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Designed and published
for stream and lakefront
property owners and
enthusiasts.



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FROM THE PUBLISHER



Fall Has Arrived

In this issue of *The Michigan Riparian* magazine, Finch Lake is the featured cover piece. Located in Cass County, Finch Lake's story centers around the history of two dams—McMillian and Finch Lake. Controlling lake levels was a major goal, and the two dams were essential to achieving that goal. Dynamite destruction, reconstruction and the people behind the action are all part of Finch Lake's story.

In Cliff Bloom's "Attorney Writes" section, he outlines three Michigan court rulings regarding deed restrictions, plats and road ends. He offers a clear and concise explanation of what deed restrictions are and how they apply to properties throughout Michigan.

Cliff also shares the legalities of dock, swim raft and pier length in Michigan inland lakes. Make sure your dock, pier or swim raft complies with the law and does not create a hazard to navigability. See the "Hazards to Navigability" article for more details.

In case you missed the MLSA Annual Conference, there is a brief summary of the breakout sessions and the topics that were discussed at Crystal Mountain this past spring. The annual conference was a huge success, and plans are already in the works for the 2020 Annual Conference at Crystal Mountain Resort next spring. You won't want to miss it.

Loons are usually synonymous with lake living. Read up on the fascinating facts about these birds and familiarize yourself with their habits and patterns.

We thank one of our readers for citing an error in our summer 2019 issue. See page 12 for the correction to the article "Wake Boats, Again".

Don't forget to share with us your fall photos and fall happenings taking place on your lake. We always love to hear from you.

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CONTENTS

- 5** Cover Story:
Finch Lake
- 13** Attorney Writes:
Deed Restrictions
- 14** Ask The Experts:
Legislative Updates
- 15** Lake Happenings:
Glen Lake
- 16** MLSA's 58th Annual Conference Report
- 23** Lifetime Members of MLSA
- 25** Why All These Weeds?
- 27** Love My Lake:
Frequently Asked Loon Questions
- 30** Cliff Bloom:
Hazards to Navigability



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FINCH

Lake

By Jerry Britton,
Finch Lake Association Board Member/Officer since 1974

Chris Brooks, President, and
Tracy Johnson, Vice President, Finch Lake Association



Photo Credit: Tracy Johnson

Channel leading into Finch Lake from Big Fish Lake, looking west

(Continued on page 6)

FINCH

(Continued from page 5)

Lake



Photo Credit: Dudley Thompson



Photo Credit: Jerry Britton

1995 Finch Lake paddle boat race



Photo Credit: Donna Copp

Finch Lake, Cass County, Michigan

Finch Lake is nestled in the northeast corner of Cass County. Finch Lake is a 114 acre full recreation lake approximately 36 feet deep at its deepest point with access to five other lakes. Two of these are local names and are not on DNR maps. Little Fish Lake and Mud Lake are the other two recognized by locals. We are connected to Big Fish Lake, East and West Saddlebag by scenic channels. This makes a total of 565 acres of water accessible by boat. We are located in Volinia Township with a small portion in Marcellus Township with the other lakes in our chain. Finch is one of 36 lakes within six miles of Marcellus, Michigan. For us in Volinia Township, there is a high speed boating ordinance, which limits high speed boating from 11 AM to 7:30 PM DST, according to Volinia township ordinance 1975-3.

A Little History

Keeping the channels open to boat traffic has a long history. The McMillian Dam was the first to raise the water levels. This dam was used by many for milling purposes and is currently owned by Cass County. A second dam was built in 1942 to keep the water levels at the legal limit. The following is an article published by Cass County about the dams.

BRIEF HISTORY OF MCMILLIAN DAM AND FINCH LAKE DAM

By Allen F. Butchbaker,
Cass County Drain Commissioner

McMillian Dam

This dam was originally constructed in 1835 by Alexander Copley for a sawmill owned by Henry George. High water washed out the dam in February 1917, when the dam was owned by William McMillian.

Attempts were made to repair the dam; however, local farmers preferred the lower level. In the meantime, resort owners on Big Fish Lake preferred a higher level. The dam was dynamited twice after rebuilding in the early 1920's.

Around 1940, renewed interest in establishing a high level for Finch Lake, Big Fish Lake and other connected lakes was developed. The McMillian Dam apparently was not considered as a prime site for controlling the lake levels due to a lingering controversy and threat of an injunction. Instead, a site was used where an old bridge and Dowagiac Creek crossing was established in pioneering days. This was located about 200 feet from the outlet of Finch Lake.

Finch Lake Dam

One of the owners at this site also objected and threatened legal action. However, the court decision as to a legal level did not specify location and apparently the first feasible site was used. Circuit Judge Glenn E. Warner established the legal level for Fish, Saddlebag and Finch Lakes at 864 feet above sea level on October 30, 1940.

(Continued on page 9)

Photo Credit: Cass County Newspaper



Level Control Structure (Breach of Embankment - Southside)



Upstream Pond (Sand Bags on North Embankment)



Level Control Structure (Breach of Embankment on Right)



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FINCH Lake

(Continued from page 7)

Businessmen of the vicinity provided money for purchase of the land for the Finch Lake Dam and its construction. Warranty deeds were recorded September 23, 1942 between the Goodspeeds, et al and County of Cass and the Chamberlains, et al and County of Cass. This dam was constructed in 1942-43 by C.J. Bradt.

McMillian Dam Restored

Per an article in the June 26, 1949 Marcellus News by B.C. Hibberd, a local historian, McMillian Dam was restored in 1949. After the Finch Lake Dam restored the lake levels, the millpond still had a low water level. Apparently, one man blocked any attempt to restore the dam from 1941 to 1949. Mr. Bradt persisted in his efforts to restore the dam and obtained a signed permit from every one of the individuals who owned shoreline around the old millpond.

A June 23, 1949 Marcellus News article also mentioned Charlie Bradt procuring the right to construct the dam (site of the old McMillian Dam). Lyle Romig constructed the dam. A quit-claim deed, dated June 20, 1949 and recorded in Liber 205, page 51, was negotiated with Margaret J. Goodspeed conveying the dam to the County of Cass along with rights to erect and maintain a dam at an elevation not to exceed 864 feet above sea level. No mention was made as to who provided funds for erection and maintenance of the dam.

