

# INDIAN PONDS ASSOCIATION

Mystic Lake, Middle Pond and Hamblin Pond

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August 2001

Newsletter

Vol. 1 No. 2

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## APPROACH TO HERRING LADDER AND RUN DRIED UP

**HAVE YOU NOTICED THE LOW WATER LEVEL IN THE POND?** IPA board member, Sheila Place, has reported that the water level in Middle Pond dropped to 43 ft. 8 in. above mean sea level on August 2. The historic safe level was set at 44 ft. above mean sea level in 1969, and this is the level indicated on the USGS topographical maps. Although the Barnstable Department of Natural Resources installed a board in the herring ladder to close the run on July 24, the board was unfortunately smaller than those used in the past and water continued to drain out of Middle Pond through the channel to the ladder and out the run. By August 8, the channel in front of the ladder had dried up and receded a distance of about 6 ft. from the ladder and by the next day a distance of about 25 ft. By August 13, because of the continuing drop in the level of Middle Pond, the only water remaining in the channel between the pond and the herring ladder was a small shallow lagoon totally cut off from the pond. As of August 16, the reading was at 43 ft. 2 in. above mean sea level.

**WHY ARE OUR PONDS SO LOW?** Everyone is asking why the water levels of the ponds are so low. Although many reasons have been cited, such as groundwater level, annual precipitation, and evaporation, some residents feel that leaving the Middle Pond herring ladder open all winter, spring, and much of the summer has had a major impact on the current low level. Those who have monitored the levels of the ponds over the years are aware of the annual fluctuations and can recall years of high as well as low level. We are unable to control the natural factors that influence the water level, but in light of the continued growth on Cape Cod, the increasing demand this has placed on the groundwater aquifer that supplies the Cape, and the fact that our ponds are connected to the aquifer, makes it all the more important for us, as stewards of our natural resources, to ensure and insist on the wise husbandry of the water in our ponds by our town officials. Studies on the Cape have found that water travels through the ground relatively slowly (e.g., only about a foot per day) into and out of the ponds. In contrast, the outflow from surface streams (e.g., herring runs), if unregulated, can have a major impact on the water level of a pond. It was found that the herring run on Mashpee-Wakeby Pond, if left open, could lower the level of that pond by about 1 inch every 1-2 days). Clearly then, the failure in recent years by the Town of Barnstable to adhere to a rigorous schedule of opening and closing the herring run at appropriate times of the year is a practice that must be rectified in the future in order to prevent the wasting of precious water from our ponds.

## APPEAL TO THE MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION.

The Massachusetts Department of Environmental Protection (DEP) recently acknowledged receipt of an appeal submitted by fifteen residents of the Indian Ponds area seeking to overturn the July 11 decision by the Barnstable Conservation Commission to approve a proposal by the Town of Barnstable Department of Public Works Engineering Division, the Three Bays Preservation, Inc., and the Massachusetts Division of Marine Fisheries to lower the Middle Pond herring ladder by 1.6 ft and to keep the ladder open for as long as any herring (alewives) are observed in the vicinity of the ladder.

**NATURAL HERITAGE & ENDANGERED SPECIES PROGRAM CONTACTED.** Copies of the appeal submitted to the Massachusetts DEP have also been sent to the DEP's Natural Heritage & Endangered Species Program in Westborough in order to draw the Program's attention to one of the concerns expressed in the appeal relative to the potential danger to the habitat of several species of rare and endangered mussels and other invertebrates which reside in Middle Pond and Mystic Lake if water levels are permitted to drop by virtue of the lowering of the Middle Pond herring ladder/run by the proposed 1.6 ft. Those who submitted the appeal have also requested, from the Program, all available information on the rare and endangered species in the two ponds for use in the appeal process.

**ON-SITE INSPECTION AND HEARING SET FOR AUGUST 30, 2001.** The Massachusetts DEP has announced that an on-site inspection and hearing will be held at the Middle Pond herring ladder/run beginning at 10:00 AM August 30, 2001. The purpose of the meeting is to give all parties the opportunity to express their opinions about the proposed lowering of the ladder by 1.6 ft. DEP officials have indicated that a decision on the appeal will not be rendered for several months. All concerned residents and Indian Ponds Association members are invited and encouraged to attend the hearing to provide testimony and convey their opinions.

