



## THE FIRST 30 YEARS

Preserving and Protecting  
Lake Bellaire, Clam Lake  
& Torch Lake  
and their connecting waterways



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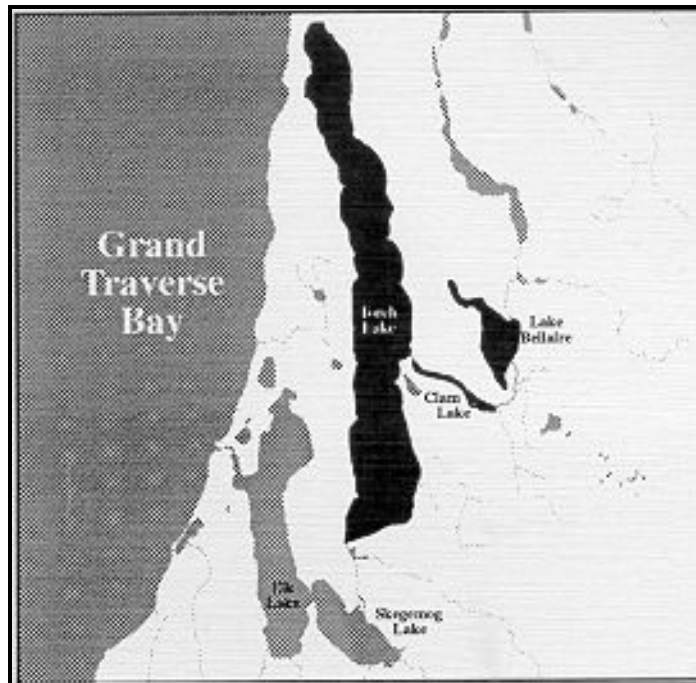
# THE FIRST 30 YEARS

1966-1996

The Three Lakes Association's By-Laws provide in part that the Association is *To do all things and to take such actions as may be necessary or desirable to protect and preserve the environment of the THREE LAKES area ... including connecting lakes, streams and wetlands.* [Article II, Section 2]

The History which is presented herein sets forth how the Three Lakes Association has gone about fulfilling this purpose since its founding in 1966. In reading this History, one might ask what the water quality of our three lakes might be like today if the Three Lakes Association had not been around to concern itself with preserving the environment of our area.

Historical tradition is not simply rooted in the past. It is also relevant to predicting future actions and to the shaping of the policies that will guide us as we encounter the future. In this sense, the History presented herein sets the stage for TLA's fulfilling its purpose during the next 30 years.



<u>Lake</u>	<u>Surface Area</u> <u>(Acres)</u>	<u>Shoreline</u> <u>(Miles)</u>	<u>Maximum Depth</u> <u>(Feet)</u>	<u>MeanDepth</u> <u>(Feet)</u>	<u>Volume</u> <u>(Acre Feet)</u>
BELLAIRE	1,775	11.8	95	41.7	7,381
CLAM	434	10	30	12.8	5,560
TORCH	18,770	41.4	285	140	2,624,596

# Our Prehistory to the Present

*Three hundred million years ago, our TLA area was covered by a warm, shallow sea. A coral reef stretched from Charlevoix to Alpena . . .*

Three hundred million years ago, our TLA area was covered by a warm, shallow sea. A coral reef stretched from Charlevoix to Alpena and left all those Petoskey stones and fossils we find sprinkled along our shores.

The origin of our unique lakes goes back not quite that far to a time when the climate to the north cooled and the great Ice Age began. Winter snowfalls were more than could be melted or evaporated in summer; snow accumulated year after year, compacted, and grew into a huge mound of ice from 300 feet to a mile in depth. The weight of this glacier was so great that ice crystals near the bottom flowed like lava, following the paths of least resistance. As it continued to grow taller with the accumulation of new snow, the glacier's speed increased to a few thousand feet per year. Everything in its path succumbed. Rocks and boulders, gravel, sand, silt and clay were embedded in the ice as it crunched its way southward and they actually became part of the glacier itself.

Only when the climate finally warmed enough to permit the glacier to melt faster than it was moving did the lava-like ice flowing south meet the receding edge of the glacier, where it melted and began depositing the debris. The longer the melting edge of the glacier remained stationary, the more debris accumulated and the higher the debris was piled. We know these "piles" as glacial moraines, and they form the hills and ridges which stretch in some places for hundreds of miles and today make great ski slopes. Spectacular views of the moraine which was the most southerly reach of the fourth glacier can be seen along M-72 between Williamsburg and Kalkaska.

*The origin of our unique lakes goes back not quite that far....*

Four times in geological history glaciers formed and traveled over our present TLA area. Between glaciers, temperatures were higher even than what we enjoy today.

After the last glacier receded, (approximately 11,500 years ago), three different post-glacial lakes formed which ultimately contributed to what is now Lake Michigan. First was Lake Algonquin, then Lake Nipissing, and finally (3,000 years ago) Lake Algoma. These three lakes defined the evolving boundaries of what is now Lake Michigan. Smaller lakes, such as Lake Bellaire and Torch Lake, were taking shape as meltwater filled glacially carved basins. Weather eroded and decomposed the quartz rocks and boulders, breaking them down into grains of sand which the drainage rivers carried into the Lake Michigan basin. Then, waves of the Great Lake molded these quartz sands into bars across the mouths of bays. As water levels fluctuated, winds lifted and transported some of the exposed sands, eventually forming the dunes which separated Grand Traverse Bay from Lake Michigan and sealed Torch

Lake off from the East Bay. Clam Lake was formed by a channel of running water flowing between Lake Bellaire and Torch Lake.

The Elk River Watershed (Torch, Clam and Bellaire Lakes, the Rapid River Watershed, plus Torch River, Skegemog Lake, Elk Lake and Elk River) became an integral part of the Grand Traverse Bay Watershed, providing drainage into Grand Traverse Bay from the east through today's Chain of Lakes.

*... at this juncture,  
and in this  
atmosphere of  
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the Three Lakes  
Association was  
formed. . .*

Mankind has populated this region for most of the last 10,000 years, and we know that as recently as 300 A.D., when the Middle Woodland Indians lived here, these glacial lakes had been little changed over the preceding ten millennia. And it was these same blue-green jewels, sparkling in their quartz settings, that greeted European explorers and, much later, the founders of the Three Lakes Association.

But in the interim, things had been sliding in another direction. In the brief couple centuries of European dominance, a new attitude had replaced the aboriginal culture's idea that the earth and waters were a home to be cherished. What had been **home** became in later years **resources**. Clear-cut logging took down much of the climax beech, maple and aspen forests. Easily caught fish and fowl were hunted to extinction. Canals were dug, dams emplaced, rivers "managed," and chemicals ever more lavishly applied to agriculture, with the result that by 1966, the native salmon, trout and related species represented 0.2% of the North American Great Lakes catch compared to an 82% share in 1900. Still later, little-recognized threats to our environment arose from unmanaged tourism, certain industrial practices and unplanned development.

It was at this juncture, and in this atmosphere of looming crises, that the Three Lakes Association was formed and commenced what it has been doing for the past thirty years: joining with other lake associations in taking responsibility for the maintenance of water quality through a variety of programs, with a major focus on education, encouraging and influencing the 90,000 people who live, work and vacation in this unique region to take responsibility for preserving what has been passed down to us.

# Establishing Our Directions

## Getting Organized

*Fortunately for all of us, our Three Lakes Association founders were struck by the unique beauty of our lakes and joined together, in the face of various crises, to preserve their natural state.*

We may look back with deep gratitude and wonder and, yes - pride - at the countless accomplishments of the Three Lakes Association during its first thirty years. Men and women of vision, skill and dogged determination have been here, protecting and preserving the waters of Lakes Bellaire, Clam and Torch. While it may be impossible to credit properly each of the responsible persons and each of their worthy efforts, stories culled from our archives and the rich memories of many long-time members will help us set forth the Three Lakes Association's History.

Fortunately for all of us, our Three Lakes Association founders were struck by the unique beauty of our lakes and joined together, in the face of various crises, to preserve their natural state.

Betty Kohl, a Torch lake summer resident and founding member of TLA, remembers that she and her neighbors, as well as their teen-aged children, observed foam and green "slimy stuff" in Torch Lake near the Alden railroad station. Could it be from the Laundromat located across the road from the station, they wondered? Or was it a naturally occurring substance? They couldn't be sure, but they did know that it was the first time they had noticed something "foreign looking" around the lake.

Samples were taken and the origin of the polluting substances located. The foam was a naturally occurring froth of fine methane and carbon dioxide bubbles rising from the oil-bearing shale far below. The green "slimy stuff" was much less benign - an indication that better septic provisions had to be made for lakeside dwellings.

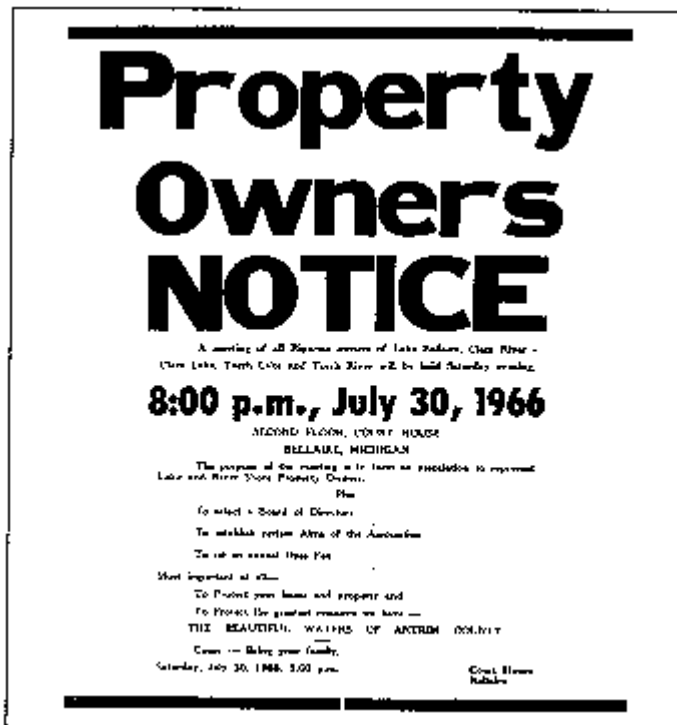
This was an early demonstration of the taking of personal responsibility by a few people, and this attitude has remained at the heart of TLA's success in protecting water quality. "The lake was a gift of nature and we felt honor-bound to protect it," Kohl said. "Nothing should change or spoil it."

