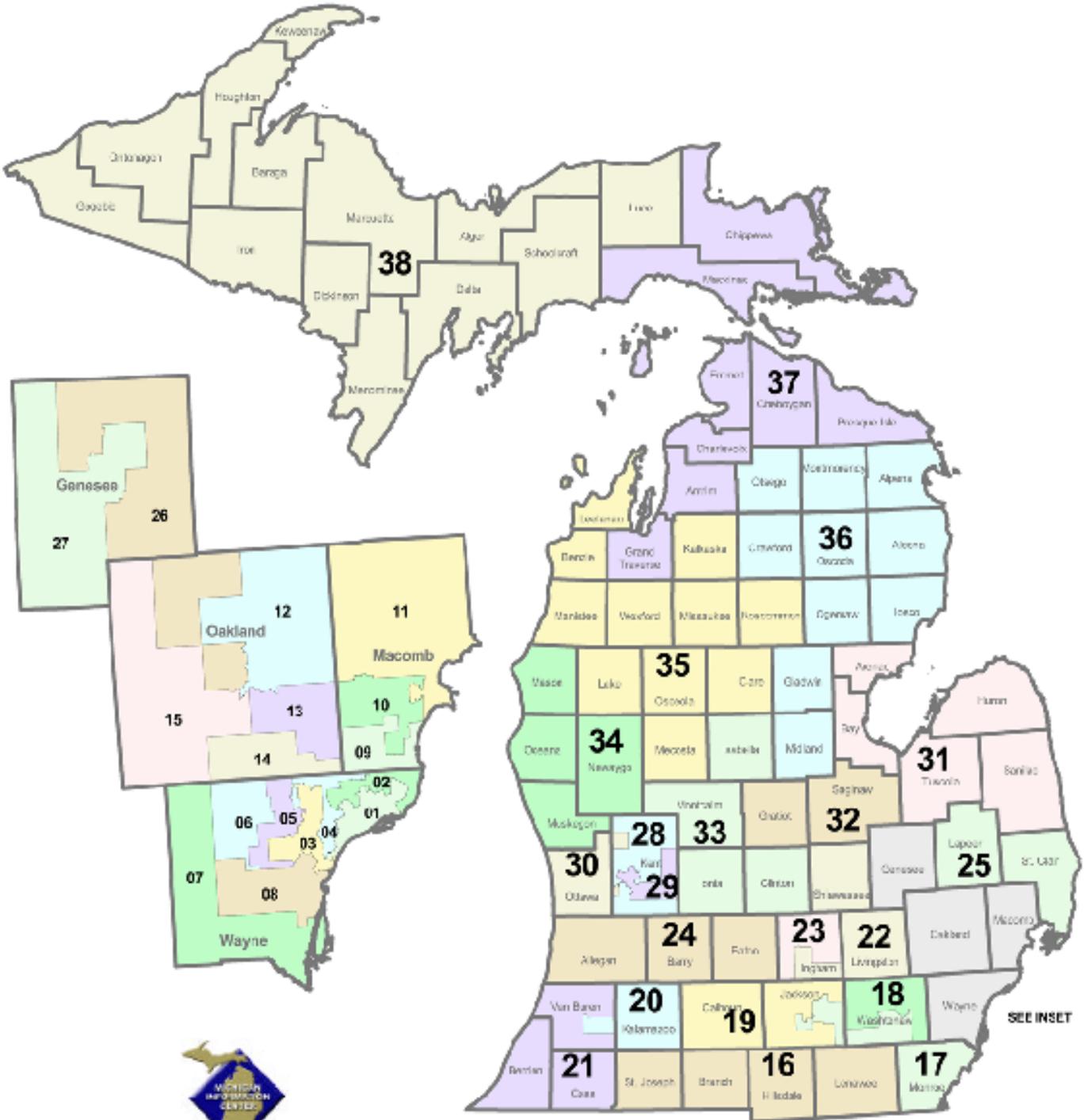
(6) As used in this Section, "Road End" means the end of a road, street, or alley that terminates at an inland lake or stream. However, road end does not include a road, street, or alley, or a portion of a road, street, or alley, that runs laterally along an inland lake or stream.

Enacting Section 1. This amendatory act does not take effect unless House Bill No. 4464 of the 94th Legislature is enacted into law.



MICHIGAN'S 38 SENATE DISTRICTS

Find this map at www.mi.gov
 Follow the links to find your senator
 If you need assistance in locating your senator,
 please feel free to call the HLPOA office at 989-275-9181.



Produced by
 Michigan Information Center
 October 2001

Find this map at www.mi.gov
 Follow the links to find your senator
 If you need assistance in locating your senator,
 please feel free to call the HLPOA office at 989-275-9181.

Contact your Senator - (also see www.hlpoa.org for links, or www.mi.gov, click on legislation)