**IPA BOARD INITIATES LEGAL ACTION RELATIVE TO PROPOSED LOWERING OF HERRING RUN.** At its August 13 meeting, in order to protect our legal right of appeal, the IPA Board of Directors voted unanimously to seek legal advice and assistance pertaining to the filing of an injunction in Barnstable Superior Court to prevent the lowering of the Middle Pond herring ladder/run. Since the IPA, at its July 28 annual meeting, had endorsed the appeal and voted to cover some of the costs associated with its submission, the Board, at its meeting, went a step further and unanimously agreed to proceed with legal action as an alternative approach in the event that the appeal is denied by the Massachusetts DEP. Board member Ed Schwarm, who had earlier launched a search for a suitable attorney to represent the legal interests of the signers of the appeal, was empowered by the Board to interview and engage an attorney. Mr. Schwarm subsequently met on August 16 with Attorney Michael Stusse of West Yarmouth, who is very familiar with the geography and hydrology of the area and is a former member of the Barnstable Conservation Commission. Mr. Stusse has reviewed the merits of our case and advises us that we have a very strong position. He recommends that we take our case to Superior Court.

**IPA ANNUAL MEETING A BIG SUCCESS.** The Annual Meeting of the Indian Ponds Association was held on July 28, 2001 at Ted Elliott's home on Indian Pond Point. After the secretary's report of the year's activities, the assembled group heard four speakers: the first, Dr. Emory Anderson, a fisheries expert formerly with the National Marine Fisheries Service in Woods Hole and now in Washington, DC, explained the substance of the Appeal of ConCom's order of conditions (which would allow the lowering of the fish ladder by 1.6 feet and the boards to be pulled whenever there is a fish in sight). The second speaker was Mark Nelson, hydrologist with Horsley and Witten (message covered already, see p. 1, second article). Mr. Hid Welch of the Wequaquet Lake Protective Association spoke to us regarding their organization and oversight of the health of Wequaquet Lake. Mr. Jim Childs was the fourth speaker whose message was on "a management action based on common sense".

It was moved, seconded and unanimously voted to 1) endorse the action of those persons filing the Appeal, 2) to pay the filing fee and mailing expenses, and 3) to look into 501(C) 3 status. The slate of officers and directors was also voted unanimously - along with two directors, Dr. Anderson and Mr. Frazee who were nominated from the floor.

**FIRST MEETING OF NEW IPA BOARD HELD.** On August 13<sup>th</sup> the Indian Ponds Association held its first meeting of the new board at Mr. Elliott's home. A motion made and seconded to override the June 2 consensus (which had been to agree with Engineering as long as a management plan was in place) was voted unanimously. (This in effect was to start from a 'clean slate' - especially in view of the late night June 12<sup>th</sup> ConCom's controversial amendment to the management plan.) Dr. Anderson's opinion was that with a proper management plan in place there was no need to lower the ladder. Through a motion made, seconded and voted unanimously Mr. Schwarm was given authority to engage an attorney to do the necessary filing in Superior Court, which is accepted procedure.

Upon motion made and seconded, it was agreed that Geri Anderson would continue the IPA Newsletter, the next issue to be in advance of August 30, the date of the on-site hearing. It was noted that Mr. Hamblin would be happy to explain the "bog system" to a small group. Mr. Kavanagh suggested representatives to act as liason to various groups and topics; it was agreed and assigned. (See secretary's minutes.) A new board meeting was set for Thursday, Sept. 6 at 7:30 pm at Mr. Elliott's home. Topic: herring run material, specifically to prevent leakage.