On another front, Hartley Comfort, also a TLA founder, remembers that the degradation of various downstate lakes was well known by residents in the TLA area and "us folks up north got to thinking about the need to take preventive action."

According to Comfort, in the 1950s, there had been a serious threat to the balance of nature in the TLA area. During World War II, Comfort's business took him to Washington, D.C. on a regular basis, where he learned of a bill pending in Congress which would put a large Air Force jet base in the Kalkaska area. Fearing the environmental threat to the area - the jets with their noise, the fuel storage tanks, and a vast concrete acreage - Comfort became a one-man squadron, taking action on many fronts. He

called on Congressmen and attended Senate committee hearings but found the real key to success on nearby Walloon Lake in the person of Charles Wilson, President of General Motors and Secretary of Defense during World War II. Wilson had a vacation home on Walloon Lake and Wilson put Comfort in touch with key people in Washington, particularly Congressman Carl Vincent. Changing legislative measures which affect many Congressional Districts is never easy, but Vincent prevailed and no Air Force Base was built in Kalkaska.

Hartley Comfort and Betty Kohl were not alone in questioning the assumption that the lakes in our area would always be there in their pristine clarity for them and their families. They saw that they had to swap myth for reality. An historic get-together followed on July 11, 1966, with these friends and neighbors in attendance: Bill Lee; Martha and Lloyd Aemisegger; Margaret Campbell; Caroline and James Kirkpatrick; Kathryn and Hartley Comfort; Sam Comfort; Betty and John Kohl; Russ Wheeler; Vi Patchen. This meeting inaugurated our organization and, for the record, Kathryn Comfort came up with the name, Three Lakes Association, to indicate the interdependence of Lake Bellaire, Clam Lake and Torch Lake. Martha Aemisegger drew the first map used for publicity and membership mailings. Hartley Comfort was elected the first President and Lloyd Aemisegger was elected the first Treasurer.



Dues were \$5 per year, and at the annual meeting of August 3, 1968, the Treasurer reported a balance of \$4,576.35. Most of the early funds in the treasury went to pay to for a water-testing program.

From the beginning, Mary and Donald Richards, year-round residents on the north arm of Lake Bellaire, responded to publicity and joined the



fledgling organization. They both had degrees in biology, taught school in Central Lake, and brought especially helpful scientific knowledge and skills to the discussions of the organization. Mary Richards also remembers many long (and unscientific) hours when, as Treasurer, she kept TLA's books without the benefit of either an adding machine or a calculator.

*It does no good to permit unchecked use of the lakes if, as a result, no one will be able to enjoy using them.*

*The Three Lakes Association maintains that the best overall standard for determining the safe degree of the use of our lakes is that of reasonableness.*

## **Stating Our Purpose**

As enumerated in the By-Laws, the purposes of the Three Lakes Association are to test the quality of the lake and river waters, to establish quality standards, to take actions necessary to protect and preserve the waters, and to interact with groups with similar goals. These purposes reflect a rather recent acknowledgement that our natural resources are limited and that the ability of air, land and water to accommodate the damaging effects of industry, population growth, and development, is also limited.

From the time when the first immigrating waves of our European forbears arrived on our shores, which were already populated with American Indian tribes, it seemed as though our land was one of seemingly limitless frontiers. Indeed, for generations, our history books have glorified and romanticized early settlers for taming the wilderness, leveling our forests, creating our cities, and industrializing the nation. But attitudes are changing, and TLA has been in the forefront of those who see that the ways of the past have also brought floods, erosion, toxic wastes, an enfranglement of food and water supplies, and a spiraling wild life extinction rate, and more recently, a demonstration of the damaging effect of synthetic chemicals on human genes. Indeed, TLA was formed in 1966 by people who were determined to avert the degradation of the natural environment.

In our immediate neighborhood in the Elk River Watershed, our priceless assets are Lakes Bellaire, Clam and Torch. They have already been developed and even abused to a certain extent. Protecting them from further degradation is the aim of TLA. There have been, and there will continue to be, attempts to construct funnel projects where many homes are built on a large parcel not located on the shore of a lake, with their owners accessing the lake through small "keyhole" or "funnel" lot which the owners hold in common. Other seemingly harmless actions can have detrimental impacts as when a septic system is inadequate, a swamp has been filled, a lawn fertilized, or pesticides used. Unaware property owners need to be informed of the impact these kinds of actions can have on water quality.

Clearly, everyone who lives in the Elk River Watershed has an interest in protecting the waters from overuse and over-development. Once the clean, clear beauty and health of our waters is destroyed, the value of these waters, whether recreational or economic, will be lost to all. Directly or indirectly, almost everyone living in the Watershed is here because of the

beauty and quality of the lakes and rivers. When the blue water loses its clarity, when the lakes and rivers are no longer safe for swimming, and when the fish are not safe for eating, people will simply leave, severely damaging the economy of our area.

Accepting the premise that **our lakes must be preserved and** protected, one might ask: **For Whom? By Whom? How? According to What Standards?** And our answers might be:

**FOR** ourselves and for those who come after us, for those who dwell on and near the lakes, for those who reside elsewhere in the Watershed, and for residents and visitors alike who use the more than sixty public access sites (boat launches, road ends and parks) located around our three lakes. In all cases, the use made of the lake waters must be wise and forward-looking. It does not good to permit unchecked use of the lakes if, as a result, **no one** will be able to enjoy using them.

**BY** ourselves. Even though our lakes are supposedly protected by a number of governmental bodies, and despite the maze that a developer must go through to develop and sell real estate, currently, few officials are charged with closely scrutinizing a proposed development to determine its long-range environmental effects. They need our support. We who live here in the Watershed have an obligation to care for and protect these natural resources.

**BY TAKING RESPONSIBILITY** and exercising initiative in many different ways. By attending and speaking up at Township zoning and planning meetings; by reviewing fill and dredge applications to the DNR and to the US Corps of Engineers; by testing water for degree of purity; by distributing informative publications. in addition, TLA has occasionally found it advantageous to appeal to the courts, especially since the passage in 1970 of the Michigan Environmental Protection Act. Environmental litigation has a number of advantages in circumstances where obtaining a legislative solution to a troubling situation might take too long. For example, a court can focus on a single development, whereas legislation frequently needs to give broad treatment to a general concept. And a court can grant immediate relief by means of an injunction in order to preserve the *status quo* while a matter is litigated. Although lawsuits are unquestionably expensive and time-consuming, sometimes they represent the best way to go. In this process, TLA has bee able to establish precedents which continue to help the general cause of environmental protection and preservation.

**BY APPLYING A STANDARD OF REASONABLENESS.** The Three Lakes Association maintains that the best overall standard for determining the safe degree of the use of our lakes is that of **reasonableness**. TLA believes that, for the most part, it is reasonable for lake frontage to be used for single family residences, as opposed to high density development, and that reasonable use guidelines can grow only out of experience.

# Monitoring & Preserving Our Environment

## Baseline Water Quality Monitoring Project

Beginning in its fledgling year of 1967, TLA initiated its Baseline Water Quality Monitoring Project with Dr. LaVerne Curry, Chairman of the Department of Biology at Central Michigan University. In cooperation with Edward McDuffie of Bellaire High School, who served as the local Director of Water Quality Studies, high school and college students conducted survey work in our lakes, often aboard the vessel Fish Hawk (partially funded by TLA). Others had already been conducting water quality studies on our lakes before the formation of the Three Lakes Association, so TLA was anxious to benefit from their data, and these new friends were glad to have TLA's financial support and cooperation.



Careful measurements of oxygen, clarity, phosphorus, temperature, bacteria, algae, and other animal life taken yearly around the Chain of Lakes produced a reliable and evolving profile of our lakes. These measurements were originally taken at fifteen locations, and since 1982, five locations have been used uniformly. These data can help identify gradual changes in water quality and they can also provide reference points for comparison purposes whenever "hot spots" or other crises occur around the lakes.

These processes have been, and continue to be, at the heart of the fundamental purposes of the Three Lakes Association. Many TLA members, fortunately, have contributed to the water quality fund over and above their regular membership dues, because water quality testing represents one of the organization's major expenses.

From 1980 to the present, Executive Director Dr. Bill Weiss has been collecting data for this ongoing documentation. One outstanding example of the practical value of TLA's research was the use of these data by the Michigan DNR to determine how best to improve Bellaire's sewage disposal system and to minimize its impact on our lakes. And there have been several other cases where TLA's documented familiarity with the area's ecological environment has worked to preserve the quality and character of the watershed.

*Bill Weiss  
checking water quality.*

## The Grass River Natural Area

In 1969, the Three Lakes Association sponsored a steering committee designed to preserve the Grass River which flows out of Lake Bellaire, through extensive wetlands, and into Clam Lake. Conceived by, directed by, and financially supported by TLA, the project was undertaken in conjunction with the Antrim County Board of Commissioners, the Antrim



Soil Conservation District, the Nature Conservancy, the Michigan DNR, the Michigan Natural Areas Council, the Elk River Watershed Council, the Antrim County Planning Commission, and the Antrim County Farm Bureau.

Margaret Campbell was the TLA representative on the steering committee and remained ever afterwards a dedicated volunteer worker for, and advocate of, the Grass River Natural Area.



Mary and Donald Richards, Helen Johnson O'Hair and Walter Reese O'Hair were also TLA volunteers who gave years of service to the formation of this project. Mary Richards remembers being Treasurer of the new group, stashing thousands of dollars of contributions at home, nervously waiting until the Grass River group set up its own bank account.

Significant diplomatic skills were shown by the handful of volunteers who guided the steering committee through deep and murky administrative waters to coordinate the requirements of a full house of official bodies, and - in the end - produced the Grass River Natural Area.

Over the years, approximately 1,000 acres have been acquired, comprising most of Grass River's shoreline on both sides and part of the wetlands at the southeastern end of Clam Lake.