SENATOR	DIST.	PARTY AFFILIATION	OFFICE PHONE NO.	OFFICE E-MAIL
Allen, Jason	37	Republican	(517) 373-2413	SenJAllen@senate.michigan.gov
Anderson, Glenn S.	6	Democrat	(517) 373-1707	SenGAnderson@senate.michigan.gov
Barcia, Jim	31	Democrat	(517) 373-1777	SenJBarcia@senate.michigan.gov
Basham, Raymond E.	8	Democrat	(517) 373-7800	SenRBasham@senate.michigan.gov
Birkholz, Patricia L.	24	Republican	(517) 373-3447	SenPBirkholz@senate.michigan.gov
Bishop, Michael	12	Republican	(517) 373-2417	SenMBishop@senate.michigan.gov
Brater, Liz	18	Democrat	(517) 373-2406	SenLBrater@senate.michigan.gov
Brown, Cameron	16	Republican	(517) 373-5932	SenCBrown@senate.michigan.gov
Cassis, Nancy	15	Republican	(517) 373-1758	SenNCassis@senate.michigan.gov
Cherry, Deborah	26	Democrat	(517) 373-1636	SenDCherry@senate.michigan.gov
Clark-Coleman, Irma	3	Democrat	(517) 373-0990	SenIClark-Coleman@senate.michigan.gov
Clarke, Hansen	1	Democrat	(517) 373-7346	SenHansenClarke@senate.michigan.gov
Cropsey, Alan L.	33	Republican	(517) 373-3760	SenACropsey@senate.michigan.gov
Garcia, Valde	22	Republican	(517) 373-2420	SenVGarcia@senate.michigan.gov
George, Thomas M.	20	Republican	(517) 373-0793	SenTGeorge@senate.michigan.gov
Gilbert II, Judson	25	Republican	(517) 373-7708	SenJGilbert@senate.michigan.gov
Gleason, John	27	Democrat	(517) 373-0142	SenJGleason@senate.michigan.gov
Hardiman, Bill	29	Republican	(517) 373-1801	http://www.senate.michigan.gov/hardiman
Hunter, Tupac A.	5	Democrat	(517) 373-0994	SenTAHunter@senate.michigan.gov
Jacobs, Gilda Z.	14	Democrat	(517) 373-7888	SenGJacobs@senate.michigan.gov
Jansen, Mark C.	28	Republican	(517) 373-0797	SenMJansen@senate.michigan.gov
Jelinek, Ron	21	Republican	(517) 373-6960	SenRJelinek@senate.michigan.gov
Kahn, Roger MD	32	Republican	(517) 373-1760	SenRKahn@senate.michigan.gov
Kuipers, Wayne	30	Republican	(517) 373-6920	SenWKuipers@senate.michigan.gov
McManus, Michelle	35	Republican	(517) 373-1725	SenMMcManus@senate.michigan.gov
Olshove, Dennis	9	Democrat	(517) 373-8360	SenDOlshove@senate.michigan.gov
Pappageorge, John	13	Republican	(517) 373-2523	SenJPappageorge@senate.michigan.gov
Patterson, Bruce	7	Republican	(517) 373-7350	SenBPatterson@senate.michigan.gov
Prusi, Michael	38	Democrat	(517) 373-7840	SenMPrusi@senate.michigan.gov
Richardville, Randy	17	Republican	(517) 373-3543	SenRRichardville@senate.michigan.gov
Sanborn, Alan	11	Republican	(517) 373-7670	SenASanborn@senate.michigan.gov
Schauer, Mark	19	Democrat	(517) 373-2426	SenMSchauer@senate.michigan.gov
Scott, Martha G.	2	Democrat	(517) 373-7748	SenMScott@senate.michigan.gov
Stamas, Tony	36	Republican	(517) 373-7946	http://www.senate.michigan.gov/stamas
Switalski, Michael	10	Democrat	(517) 373-7315	SenMSwitalski@senate.michigan.gov
Thomas III, Samuel Buzz	4	Democrat	(517) 373-7918	SenBThomas@senate.michigan.gov
VanWoerkom, Gerald	34	Republican	(517) 373-1635	SenGVanWoerkom@senate.michigan.gov
Whitmer, Gretchen	23	Democrat	(517) 373-1734	SenGWhitmer@senate.michigan.gov
Cherry, John D., Jr.		Democrat	(517) 373-6800	Lieutenant Governor
Viventi, Carol Morey		Non-Partisan	(517) 373-2400	Secretary of State



Remembering ...

Paula J. Ruesser, age 62, of Orrville, Ohio, and Higgins Lake, who passed away Monday, Sept. 24, 2007, at her residence in Orrville, following a long battle with cancer.

Paula was born March 21, 1945, in Orrville, to Paul and Beatrice (Alleman) Schanz and married Dean Reusser on December 23, 1966. He survives. During her high school years, she competed nationally in AAU one- and three-meter springboard diving, trying out for the Olympic Diving Team in 1960. She graduated from Orrville High School, Class of 1963, and attended Ohio State University for three years, where she participated on the swimming team. She transferred to Bowling Green State University, where she graduated in 1968 with a degree in physical education and health. She worked as a temporary teacher and learning disabilities teacher for Oak Street Elementary and the Junior High in Orrville for several years. She was a member of Trinity United Methodist Church in Orrville, where she was active in many committees most recently serving as chair of the Administrative Council. She also participated in the Angels of Comfort, a church knitting ministry, and the Stephen Ministries, where she was called on for her own cancer experience and her faith to minister to other cancer patients.

Paula enjoyed spending time with her family and summering at Higgins Lake. She especially enjoyed sailing and just spending time out on the water.

The HLPOA offers our sympathy to Paula's family and extends our sincere appreciation for remembering us in her last wishes. Paula asked that memorials be sent to the HLPOA.



Office Central

by Pam Mills,
Administrative Assistant



Summer has come to an end, but you can't tell it by the weather. It's getting more beautiful around the lake every day—the colors are wonderful! We hope you all enjoyed your time at the lake these past few months.

On behalf of the HLPOA, I would like to thank those of you who send encouraging notes and comments throughout the year. These are passed on to our Board members who greatly appreciate your input.

As we are entering the fall we are beginning to gather information for the 2008 directory. To assure accuracy for your member information, please take a minute to look at your address information in the 2006 directory and let me know if there are any changes. You can send them via email to hlpoa@charter.net or give me a call at (989) 275-9181. We had a few data processing errors with our first in-house attempt at publishing the directory so we want to correct those and update your information as needed.

If you have questions or comments at any time, please contact the office; leave a message if I am not there. Your call will be returned by me or a board member. We appreciate hearing from you. Please check our website: www.hlpoa.org for current information.

Thanks to those who have already paid your 2007 dues!
We are enclosing a dues envelope with the newsletter for your convenience in making a donation to our legal, general or environmental funds. If you pay your 2008 dues early, please let us know, or we won't know where to credit your payment. If you are not sure if your 2007 dues have been paid, please call me at (989) 275-9181 or send an e-mail to me at hlpoa@charter.net.



The HLPOA gratefully acknowledges the following memorial contributions:

*In memory of Margaret C. Tucker
by Jack and Joanne Bouck*

*In memory of Paula J. Reusser
by Pat Emmenecker*

*In memory of Paula J. Reusser
by Pat and Vicki Springstead*

*In memory of Paula J. Reusser
by Carey & Jaskowski, P.L.L.C.*

*In memory of Paula J. Reusser
by Mr. and Mrs. J. W. Keener, Jr.*

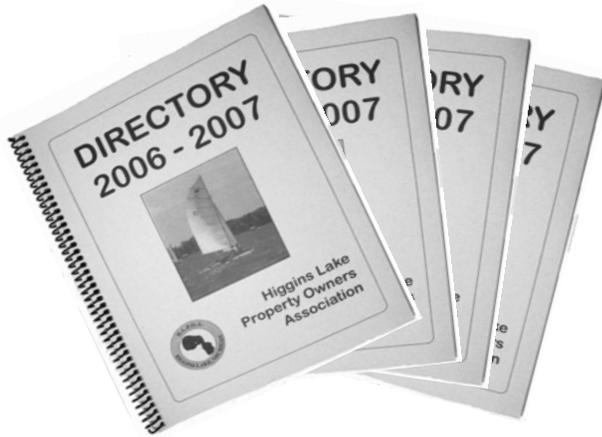
Have a "warm" winter. See you in the Spring



Photo of the "RAINBOW" cruising along the eastern shoreline of Higgins Lake this fall.