**OLD PHOTOGRAPHS OF SHORELINE DURING LOW POND LEVELS NEEDED FOR DEP HEARING.** Residents have shared stories of the times when the water levels in the ponds were so low that it was possible to drive a car around the shoreline. This has happened in the past with the present level of the cement fish ladder at the south end of Middle Pond. If the ladder is lowered by 1.6 feet and the water in the ponds is allowed to run as it did this year, what will the shoreline look like during a drought year? Please look through your old photographs and if you have some that show the shoreline during drought conditions, contact Geri Anderson at (508) 420-2303 so that copies of the photos can be made for documentation at the DEP Hearing.

**USE WATER WISELY!**

**THE CAPE IS A "SOLE-SOURCE AQUIFER".** The Cape Cod Commission's Water Resources staff has pointed out that "the Cape gets approximately 42 inches of rain and snow each year to recharge our freshwater supply. Because this supply represents our only source of drinking water, the Cape system has been designated a sole-source aquifer by the federal government . . . Within this single aquifer are found six areas of elevated groundwater, called lenses. They are named by their location: Sagamore, Monomoy, Nauset, Chequesset, Pamet, and Pilgrim. Their elevations and tidal rivers prevent the groundwater from passing between lenses." The Indian Ponds (Mystic, Middle, and Hamblin) are in the Sagamore lens.

**A GOOD SNOWFALL NEEDED.** According to Centerville-Osterville-Marstons Mills Water Department Superintendent, Craig A. Crocker, a good snowfall next winter would greatly enhance our aquifer. Snow is important because it usually melts slowly and seeps into the ground. Rain is always welcomed, but often falls on hard, dry soil and runs off rather than seeping into the ground. According to Crocker, the snowfall of 1993-94 was especially good for our aquifer.

## MEMBERSHIP - MEMBERSHIP - MEMBERSHIP

**A MESSAGE FROM IPA VICE PRESIDENT, TED ELIOTT.** As you read through this newsletter, you will notice that your association has been very active on many fronts, the most important being the preservation of our most precious bodies of water (Mystic Lake, Middle Pond, and Hamblin Pond). These gems and all of the flora and fauna that are supported by them **MUST** be preserved. This is why your moral and financial support is essential. Please take a moment to fill out the enclosed membership form and mail it with your \$10.00 check for a one-year family membership in IPA. Please share this information with your neighbors around our lakes. We do not yet have all of the addresses of residents, so share your copy with others. Your association needs all the support it can get. Feel free to photocopy both the newsletter and the membership forms and pass them on.

## JOIN THE INDIAN PONDS ASSOCIATION

### IPA membership is open to

- all property owners whose land abuts any of the three ponds (Middle Pond, Mystic Lake, and Hamblin Pond)
- or is close enough to be affected by happenings thereon,
- ***but*** not exceeding one lot depth across the bounding highways from the lake area district (***starting at Race Lane east to Route 149, south to Lovells Lane, west to River Road, northwest to Bog Road, north to Old Mill Road, and ending again at Race Lane.***)
- To join the IPA, fill out the application form below and send it with a \$10.00 check made out to **Indian Ponds Association, P.O. Box 873, Marstons Mills, MA 02648.**

### APPLICATION FORM

Name\_\_\_\_\_

IPA Property Address\_\_\_\_\_

Mailing Address\_\_\_\_\_

Telephone Number\_\_\_\_\_E-mail Address\_\_\_\_\_

\_\_\_\_\_ Please find enclosed check for \$10.00 for a one-year family membership in IPA.

Signature\_\_\_\_\_

**INDIAN PONDS ASSOCIATION BOARD MEMBERS**

**2001-2002**

President: Kevin Kavanagh

Vice President: Ted Elliott

Secretary-Treasurer: Carolyn Garbutt

**Board of Directors:**

Emory Anderson

Joe Brown

Robert Frazee

John Hansen

John Kayajan

Bruce McHenry

Sheila Place

Edward Schwarm

*A Very Important*

# **On-site Inspection**

**Will Be Held at the  
Middle Pond Herring Run**

## **August 30, 2001**

## **10:00 A.M.**

*Details Inside*

**Indian Ponds Association**

P.O. Box 873

Marstons Mills, MA 02648

# **First Class Mail**