Summary

It appears that both the Finch Lake Dam and the McMillian Dam are at 864 feet above sea level.

The Finch Lake Dam, constructed in 1942, controls the lake levels per the 1940 court order for Finch Lake, Big Fish Lake and Saddlebag Lake. The McMillian Dam was reconstructed in 1949 and was restored primarily to increase the water level in the millpond.

Sources

Marcellus News, DEQ files, Cass County Mills by Stan Hamper, Various correspondence and deeds and court orders.

(Continued on page 10)



Photo Credit: Tracy Johnson

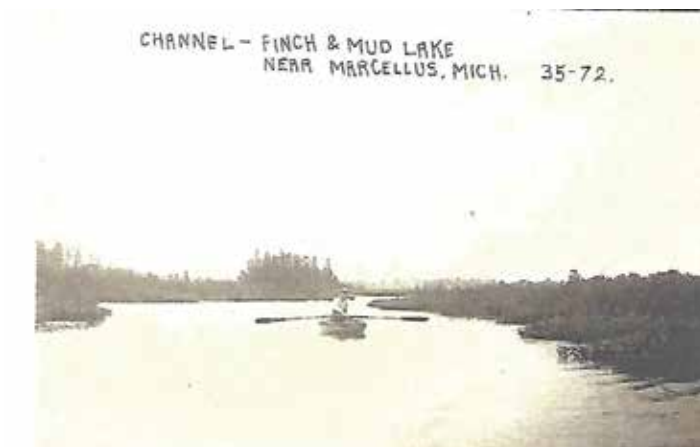
FINCH

(Continued from page 9)

Lake

Sunset Photo Credit: Donna Copp

Old postcard photos provided by Floyd Jerdon



Finch Lake Association

The Finch lake Association was founded June 30, 1952. There are currently 62 members out of about 105 riparians. We have a very active association. Some of the activities which the association handles are:

- representation on the local sewer board
- heading the weed SAD for all of the lakes
- maintenance of the lake ordinance sign
- road speed limit signs
- email blasts
- a directory of property owners with contact information
- maintains the web page
- maintains a Facebook home page
- Secchi disk readings for water clarity are taken and recorded to help monitor the lake's condition
- sends out remembrances for deceased lake property owners
- has an annual picnic
- offers Finch Lake attire
- installed a lake water access fire hydrant which was then donated to the Marcellus Fire Department. This provided a reduction in home insurance costs.
- paddle boat and kayak races

Days End

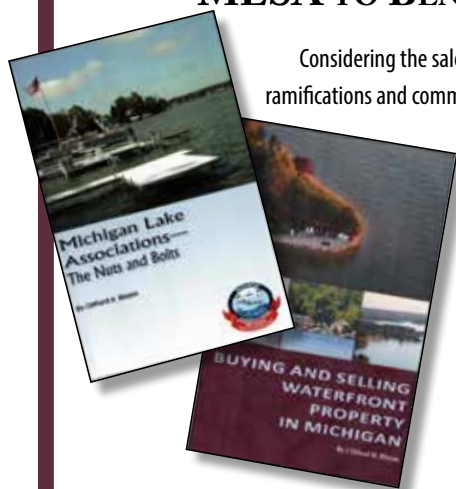
Finch Lake is a great place to live or visit. There is great fishing for bass, bluegill, perch, crappie, bullheads and others. A DNR report listed 24 different fish species in our lake. Not to mention all the boating activities available (water skiing, kayaking, canoeing, cruising on a pontoon or swimming). There is also an abundance of wildlife. We have swans, mallards, Canadian geese, sandhill cranes and bald eagles to mention a few. We have also had freshwater pelicans and a loon that stops by every spring! There are also muskrats, beaver, frogs, turtles and others.

For more information, please visit FinchlakeMi.com or Finch Lake Homepage @finchlakeassociation on Facebook. 📷



Photo Credit: Tracy Johnson

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ERROR CORRECTION/ RETRACTION

By Clifford H. Bloom, Esq.
Bloom Sluggett, PC | Grand Rapids, Michigan
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I regret that my Attorney Writes column from the Summer, 2019 issue entitled "Wake Boats, Again" on page 29 had an error in the first paragraph. In a list of synonyms for wake boats, I included "ski boats." In common language, a ski boat is NOT a wave boat, wake boat, etc. Furthermore, many of the problems associated with wake boats are not characteristic of ski boats. Although both magazine staff and myself know the difference between ski boats and wake boats, the phrase "ski boat" was mistakenly associated with wake boats. We regret the error.

- Cliff Bloom

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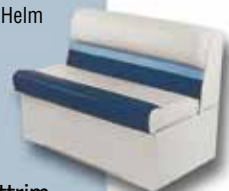
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Three Important Michigan Appellate Court Decisions Regarding Deed Restrictions and Road Ends and Plats


Many properties throughout Michigan are bound by what are referred to as deed restrictions, restrictive covenants or plat restrictions (hereinafter, called “Deed Restrictions”). Deed Restrictions are documents or contractual provisions recorded with a county register of deeds that bind one or more parcels or lots. Most Deed Restrictions are permanent. Deed Restrictions can regulate a variety of different matters including, but not limited to, single family residential use limitations, prohibitions on business or commercial uses, minimum dwelling size requirements, architectural review committees, prohibitions on mobile homes or trailers, mandatory association membership and dues, a prohibition on splitting or dividing a lot or parcel, and other restrictions. Generally, if Deed Restrictions are well drafted and properly recorded, they will be enforced by the courts.

On July 24, 2019, the Michigan Supreme Court issued a major Deed Restrictions decision in *Thiel v Goyings*, ____ Mich ____ (2019). The Deed Restrictions at issue prohibited mobile homes, modular homes, trailers and manufactured homes. The new dwelling involved was partially pre-fabricated and partially “stick built” on site. Although the Supreme Court indicated that Michigan law generally favors Deed Restrictions (and their enforcement), the Court also noted that any ambiguity must be construed in favor of the free use of real property. Ultimately, the Court held that since the dwelling was approximately 59 percent stick built or built on-site, it did not constitute a prohibited “modular home” pursuant to the Deed Restrictions prohibition.