Coming soon the 2008-2009 HLPOA DIRECTORY.



The new HLPOA Directory will be out in Spring of 2008 - Please take a moment to review your listing in the 2006-2007 Directory and make sure it is ok. If not, please contact Pam at the HLPOA office to make corrections. Members with paid dues by the end of 2007 will be listed in the upcoming directory (unless otherwise requested).

Thank you!

HLPOA Annual Meeting

The Annual Meeting of the Higgins Lake Property Owners was held at the Roscommon High School in July of 2007, and was attended by approximately 236 registered members and guests. If you were not present at the meeting and would like a copy of the minutes, please contact Pam at the HLPOA office and request a copy.



Friends of Higgins Lake Award: Herb Weatherly (left) presenting the Friends of Higgins Lake Award to Stan Cooke (middle) and Bev Cooke (right). The award was presented to the Cooke's in honor of their extraordinary service to the HLPOA, the local community, and the preservation of Higgins Lake.

Swimmer's Itch Report

The summer of 2007 brought numerous complaints of cases of swimmer's itch. This uncomfortable but harmless condition is caused by an organism that burrows into the skin upon exiting the water, causing irritation and red itchy welts.

The offending organism is part of a life-cycle between waterfowl and about a dozen species of snails. Eradicating all the ducks and snails is not a desirable option, so a few precautions may be taken to reduce the possibility of getting swimmer's itch.



Towel off immediately upon exiting the water - that is when the organisms enter the skin surface. Apply a waterproof sunscreen containing an insect repellent before swimming, and try to swim in deeper water with some wave action. If you do get a case of swimmer's itch, use calamine lotion, and take baking soda baths - add three teaspoons of baking soda to a warm bath. If the itching persists or becomes unbearable, see a physician for an antihistamine prescription.

We have also heard that taking a bath as hot as you can stand and scrubbing the affected areas with soap may help.

Currently, talks are on-going with DNR and other experts and officials as to possible solutions to reduce the occurrence of swimmer's itch on Higgins



Lake and we will keep you updated with any progress. We sympathize with anyone who has been subjected to swimmer's itch and, rest assured, a number of our board members and their family members have managed to come down with rather severe cases of swimmer's itch themselves.

Unfortunately, some people blame all waterfowl for swimmer's itch and take it upon themselves to drown any birds they come upon on the lake by circling with jet skis or running over them with fast boats, shooting them and other methods. This is not only illegal, punishable by stiff fines and possible imprisonment, but it also endangers waterfowl species that have nothing to do with swimmer's itch at all.

We are especially concerned that such behavior may be directed at our Loon population. Please report any sightings of people operating watercraft or other equipment improperly around waterfowl, to local authorities or the DNR.

It is easy to become angry and frustrated with ducks and other waterfowl on our lake, especially when we see our young children suffering with the awful itching that swimmer's itch causes -- however, a few precautions and care will reduce the occurrence of swimmer's itch for all.

We are blessed with a beautiful natural resource that is home to many species of birds, fish and other animals. Let's find a way to live in harmony with them all.



Environmental Report

by Rick Meeks, Vice President

AQUATIC NUISANCES

The HLPOA continues to monitor the results other lakes are having with swimmer's itch eradication programs. While some lakes have shown a reduction in the number of infested snails, no one is claiming to have eradicated the nuisance, and any patterns of reduced incident reporting are unclear.

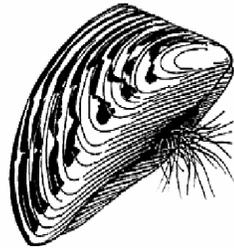
The presence of these aquatic nuisances (along with Eurasian water milfoil also reported on in this edition) continue to motivate us to establish and operate a boat wash on the Lake. The HLPOA is hoping, with the help of local DNR personnel, to clear another step in Lansing this October, and our goal is to have a boat wash functioning for the summer '08 boating season.



ZEBRA MUSSEL REPORT

Zebra Mussels continue to be problematic in Higgins Lake, although the summer of 2007 saw a definite reduction in the numbers of zebra mussels. Not much can be done to get rid of them short of killing off everything in the lake. A lot of research is being done and maybe one day we will have a solution. Some members have reported seeing fewer zebra mussels this summer. Data seem to indicate a natural ebb and flow in their numbers as over-population years create an over consumption of available food sources resulting in reduced numbers in following years, and we believe that is what we may be seeing now.

Unfortunately, the pumpkin seed sunfish that apparently consumes the mussels does not fare well in Higgins Lake, and the zebra mussels in our lake have very strong shells, unlike lakes with lower calcium levels, which makes them difficult for predators to consume.



Remember to wear protective shoes while swimming or wading in the water, as the edges of zebra mussels are almost as sharp as razor blades.

Many lake residents report removing the zebra mussel covered rocks from the water in front of their property in an effort to reduce the population. Zebra mussels will die out of water, and while this is labor intensive and may not be a solution for the entire lake, it does help by removing the sharp hazardous shells in areas where swimmers are likely to be walking.

FERTILIZER

Past soil sample testing on Higgins Lake near shore areas has found that the soil frequently has enough naturally occurring phosphorus to preclude the use of fertilizer containing phosphorus. A phone call to the MSU Extension Service office in Roscommon at 989-275-5043 and \$15 will get you an MSU laboratory test of your soil.

Please, if you are currently fertilizing or are considering starting, avail yourself of this service. Phosphorus was removed from laundry detergent by law years ago because of the damage it does to lakes and streams. Until the law is expanded to cover dishwashing soap and lawn fertilizer, homeowners need to use no-phosphorus or low-phosphorus products to protect our lake.

WATER QUALITY / PHOSPHORUS

The Michigan Lake and Stream Associations/DEQ Cooperative Lakes Monitoring Program water testing is completed for the year. The two deep sites we check (one in each bay of Higgins Lake) continue to give secchi disk readings (water clarity) of over 40 ft and the water quality, even at 100 ft, is some of the best in the state. However, we continue to be concerned about the amount of phosphorus entering the lake and the subsequent degradation of water



Marv Bolton and Rick Meeks conducting water testing.

quality in near shore areas. Primary sources of phosphorus include inappropriate fertilizer usage, improperly maintained septic systems and shoreline erosion.