Dedicated in 1976, the Grass River Natural Area is known today to be one of the finest nature sanctuaries in the State of Michigan.

This project is another example of what community interest in a worthy conservation goal can accomplish. TLA demonstrated through this project its founding purpose, to preserve clean water and wetlands in their natural state.

## The Lake Watch Program

At the 1987 T:A Annual meeting, some members brought forward the following challenge: **Where cases of suspected or known pollution are being officially ignored or ineffectually dealt with, will the TLA please do something useful?** Frustrated members cited a case of strongly suspected septic pollution, simultaneously acknowledged and denied by the Health Department, leaving the affected homeowners angry and baffled by the official position.



Shirley Hetzel taking samples.

TLA Zone directors and Water Quality Chair, Jack Norris, accepted the challenge. They met with the distressed property owners and the appropriate Public Health officials. Those officials insisted that the contentious cases were closed, on the grounds that standard monitoring methods failed to show defective septic operation. Left with no other alternative, TLA members and officers, with the benefit of scientific input, went on to design their own far more accurate and discriminating testing and monitoring techniques. These techniques, collectively known as the White-Kuhn-Larsen-Norris method, form the core procedures of TLA's Lake Watch Program.

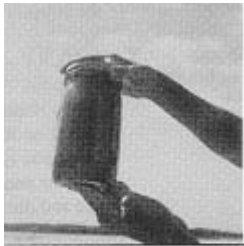


*Erosion Control Expedition*

In 1988, the Three Lakes Association Board formally embraced the Lake Watch Program as a TLA function, the purpose being to assist interested people in identifying and rectifying pollution sites along the shores of the lakes and streams in the watershed.

A distinctive feature of the Lake Watch Program is that it is not imposed on property owners by outsiders or officials. A Lake Watch survey is, instead, headed up by the interested property owners themselves, who typically form a group of six to a dozen neighboring riparian property owners. They arrange for as much or as little TLA training and assistance as they desire, take samples for Health Department Lab analysis, decipher the reported results, chase down any pollution found, and set about any needed remediation.

In its first year of operation, the Lake Watch Program stopped septic leachate inflows of over 5,000 gallons per day. In subsequent years, the program's effectiveness has increased as more and more people have adopted its methods and principles. Over the years, under the leadership of Jack Norris, some 150 citizen-volunteers have become involved, learning the basics of proper visual observation, shoreline inspection, and water sampling. In 1990, TLA hired Cory Gerlach, an environmental studies major at the University of Virginia, to assist in the Lake Watch Program for that summer. Some of the most active TLA volunteer-leaders have been Paula Larson, Galen Hershey, Bill Eberhart, Jim Roach, Bill Huxtable, Ken Knox, and Jack Sullivan. Many others have also contributed importantly to the program which could not have succeeded without them.



*Specimen of "Black Sand" or "Magnetite"*

TLA does not know of all the applications of the program, since some occur without any formal TLA involvement. Still, judging from many comments and informal after-the-fact reports, it can be reasonably estimated that TLA's Lake Watch Program has effectively stopped the daily inflow of tens of thousands of gallons of septic effluent into our lakes and streams. The Lake Watch Program has also been called on for assistance in Circuit Court by the Public Health Department.

TLA's Lake Watch Program has been entirely funded by volunteers' dues and donations, except for the analyses done by the Michigan Health Department Lab. In 1988 and 1989, the analyses were paid for through taxes, but since then, such analyses are available from the Michigan Health Department Lab only at the same fee schedule one would have to pay to a private lab.

## **Disposition of the C&O Railroad Right-of-Way**

Remember the railroad? Old-timers do, of course, because it was the Pere Marquette Railroad Company (later the Chesapeake and Ohio) that brought people up to the golden shores of Torch, Clam and Bellaire Lakes from Chicago, Detroit, or farther places. The train stopped in Rapid City,

*This potential opening to uncontrolled development was a red flag to Dick Anderson. . .*

Alden, Bellaire, and Central Lake. There was even a whistle stop at Fisherman's Paradise on Lake Bellaire where Brad Norris worked as a youngster. The "Resort Special" brought folks up in the morning and departed again in the evening. Most convenient! *"It was hard to get comfy on those woven straw seats, though,"* Jack Norris remembers. *"Too slippery. If you drowsed, you slid off! They burned pretty soft coal, too, so it could be a sooty experience to ride the train."*

However, like the slower-paced life of the times, passenger train travel chug-chugged to an end along our shores. The track was no longer necessary, and in 1979, the C & O Railroad Company made it known that it would sell off its right-of-way along the eastern shore of Torch Lake from Crystal Beach Road bordering the southern shore of Torch Lake north to Brake Road on the eastern shore of Lake Bellaire.

This potential opening to uncontrolled development was a red flag to Dick Anderson, the then President of the Three Lakes Association, and he and Hartley Comfort, the first President of TLA, concerned themselves with this matter. They formed a Railroad Association which bought the C & O right-of-way parcels extending 6.5 miles from Crystal Beach Road to Crystal Springs Road and then resold them to adjoining property owners instead of to outside developers. Thus, peace and tranquility continued to prevail on the eastern shore of Torch Lake with no adverse impacts on water quality.

Hartley Comfort, Kay Stearns,  
Laura Hilby and Jack Norris



Although the Three Lakes Association never became officially involved in the disposition of these parcels of land, it did share its membership lists, as well as volunteer energy and effort, with the Railroad Association being run by Dick Anderson and Hartley Comfort.

In addition, the Lake Bellaire Association (which eventually merged with the Three Lakes

Association), along with the Antrim County Board and the Grass River Natural Area Board, undertook to buy up the railroad right-of-way north from Crystal Springs Road on through to Brake Road. This cooperative initiative, in which Warren Studley and Margaret Campbell played key roles, as did Bill Munn Jr. and Bill Avery of the Lake Bellaire Association, prevented the bisection of the Grass River Natural Area and resulted in the retention of a non-motor trail and the two wooden trestle bridges over Finch and Cold Creeks, which have been used ever since for hiking, observing, exploring, and learning about the environment.

# Confrontation and Dialogue For Water Quality

*The TLA Executive Director checks through the applications, then alerts a volunteer from the TLA Board of Directors in whose zone the subject property is located.*

## **Monitoring DNR and Corps of Engineers Permits**

A fundamental purpose of the Three Lakes Association has always been to prevent water quality degradation. This aim is much aided by the vigilant monitoring of DNR and US Corps of Engineers permit applications. Before any landowner can alter property below the high water mark of a lake or stream, he/she must apply to the Michigan DNR for review.

Additionally, any excavation or earthmoving done within 500 feet of the water requires a soil erosion permit from the Soil Conservation Office.

Lists of these applications within our watershed are sent to TLA Executive Director, Bill Weiss. In the winter, these applications number about one every two weeks. In the summer, a new permit application every week is not unusual. Some applications are for permanent docks in rivers. Some seek official determination of wetland areas so that houses can be located on new lots. Others may be for seawalls or large dredge and fill projects.

The TLA Executive Director checks through the applications, then alerts a volunteer from the TLA Board of

Directors in whose zone the subject property is located. A Director receiving such an alert goes to the site, speaks with the property owner, who is likely to be a neighbor or an acquaintance, investigates in a friendly manner, and then determines whether the proposed activity is minor enough not to cause a problem to water quality. Those projects that threaten water quality unduly get TLA's full attentive aid toward modifying the proposed project. to eliminate environmental threats.

It is particularly difficult to protect the marginal wetland areas; despite extensive educational efforts and the passage of good environmental statutes, old habits of mind resist modification. It is still common to hear land-owners, real estate agents, even planners and governmental officials, refer to swampy or boggy ground as being "worthless unless it's filled."

Many people who apply for small wetland fills for siting new homes consider themselves "environmentally friendly" and want "to do it right." Sadly, the effects in these marginal situations are cumulative and the water quality can suffer as a result. TLA is committed to halting, or minimizing, such cumulative detrimental effects.

As this History is written, efforts are under way in legislative halls to reduce the degree of official protection extended to our wetlands.

This intriguing contest pits vastly important, although sometimes little recognized, societal values against the traditional "rights" of individual landowners.



*Over the past thirty years, TLA has been fortunate to have volunteers who have been willing to appear in all kinds of weather in all seasons at local Township Halls to speak for clean water.*



*Jack Norris emphasizing the important role of township officials.*

## **Township and Board Meetings**

*"Eternal vigilance is the price of liberty,"* Thomas Jefferson said, and we can vouch for that.

It became apparent early on that simply opposing every damaging fill or dredging application, although essential, would not in itself result in a long-term plan for the protection of our water quality. Accordingly, urging local township boards to enact laws or ordinances "with teeth in them" and which would be uniform from one township to another became a TLA goal.

Elected local officials can find it politically awkward to reject developers' proposals which might lead to rapid growth for their local communities. The role of TLA has been to attend Township Board meetings and public hearings held by Zoning Boards of Appeal and Planning Commissions where variances and exceptions to zoning ordinances are requested, and also to meet with Zoning Boards to urge the adoption of uniform ordinances which could anticipate future events.

Many Townships in our area still have zoning ordinances which are inadequate to meet the pressures of increased population and lake usage. *"Zoning is not enough. Compliance is what's needed,"* said former TLA President Al Priebe. *"Only an ordinance which carries a fine for violators has the necessary teeth."*

A second fact is that, on occasion, zoning officials do not adhere to well thought-out zoning

ordinances. This weakness in the decision process can come from placing undue emphasis on short-term inconvenience for a few without sufficient emphasis being placed on the long-term damage to water quality in our lakes, streams and wetlands that will eventually affect everyone. TLA has long supported sound local zoning administration by sending volunteers to appear at public hearings where petitions for zoning variances or exceptions will be heard. Of course, residents who are away for any reason may have no notice of these meetings, which may explain why so many developers request hearings in the dead of winter. Attending these hearings and monthly Township Board meetings is a formidable task, given that there are eight Townships in the TLA area: Milton, Torch Lake, Central Lake, Forest Home, Helena, Custer, Kearney and Clearwater. Nevertheless, TLA volunteers try to attend these meetings and speak on behalf of protecting and preserving clean water.