On July 25, 2019, the Michigan Court of Appeals issued its own published decision involving Deed Restrictions in *Mazzola v Deeplands Development Company, LLC*, ____ Mich App ____ (2019). In that case, the Court held that the Deed Restrictions at issue did not prevent a developer from splitting or subdividing the large lots involved and erecting more dwellings than was originally envisioned.

Both of these appellate Deed Restrictions cases stand for several propositions. First, Deed Restrictions are favored by public policy, generally constitute binding contracts and

will usually be enforced. Second, any ambiguity in Deed Restrictions will be construed in favor of the property owner sought to be restricted. Third, Deed Restrictions will generally only be enforced if they are well drafted and also clear and concise. Accordingly, Deed Restrictions should be drafted by skilled real estate attorneys. Finally, sometimes it is useful in Deed Restrictions to say the same thing in several different ways and to emphasize important matters.

On July 23, 2019, the Michigan Court of Appeals also issued an important published decision in *Township of Grayling v Berry*, ____ Mich App ____ (2019). In this case, several off-lake or backlot property owners maintained docks and boats at three public road ends in an old plat on Lake Margrethe. Grayling Township sued the backlot owners to have the docks and boats removed from the public road ends pursuant to both the Michigan common law and MCL 324.30111b (which is the road end bill which both the Michigan Lake & Stream Associations, Inc. and the Michigan Waterfront Alliance helped enact). The trial court ruled in favor of the Township, as did the Michigan Court of Appeals. Both courts rejected various legal claims and theories advanced by the backlot property owners. First, the backlot property owners claimed that the public roads at issue were never accepted. The Court of Appeals held that the Crawford County Road Commission properly accepted the public roads at issue via McNitt Act resolutions and that the 36-year time period between the recording of the plat and those resolutions was not unreasonably long. Second, the Court of Appeals rejected the argument that the Township lacks standing (i.e., does not have the ability to bring the lawsuit). Third and finally, the Court of Appeals affirmed the applicability of MCL 324.30111b, including the ability of the Township to pursue the lawsuit under the statute and the fact that the statute applies to public roads even where they have not been fully improved by pavement, gravel or other substantial improvements. This appellate decision will make the improper use of public road ends at lakes more difficult for backlot owners. 

ASK THE EXPERTS

If you have a question about water related issues, riparian rights, and/or lakes and streams, etc., let us know by email or snail mail.

Email: swagner@mlswa.org
Mail: The Michigan Riparian
300 N. State St., Suite A,
Stanton, MI 48888

Question: Is there any legislation pending in Michigan that could affect Michigan riparians?"

Answer: There are two bills currently pending in the Michigan Legislature that may be of interest to riparians. The first bill would preempt or preclude local governments from banning or even substantially regulating short term rentals, which would impact the renting of cottages, cabins and houses on lakes, streams and in rural areas. Short-term rentals typically involve renting to one family for only a weekend, four days, one week or a few weeks. In some cases, the intensity of use resembles a motel or a small resort. The legislation would effectively preclude cities, villages and townships from regulation of short-term rentals via a zoning ordinance or other local ordinances. The second bill would effectively preempt or preclude townships, cities and villages from regulating or prohibiting new or expanded mining operations. That would include the mining of sand, gravel, rocks and other aggregates. If enacted, that legislation could affect a significant number of properties near lakes, streams and rivers throughout Michigan.

If you feel strongly about these proposed bills (one way or the other), you may want to contact your Michigan Senator and/or Michigan Representative soon to let him or her know your opinions regarding these pieces of legislation. Constituent input does have an impact!

By: Clifford H. Bloom, Esq
Riparian Attorney

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Our experts include our riparian attorney, a biologist, a limnologist, an engineer, a college professor and a state agency official. They look forward to responding to your question.

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LAKE HAPPENINGS

Glen Lake

From the Glen Lake Association website



Editor's Note:

Glen Lake, in Leelanau County, has developed an excellent program for protecting its waters by engaging residents of all ages who care deeply about their beautiful lake. The following article is an example of applying best practices and encouraging stewardship.

Could Glen Lake's program be one that interests your lake association? The Glen Lake website is glenlakeassociation.org. Click on the Guardians tab to see what Glen Lake is doing to protect its aquatic treasure.

The recent "Clean Water: What Can I Do?" talk by GLA Guardian Ambassador, Tricia Denton was well attended. Held at Glen Lake Community Library, topics included: current GLA water protection programs; wastewater treatment challenges and nutrient loading of surface water. We're thrilled to report that five Leelanau School students took our GLA Stewardship Checklist with them to evaluate their school's stewardship of 2,000 feet of Crystal River frontage.

Also, 20 attendees became new Guardians after participating! 📷

Send us your lake association newsletter or special announcements electronically. We love hearing from your lake. We will continue to use and spread the interesting and informative things happening on your lake in *The Michigan Riparian*. Please send your lake association newsletter to: swagner@mlswa.org.



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Publisher's Note: Conference highlights are a compilation of information shared by individuals who attended each of the sessions (MLSA Board Members and staff). Lindsay Schmandt, a college student, also contributed.

MLSA's 58th Annual Conference Report



In early May at Crystal Mountain Resort, you would have found one of the most passionate groups of people in Michigan looking to inform and collaborate with like-minded inland lake advocates. The Michigan Lakes and Streams Association is a non-profit that strives to preserve and protect the state's thousands of inland lakes and freshwater systems. During this year's MLSA's 58th Annual Conference, attendees had the opportunity to choose from many different engaging and educational "break-out sessions". The two-day event included over 15 sessions ranging from hot topics like PFAS, toxic algal blooms and agricultural impacts to essential stewardship information including at-home septic care and swimmer's itch.

With any of the sessions participants chose to attend at the MLSA Conference, they were guaranteed opportunities to learn and ask questions from some of the most educated individuals in the industry. Each session included relevant information, answers and networking experiences.

