

TOWN OF ACTON		PLATE C-4	PCL. 14 ✓
OWNER TOWN of CONCORD - WATER WORKS			
ADDRESS			
LOCATION BEHIND 339 NAWOON HILL ROAD			
DEED: BOOK NONE PAGE		PLAN 4530 of 1909 (RAW# 2305)	
DATE		LOT	
FRONTAGE NONE		AREA 56 ± AC.	

TOWN OF ACTON		PLATE C-4	PCL. 14-1 ✓
OWNER TOWN of CONCORD - WATER WORKS			
ADDRESS			
LOCATION BEHIND 339 NAWOON HILL ROAD			
DEED: BOOK 6923 PAGE 239		PLAN 1002 of 1945	
DATE DEC. 31, 1945		LOT	
FRONTAGE NONE		AREA 1 ± AC. IN ACTON	

6923-239

pasture land with the buildings thereon situated in the Northerly part of ACTON, Massachusetts, and called the "Nagog Hill Pasture" containing thirty acres, more or less and more particularly bounded and described as follows: Beginning at the Southerly corner thereof at land now or formerly of Silas Holden; thence running Easterly by land now or formerly of said Holden about 20 rods to the corner of a wall; thence Northerly by land now or formerly of said Holden, as the wall now stands, to "Nagog Pond" so called; thence Westerly on said pond to land now or formerly of Peter Fletcher; thence Southerly by land now or formerly of said Fletcher as the wall now stands, to the road; thence Southeasterly on said road to the bound at the place of beginning. Being the same premises conveyed by my wife Vera Knowlton Baker to said grantee by deed dated April 29, 1944 and recorded in Middlesex South District Deeds, Book 2725, Page 197. The consideration for this deed is nominal and less than \$100 and no federal revenue stamps are required. WITNESS my hand and seal this 6th day of October 1945 Ralph G. Baker, THE COMMONWEALTH OF MASSACHUSETTS Barnstable ss. October 6th, 1945 Then personally appeared the above named Ralph G. Baker and acknowledged the foregoing instrument to be his free act and deed, before me Norman E. Holmes Notary Public (Notarial seal) My commission expires Sept. 6 1946 - - - - -

Middlesex ss. Dec. 31, 1945. 3h. 34m. P.M. Rec'd & Recorded.
One word over erasure.

We, Julian A. Whitcomb, Martha I. Houghton, also known as Mattie I. Houghton and Bertram D. Hall, all of Acton, Middlesex County, Massachusetts, all being unmarried, for consideration paid, grant to The Incumbents of the Town of Concord a municipal corporation duly organized by law and located in said County with EJECTMENT COVENANTS a certain parcel of land in ACTON and HILTON in said County shown on Plan of "Land in Acton and Littleton owned by Julian Whitcomb, conveyed for Town of Concord by George F. Tuttle August 4, 1945", to be recorded herewith and bounded and described as follows: Northerly by Nagog Pond 500 feet more or less; Easterly by other land of the Grantors 245 feet; Southerly by land of the Grantors 528.13 feet, and Westerly by land now or formerly of the Grantors by two lines measuring 37 feet and 225 feet. Containing more or less according to said Plan. Together with adjacent strip of land in the granted premises is and over a strip of land 25 feet wide and 100 feet long situated southerly to Nagog Hill Pond, the boundaries of which being shown on said Plan, and also a strip of land 100 feet wide and 100 feet long situated southerly to said strip of land 25 feet wide and 100 feet long.

Houghton et al
to
TOWN OF CONCORD

* * * * *
* U.S. *
* Rev. *
* Stamp *
* \$1.10 *
* Affixed & *
* Cancelled *
* * * * *

Town Engineer

NAGOG POND

Chapter 201 of the Acts of 1884 to
authorize the Town of Concord to
increase its water supply.

Don O.G.

1884. — CHAPTER 201.



Twenty-nine of the Public Statutes and any acts in amendment thereof or in addition thereto so far as the same are applicable.

SECTION 4. This act shall take effect upon its acceptance by a two-thirds vote of the voters of said town present and voting thereon at a legal town meeting called for the purpose within two years from its passage.