SEPTIC MAINTAINENCE

As lakeside residences get used by more individuals for longer periods of time, many families have found it necessary to replace their old septic systems. In many cases, in order to insure a proper distance between the drain field and the water table, the new septic system is a costly pumped-up or engineered system. These new systems need to be pumped on a regular schedule to maintain the system and protect your investment. A properly functioning system should lessen the impact of the increased residential presence on the Lake. To further this goal, three HLPOA Board members have been appointed to a Gerrish Township Committee which has been charged with developing a proposed septic maintenance ordinance for the Township Board's consideration. Look for more on this in future editions.



LEGION SEWER SYSTEM

By the time this newsletter is in your hands, construction work on the sewer system for the American Legion area will have started. This is by far one of the most important projects on the lake in a long time, as this will solve an issue caused by very dense population right on the lake. We are hopeful that this system will serve as a model for other similar systems around the lake in the future.

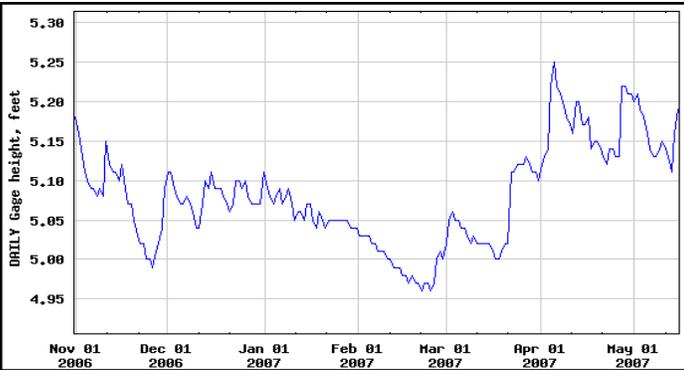
(continued on page 13)



WATER LEVEL

(continued from page 12)

The Higgins Lake dam was closed early last May and remained completely closed until early September. This past summer I was informed by a number of people that the water was down because “they have the dam open” or was asked, “Why won’t they close the dam now that the water is down?” Sometimes I heard this from people who have lived on and/or fished this lake for years. So I will repeat my opening statement. The dam was closed in early May and remained completely closed until early September. If you know someone who thinks the lake level was intentionally lowered by opening the dam rather than by evaporation, please make them aware of their misunderstanding.



Water level of Higgins Lake - Nov. 06 to May 07 Please note: the Dam was open during this entire time period, but due to heavy rains, the water level actually rose. The minimum winter level is 4.87, which was never attained.

The only surface water discharge from Higgins Lake, other than evaporation, is the Cut River. Even the new improved dam has an opening of only approximately 70 ft. The shoreline is approximately 21.3 miles. That means the only available surface outflow is approximately .0001% of the total shoreline. (Now that you have your calculators out to check my math, take a look at “Did You Know” on page 18 for some interesting facts about Higgins Lake.)



Water level of Higgins Lake - June 07 to Oct. 07 Note: The Dam was closed until late September this entire time period, and due to lack of rain, the level dropped. The maximum summer level is 5.37.

When the water level occasionally dropped an inch in a day or two this past summer, it didn’t leave through that 70 ft. opening in the dam. The water went up. Literally.

All those wonderful hot, sunny, breezy days lowered the lake level through evaporation. The lack of rain this summer also contributed, as the trees and vegetation around the lake were starved for moisture and drew water from the lake through their roots in a process called transepiration.

This summer, I also heard suggestions that the lake level should be raised to prevent the problems people had getting their boats off their hoists late in the summer. Boat hoists are generally positioned in the lake based on the water level on the day of their seasonal installation. If we experience another summer with limited rain and high evaporation, it won’t matter if we start the season one foot above the legal level. **Many boat owners are going to experience problems if they don’t reposition their hoists into deeper water toward the end of the summer.**

Unfortunately, in addition to not doing much to alleviate problems with boat hoists, high water has a disastrous impact on the shoreline of some areas of the lake. A trip around the lake close to the shoreline in a shallow draft boat will reveal numerous exposed tree roots where the shore has been undercut, trees that have fallen over into the lake, and seawalls that have been erected to prevent further shoreline damage - all signs of high water damage.



Example of severe erosion from high water, wave action and ice damage along the eastern shoreline.

Low water reduces shoreline erosion and the introduction of additional high phosphorus soil into the lake. Low water exposes sand, and sandy beaches are good for the lake. Through the wave action of water washing up on the sand, the lake is able to cleanse itself in ways it cannot on seawalls, rip-rap or eroded banks.

This is a difficult issue because half of the families on the lake are experiencing erosion and loss of beach and therefore want lower water level, while the other half of lakefront owners have no erosion but very shallow water and cannot get their boats off their hoists. Additional information about water level is included following this article.

Thanks to all the volunteers who assisted with the projects this year, including the many trips out onto the lake to perform the water testing tasks, and to all of you who continue in your efforts to preserve our unique resource, Higgins Lake.



HISTORICAL LAKE LEVEL

Before the turn of the century and the activity of the logging industry here at Higgins Lake, there was no dam in the Cut River, and the water level was much lower, fluctuating with the weather depending on how much rain or hot sunny days we had. The logging companies began controlling the water level in order to float logs down the Cut, and began by building up large boulders and rocks at the mouth of the cut river to raise the water level. When viewing aerial photographs of the lake, it is very clear that the lake level used to be a lot lower, and the line around the lake that used to be the old shoreline is quite evident. There are a number of people who feel the drop-off was, at some point, the original shoreline of the lake.

The current dam is relatively new, and before any actual gates were installed, there was a road built up on top of the boulders and it was used as a buggy trail before automobiles came into production. At some point, the road was moved back to its present position, farther down the Cut River, and the dam was installed, with additions taking place several times, until it reached its current configuration.



Aerial map of lake above with white line showing the historical shore line.

Visit www.virtualearth.com, and search hybrid maps to view the entire lake in higher resolution.

The lake level continues to fluctuate with the weather, and while the dam has just been improved and should make controlling the water level easier, the effects of weather, evaporation, transeaporation and run-off continue to be the major influence on the lake level. The lake is 9,831 acres, with a dam opening of 70 feet. It takes almost two weeks to lower the lake one inch through the dam, assuming no new rain occurs.