Over the past thirty years, TLA has been fortunate to have volunteers who have been willing to appear in all kinds of weather in all seasons at local Township Halls to speak for clean water. In addition to the Executive Director, Bill Weiss, these unsung heroes include: all our officers and Zone Directors, many committee chairs, and many other TLA members.

## **Sunset Torch Condominium Case**

The first confrontational effort which the newly organized Three

***Court actions involving the Three Lakes Association mushroomed to six in number. During these proceedings, TLA was primarily represented by attorneys John Unger and C. William Garratt.***

Lakes Association engaged in concerned the Sunset Torch Condominium Development on the east side of Torch Lake. This pivotal case changed forever the direction that development could take on the shores of Torch Lake. In the Spring of 1970, a zoning ordinance was adopted which identified the old Junkers Resort property as single-family residential housing. That summer, developers bought the property and drew up plans to place as many as seventy-four condominium apartments on the shoreline. Voters then rejected the new zoning ordinance in the November, 1970 general elections, and the day after the election results were known, the Three Lakes Association filed suit to stop construction at the Junkers site, asserting that the development would contribute unacceptable pollution to Torch Lake in violation of the Michigan Environmental Protection Act.

The developers had completed twelve condominium units and had laid a few other foundations, but TLA's lawsuit had the effect of stopping the development project from expanding any further during the litigation, a clear win for the Torch Lake environment. The developers countersued with a \$2.5 million civil conspiracy action against the Three Lakes Association and some of its officers. Stalwart defense became essential. Court actions involving the Three Lakes Association mushroomed to six in number. During these proceedings, TLA was primarily represented by attorneys John Unger and C. William Garratt.

The litigation dragged on for eight

years, yet none of the matters ever came to trial. A review of the litigation requested by the TLA Board noted that:

*Both sides have propounded a myriad of procedural and legal issues, some serious and many frivolous ... Unger and Garratt have pursued with dogged determination any and all procedural errors committed by their opponents and the courts ... It is estimated that the great bulk of the total time and proceedings have been devoted to procedural dogfights ...*

The litigation was finally settled by a Consent Judgment signed in April of 1978. This stipulated that all lawsuits would be dropped and the developer could erect no more than twenty-eight condominium units. Other safeguards concerning greenbelts, shielding and marina restrictions were included.

In addition to taking eight years, this particular fight cost the Three Lakes Association some \$65,000 in legal fees. It also pitted many residents of the area against each other and it severely divided the TLA Board. While many TLA Directors were anxious to settle the litigation early on, other Directors saw that the lengthy litigation had worked to the benefit of Torch Lake's environment. During these eight years, other similar condominium projects on the lakes were simply not proposed. In addition, Townships around the lakes had time to establish zoning ordinances identifying all lakefront property as single family residential, and most Townships did so.

As divisive and expensive as it

was, the Sunset Torch litigation effectively defeated the threat of shoreline high density condominium-type housing for a quarter of a century. Developers with those plans in mind have turned their attentions elsewhere, but this may not always be the case. TLA directors are regularly consulted as to the organization's likely attitude toward some new high-density shoreline project, and this serves to keep TLA awake to the continuing threat.

*The Three Lakes Association Board had no choice but to confront the Paradise Estates threat.*

## **Paradise Estates Case**

While TLA was involved with the Sunset Torch condominium case on the east side of Torch Lake, the developers of Paradise Estates proposed a funnel development which would also threaten Torch Lake's water quality, this time on the west side of Torch Lake. The Three Lakes Association Board had no choice but to confront the Paradise Estates threat.

The developers did not want to face the kind of protracted litigation that was going on in connection with the Sunset Torch matter, so entered into a consent judgment in August of 1973, incorporating among other elements: limiting to twelve the number of people allowed to use the Paradise Estates keyhole on Torch Lake at any one time; greenbelt and fencing requirements; restrictions on fertilizer and barbecue grills; prohibition of boat moorings; and requirements that obligated the residents to pay for the necessary improvements and for the enforcement of the consent judgment. TLA's expenses in connection with this case totaled

*This White Sands case, . . . has been cited repeatedly. . . on the point of "unreasonable over-use of the lake access."*

\$8,500.

This result effectively controlled that particular funneling threat and gave TLA an official status in the enforcement of the consent judgment. Paradise Estates Property Owners' management has been cooperative in upholding the regulations laid down in the court's order and it occasionally appeals to the TLA or to the Sheriff for assistance in maintaining them.

## **White Sands Case**

The White Sands development was also located on the west side of Torch Lake. It was a funnel development similar to the Paradise Estates development, and the product of the same developer. However, rather than being settled by a consent judgment, the White Sands case was tried before the Honorable William R. Brown, Judge of the Antrim County Circuit Court, and Judge Brown's order repeated many of the same elements contained in the Paradise Estates consent judgment. TLA's legal expenses in this matter were \$9,300.

This White Sands case, (known in the court as Three Lakes Association vs. Kessler), has been cited repeatedly through the years as precedent-setting in riparian law, particularly on the point of "unreasonable over-use of the lake access." Judge Brown's order said in effect: Here are the rules that will serve until you, TLA, and you, White Sands Estates Property Owners Association, formulate better ones and get them approved by this court.

Thirteen years later, the White

Sands organization requested a friendly sitdown with TLA for the purpose of drawing up proposed refinements and clarifications of the rules, to which TLA agreed. During the same period of time, however, while those friendly negotiations were just getting started, the White Sands Property Owners Association voted itself out of existence (for reasons having nothing to do with TLA or the Court's order). Accordingly, any changes in the existing regulations are on long-range hold, and in the meantime, White Sands residents will continue to be bound by the Court's order.

## **Bellaire Sewer System**

Even during the pendency of the Sunset Torch, Paradise Estates, and White Sands matters, TLA was aware that the health of Lake Bellaire, and ultimately the health of the entire Lower Chain of Lakes, was at risk because of the inadequate condition of the Village of Bellaire's sewage treatment facility. One remedial method after another had been tried, much of it mere patchwork, and all of it limited by budget constraints.

In 1972, Bellaire instituted a sewage treatment system pioneered by Dr. Kadlec of the University of Michigan. This system used a lagoon for collection and settling, and a wetland for disposal.

However, in 1976, there was a 3.5 million gallon release which caused algal blooms in Lake Bellaire. Further releases brought maintenance problems which often resulted in overland water-flows going directly into the Intermediate River. Through all this, the Village

*...voters in the Village of Bellaire voted overwhelmingly for a sewer bond issue.*

continued to add new household hookups to the system without correcting the operating problems.

The Three Lakes Association vigorously opposed the renewal by the Michigan DNR of Bellaire's surface discharge permit unless corrections were made. TLA representatives attended hearings, proffered water quality data and summary charts, and pushed the DNR to demand a hydro-geological survey of the area. Agreement was ultimately reached between TLA and the DNR.

Following a 1985 presentation by TLA at a Michigan Water Resources Commission meeting in Lansing, and with the support of the DNR staff, voters in the Village of Bellaire voted overwhelmingly for a sewer bond issue. That vote paved the way for construction of a new and advanced wastewater treatment system that included phosphorous removal. Although this new plant has experienced minor operational problems, the water quality problems which were of such concern in the 1970's have been abated.

## **Shanty Creek Resort**

In the mid-1980's, the Three Lakes Association became involved in another major environmental matter in the Bellaire area, this time involving the Shanty Creek Resort.

This Resort started out as a modest, private membership venture, as conceived of by Antrim County businessman Roy Deskin - a ski resort with some 340 homes, a 123-room lodge, and the Deskin golf course, all on 1,200 acres of hilly, forested land. Initially, there was no thought of condominium buildings





*Warren Studley being honored by the  
Three Lakes Association*

nor lake access.

With Deskin's death in 1969, three years after the formation of the Three Lakes Association, the Resort came under the management of the Executor of Deskin's estate, where it stayed for eight years. During that time, there were dramatic changes. The construction of Trapper's Lodge was started, and the Resort was sold to new owners and developers. In addition, Chet Maltby's Beach Club was acquired and its access to Lake Bellaire was now extended to all the homeowners and condominium residents in the Resort, a funneling expansion of great concern to the TLA Board of Directors.

Al Priebe, TLA President, and George Ward, a member of the TLA Board, were instrumental in bringing to the attention of the Shanty Creek Homeowners' Association the possibility of an over-use of Lake Bellaire at the Shanty Creek Beach Club. The Homeowners' Association, themselves, had set limits on the number of boats that could be moored at the Club, and members observed their own rules for maintaining the lakeshore.

Construction at Shanty Creek of the Arnold Palmer Golf Course in 1983 caused major soil erosion, which polluted several small creeks draining into Lake Bellaire. This erosion also polluted agricultural water supplies and some ponds at the Bellaire Golf Course. Warren Studley, Antrim County Soil Erosion Agent, with TLA's support and that of many Lake Bellaire residents, worked for several years to rectify the situation.

Shanty Creek Resort prepared a master drainage plan in 1985, but its implementation was slow and

several features worked with only limited success. The purchase of Shanty Creek Resort by Club Corporation of America and its subsequent evolution into Go Forward Operations, Inc., provided funds to address the work that was needed on Shanty Creek's golf courses. Nevertheless, even today, lakeside residents are finding sediments that work their way downstream because of golf course erosion.

The expansion of the Resort to some two to three times beyond what was originally planned, and the building of condominiums, caused other problems that were of serious concern to the Three Lakes Association. Well water tests taken to monitor the lodge's disposal system revealed groundwater with a nitrogen content exceeding US EPA Drinking Water Standards. As more condominiums were constructed, more disposal systems were scattered along the hillsides. TLA volunteers appeared in 1985 at the Water Resources Commission in Lansing to protest the re-issuance of the Resort's disposal permit without the requirement of, and an evaluation of, an environmental impact study for the entire complex. The Commission responded favorably by (1) requiring that all individual permits then in force be combined for renewal purposes, which had the practical effect of requiring an environmental impact assessment for the entire project, and (2) requiring that additional monitoring wells be created.