PFAS

Presenters: Dr. Richard Rediske, Senior Program Manager, Annis Water Resources Institute and Grand Valley State University; Steve Sliver, PFAS Executive Lead, EGLE (formerly DEQ); Daniel Brown, Huron River Watershed Council

Dr. Rediske gave an inside look at the chemistry behind two of the most common PFAS currently studied: PFOA (Perfluorooctanoic acid) and PFOS (Perfluorooctanesulfonic acid) – both which pose threats through bioaccumulation (accumulation over time) in humans and the food we eat.

Steve Sliver, PFAS Executive Lead, explained how sites are identified for testing and the current treatments that are being used for the substances, including granulated activated carbon and reverse osmosis filtration methods.

Historical sites that are contributing to PFAS in the southeastern area of Michigan were discussed by Daniel Brown from the Huron River Watershed Council. He shared the practices that Michiganders can follow to keep themselves safe, such as having their home water tested and identifying/avoiding activity in areas tested positively for PFAS above certain levels and showing signs such as foam.

AGRICULTURAL IMPACTS

Presenters: Tom Zimnicki, Michigan Environmental Council; Ben Tirrell, Right to Farm Program; Dr. Kurt Steinke (Associate Professor at Michigan State University)

The three presenters hosted the session that included topics ranging from the Michigan Right to Farm

Act, Generally Accepted Agricultural Management Practices (GAAMPS) and Concentrated Animals Feeding Operations (CAFOs) to Sustainable Farming Initiatives and Technological Advances in the Farming Industry. Audience members showed great concern in regard to nonpoint source pollution from agricultural practices and how the Right to Farm Act impacted their homes and families. Each speaker shared insight on these concerns and the rules and regulations governing the agricultural industry. The session ended with time for Q and A.

FARMING AND ITS IMPACT ON LAKES AND WATERSHEDS

Presenters: Tom Zimnicki, Michigan Environmental Council; Ben Tirrell, Michigan Department of Agriculture and Rural Development; Dr. Kurt Steinke, Michigan State University

Farm field runoff (Lake Erie algae blooms) and the effects of spreading manure on frozen ground (melting - runoff) were two concerns that were addressed by Mr. Zimnicki. It was noted that a new CAFO (concentrated animal feeding operations) permit is due April 2020 by the Michigan Commission on Agriculture.

Ben Tirrell, Michigan Department of Agriculture and Rural Development discussed the protection that the Right to Farm Act provides agricultural operations against nuisance claims. He further remarked that farm producers following GAAMPS (General Accepted Agriculture Management Practices) are more likely to avoid nuisance claims.

Dr. Kurt Steinke, from Michigan State University, explained the impact

of phosphorus on soils and its role in lake eutrophication. He provided an in-depth analysis of phosphorus in soils: where it comes from, how it travels, soil testing and its critical place regarding crop nutrition. Increased food production for a growing population needs to be balanced with access to safe water supplies.

Most concerning to the audience were water and air quality resulting from farm field runoff into water bodies and the odor from large animal operations. The face of agriculture has changed over the years and small dairy farms have been replaced by mega dairies (thousands of cows in one location) and other animal CAFOs. Lack of enforcement is an issue.

SEPTIC SYSTEMS

Presenters: Beth Clawson, Michigan State University; Erick Johnston, Benzie/Leelanau District Health Department; David Cotton, Michigan Department of Environment, Great Lakes and Energy (formerly MDEQ)

Did you know that Michigan is the only state without septic system laws? Beth Clawson, a natural resource and water quality educator from MSU, filled jars with water and placed various materials commonly disposed of via septic system inside. These jars sat in front of the audience members for the duration of the session to demonstrate which materials are safe or unsafe for home septic systems.

Eric Johnston from the Benzie-Leelanau District Health Department spoke on the background and importance of “point of sale” inspections for well and septic systems.

(Continued on page 18)

MLSA's 58th Annual Conference Report

(Continued from page 17)

Inspections benefit sellers, buyers, surrounding homeowners and the environment while also providing financial incentives brought on by being proactive in septic care. Audience members were given septic rating guides to see how well they knew their systems at home and to spark any questions they have regarding how to care for their water and waste.

David Cotton, from the Michigan Department of Environment, Great Lakes and Energy (formerly MDEQ) brought visual explanations on well and septic systems types commonly found in Michigan homes, how to keep them healthy and signs that could indicate problems.

MANAGING EXOTIC INVASIVE STARRY STONEWORT

Presenters: Dr. Doug Pullman, Senior Aquatic Scientist Applied Biochemist; Dr. John H. Rodgers, Professor of Ecotoxicology, Clemson University; Tyler Geer, Ph.D. Candidate, Clemson University

The session provided an in-depth overview of two decades of research regarding Starry Stonewort (SS), which in the words of Dr. Pullman, is a “unique management challenge, but not the end of the world.” Other notable observations made by Dr. Pullman include: “ss production/growth is predictably unpredictable”; “ss is very easy to kill, but very hard to treat”; “ss blooms, then crashes”; and “selective treatment is possible.”

Traveling from Clemson University,

South Carolina, Professor Rodgers (40 years' experience in noxious algae and vascular plants), and Tyler Geer, presented their research on Starry Stonewort. They shared an actual research project for treating SS on a lake in another state with characteristics similar to many Michigan lakes. Using a “trailing tube” application method of approved chemicals, they were successful in totally eradicating SS from the lake. They were systematic in their approach, which involved more than one season and the use of “trailing tubes” which applied the approved chemicals below the SS growth, and just above the lake bottom. The research project forms the basis for Tyler Geer, Ph.D. thesis, and when it is accepted and published, will be a valuable resource for many Michigan lakes to review.

LAKE ZONING ISSUES

Presenters: Mary Reilly, MSU Extension and Kris Olson-Huron River Watershed Council

Session attendees learned about processes and tools available to enact “lake friendly” ordinances in our townships, villages or cities. Master Plans, as required by Michigan law for any municipality with a Planning Commission and Zoning Ordinance, were explained. The presenters then clarified that once surface water concerns/issues are identified in the Master Plan, specific Zoning Ordinance provisions can be enacted to address those concerns/issues. Concerns that could be addressed by Civil/Municipal Ordinances were also discussed. A key take away for everyone was that Master

Plans had to be “reviewed or amended at least” every five years. If water protections are not in the current plan, they can be added.