Subject to acceptance by a two thirds vote.

Approved April 30, 1884.

AN ACT TO AUTHORIZE THE TOWN OF CONCORD TO INCREASE ITS WATER SUPPLY. Chap. 201

Be it enacted, etc., as follows:

SECTION 1. The town of Concord, in addition to the powers now conferred upon it by law, is hereby authorized to supply itself and its inhabitants and other persons, towns and corporations on the line of its water works with pure water to extinguish fires, generate steam and for domestic and other purposes and may establish public fountains and hydrants and regulate their use, and discontinue the same, and may collect rates to be paid for the use of the water.

May increase water supply.

SECTION 2. Said town, for the purposes aforesaid, may take and hold the waters of Nagog Pond, so called, in the towns of Acton and Littleton and the waters which flow into and from the same, and may also take and hold by purchase or otherwise all necessary lands for raising, holding, diverting, purifying and preserving such waters, and conveying the same to any and all parts of said town of Concord, and may erect thereon proper dams, reservoirs, buildings, fixtures and other structures, and make excavations and embankments, and procure and operate machinery therefor; and for such purposes may construct and lay down, dig up and repair conduits, pipes and other works in, under or over any lands, water courses or railroads, and along any street, highway, alley or other way, in such manner as not unnecessarily to obstruct the same, and may dig up, raise and embank any such lands, street, highway, alley or other way in such manner as to cause the least hindrance to travel thereon.

May take waters of Nagog Pond in Acton and Littleton.

SECTION 3. Instead of taking the entire waters of said Nagog Pond, said town of Concord may, if it shall so elect, take a part of said waters, such election to be made by a vote of said town declaring the quantity or proportion of said waters to be so taken.

Quantity of water to be taken subject to a vote of the town.

General Questions
1.) Can Acton acquire Nagog for water?

2.) Recreation facility
a. Swimming
b. Boating
c. Fishing
d. Sledding

Question for Council

1. Could apply to Acton?

? 2. Recreation, etc??

3. Records of such voting?

Capital outlay

Jim Walline
Acton Jaycees
Acton Recreation Commission
Box 379, Acton, MASS.

NOTE: Concord has 75 acres of land in Acton owned some time ago at \$6,000, Concord has yet to pay taxes on this property - what implications might this have on acquiring Nagog as a resource??
Jw.

To file in registry of deeds a description of land and water taken.

SECTION 4. Within ninety days after the time of taking any lands, waters or water courses as aforesaid, otherwise than by purchase, said town shall file in the registry of deeds for the southern district of the county of Middlesex a description thereof sufficiently accurate for identification, with a statement of the purpose for which the same is taken, signed by a majority of the water commissioners of said town; and if said town shall have made the election authorized by section three of this act, said description and statement shall be accompanied by a copy of the vote of said town signifying such election.

Has this been complied with?

May, by vote, take an increased proportion of waters.

SECTION 5. Said town of Concord, if it shall have made the election authorized by section three of this act, may thereafter from time to time, if it shall so elect, take an increased proportion of said waters, each successive election to be made by a vote of said town declaring the additional quantity or proportion of said waters to be so taken, and upon each such successive election and within ninety days thereafter said town shall file in said registry of deeds a description, statement and copy of the vote therefor as provided for in section four of this act.

Have they acquired the whole lake?

Water to be measured.

SECTION 6. If said town shall make the election authorized by section three of this act, said town shall provide a reliable means or method of measuring and registering the amount of water taken, such register or record to be at all times accessible to any interested parties.

When can we get this information?

Liability for damages.

SECTION 7. The said town of Concord shall pay all damages sustained by any person in property by the taking of any land, right of way, water, water source, water right or easement, or by any other thing done by said town under the authority of this act; said damages to be based and proportioned in case of the taking of water or water rights upon the amount of water taken as aforesaid. Any person or corporation sustaining damages as aforesaid under this act, who fails to agree with said town as to the amount of damages sustained, may have the damages assessed and determined in the manner provided by law when land is taken for the laying out of highways, on application at any time within three years from the time when the water is actually withdrawn or diverted, and not thereafter. No application for the assessment of damages shall be made for the taking of any water, water right, or for any injury thereto, until the

How much does Concord pay for the Nagog's water?