As a part of the monitoring program, Shanty Creek installed a purge well under the nitrate-contaminated aquifer to remove thirty-seven million gallons of water per year for

use as irrigation and snow-making water. Shanty Creek was required to account for the nutrients in the water as part of the golf course fertilizer management plan.

TLA is still concerned that fertilizer and pesticide runoff from the golf courses could become long-term problems, as could possible pollution of the artesian wells between the Resort and the lakeshore. Continued monitoring is necessary.

TLA also opposed the issuance of septic permits for the nearby Pinebrook condominiums which were planned to have an overflow going directly into the creek. Other disposal methods were finally achieved. At that time, Pinebrook was not part of Shanty Creek, but it has since become associated with the Shanty-Schuss-GFO business group.

It has been a source of great satisfaction to the Three Lakes Association that in the many situations where there were potentially enormous negative impacts on water quality, Shanty Creek Resort has heeded many of TLA's suggestions to the benefit of both Lake Bellaire and the whole downstream complex.

## **Hiring an Executive Director**

With the pendency of the matters described above, and with a large number of other activities taking place that could have an impact on the water quality of our three lakes, TLA's all-volunteer Board of Directors and Officers, many of whom were summer-only residents, acknowledged that it was becoming an impossible task for them to keep

## *Three Lakes Association*



*Al Priebe and Bill Weiss*

## *Confrontation and Dialogue for Water Quality*

abreast of the many complex issues facing the organization. There were more boats than ever on our lakes demanding expanded dock facilities. Additional condominium complexes, rivaling the town of Bellaire in population, were planned, each having its own septic system requirements and problems. The Three Lakes Association felt it needed to monitor all of these developments.

The only solution was for TLA to hire a part-time Executive Director. In 1984, the Search Committee interviewed several competent people, and the Committee found that the qualifications of William G. Weiss Jr., Ph.D. P.E., were outstanding. Bill was already residing here year-round, and from having served on the TLA Board since the early 1970's, he was familiar with TLA's goals, objectives, methods and procedures. With a Ph.D. in Environmental Engineering from Texas A. & M. University, and with experience working as an analyst on projects dealing with water chemistry in both lake water and wastewater from treatment plants, as well as with water quality assessment in Texas streams, bays and nearby Gulf waters, Bill was ideally suited to our group.

Besides direct water testing, Bill Weiss coordinated the activities of the many TLA committees and reported on all these efforts in the TLA newsletter. He continues to maintain friendly and professional liaison with the DNR, County officials, local Township boards, and environmental organizations, seeing to it that the Three Lakes Association is kept abreast of any projects which might affect our

waters. If there has been one consistent theme to the responses of TLA members to a questionnaire about TLA History it was, "We couldn't have done it without Bill!"

## **Hayes Township Case**

In several instances, Three Lakes Association has joined with others in the prosecution of litigation where the decisions would ultimately have a significant effect on Torch Lake, Clam Lake and Lake Bellaire. The Hayes Township case was such an instance, and TLA contributed financially and consultatively in this suit to give support to the Hayes Township authorities who had rejected a classic funnel development as not being in conformance with applicable zoning ordinances.

In this case, Fox & Associates, Inc., the developer, had purchased a small strip of expensive waterfront property on Lake Charlevoix. It had also purchased several acres of lower cost property at some distance from the lake for development of condominiums, and it wanted to offer water access rights (including swimming, partying, boating rights, and docking rights) to all who bought into the development. The Hayes Township authorities, ruling that this would result in an unreasonable over-use of the lake access, rejected the plan and Fox & Associates appealed.

The issue that was important to the TLA Board in this case was whether under the Township Rural Zoning Act (referred to as "TRZA") a township has the authority to enact a zoning ordinance which limits boat dockage and funnel development by riparian owners. Fox & Associates

*. . .the Michigan Supreme Court held that townships. . . do have the authority to prevent funnel developments.*

won a reversal in the Court of Appeals, *Fox & Associates, Inc v Hayes Twp.* 162 Mich App 647; 413 NW2d 465 (1987), and in 1988 the Township filed an appeal to the Michigan Supreme Court. In 1989, while the case was pending in the Michigan Supreme Court, but before there was a ruling, the parties settled the case by a consent judgment.

However, in 1992, the identical issue was presented to the Michigan Supreme Court in another case, *Hess v. West Bloomfield Township*, 439 Mich 550 (1992), and the Michigan Supreme Court held that townships, under TRZA, do have the authority to prevent funnel developments. In its opinion in *Hess*, the Court said that the same ruling would have been made in the earlier *Hayes* case had that case not been settled by a consent judgment.

With the *Hess* decision in hand, TLA volunteers went to the eight Townships bordering our three lakes and requested that appropriate zoning ordinances be adopted banning funnel developments. Results were not uniform, and the effort to convince local zoning boards to adopt these protective measures remains an ongoing task.

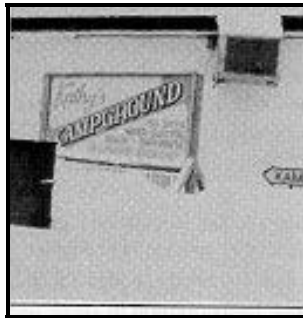
## **Rosemary's Dockage**

In 1988, the Torch River wetlands complex was going to be affected by the DNR's response to an application from Rosemary's Dockage (a marina operating on Torch River) to dredge bottomland and wetlands for the purpose of constructing thirty-one additional large boat stalls and to fill wetlands for parking. Approval would not only condone a very damaging exploitation of the natural resources, but would inspire

numerous similar requests. Once a precedent had been established, the DNR could hardly deny similar developments. It was TLA's monitoring of DNR applications that brought this situation to light, and the health of the Torch River bayous and the wetlands along the Chain of Lakes hung in the balance.

The DNR has the power to deny such applications outright but when the pressure of developers is intense, unsatisfactory compromises can result. Only lake associations and the voice of the people stand in the way of the destruction of wetlands.

Fortunately, the Three Lakes Association has a good working relationship with state officials. In this case, TLA's Executive Director and TLA volunteers took TLA's concerns to the DNR's Wildlife and Fisheries staff, and Rosemary's permit request was denied. A small addition was subsequently allowed without dredging, but some fill that had been dumped in the wetland to provide parking space had to be removed at the DNR's insistence.



## **Kathy's Kampground**

TLA's diligence in attending Township Board and Planning Commission meetings does pay off, as illustrated in the Kathy's Kampground case. Not all the issues that come up at these meetings appear on the published agendas, so that concerned parties must be in attendance at these meetings in order to be able to react in a timely fashion if certain issues are not being dealt with properly. For these reasons, regular TLA attendance at Township meetings has been a guiding principle of TLA.

Kathy's Kampground, near Eastport

on the northwest shore of Torch Lake, had been operated for several years as a primitive summer campground with only limited use of Torch Lake. However, in the summer of 1988 and after the sale of the property, the new owner, a developer, applied to convert the two-acre campground into a condominium with recreational vehicles and trailers to be set permanently on individual slabs. It was also proposed that the facility be increased from thirty-five to eighty sites, requiring a vastly expanded sanitary system and well to serve the anticipated new population (which, if packed into the two-acre parcel, would have a population/acre density exceeding that of Detroit).

Immediately, TLA President Al Priebe and Vice President Oliver Larkby, accompanied by TLA Water Quality Chair, Jack Norris, started attending meetings of the Township Planning Commission in an effort to prevent a premature approval of the project. In the meantime, public opposition to the project grew because the property had a non-conforming use status and could not legally be expanded or changed; the extensive new excavation for the septic systems would open up a gasoline contamination site where 65,000 gallons of leaded fuel had leaked into the ground; and the new population would outnumber the Township's existing population. The Three Lakes Association spoke out concerning the threatened unreasonable over-use of Torch Lake and the associated environmental abuses.

The Township Planning Commission voted unanimously to deny the developer's request and the developer brought suit against the



Township. TLA rallied public support in favor of the Township. Faced with considerable public opposition and the prospect of an extended legal battle, and embarrassed by the exposure of what appeared to many observers to be collusion and conflicts of interest, the developers changed course and offered to sell the property to the Township.

A Torch Lake Township Task Force, staffed by TLA members Jack Norris, Otto Bretz, and Walter Cook, and by other Township residents Bill Good and Harvey Jacobitz, researched the matter and recommended the acquisition of the property for a Day Park. Bill and Virginia Good bought the campground and rented it to the Township for a dollar a year to use as a park until funds could be acquired to purchase it. Funding that purchase involved the creation of a Township Recreation Plan, its acceptance by the DNR, the preparation of appropriate grants requests, the passage of a funds allocation bill in Lansing, and numerous other details.

Thanks to the Goods' sense of civic responsibility and a year of dedicated work by others, the Torch Lake Township Day Park was opened and dedicated in 1994. Since named the **William K. Good Day Park**, this park is a model of its kind, and the Three Lakes Association takes pride in having contributed to its creation.

## **Lamont vs. Health Department Case**

In 1989, the Antrim County Health Department declined to issue a permit for an on-site septic disposal

**... Judge Brown upheld the position of the Health Department. . .**

system for which an application had been made by owner Lamont, who had bought the property knowing that it could not support a septic system - a fact noted in the deed. The Health Department adhered to the County standards that had been in force for years for new residential construction and denied the permit. Lamont sued the County, the Health Department, and the responsible sanitarian in Circuit Court.

TLA played two roles in this litigation: (1) TLA filed an *amicus curiae* brief in support of the position taken by the Health Department because TLA was convinced that there was a clear pollution threat to Torch Lake if the requested permit were to be issued, and (2) TLA Water Quality Chair Jack Norris was engaged by the defendants as an expert witness to conduct and report on a series of definitive tests, using the sensitive technique developed by him and others for the TLA Lake Watch Program.

Four months later, Judge Brown upheld the position of the Health Department and affirmed the Department's refusal to issue an on-site disposal permit to the applicant. The Judge requested the Department to consider the issuance of a holding tank permit, and such permit was ultimately issued subject to specific safeguards. The TLA Board was pleased to have aided Antrim County authorities in preventing the installation of an on-site disposal system which was clearly destined for permanent pollution difficulties.