SHIFTING SANDS OF EROSION

Changes are taking place all over the lake, very slowly. A survey of the lake will show that the area in front of Pine Bluffs along the eastern side of Higgins Lake has become much shallower in the past 20 or 30 years, a trend that is becoming more and more apparent. Back in the 1960's and 1970's, the water along this area was shallow half way out, then steadily dropped off from about three feet to seven, eight, and ten feet until the drop-off. Today, it is possible for a normal height person to walk all the way out to the drop-off, with several areas being only up to the waist. If this trend continues, it is expected that within 15 to 20 years, there will be exposed sandbars and extremely shallow water all the way out to the drop-off.

Where has enough sand to raise the water level several feet in this huge area come from? All along this same shoreline, there are many instances of severe erosion, caused by wave action and ice damage. Over a long period of time, the water has stolen the sand through wave action, sucking it out into the lake, much like the undertow that one sees in the ocean. In the winter, ice expands and contracts, creating a pushing action against the shoreline, often piling up and loosening sand. Some of the sand is even incorporated into the ice in shallow waters, and then carried out into the lake when the ice melts or moves. When the waves return, this loose sand is removed and carried out into the lake. In many cases, trees roots are undermined and the trees topple into the lake.

In the past several years, the water depth near the drop-off from Flag Point northward has become much shallower, making the area attractive to boats that anchor for swimming and recreational activities. A count of the watercraft moored along the shoreline on peak weekends reaches 60 to 70 boats at a time, and there is concern that a practice known as "rafting" will take hold, which brings alcohol, drug and environmental issues.

A few lakes are beginning to address the issue of severe shoreline erosion and the resulting detrimental effects. Sebago Lake, in Maine, has begun to lower the water level in alternating years to try and gain back the sandy shoreline. By drastically lowering the water during the winter months, the ice pushes the sand from the shallows up onto the exposed beach, re-establishing the shoreline again.



Shoreline along Pine Bluffs, eastern shore of Higgins Lake where sandbars and shallow water have increased dramatically.

(continued on page 15)



EROSION

(continued from page 14)

Here at Higgins Lake, many areas around the lake have lost precious amounts of their shoreline property. Most areas report a loss of about three or four feet of property, but in select areas, the loss of property has been 20, 25, even 30 feet! The fact that this erosion occurs so slowly and over such a long period of time makes it difficult to see and really appreciate.

The sandy shoreline that Higgins Lake is so famous for is the mechanism that the lake uses to cleanse itself, removing debris, oxygenating the water and even controlling swimmer's itch. This sandy shoreline is in severe jeopardy from erosion and in danger of disappearing in the not-too-distant future, unless steps are taken to restore eroded areas.

The answer is not to install sea walls and rip-rap around the lake; this only compounds the problem and is not good for the lake. The shorelines need to be re-established for the well-being and health of the lake.

Changes in the water level are happening and are real, and have little to do with the dam, and more to do with the shifting sands of erosion. The water level can be a touchy subject as we all want the convenience of walking out, hopping in our boats and going. Contemplating changes in our life-style can be upsetting, as we sometimes think only of the short term, when in reality we should be looking long term into the health and well-being of our precious lake.

As stewards of the lake, if fifty percent of the lake has serious erosion issues, shouldn't we do something?

The HLPOA receives calls from all over the lake with reports of what is happening, and what we are seeing now is a serious concern with erosion that needs to be addressed.

When the health of the lake is at stake, it becomes a question of what is more important - restoring our shorelines and keeping the lake healthy, or being able to get our boats off their hoists. It's something that needs to be looked at in the future for Higgins Lake.

Reporting road end or riparian trespass in Gerrish Township.

Several instances of disturbances at Road Ends or on Riparian property during the summer of 2007 served to establish a procedure for reporting such incidents in the future.

Overnight Mooring: Overnight mooring is defined as a boat that is anchored or attached to the bottom of the lake for an overnight period of time. If a flagrant overnight mooring violation should occur at a road end or on riparian property, and does not involve any criminal activity, please call the HLPOA at 989-275-9181. If you call 911, you will be instructed to call the HLPOA to report the activity, and may receive a recorded message. We will call you back as soon as possible. Overnight mooring is a civil matter and is handled through the court system. Please be advised that if you report illegal overnight mooring, the HLPOA will pay for the lawsuit, but the reporting riparian must be willing to sign a complaint and testify in court in order for the case to have standing.

Criminal Activity, Public Disturbances, Dogs without Leashes, etc., should be directly reported to the police - dial 911 or call Gerrish Township Police directly. Lyon Township does not have a police force, but sheriff deputies will respond at their discretion.

The HLPOA Board meets once a month and the meetings usually last two to three hours.

F. Y. I.

HLPOA Board members also attend meetings impacting the health and well-being of Higgins Lake including:

- ✧ Gerrish Township Meetings
- ✧ Lyon Township Meetings
- ✧ Roscommon County Commissioners Meetings
- ✧ Roscommon County Road Commission Meetings
- ✧ Lake Access Committee Meetings
- ✧ Environmental Alliance Meetings
- ✧ House of Representatives and Senate hearing meetings in Lansing,
- ✧ and many more.

The HLPOA Board of Directors is an all volunteer board. HLPOA Board Members put in hundreds of hours each month in their various duties and activities and committees, and do not receive any compensation for their time spent at these meetings or for any other activities connected with the HLPOA. This is the Board's dedication to the HLPOA mission and the Board's commitment to insure member dollars and contributions will be spent furthering the causes of the HLPOA and not paying salaries of Board Members.

Higgins Lake Property Owners' Association Board of Directors

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Vice President	Rick Meeks
Secretary	Kathryn Bangs
Treasurer	Stan Cooke
Admin. Asst.	Pam Mills
Legal Counsel	William Carey
	Rich Jaskowski
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	Marvin Bolton
	William Case
	Brad Gibson
	George Scofes
	Laurie Smith Tudor
	Ed Trautz
	Herb Weatherly

Office: 989-275-9181
Fax: 989-275-9182
Website: www.hlpoa.org

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Milfoil Control

by **Marv Bolton (aka "the Milfoil Man")**

Another summer season has passed at Higgins Lake. The HLPOA had several work sessions to control the spread of milfoil using benthic barriers this season. Barriers were placed on milfoil patches at the drop-off between Point Detroit and Point Comfort and also on small patches just east of Flag Point. In addition, several barriers that had been down since last season were removed from the Point Detroit area and the Chaney Point area. After being in the lake for one or two seasons, the barriers are brought up and cleaned - which involves scraping and sweeping them off to remove the accumulated debris, fishing lures, sediment and zebra mussels. Steel pipes are then re-attached to two sides of the barriers to hold them open when they are placed back on the bottom of the lake. All of this was accomplished through the hard work of a group of dedicated volunteers. I would like to thank each of the people listed here for their contributions and apologize if I have omitted anyone.