LAKE LEVELS, DAMS AND ROLE OF DRAIN COMMISSIONERS

Presenter: Brian Cenci, P.E. Vice President of Eng., Inc.

The Drain Code of 1956 and its complexity was covered. The power of the drain commissioner is enormous, but necessary, in order to manage drainage areas that are overflowing and causing significant problems for riparians and impacting others. Having worked with over 30 drain commissioners in Michigan, Brian was able to describe many drain issues and the possible solutions that are available to help solve the problems.

FUNDING SOURCES SESSION

Presenters: Joe Nohner, DNR and Julia Kirkwood, EGLE

Both of these Michigan conservation professionals work with grant funding for projects in the state. They informed the audience on the types of projects for which grant money is given and how that money is awarded. The key grants they highlighted were the Fisheries Habitat Grant, DEQ Nonpoint Source Grant, and the Midwest Glacial Lakes Partnership Lake Conservation Grant. Joe advised that lakes identify the current and future threats to their water and create a project to address those issues. He also encouraged attendees to reach

out to fisheries biologists like himself to help get started. You can contact him at: nohnerj@michigan.gov.

LAKESHORE CONSERVATION

Presenters: Joe Nohner, DNR and Julia Kirkwood, EGLE

Citing that loss of near shore habitats is the number one threat to lake health. Both the Midwest Glacial Lakes Partnership and the Michigan Natural Shoreline Partnership have guides, tools, and educational resources to help you and your lake conserve your lakeshore habitat. They also discussed funding options for larger scale restoration projects from grant programs like Michigan's Nonpoint Source Program, DNR Fisheries Habitat Grant, and Midwest Glacial Lakes Partnership Grant.

SWIMMER'S ITCH

Presenter: Caroline Keson, Tip of the Mitt Watershed Association

This session, led by Caroline Keson with a number of presenters, discussed research and experience with swimmer's itch in northern Michigan lakes. The source and spread of the offending parasites have been closely studied throughout the state and session attendees were given the current understanding of the reason we see swimmer's itch in some places and not in others. Michigan Swimmer's Itch Partnership is made up of many researchers at the Raffel Lab at Oakland University, University of Dallas, as well as volunteers from lakes throughout the state that work collaboratively.

BREAKFAST WITH CLIFF BLOOM

Cliff Bloom, Bloom Sluggett PC

This year we shook up the conference schedule and had "Breakfast with Cliff Bloom" in place of two morning breakout sessions. Our survey results tell us that the change was successful. As a couple hundred people quietly enjoyed a delicious buffet breakfast, Cliff gave another informative talk about many current and past riparian law issues. The audience was able to ask loads of questions about legal issues affecting them and also learned about issues that have impacted others. As always, Cliff held a question and answer session after our evening reception, too, that many enjoyed. Thanks, Cliff, for all the FREE legal advice you have given us for so many years at our annual conferences.

COLLEGE INTERNS AND LAKE MANAGEMENT

Presenter: Dr. Constanza Hazelwood, North West Michigan College

An overview of collaborative partnerships for lake management was shared by Dr. Hazelwood. Her focus was on their internship program with the Oleson Foundation, the Long Lake Association, the Long Lake Foundation, Long Lake Township and the Great Lakes Environmental Center. This program gives undergraduate students in the Freshwater Studies program real-world training in inland lake water quality monitoring to earn credit toward an Associate or Bachelor of Science degree. Students are required

to perform an internship in the United States or overseas where they learn how to calibrate and deploy water quality monitoring equipment, collect and analyze data and report results.

One of the major internship options for students is working with inland lake homeowners to learn real-world issues and form a partnership. During the session, there was a panel discussion including representatives of the Long Lake Association and North West Michigan interns who had participated in the program.

LAKE MANAGEMENT ISSUES: CYANOBACTERIA BLOOMS

Presenters: Dr. Lois Wolfson, Michigan State University; Dr. Ann St. Amand, Phyco Tech; Dr. Jennifer Jermalowicz-Jones, Restorative Lake Sciences

Dr. Wolfson began by introducing everyone to the origin of blue-green algae (cyanobacteria) and how they adapted to low oxygen conditions on earth which enables them to be so persistent in waters today. She also explained the clever ways that they program their own cell death to escape stressors and come back even more aggressively. Dr. St. Amand (and her staff) then explained the specific toxins each of these algae secrete and the impacts they have on humans, wildlife, and the lakes. Dr. Jermalowicz-Jones presented case studies on successful long-term and temporary management of these invasive blooms and what

(Continued on page 20)

MLSA's 58th Annual Conference Report

(Continued from page 19)

methods are most likely to lead to sustainable reductions in inland lakes. The progression of these presentations allowed for a logical flow of information from the origin of blue-green algae to how they should be managed in inland lakes today.

WAKE BOATS

Presenters: Michael Smith; Dr. Paul Webb; Larry Maddock, Jerry Brower

This session on wake boats created a lot of buzz before, during and after the conference. The 2019 conference was the first time MLSA had a session covering high speed wake boats and their impact on inland lakes. Key to making this session a success was the guidance, coordination and effort provided by Michael Smith who worked very hard to make sure we had a wide range of presenters and a good balance of perspectives.

Dr. Paul Webb opened the session with the proven impact of boat-generated waves on plants, fish and lake shorelines. This included data from years of research and testing. His bottom line message was boat-generated waves have a real and proven impacts on the lake environment as well as shoreline, docks, moored boats and other materials. Dr. Webb presented his conclusions with evidence as well as humor.

Facts about wake boats and their popularity were described by presenter Larry Maddock. He described how boat manufacturers, the WSIA and other groups were very aware of lake resident and government worries

about boat wave impacts. He described various state and local trends to limit wake boats impacts by new laws and regulation. Finally, Maddock described WSIA and other groups' efforts to support wake boat owner's education and what the industry is doing to try to mitigate and educate boat owners about these issues.

Jerry Brouwer, a wake boat dealer described how his business, clients and local lakes are affected. His dealership fosters good boating stewardship from wake boat buyers and owners.

Mike Smith talked about having the right type of insurance coverages provided by modern boat policies and other issues related to water ski and wake board boats, the claims that occur and suggested risk management strategies.