## **Wetlands Fill Matters**

In several cases where TLA has intervened effectively short of court litigation, the question at issue was

filling protected wetlands for the purpose of building houses. Routine monitoring of DNR permit applications helped bring these situations to light.

Typical of these cases was one in which a builder wanted to set up a housing complex in fairly sensitive wetlands along the southeastern shore of Lake Bellaire near the famous local resorts. Among other things, the applicant sought to dredge a pond on Shanty Creek. TLA objected and presented to the DNR water temperature data which were collected as a part of TLA's Baseline Water Quality Program. These data documented the difference in temperature between Shanty Creek and Grass River and demonstrated that the pond-dredging would disturb this temperature difference, a not inconsequential interference with the local ecological balance. The permit was denied.

Other cases have involved plans to erect houses on stilts in the wetlands when there were perfectly reasonable alternatives that would not involve wetlands destruction.

## **Watomie Pines**

The summer of 1990 brought the Three Lakes Association and Clam Lake residents into a closer working relationship. A contractor for the Watomie Pines Condominiums applied to the DNR to build a U-shaped harbor for 20 boats, including a dock extending 126 feet by 112 feet into Clam Lake along an undeveloped shoreline. Clam Lake residents protested vehemently about the increase of boat traffic and the potential for safety hazards on the narrow areas of the Lake.

The Three Lakes Association led

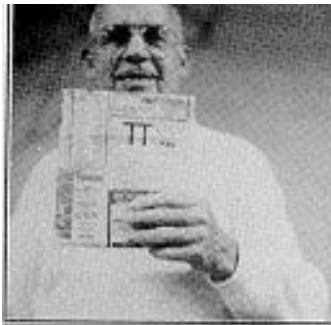
Clam Lake residents to mount a letter-writing campaign to the DNR to voice their feelings and their opposition. Ultimately, a new dock design was approved by both the DNR and Watomie Pines. The new dock configuration allowed one boat slip for each of the fourteen condominium units with placement along the existing bulkhead fronting on the units. Thus, no extension out into Clam Lake was needed.

## Two Torch Lake Township Zoning Cases

The Three Lakes Association filed *amicus curiae* briefs in 1995 in two cases at the north end of Torch Lake. In the first of these, TLA came to the support of Larry Tomlinson, a neighbor of the former Torch Tip Resort in his suit against the resort.

For many years, water quality testing by the Three Lakes Association and others had shown alarming bacterial counts in the water of Torch Lake just off shore from the Torch Tip Resort. There simply was not a distribution field capable of keeping septic pollutants from drifting into the wetlands and from there into the lake.

Still, the resort owner-operator persisted in trying to attract ever larger numbers of customers to the resort by renting out personal watercraft, operating an electronic games room, and finally by starting up an unlicensed marina. Tomlinson filed suit against the resort owner for operating an unlicensed marina. Because of the pollution level adjacent to the Torch Tip Resort



*Ollie Larkby considers a newspaper advertisement for Torch Tip Resort.*

marina, the Three Lakes Association supported Tomlinson's position and the case was soon settled with an agreement by the resort owner to cease operating the marina. When the resort was sold, the property reverted to single family residential use and the water quality offshore improved.

The other case was brought by long-time resident Norman Milewicz against various elements of the Township government in objection to what he and TLA saw to be zoning violations by government officials favoring each other in flagrant conflicts of interests. In addition, Milewicz and others complained about what they saw as a failure to represent the major interests of the Township in the staffing of the Planning Commission in the manner required by law.

The portion of the suit which was concerned with what appeared to be conflicts of interests was ended with the resignation of the official most centrally involved. The portion of the suit dealing with appropriate representation on governmental boards and commissions was ultimately dismissed by the Judge with a suggestion that the only reliable pathway to better government lay in door-to-door efforts and in the voting booth.

## **Cicinelli et al**

**vs.**

## **Michigan Dept. of Natural Resources**

In 1994, four property owners who lived on the west side of Torch Lake in Torch Lake Township (Cicinelli, Mayer, Grear and Zahler) initiated a lawsuit to oppose the development

*...the DNR's plans included... the dredging of a 300-foot channel in Torch Lake...*

*In the Spring of 1996, Judge Philip E. Rodgers, Jr., issued a preliminary injunction. . .*

by the Michigan Department of Natural Resources of a proposed boat launch site for large boats on a piece of property having 200 feet of frontage on Torch Lake.

At the proposed boat launch site, the off-shore water depth of Torch Lake is only 3.3 feet at a distance of 270 feet from shore, and the DNR's plans included: the installation of a 54' X 48' concrete ramp largely in the water; the construction of skid piers (docks); the construction of parking for many vehicles; and the dredging of a 300 foot channel in Torch Lake to provide access to deep water to and from the proposed boat launch site. The development of this boat launch site would be contrary to local Township zoning ordinances because the site is zoned residential with 100-foot-sideline setback requirements. The properties of the four plaintiffs abutted, or were in the immediate vicinity of, the proposed boat launch site.

The four plaintiffs argued that: (1) it was wrong for the DNR to attempt to build a boat launch site in an area zoned for residential uses and in violation of other local zoning requirements; (2) the proposed boat launch site was not needed because there were other existing and underused boat launch sites in the immediate area; and (3) the dredging of lake bottom for 300 feet, the destruction of the six-foot-high natural earth bank adjacent to the water, the excavation of large quantities of earth for parking lots, and the making of other changes in the topography necessary to accommodate the proposed boat launch site, would harm and degrade the water quality of Torch Lake in violation of the Michigan Environmental Protection Act of

1970. The Three Lakes Association agreed with the arguments of the plaintiffs and TLA contributed \$5,000 to help them defray their legal costs.

In the Spring of 1996, Judge Philip E. Rodgers, Jr., issued a preliminary injunction prohibiting the DNR from undertaking any construction of the proposed boat launch site until and unless it has received all the necessary permits and all environmental concerns have been fully addressed by the Court. Judge Rodgers "administratively closed" the case for the time being, thereby retaining continuing jurisdiction to enforce the Court's injunctive order and to permit the litigants to seek further aid of the Court as the case develops. At the time of the publication of this History, no final resolution of this controversy had been reached.

# Public Outreach

## Educational Efforts

*"I remember when people didn't go swimming - they went bathing!"* joked one interviewee anonymously. *"Lakes were to get clean in! We kept a bar of soap on the end of the dock, didn't you?"* But that was before the Three Lakes Association.

Over the years, we have had our collective consciousness raised by TLA's brochures, flyers and newsletters. And many publications have been sent through the mail or displayed in local businesses, restaurants and marinas.

The subjects about which TLA has educated members and citizens at large have included: preferred methods of lawn fertilization; septic system care; discouraging duck and swan feeding; recycling; restraining loud motorboats and personal watercraft; what to do about swimmers' itch; the gypsy moth; zebra mussels; and how to establish a greenbelt between lawn and lake. TLA has also told us who our legislators are and, in 1986, TLA published a "User's Guide To Our Lakes".

Communicating with our members and with others is essential to the achieving of our goals and a recent part of TLA's educational outreach has been to set up and staff an information table at the Alden Days Fair and at the weekly summer evening Alden Strolls. TLA members have given valuable time in greeting and talking with people on these occasions. Dorothy Clore has organized this activity, assisted by Jane Van Etten (Muffin Tin), Laura and Martin Hilby, Sue Keller, Marilyn Bagdonas, Ruth and Howard North, Ed Oshaben, Jinks and Ruth Ross, and others.

Most recently, TLA co-sponsored a series of seminars to investigate strategies for protecting waters from overuse by funneling or keyholing operations, where a large group of property owners jointly own a small parcel of lake frontage to use as their private communal water access point.

The goal in these seminars was to develop formulae for calculating the carrying capacity of a lake and to develop model carrying-capacity ordinances to suggest to Township Boards. These seminars demonstrated the need to factor into the formulae several considerations beyond those already commonly used, since a single crude formula for a lake's carrying capacity could benefit some greatly abused lakes, while spelling catastrophe for other lakes that are still relatively healthy. These proposed formulae and model ordinances were unveiled in late 1994 under the co-sponsorship of the Three Lakes Association and the Planning and Zoning Center of Lansing. Both organizations are sensitive to the need for further refinement of the carrying-capacity ordinances developed to date.



## Speaking Up for Responsible Boat Operation

Another long-term TLA concern has been responsible boat operation. TLA gets numerous complaints about boat operation: too many boats in a restricted area; boats too big and too fast for the shallows and the rivers; strong wakes imperiling swimming areas and ripping up shorelines; bottom silts being stirred up by prop wash and altering water clarity; and other effects of reckless operation endangering people, other watercraft, and the ecology.

Because this concern is a growing one, a TLA Boat Safety Committee has been built around Jinks Ross's initiatives dealing with marine safety and responsible boat operation.

Since its inception, TLA has maintained close ties with the Antrim County and Kalkaska County Sheriff Marine Patrols. Our funds assisted in the purchase of their patrol boats for Torch Lake, Clam Lake and Lake Bellaire. In an attempt to moderate speed and noise on our lakes, TLA distributed "Think Before You Roar" leaflets which were designed and printed by the Bruce Petrie family.

In the 1990's, TLA has promoted the accurate placement of mooring buoys, an idea which stemmed from conversations Jinks Ross initiated with friends in various agencies which are concerned with a key provision of the Michigan Marine Safety Act: "...watercraft operators must not exceed a dead-slow, no-wake speed within 100 feet of a shoreline or dock or raft ...."

A mooring buoy carrying a black 5-pointed star can not only provide temporary boat mooring, but it can also be a navigational aid to boat operators since the star indicates that the critical 100 foot distance (from shoreline, dock or raft) has been accurately measured. These star-marked buoys are also recognized by the Antrim and Kalkaska County Sheriffs' Marine Patrols, and by the local DNR officials, as being useful to them in marine law enforcement and education.