<i>Bill Blamer</i>	<i>Bob Blamer</i>	<i>Marv Bolton</i>
<i>Becky Gibson</i>	<i>Andy Gibson</i>	<i>Rick Meeks</i>
<i>Ed Panyard</i>	<i>Dan O'keefe</i>	<i>Steve Shy</i>
<i>Wayne Scheoppach</i>	<i>Pat Springstead</i>	
<i>Vicki Springstead</i>	<i>Laurie Smith Tudor</i>	

These people donated their time (over 120 man hours) and equipment (scuba gear and boats) to make this effort possible.

The fight to control the milfoil is ongoing, and details of a milfoil survey in Higgins Lake, conducted by Huron Pines in late August of 2007, appear after this article. At least three large patches exist in areas near the Island, Point Comfort and Point Detroit, which may be too large to be controlled through the use of barriers alone and alternative methods are being considered. The barriers have proven to be very effective on the smaller patches where a group of barriers effectively cover the milfoil patch. At several locations virtually all of the milfoil has been eliminated, and they have remained milfoil free for years after the barriers are removed.

We plan to continue the barrier program next season. Additional volunteers are always needed, and anyone who would like to join in should contact the HLPOA office in order to be included in the planning for next year.

Thank you!

Milfoil Report

Brad Jensen, from Huron Pines, has provided the Higgins Lake Foundation with the 2007 Eurasian Watermilfoil report for Higgins Lake for the 2007 season. Accompanied by HLPOA and HLF board members, Brad conducted a comprehensive survey of the lake late this summer.

Eurasian Water Milfoil (*Myriophyllum spicatum*) is an invasive exotic species with the potential to disrupt a lake's ecological system and interfere with recreation. It is generally thought to have first entered lakes in North America in the 1940s. Eurasian Water Milfoil (EWM) is a concern because it can rapidly colonize lakes and spreads easily by fragmentation. This plant can grow up to the surface of the water and form extremely dense mats, inhibiting boating and swimming. It also crowds out some of the more ecologically beneficial aquatic plants that would otherwise grow. Once established, Eurasian Water Milfoil is very difficult to remove and can be spread from lake to lake by boat traffic.

Huron Pines conducted a detailed EWM survey in 2002, and subsequent reconnaissance in 2003 and 2005 which were conducted to characterize what, if any, change in EWM distribution was occurring within the lake.

Effective control of Eurasian Water Milfoil in Higgins Lake should continue to be based on the concept of long-term management for protecting water quality. EWM has been detected early enough, that, if controlled with an integrated approach, it may never become a nuisance. Education, prevention, and monitoring, along with control options such as weevils, benthic barriers, and physical removal of the small plant beds that are starting to colonize, along with limited chemical treatment, can prevent the type of costly lake problems seen elsewhere. The above strategy, based on the EWM survey results and the type of lake, is tailor-made for the long-term health of this lake ecosystem.

(continued on page 17)

If you are a SCUBA diver and want more reasons to get into the water, or can provide a boat (especially pontoon boats for a dive platform and on-water support) or if you want to be a deck hand, bubble watcher or shore supporter, please contact



Marv Bolton (734-769-4809, 734-478-2499, or mgbsail@peoplepc.com) or the HLPOA office at hlpoa@charter.net. Your payback is working with some great people, getting out on beautiful Higgins Lake and improving our favorite resource.



MILFOIL REPORT *(continued from page 16)*

The 2007 report highlights sites of interest in Higgins Lake and recommended action for 2008.

The survey was a visual assessment of sites identified in previous years by staff as sites of interest. Brad Jensen accompanied representatives from the HLPOA and HLF via watercraft on August 28th and September 9th to the priority sites.

Photo shows a benthic barrier up against a wall of milfoil - this particular barrier is at one of the most problematic sites - difficult to control with barriers due to the size of this milfoil patch.



Due to depth of water, much of the lake is not suitable for EWM growth. Based on interpretation of aerial photos, approximately 3,129 acres of Higgins Lake could be classified as potential habitat for EWM. (Higgins total area is 9,831 acres) Shallow bays, the drop-off, areas with debris on the lake bottom where EWM can gain a hold, boat hoists and boat launches are the most likely locations for the establishment of EWM weed beds within this priority area. Higgins Lake has very few native aquatic plants.

As in 2005, Huron Pines staff members were impressed with the effectiveness of the benthic barrier as a EWM control measure. In two specific areas, the barrier treatment has not been used for at least two full years and the EWM has still not returned. For smaller sites in the 400 square foot range that are not along the lake's drop-off, this seems to be the best available method for controlling EWM in Higgins Lake.

Chemical treatment use for EWM control in the lake has been very limited, exclusive to the three DNR boat launch sites on an every other year basis. This should continue, along with a slight increase through the use of spot treatment at three additional locations. Three sites in the north basin of the lake, one along the drop-off between Point Comfort and Point Detroit, another along the drop-off north of Point Detroit, and a third site off the southern tip of Treasure Island all have fairly extensive growths of milfoil, and appear to be gradually increasing in size, and therefore present a real challenge through any other control measure.

While we have not observed significant impact from the weevil placement in 2004 at sites along Flag Point and at B&B Marina, it is worth noting that the Flag Point site appears to be stable in size while comparable sites along the drop-off are increasing, namely the three sites mentioned above. This may or may not be due to the planting of the milfoil weevils and it would be worth further study.

Huron Pines would recommend collecting plant samples from the Flag Point site and two other control sites in the lake and sending in the plants for a biologist to essentially count milfoil weevils and, if they're found on plants at the control sites, compare the density of weevils from the Flag Point site to the other control sites.

The southeast section of the lake, between the shoreline and the drop-off and out from Chaney Point Drive, continues to see the placement of large woody debris structures (brush bundles) on the bottom of the lake. These are likely placed by anglers looking to increase habitat. Unfortunately, once this material is placed on the lake bottom, it quickly transforms the site into an area that is easy for plants to establish. At this point in time, EWM is quickly establishing itself at these locations and is completely taking over. Several new sites were discovered this year and there are likely a few more that have not been found. While this activity is not being permitted by the Michigan Department of Environmental Quality at this time, it seems that an education effort targeted at land owners and recreational users (ice fisherman) is needed. The unnatural placement of woody material in an area of the lake that would otherwise not have these brush bundles is creating a problem that will need to be addressed in order for the EWM control program to continue effectively.