At the end of the session, there was a lot of questions by the full house of conference attendees, including noted riparian attorney, Cliff Bloom.

THE USE OF UNMANNED AERIAL VEHICLES TO SUPPORT LAKE MANAGEMENT

Presenters: Dennis Wiand, President of Zero Gravity Aerial; Jim Hamp, Lake Management Director, Crystal Lake; Ralph Karner, Glen Lake Watershed Biologist

At this session, the value of incorporating Unmanned Aerial Vehicles for successful lake management was explained. This technology is being used in many

lakes for mapping invasive species, surveying the shorelines and, when needed, providing accurate guidance in treatment applications. Dennis Wiand, the president of Zero Gravity Aerial, provided background on how he became involved with UAVs to support effective lake management.

Jim Hamp, the Lake Management Director for Crystal Lake, spent more than two years working to collect a detailed map and database of aquatic vegetation and invasive species in his lake. To make sure his mapping was as accurate as possible, he added in UAV surveillance. Incorporating this technology allowed for more precise mapping and identification of vegetation, location and tracking.

Rob Karner explained how his team used UAVs to support their lake management programs. Their focus was on developing a detailed shoreline survey and collecting data to help inform and educate property owners on long-term lake protection concepts.

AQUATIC INVASIVE SPECIES-STATE ACTIONS AND JOINT EFFORTS OF THE AIS TASK FORCE

Presenters: Ron Olson, Chief Parks and Recreation, Michigan Department of Natural Resources; Lon Nordeen, Board member MLSA and MWA; Matt Kurta, Karoub Associates, Lansing, Michigan Waterfront Alliance Lobbyist; Sarah LeSage, Aquatic Invasive Species Program Coordinator, DNR; Joanne Foreman, Invasive Species Communications Coordinator, DNR

Ron Olson's primary focus was a review of the Michigan Invasive Species Program, 2018 Legislation, ongoing AIS efforts and an overview of the AIS Task Force. The Michigan Invasive Species Grant Program, in force since 2014, annually awards funds to support projects deemed to prevent, monitor, eradicate and manage AIS. Eighteen million dollars have been awarded to date from the DNR general fund provided annually by legislative action.

In 2018, the Michigan legislature approved PA-451 of 2018 which addressed boating and fishing laws as well as the sale and disposal of non-native aquatic organisms. Failure to abide by the new law is a state civil infraction with a fine of up to \$100. Signs reporting this new law are being installed at all launch sites.


The fishing law update (Fisheries Order 245) states that unused bait must be disposed of on land in the trash and never put into the water; baitfish can only be used in the waters originally collected, and anglers must release fish back only into the lake they caught them in. Failure to do so is a state civil infraction with a fine of up to \$100. The DNR is running a major public outreach and education campaign to inform the public on the dangers of AIS and need to clean boats, including free boat washing stations at many lakes throughout 2019. They also included notification of the new laws in annual boater registration packets, boater and fishing materials.

The statewide AIS program brings together several agencies to support AIS prevention, detection and management

efforts. Sample ongoing programs include the Asian Carp Regional Coordinating committee, Great Lakes Phragmites Collaborative, Great Lakes and St. Lawrence Governors AIS Task Force.

Lon Nordeen, Board member on the MLSA and MWA and Matt Kurta, lobbyist with Karoub Associates, Lansing, MI provided an overview of the history and goals of the MWA (Michigan Waterfront Alliance) and MLSA (Michigan Lakes and Streams Association) Task Force. They discussed educational and legislative outreach efforts to reduce the impact of AIS and perform expanded analysis on the conditions of Michigan inland lakes as well as the real economic and social impacts of AIS infesting Michigan's inland lakes.

MLSA awarded the 2019 Meghan E. Cook Scholarship to R.J. Boltzman, Limnology major, Western Michigan University.

Three former MLSA officials, including Scott Brown, were formally recognized for their many years of service. 

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The Michigan Riparian magazine is announcing a new rate change for all lake association subscriptions. This new rate will take place with your next lake association subscription order/renewal.

The Michigan Riparian has not had a rate increase for lake association subscriptions in over 8 years.

Due to the increased costs for postage, printing and distribution over the last several years, we are forced to raise the rate to \$14.00 per year. We hope you understand and will continue to enjoy a magazine that educates, provides insight, keeps you informed on current events and provides valuable information that benefits your lake association.

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LIFETIME MEMBERS of MLSA

By: Melissa DeSimone
Membership Coordinator, MLSA

MLSA's Lifetime Members are Jim and Rhonda Fackert, Rebecca Norris, Carmen Burgess, and Lisa Jorgensen Markevich.

Much of *The Michigan Riparian's* readership consists of Michigan Lakes and Streams Association members. You and your lake association are probably members, and we thank you for it. As members, we know how important our watersheds are and we are devoted to learning everything we can about their protection. We look at our lakes like children; we want the best for them, we worry about them, we talk about them to anyone who will listen, we show our favorite sunset pictures. When we find another riparian, we light up and have lots to talk about. How many acres is your lake? How deep? Do you have aquatic invasive species? How many members do you have in your association? We turn to the MLSA board and staff, our region meetings, the annual conference, and *The Michigan Riparian* magazine to make sure we are up-to-date on what's best for our precious lake. What is the newest aquatic invasive species to worry about? What is the best way to install a natural shoreline? How do we manage high water levels? We enthusiastically bring ideas back to our lake associations and encourage our neighbors to do the right thing for our lake. Our acquaintances ask us when lake season starts, and we blink at them because we've had our docks out since the ice melted. These are some of the thoughts of a typical MLSA member. We are all kindred spirits...and then there are lifetime members of MLSA.

A lifetime member has chosen to support MLSA for their whole lives—they've checked the box for lifetime membership and donated \$500. They want to make sure they see what Cliff Bloom is writing in the latest issue of *The Michigan Riparian* for the rest of their lives. They don't want to miss an email from us because they know we will keep them updated monthly for the rest of their lives. They want to support the annual conference and our regional meetings for the rest of their lives. I think you get the idea—these are “super” MLSA supporters. We currently have five lifetime members: four individual households decided that they believe in us, strongly. They believe that we care about Michigan lakes, they believe that protecting our inland lakes is the most important thing we can do for our state. We are honored that they believe. We work hard for all of our members but especially appreciate those that have dedicated their lives to our mission: the preservation, protection and wise management of Michigan's vast treasure of inland lakes. Thank you to all of our members, and thank you especially to the lifetime members who have made a significant commitment to our mission. We promise to keep working hard for you, for our lakes, and for the future of Michigan's waterways. 