*"The buoy program is not intended as a punitive measure -- it's a positive thing,"* TLA Board member Jinks Ross states. *"We're putting these mooring buoys out for mooring purposes, obviously, but with careful placement and marking, these buoys can also help boaters stay away from swimmers and children playing in the water. "*

# Our Unsung Heroes

## Our Thanks

To mention the name of even one tireless volunteer worker over the thirty-year history of the Three Lakes Association is risky business. Listing some volunteers runs the risk of omitting others who should also have been listed. Even given these realities, TLA needs to recognize the many volunteers whose efforts have contributed to the success of the Three Lakes Association. But how to make sure we haven't omitted anyone? Ah, there's the rub!

We have scoured the records, turned many pages of documents, and talked to and consulted with as many of the old-timers as we could. So with apologies for any oversights, TLA wants to say a sincere **THANK YOU** to those who resolutely tried to put our lakes first and foremost at some point in their lives. **By recognizing some, it is our intention to recognize all!**

First of all, the people who have served as TLA officers from 1966 to the present are listed in the [table](#) at the end of this article.

**Jack Unger, Bill Garratt, and Gordon Cook**, attorneys, magnanimously contributed countless days of their professional time on the Sunset Torch Condominium litigation. How can we thank them for the hours they spent on TLA's concerns during those eight years while foregoing other cases for which they would have been paid at their normal hourly rates?

And there was the committee of diplomats **Max Schwandt** and **Bill Munn**, working along with **Rick Williams** and others, who healed the internal dissensions that troubled TLA's membership during that time.

**Dan Boone** and **Walter Freihofer**, attorneys, have assisted TLA over the years and rendered incalculable service and wise counsel, while foregoing a portion of their normal hourly charges.

**Bill Forgrave** took the title of Comptroller for the years 1982 and 1983 and held TLA on a rational financial course.

**Stan Dole**, Chair of the Legal Committee, oversaw the work done for Three Lakes Association by volunteer lawyers, both paid and unpaid. Additionally, Stan was the volunteer who, in 1978, worked out helpful arrangements with the Western Michigan Environmental Action Council in connection with the payment of TLA's legal expenses; who applied for, and got in 1986, an IRS tax exempt status for TLA; and who, in 1988, wrote an amendment to TLA's Articles of Incorporation improving the situation concerning officers' and directors' liability exposure while engaged in TLA activity.

**Ed McDuffie, Dr. LaVerne Curry, and Dr. Bill Weiss**, started, maintained and fine-tuned TLA's water quality testing programs, working long hours in all kinds of weather.

**Ken Knox**, one of the real stalwarts, served as Zone Director, member of the Helena Township Planning Commission, water quality sampler, a ready hand at annual meetings, and an active member of the Executive Committee.

**Bill Eberhart** and **Jim Roach**, co-champ water quality sample takers, without whom the Lake Watch Program could not have covered the Alden mile of shoreline.

**Jack Norris**, whose 16-year leadership of the Water Quality Committee was so comprehensive that it impacted the other TLA committees and contributed greatly to the organization's ability to realize its fundamental purpose.

**Gayle Comfort**, in addition to increasing membership and doing yeoman work for the annual meetings, made a party out of folding, stapling, and stamping TLA's mailings and newsletters for many years. **Shirley Weiss**, **Tina Norris Fields** and **Larry Fields**, do the same, but confess it's not always a party.

**Warren Studley**, as Antrim County Soil Conservation Officer, worked diligently to correct the Shanty Creek soil erosion problems that were threatening Lake Bellaire, gave TLA advice of inestimable value, and served most valuably on the Grass River Natural Area Board.

**Helen Johnson O'Hair**, chaired the committee which established the Grass River Natural Area. **Walter Reese O'Hair**, lawyer, subdivider, developer, saw the light, changed his perspective, and worked hard to found and then advance the Grass River Natural Area. It was he who said "*I was too busy practicing law in Detroit to know what I was doing to the land.*" Also assisting in the formation of the Grass River Natural Area were **Alf** and **Caroline Hoadley**, and many others.

**Margaret Campbell**, TLA's only **Director Emeritus**, helped to put together the committee which established the Grass River Natural Area, and was, for more than 20 years, a TLA guiding light. She also served TLA as Secretary and Membership Committee Chair. It was Margaret who said: "*If you love the land, then you must serve it, care for it, and devote your life to the protection of its beauty.*"

**Dr. Alfred B. Austin** contributed \$10,000 worth of his land to the Grass River Natural Area, as a matching effort supplementing the Kresge grant of \$30,000 toward the purchase of those 62 acres.

**Don Richards**, Central Lake science teacher, labored long and hard for TLA and the Grass River Natural Area, conducting field trips and canoe outings, frequently aided by Marine Deputy **Bob Hill**.

**Elmer Schneider** did survey work and paid for several TLA mailings to help reduce the association's legal debts.

**Pat Thielker** has been active on TLA committees, and has planned many of our Annual Meetings.

**Jo Brokaw** in the 1970's put all 700 names of the membership on computer. **Jim Wilson** swept up the mailing and other membership tasks and computerized them. **Gene Heizer** gave us his beautiful photographic records of events for brochures, ads, logos, etc. **Al Priebe** was TLA President longer than anyone else and served fifteen years on the TLA Board. **Oliver Larkby** was TLA Vice President for eight years and represented TLA at Township meetings, conferences, and at many, many meetings of water quality groups. **Dick Anderson** sold TLA on the very successful idea of sponsoring running races, and **Len** and **Sheri Truesdell** organized these popular races in the early 1980's, all of which helped pay legal bills.

**Carol** and **Bob Hildorf** were, respectively, Membership Chair seven years and Treasurer ten years. **Ron Kraus**, helped Carol for years with the mailings and membership work.

**Ruth** and **Gordon Cook**, were a dynamic team with Ruth as TLA President and Gordon, along with Max Schwandt, carrying the ball on Township Master Planning and work with Zoning Ordinances.

**Peg Peterson Comfort** was a central worker in the effort to preserve loons in the TLA region, and was founder of the Institute for Water Quality Research, a TLA associate in environmental work. Attorney Ross Hickman was also instrumental in the formation of the Institute for Water Quality Research.

The spirit of volunteerism is surely epitomized by the generosity of these people and others unnamed. In addition, let us not forget that **EVERY MEMBER OF THE THREE LAKES ASSOCIATION** is also a valued contributor!

By our concern for water quality, we TLA members are bound together, and by trusting our Officers and Directors with authority to act on our behalf, we have protected and preserved the water quality of our three lakes and their connecting rivers.

**THREE LAKES ASSOCIATION OFFICERS 1966-1996**

DATE	PRESIDENT	VICE PRESIDENT	SECRETARY	TREASURER
1966	Hartley Comfort		Margaret Campbell	Loyd Aemisegger
1967	Hartley Comfort		Margaret Campbell	
1968	Hartley Comfort		Margaret Campbell	Mary Richards
1969	William Munn	William Munn	Margaret Campbell	Mary Richards
1970	William Munn	Ed McDuffie	Margaret Campbell	Mary Richards
1971	J. C. Young	James Nance	Ruth Cook	Mary Richards
1972	C. William Garratt	George Graff Mary Morse	Ruth Cook	Mary Richards
1973		Daniel Boone	Gwen Rakunas	Mary Richards
1974	Ruth Cook	Edwin Anderson	Gwen Rakunas	Mary Richards
1975	Max Schwandt	Daniel LaMet	Linda Wind	Mary Richards
1976	Max Schwandt	Ruth Cook	Linda Wind	
1977	Otto Bretz		Linda Wind	Ruth Cook
1978	Viola Turner	William Munn	Linda Wind	Pat Hunt
1979	Viola Turner	Dick Anderson	Peg Peterson	Pat Hunt
1980	Dick Anderson	Don Berner	Comfort	Irma Dondero
1981	Dick Anderson	Ross Hickman	Peg Peterson	Frank Thielker
	Dick Anderson	Ross Hickman	Comfort	
1982		Stan Dole	Jo Brokaw	Frank Thielker
	Dick Anderson	Al Priebe		
1983		Conrad	Jo Brokaw	Frank Thielker
1984	Dick Anderson	Friedemann		Frank Thielker
	Dick Anderson	Al Priebe	Jo Brokaw	
		Al Priebe	Shirley Hetzel	
1985		Stan Dole		Frederick & Nona Syme
1986	Al Priebe	Len Truesdell		Syme
1987	Al Priebe	Oliver Larkby	Shirley Hetzel	Frederick & Nona Syme
1988	Al Priebe	Oliver Larkby	Shirley Hetzel	Syme
1989	Al Priebe	Oliver Larkby	Jo Brokaw	Bob Hildorf
1990	Al Priebe	Oliver Larkby	Jo Brokaw	Bob Hildorf
1991	Al Priebe	Oliver Larkby		Bob Hildorf
1992	Al Priebe	Oliver Larkby	Dorothy Clore	Bob Hildorf
1993	Ed Oshaben	Ed Oshaben	Susanne Keller	Bab Hildorf
1994	Ed Oshaben	Dorothy Clore	Susanne Keller	Bob Hildorf
1995	Len Franseen	Dorothy Clore	Susanne Keller	Bob Hildorf
1996	Len Franseen	Jack Norris	Susanne Keller	Bob Hildorf
	Len Franseen	Jack Norris	Susanne Keller	Bob Hildorf
		Jack Norris	Tina Norris Fields	Bob Hildorf

# Challenges of the Future

## Facing the Future - The Watershed

*...the Three Lakes Association seeks to expand its membership rolls to include as many residents as possible, whether they live on natural shoreline or not.*

Lake Bellaire, Clam Lake and Torch Lake are important elements of the larger Chain of Lakes and the Elk River Watershed. Accordingly, TLA's concerns necessarily extend from the streams that feed Beals Lake in Antrim County's Kearney Township, and those in Kalkaska County's Rapid River and Clearwater Townships that combine to form Rapid River -- all the scenic and winding way down to the East Arm of Lake Michigan's Grand Traverse Bay.

Within this larger scope, the Three Lakes Association seeks to expand its membership rolls to include as many residents as possible, whether they live on a natural shoreline or not. Water quality problems which manifest themselves at the water's edge may - and often do - have their origins far from the shoreline. It is well known that any liquid or water-soluble material that is put on or into the ground will seep and drain toward the nearest open water, moving at about 75-125 feet a year.