Huron Pines is a not-for-profit organization that conserves the forests, lakes and streams of Northeast Michigan by bringing together technical, financial, and people resources. Their organization is thankful to the following groups and individuals for making the above report possible:

- Higgins Lake Foundation for providing project funding and Bill Baker from HLF for taking the time to look at EWM sites and provide information.
- Steve Rodock from the US Department of Agriculture-NRCS for technical assistance in the creation of the project maps
- Laurie Smith Tudor, Marv Bolton, and Rick Meeks from the Higgins Lake Property Owners' Association for supplying project information and for their continued efforts in the control of EWM through the SCUBA volunteer benthic barrier program. Special thanks to all of the other divers who have also made that effort a success.
- Pat and Vicki Springstead for providing their watercraft, fuel, and time.



Brad Jensen from Huron Pines looking through the glass-bottom viewer to survey the milfoil patches in Higgins Lake. Three large patches were identified that may need to be treated with chemicals.

Recommended Treatment of Milfoil in Higgins Lake for 2008

The HLPOA has been very active in the treatment of milfoil in Higgins Lake, and our work with the Benthic Barriers (heavy felt-like material that blocks out light) has been enormously successful. This past summer, as we placed barriers on a huge patch of milfoil located along the drop-off near Point Comfort, it became very obvious that attempting to control this large area of milfoil with barriers was not going to work. The three large milfoil sites (circled in white) are along drop-off areas.

This past summer, barriers were placed on the large patch of milfoil along Detroit Point, on the drop-off. The bottom of the lake at this location is silt, and does not provide a stable surface to anchor the barriers. One of the barriers on this site actually slid down the drop-off and ended up in 62 feet of water. Fortunately, we were able to locate and retrieve this barrier.

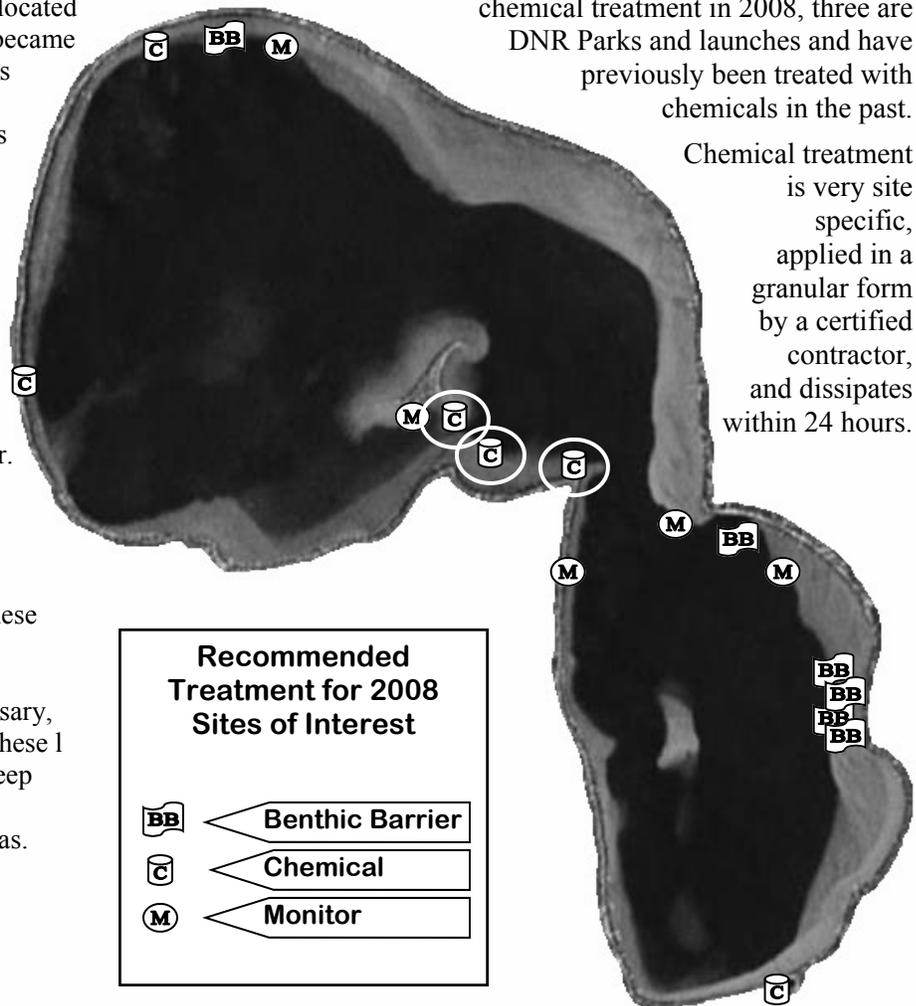
Because of the size of these three sites and the difficulty of placing barriers securely, and the fact that the barriers cannot effectively cover these large areas of milfoil, it is being recommended that these three sites be treated with chemicals.

While the HLPOA is only in favor of chemical treatment when absolutely necessary, we are very concerned about eliminating these large patches of milfoil as they will only keep spreading and will eventually completely overtake the native vegetation in these areas. We are currently researching the use of chemicals, their application, types of chemicals and their impact, and will keep you updated.

Please see the complete MILFOIL REPORT starting on page 16.

Of the six milfoil sites recommended for chemical treatment in 2008, three are DNR Parks and launches and have previously been treated with chemicals in the past.

Chemical treatment is very site specific, applied in a granular form by a certified contractor, and dissipates within 24 hours.



Did you know ???

Higgins Lake

- ◆ size - 9,831 acres
- ◆ 1 acre = 43,560 square feet
- ◆ Higgins lake contains 428,238,360 square feet
- ◆ 1 inch of water equals 35,686,530 cubic feet
- ◆ 1 cubic foot = 7.4805 gallons
- ◆ 1 inch of water equals



Cut River Dam Flow

- ◆ 3 inch deep flow equals 34 cubic feet per second (cfs)
- ◆ 2,937,600 cfs per day through the dam opening
- ◆ 21,947,716 gallons per day through the dam
- ◆ it takes 12+ days to lower the lake level by one inch of water.