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Dr. Tom Tisue and WLA President David Hays conduct sample testing for oxygen levels in White Lake.



Why All These Weeds?

By Dr. Tom Tisue and Deb Hays
White Lake Association

As many summers draw to a close each season on White Lake, folks notice a thick, annoying cover of “weeds” on various areas of the lake. “Why is that?”

White Lake Association’s scientific coordinator, (currently on sabbatical) Dr. Tom Tisue, along with two Muskegon Community College interns, Mathew Gilmore and Andrew Visscher, set out from May 18-Aug. 22, 2018 to find the answer. They conducted aquatic plant studies in several locations on both sides of the lake, using GPS navigation and site logging. They conducted these tests using standard rake casts using Michigan Clean Water Corps protocol by certified volunteer; confirmation through by-side comparison with Erick Elgin, MSU-Extension expert.

Following is the Executive Summary of their findings. A more detailed report and data summary are available, upon request.

The aquatic plant community that characterizes areas of very dense growth at White Lake’s upper end is quantitatively, but not qualitatively, different from the plant community elsewhere in the lake. That is, all the plant types that are found in the upper reaches mostly are also found wherever aquatic plants grow in White Lake.

To the extent that a single plant dominates areas of nuisance conditions, that plant is coontail (*Ceratophyllum demersum*) a very common native species that grows to nuisance levels in many nutrient-rich water bodies.

The major exception was observed in the lagoon area next to the causeway on the Montague side. Earlier in the season, the dominant plant there was densely growing water marigold (*Megalodonta beckii*) a usually innocuous species. There is no readily apparent explanation for this anomaly.

Water milfoils – including the invasive Eurasian (*Myriophyllum spicatum*), native, (e.g. *M. sibiricum*), and their putative hybrids were present at all

study sites but were seldom the dominant species, except at some locations late in the season when other species were dying back.

Under calm conditions, much of the water surface at the lake’s upper end becomes almost completely obscured by 1) two tiny floating plants, duck weed) *Lemna* sp.) and water meal) *Wolffia* sp.) and by 2) mats of filamentous algae, including *Cladophora* and *Lyngbya* sp. (identifications pending confirmation by a professional phycologist).

The only invasive aquatic plant found other than Eurasian water milfoil was curly leaf pondweed (*Potamogeton crispus*). It was not abundant at any of the study sites but bears watching because it is widely present in the White River and has the potential to become a nuisance.

Any attempt to account for the nuisance levels of plant growth at White Lake’s upper end must remain largely speculative in the absence of any conclusive information. Clearly, overgrowth is not possible without over-fertilization. The most likely sources of plant nutrients are to be found in the White River watershed, at sites both near – the flooded wetland and former ag fields below the causeway – and far – such as the fields that have come under cultivation in an attempt to grow ever more corn for ethanol production.

Considering hydrological changes associated with the meteorological cycle, there does not seem to be much prospect of a long-term solution to the current nuisance plant growth. Temporary control measures to serve water-based recreation include selective mechanical harvesting and limited use of herbicides to maintain navigation channels and docking areas.

NOTE: The 2019 data was not available at press time, but our sources are confident that 2019 results would coincide with the 2018 report.



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LOVE MY LAKE

Frequently Asked Loon Questions

Joanne C. Williams, State Coordinator
Michigan Loon Preservation Association-Loonwatch

WHY DOES THAT LOON HAVE HIS HEAD UNDERWATER?

The loon is probably peering under the water, looking for fish, or maybe it's an adult looking for underwater predators that could harm the chicks. Loons are a visual predator, and therefore must have clear water to find their food or avoid underwater danger.

DO LOONS MATE FOR LIFE?

Loons do mate, or pair-bond, for life. It has been shown though, that loons may take a new mate in the event of a mate's death or displacement by another loon. However, some may not.

DOES THE MALE'S YODEL STAY THE SAME OVER TIME?

It has been found that the returning male's territorial song, the Yodel, remains static year after year and could thus be used to "voice tag" them, making it easier to study loons and their nesting and territorial habits. Interestingly, in one isolated instance, in a study at Seney National Wildlife Refuge by Dr. Charles Wolcott of Cornell University, a male loon that lost his territory to another was found to change his yodel.

HOW LONG DO LOONS LIVE?

Loons are a long-lived bird, much like any other large low-rate reproducing bird such as eagles. They are not sexually mature until about 3-4 years of age, and they may live for as long as 30 years.

WHERE CAN I SEE LOONS IN MICHIGAN?

Loons are found on larger Michigan lakes mainly from Clare County northward. The best place to reliably see loons is at the Seney National Wildlife Refuge in Michigan's Upper Peninsula. Though less accessible, Isle Royale National Park has the highest concentration of loons in Michigan.

WHEN DO LOONS MIGRATE TO MICHIGAN?

The spring migration begins with the loons heading north from their winter homes on the Atlantic coast and the Gulf of Mexico as northern ice recedes. Northernmost males arrive on their home lakes as soon as the ice is out- often within

just hours. This implies that they stage on the Great Lakes and other open water areas and scout as the ice goes out. On the more southern lakes (and Michigan represents the southern boundary of the Common Loon) most male loons are on territory by around the first part of April, assuming ice has already gone out. In most cases, the females follow later. Young birds return for the first time at three to four years of age.

IS A LOON A DUCK OR A GOOSE?

Actually, loons are neither; ducks and geese are waterfowl. As a water bird, a loon is an entirely different species. It's a genus called *Gavi* a, and the species name of our Common Loon is *immer*. Loons are related to penguins and auks. In the old world, loons are called divers. We all call them one of the most beautiful birds ever seen.

WHAT DO I DO IF I FIND AN INJURED LOON?

If you are a Loon Ranger, call your Area Coordinator. If you are not a Loon Ranger, and know who the county Area Coordinator or local Rangers are, call them immediately.