Whatever water-soluble debris our grandparents, in all innocence, shoveled and slogged out of their barn doors in 1895 has now probably entered any natural lakes and streams within a couple of miles from the point of origin.

Some of this material is doing no damage to future generations, but some of it is undoubtedly doing demonstrable damage. Quite probably, no one raised water quality issues at that time. After all, our forbears were drawing pure drinking water out of the lakes and streams from what seemed like a limitless supply.

But our present generation cannot plead ignorance when we contaminate and pollute. The issue has now been repeatedly raised. Water quality is an issue that is important to all current and future residents of the area, not just to those living today on a particular lake, stream or river. Anything that degrades the water quality of a small part eventually affects the whole.

TLA has maintained close ties with other lake associations and environmental groups such as: Network of Lakes Associations (NOLA), of which TLA was a co-founder; Tip of the Mitt Watershed Council; Michigan United Conservation Clubs; Grand Traverse Bay Watershed Initiative; and many others. TLA also attends conferences of Michigan Lakes and Streams Association (MLSA); North American Lake Management Society (NALMS); state and federal Environmental Protection Agencies; and others. In the years to come, the Three Lakes Association expects to promote the coordination of efforts in research, monitoring and funding for Watershed-related projects to ensure that all such efforts are enhanced through cooperation. Together we can make a bigger - and far cleaner - splash.

## Concluding That It All Matters

*In the view of many, The Three Lakes Association needs to foster a network of environmentalists so that informed public officials sit on every board and commission of each Township and each County.*

Sure, it's inconvenient to interrupt a beautiful summer vacation day to engage in volunteer chores for the Three Lakes Association. But, **SOMEONE HAS TO DO IT!** Responses from TLA members make it clear that all the energy they put into protecting and preserving the quality of our lakes has been well worth it.

*"TLA has been a vital advocate for the lakes, stressing not what's best for a specific group of people, but what's best for the lakes. If TLA hadn't been here to defeat the Sunset Torch Condominium development plan, our lakes today would look like some other lakes we could all name. TLA is the only voice that is speaking out in defense of the lakes."* **Peg Peterson Comfort**

*"Because of the unique beauty of our lakes, people want to preserve them. We trust a group like the Three Lakes Association to lead the way."* **Louise O'Dell**

*"We pipe water directly from Torch Lake right into our house. We've had it tested over the years and the reports always come back that it's perfectly safe to drink. I don't think we're the only ones that drink Torch water."* **Sam Comfort**

*"If anything, the condition of Lake Bellaire has improved. Seven streams flow down hill from Shanty Creek Resort into Lake Bellaire. I monitor the two near our home and lately the water looks clearer and less laden with marl sediment."* **Shirley Hetzel**

*"Wherever our house may be, not far below our feet there is a continuous blanket of water flowing slowly toward open water and thence to the distant salty sea. It is the only fresh water on earth, except for what is frozen into glaciers near the poles. For eons, people have taken its pure abundance for granted, even while using it for waste disposal. We are learning better as we see rivers silt up with toxins, lakes die, forests disappear, and animal extinction rates spiral upward. We must help each other learn even faster and support each other even more firmly in the daily, common-sensical use of what we know."* **Jack Norris**

There are, of course, a number of unresolved issues that still remain to be faced. In the view of many, Three Lakes Association needs to foster a network of environmentalists so that informed public officials sit on every board and commission of each Township and each County. We need administrators who simply say "NO" when a permit is not justified, who raise questions when a proposal deviates from the existing codes, and who stand firm for compelling compliance with pertinent laws (with penalties if necessary) when violations occur. This is particularly true given the intensifying developmental pressures that our area will continue to face far into the future.

Members of the Three Lakes Association work hard to understand and respectfully harmonize differing points of view, when they exist. The question is really not *"Who should be free to pollute and poison and who*

*shouldn't be?"* **The touchstone for cooperation must always be that which preserves water quality and promotes the present and future public good, throughout the Watershed. These policies have evolved from our history as an organization.**

**We know that our task will never end, but we've chosen to shoulder the continuing challenge to insure that our lakes and rivers remain healthy, or, in some cases, return to health. The Three Lakes Association will succeed in the future as it has in the past, for it has the strength and vitality that arise in a group when its members know what they believe in, know what they are about, and know how to accomplish the tasks they've accepted.**



# TLA Photo Album



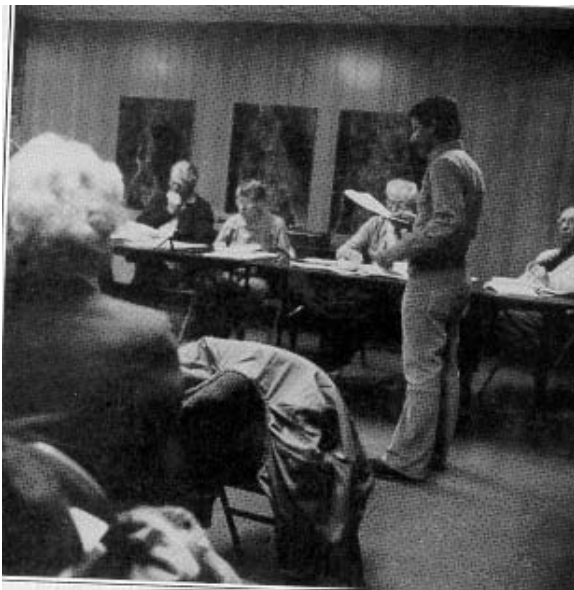
*Oliver Larkby, Margaret Campbell,  
and Al Priebe.*



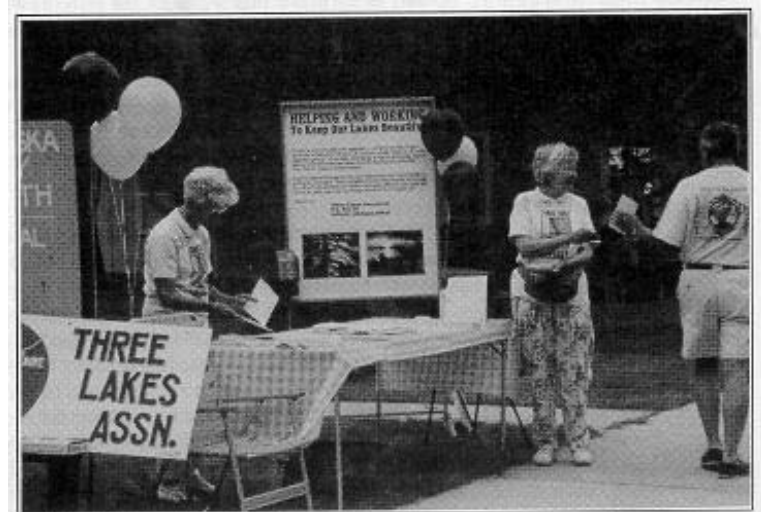
*TLA Board Meeting*



*Bill Weiss and Al Priebe*



*TLA presentation to Torch Lake Township  
Planning Commission*



*Laura Hilby and Libby Poindexter educate the public at the Alden Stroll*

# TLA Photo Album, Cont.



Bob Hildorf says we need more money.

Al Priebe and Oliver Larkby address TLA Annual Meeting



TLA Annual Meeting



Meeting of TLA Board of Directors.

Information table at TLA Annual Meeting.



Upper left: *Bob Hildorf says we need more money* - Upper right: *Meeting of TLA Board of Directors*

Center: *TLA Annual Meeting*

Lower left: *Al Priebe and Oliver Larkby* - Lower right: *TLA Information Table*

# TLA Photo Album, Cont.



## THE FIRST 30 YEARS

The people that made this History possible, including those who contributed their records, photographs, memorabilia, private libraries, and recollections; those who were asked to read drafts; those who offered essential insights into the events of the past thirty years; those who corrected and edited the many drafts of this History; and those who contributed in other ways, are listed below alphabetically:

Anderson, Dick	Kohl, Betty
Bagdonas, Marilyn & Stan	Kollin, Bob & Lois
Bart, Gary	Larkby, Oliver & Bette
Beals, Marti & Bill	Larson, Paula & Richard
Bennett, Cheryl	Malone, Sally & Terry
Berner, Rita	Martien, Phyllis & Leonard
Blocker, Bill & Anna	McDuffie, Ed & Mary Kay
Blunt, Owen & Beatrice	McLeod, Lynne & Bob
Boone, Dan & Kaye	McNeill, Rita
Bretz, Otto & Ann	Norris, Brad & Elizabeth
Brokaw, Jo	Norris, Jack & Marian
Clore, Dorothy & Bob	North, Ruth & Howard
Comfort, Hartley & Kathryn	O'Dell, Louise & Richard
Comfort, Peg Peterson & Tom	Oshaben, Ed & Pat
Comfort, Sam & Gayle	Ozanne, Jerry & Linda
Cowles, Bud & Betty	Parks, David
Curry, Dr. LaVerne & Kay	Patchen, Vi & Paul
Dole, Stan & Betsy	Price, Jerry & Moon
Drake, John & Nancy	Priebe, Al & Irene
Fell, Ed & Patricia	Rakunas, Fred & Gwen
Fields, Larry & Tina Norris	Richards, Mary
Franseen, Len & Karen	Ross, Jinks & Ruth
Freihofer, Walt & Sue	Russell, Blain & Bridget
Friedemann, Conrad & Anna	Schwandt, Max & Ann
Garratt, Bill	Spaniel, Shirley & George
Heizer, Gene	Stoppels, Chuck & Iris
Hetzl, Shirley	Studley, Warren & Lois
Hilby, Laura & Martin	Syme, Nona & Fred
Hildorf, Bob & Carol	Thielker, Frank & Pat
Hildorf, Lisa & Mark	Unger, Jack & Sharon
Hoadley, Alf & Caroline	Ward, George & Jane
Honer, Bob & Jeanna	Weiss, Bill & Shirley
Jessen, Doyle & Gwen	Wheeler, Russ & Monique
Keller, Sue & Peter	Wolfe, Twala

**THE COST OF PRINTING THIS  
HISTORY OF THE THREE LAKES ASSOCIATION  
HAS BEEN GENEROUSLY DONATED BY  
BOB AND CAROL HILDORF|  
AND THEIR FAMILY**