Press Release - Indian Treaty

Another threat to our lakes and streams has been negotiated away - one that only a few of you may be aware of. Native Americans recently settled a dispute over their rights to fish, hunt and use land, and the details are included here in a report from the Mullet Lake Area Preservation Society.

The issue of the Indians has been mostly concentrated in Northern Michigan and we here at Higgins Lake have not been personally exposed to the issues. A gentleman who owns a cottage on Elk Lake, near the Traverse City area, used to tell stories about the Indians coming to his lake and using big fishing nets, running from one end of the lake to the other, taking thousands and thousands of fish. Then, in the late summer when fishermen weren't catching any fish, they would naturally blame the Indians, yelling "The Indians got them all!"

It was a source of aggravation for everyone, the lakefront property owners and others who fish the lake, and the Indians justifiably trying to prove that they still had a right to what had been taken away from them.

Can you imagine how we here at Higgins Lake would feel if a band of Indians descended on our property, used it to gain access to the lake and went out onto the lake and spread their nets and pulled them from one end to the other, taking all the fish they could carry? Each Indian was allowed to take one hundred pounds of fish per day.

Finally, this issue has been settled, and the Indians will now abide by the same hunting and fishing laws we all must abide by, except for a few exceptions, and the Indians will continue to find justice for the horrible way they were treated through another form - legally - with something called a casino.

The Mullet Lake Area Preservation Society (MAPS) reports:

"Thirty years worth of litigation and negotiation between five Michigan tribes, the United States and the State of Michigan over the scope of hunting, fishing and gathering rights retained by the Tribes in an 1836 Treaty has drawn to a close. Two years of negotiations have now defined the scope of the Tribes' ability to fish, hunt and gather on northern Michigan lands. The Mullet Lake Area Preservation Society, which participated as part of a coalition of fishing, hunting and private property owner groups in the case and negotiations, has reviewed the proposed settlement. Though it does not contain everything we might have wanted, the settlement preserves and protects important fishing resources, private property rights and opportunities for our members.

TREATY BACKGROUND. Treaties within Indian Tribes are the supreme law of the land and all state governments and judges are bound by them. In 1836, the U.S. Government entered into a treaty with five Michigan tribes wherein the tribes relinquished lands in exchange for compensation consisting of money and goods.

Under the Treaty, the Tribes retained certain hunting, fishing and gathering rights on treaty lands until those lands were "required for settlement". Previous Supreme Court Decisions have ruled that the passage of time cannot erode treaty rights and in 1979, a Michigan Federal court ruled that the waters of the Great Lakes can never be settled. The Court's ruling at that time did not address inland lakes and streams, however.

In 2003, litigation began to test whether the Michigan Tribes still had any inland right to fish and hunt. Tribal experts claimed that the 1836 Treaty at issue reserved to Michigan Tribes a right to hunt, fish and gather on any public or private land that was outside a city or village or a working farm. They also testified that the right to fish free from state regulation existed on all lakes and streams within the treaty area.

MAPS joined the litigation, as part of a coalition of 13 organizations that included lake property owners, associations, hunting associations, and other sport-fishing groups. MAPS has been very active in the coalition since joining it, and has been able to have direct input into discussions over the potential impact of tribal activity on Michigan's cold water streams.

After the depositions, the State, the Tribes and we decided to explore a negotiated resolution of the Treaty issues instead of relying on one judge to make a decision. In Minnesota and Wisconsin, where the treaty issue was litigated in federal court, the courts awarded the Tribes 50 percent of the take of many of their important fish and game species. After careful consideration, the Coalition decided that this was a risk it did not want to take.

THE SETTLEMENT. MAPS entered into the litigation and the negotiations with the goal of defining the core values held by MAPS and Michigan anglers generally - ensuring healthy and sustainable fish populations and fishing opportunities along with protecting private property rights.

The settlement is complex and covers more than 115 pages. For the most part, Tribal treaty rights will be consistent with state laws regulating hunting and fishing. Private lands will not be available for tribal use unless they are available to the rest of the public or the property owner grants specific permission. Included in the settlement are provisions that protect specific game and fish species and that require the application of the principles of sound management. Some points of the settlement will cause consternation among Michigan's sportsmen and women, except when compared to what a court decision did in Wisconsin and Minnesota. The rules in both Wisconsin and Minnesota allow those tribes to commercially harvest several species.

Of particular interest to MAPS members will be the following provisions in the settlement:

- (1) Privately owned lands will not be available for tribal use unless they are available to the general public or unless a landowner grants specific permission.
- (2) Gill nets will not be allowed in inland lake and streams.
- (3) Commercial harvests are not allowed.
- (4) Fish snagging will not be allowed.
- (5) No fishing in private lakes is allowed without permission.

Areas of concern are increased spearing of walleye in lakes and steelhead and salmon in some streams.

The Settlement is complex and comprehensive. There are numerous other provisions that directly affect fishing and hunting in the treaty area. To view all of the provisions, you may obtain a copy of the settlement from the State of Michigan's website at www.michigan.gov/dnr. Additional information on the agreement and a comparison of Wisconsin, Minnesota and the Michigan settlement are available at www.mucc.org.

Thanks to the Mullet Lake Area Preservation Society for their work in this important settlement.

For a copy of the Mullet Lake Report, please contact the HLPOA office at 989-275-9181 or hlpoa@charter.net



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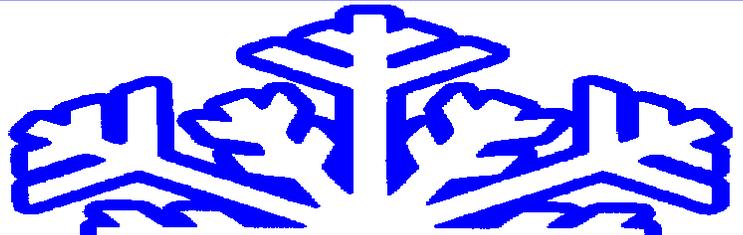
Mission statement:

The mission of the Higgins Lake Property Owners' Association (HLPOA) is to protect, preserve, and enhance the quality of Higgins Lake and its surrounding watershed.



Water Lines is published by the
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Visit HLPOA online at www.hlpoa.org



***Have a safe and happy
winter and holiday season !***

We have enclosed an envelope for your convenience in sending in contributions to our general, legal or environmental funds. If you have already paid your 2007 dues, we thank you, and if not, please forward them now.

If you pay your 2008 dues early, please let us know so your payment will be properly recorded.

Contact Pam at the HLPOA office if you have a question about your dues.

A full-color version of this newsletter is available at www.hlpoa.org