(Continued on page 28)



LOVE MY LAKE

(Continued from page 27)

You may also call the MI Loonwatch State Coordinator, Joanne Williams: 989-828 6019 or 989-289-0291, or Arlene Westhoven: 231-598-0878. Either one can advise you.

You must notify your DNR District Field Office within an hour of picking up and having the loon, to log in that you are holding it for transport to assistance. They may be able to provide you with a number of a rehabilitation center. They also may be able to assist in capturing the injured loon. If not, your local Conservation Officer, Sheriff's Department or State Police may be able to provide information to you, and/or to assist you in capturing the loon and/or transporting it to aid.

If you are unable to obtain help from the official agencies, and there is a wildlife rehabilitation center in your area that is equipped to capture and/or care for injured loons, contact them for possible assistance in recovering the bird and for its care. The DNR maintains a website page listing Michigan Licensed Rehabilitators: <https://www2.dnr.state.mi.us/dlr/>

State and Federal permits are not required if you have notified the DNR (even by leaving a message to check in that you have the bird) that you are in possession of an injured loon. It may be held for a relatively short period of time if you are in the process of transporting the bird to assistance with the knowledge of the DNR. State and Federal permits are required to hold a dead loon or an injured loon for any length of time beyond transporting it to assistance.

WHAT DO I DO IF I FIND A DEAD LOON?

Call your Area Coordinator immediately if you are a Loon Ranger. If you are not a Ranger, and know who the county Area Coordinator or Loon Rangers are, call them immediately. You should also notify the MI Loonwatch State Coordinator, Joanne Williams: 989-828-6019 or 989-289-0291, or Arlene Westhoven: 231-598-0878.

Notify the District DNR office as soon as possible after picking up the bird, within a couple of hours. A DNR field representative may be able to come and pick up the loon if you are unable to take it there.





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Double-wrap the bird in plastic bags to prevent freezing damage and place in a freezer if possible until it can be taken to the nearest District DNR office for transport to Michigan Wildlife Disease Laboratory, 4125 Beaumont Rd., Lansing MI 48901. Do not perform or allow to be performed any so-called "field necropsies". The loon needs to be received by the Wildlife Disease Laboratory intact.

A Threatened and Endangered Species Report Form is required to accompany the loon carcass being held or in transport. This form will be provided to you by the Area Coordinator or the State Coordinator.


MI DNR Wildlife Management Units:

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 Saginaw Bay: Bay City 989-684-9141
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 South Central: Morrice 517-625-4600
 Southwestern: Plainwell 616-685-6851

HOW CAN I HELP MICHIGAN'S LOONS?

Educate yourself about the Common Loon. Join the MLPA. Contribute to the MLPA. Volunteer to help us. There are many jobs that need to be done, and you can be a part of it.

WHAT IS AN ANI?

An ANI is an Artificial Nesting Island. It is an artificial island constructed of cedar or PVC piping to support a loon nest. An ANI may be placed in Michigan only after evaluation and with the permission of the MLPA Area Coordinator or State Coordinator. Instructions for its construction and placement, as well as procedures and protocol, will be supplied. They are used only as a "last resort" after repeated failures in natural nesting, or if a loon pair appears to want to nest but cannot find a suitable area. With habitat loss, water fluctuation, and continuing development, they will likely be used more commonly in Michigan in the future. 



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Hazards to Navigability

By Clifford H. Bloom, Esq.

Bloom Sluggett, PC | Grand Rapids, Michigan

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If a dock, pier, swim raft, or other item jets out into a Michigan lake too far or is a hazard to navigability, is there an enforcement mechanism in the law to remedy such a situation? In general, yes. There are potentially three sources of relief. First, MCL 324.80163 (a Michigan statute) allows the Michigan Department of Natural Resources and certain police agencies to require the moving or removal of any such aquatic item that is a hazard to navigability. That statute states:

(1) If an anchored raft or other item or material, whether floating free or attached to the bottomland or a shoreline, presents a hazard to navigation, the department or a peace officer with jurisdiction over the body of water where the anchored raft or other item or material is located may relocate or remove it or may order its relocation or removal.

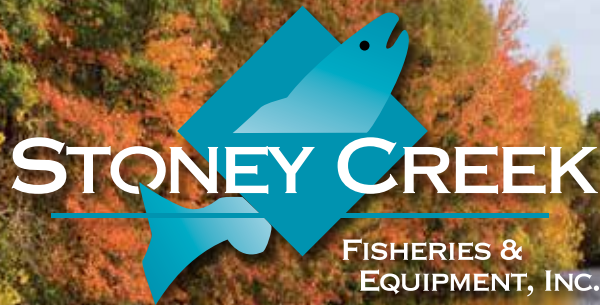
(2) The person who owns or who caused a navigational hazard that is relocated or removed under subsection (1) is liable to pay the actual and reasonable costs of relocation or removal. The department or the law enforcement agency with jurisdiction over the body of water where the navigational hazard was located may send written notice of the relocation or removal under subsection (1) and the associated costs to the person determined to own or to have caused the navigational hazard. If the owner or person who caused the navigational hazard fails to pay the costs within 30 days of the date the written notice is mailed, the costs may become a lien against the person's property. MCL 324.80163

Second, to the extent that a dock, pier, swim raft, or other aquatic item interferes with navigability on a lake, it would likely also constitute an unreasonable interference with the riparian rights of the property owners on the lake. An affected riparian property owner could sue the owner of the item in a county circuit court for the moving or removal of the item. Unfortunately, those types of lawsuits tend to be expensive, time-consuming, and can be inefficient.

Third, a municipality (either a city, village, or township) can enact a police power or regulatory ordinance that governs the length or placement of docks, piers, swim rafts, or similar items to prevent such items from being hazards to navigability or unreasonably interfering with boaters, fishermen, swimmers, and other users of the lake.

Finally, anyone who owns a dock, pier, swim raft, or other item that is a hazard to navigability and potentially unsafe faces a huge potential liability should a boater, water skier, or other person become injured or killed due to the improper length, construction, condition, or location of the item in the lake. In extreme situations, the owner of the item could even face criminal prosecution for manslaughter or negligent homicide. 

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