Application for damages not to be made until water is actually withdrawn.

water is actually withdrawn or diverted by said town under the authority of this act.

SECTION 8. Said town of Concord, for the purposes herein authorized, may from time to time borrow money and issue notes, bonds or scrip therefor to an amount not exceeding fifty thousand dollars in addition to the amount already authorized by law in the manner and under the restrictions provided by section four of chapter one hundred and eighty-eight of the acts of the year eighteen hundred and seventy-two.

May borrow money and issue bonds, etc.

SECTION 9. The board of water commissioners of said town of Concord shall execute, superintend and direct the performance of all the works, matters and things mentioned in this act and exercise all the rights, powers and privileges hereby granted to said town and not otherwise specifically provided for herein, subject to the vote of said town. The provisions of sections seven, eight, nine and ten of chapter one hundred and eighty-eight of the acts of the year eighteen hundred and seventy-two shall apply to this act as if inserted herein.

Water commissioners to have charge of works.

SECTION 10. Nothing contained in this act shall prevent the town of Acton nor the town of Littleton from taking the waters of said Nagog Pond whenever said towns or either of them may require the same for similar purposes, and in case of such taking by either of said towns or both of them, if from any reason the supply of water in said pond shall not be more than sufficient for the needs of the inhabitants of the towns of Acton and Littleton, then the needs of the inhabitants of said towns shall be first supplied; and if either of said towns of Acton or Littleton shall hereafter be authorized to take and shall take the waters of said Nagog Pond or any part thereof which the town of Concord may have taken under this act, said town so taking shall pay to said Concord a just and proportionate part of whatever sums the said town of Concord shall have paid or become liable to pay for water damages to any persons or corporations for the taking of water rights from said pond or the outlet thereof, to be ascertained if the parties shall fail to agree, by three commissioners to be appointed upon the application of either party by the supreme judicial court; the report of said commissioners made after hearing the parties, and returned to and accepted by said court shall be final between the said parties.

Acton and Littleton not prevented from taking waters of Nagog Pond.

If water is taken, towns to pay just proportion of damages.

How much?

Commonwealth
may take water
from Nagog
Pond.

SECTION 11. The Commonwealth of Massachusetts shall have the right to take from said Nagog Pond, for use in buildings owned by said Commonwealth in the town of Concord, an amount of water not exceeding two hundred thousand gallons per day, and the said right is hereby reserved. If the said Commonwealth shall take from said pond its waters, or any part thereof, which the town of Concord may have taken under this act, otherwise than by contract with said town of Concord, the said Commonwealth shall pay to said town of Concord a just and proportionate part of whatever sums the said town of Concord shall have paid or become liable to pay for water damages to any persons or corporations for the taking of water rights from said pond or the outlet thereof, to be ascertained and determined as is provided for in section ten of this act. But if upon the expiration of the contract made on the first day of October in the year eighteen hundred and eighty-three between the said town of Concord and said Commonwealth to provide for the delivery of water from the Concord water works for use within the walls of the state prison, said town of Concord by its water commissioners shall renew said contract for five years on the terms named therein, or shall tender to the governor of the Commonwealth a renewal of said contract for five years on the terms named therein, with the option upon the part of said Commonwealth of a further renewal for a term of twenty years upon said terms, then the right of said Commonwealth herein provided for shall cease.

Contract be-
tween Concord
and the Com-
monwealth.

Subject to ac-
ceptance by
town of Concord
within one year.

SECTION 12. This act shall take effect upon its passage, but shall become void unless it is accepted by a vote of said town of Concord at a legal meeting held for the purpose within one year from its passage.

Approved April 30, 1884.

Chap. 202

AN ACT TO INCORPORATE THE HIGHLAND CONGREGATIONAL CHURCH
IN LOWELL.

Be it enacted, etc., as follows:

Corporators.

SECTION 1. James G. Buttrick, William L. Davis, Cyrus B. Emerson, John T. Carter, Hamden Spiller, Lucy R. Carter, Almira Sturtevant, Clara S. Spiller and all other members of the Highland Congregational Church in Lowell, and their successors as members of said

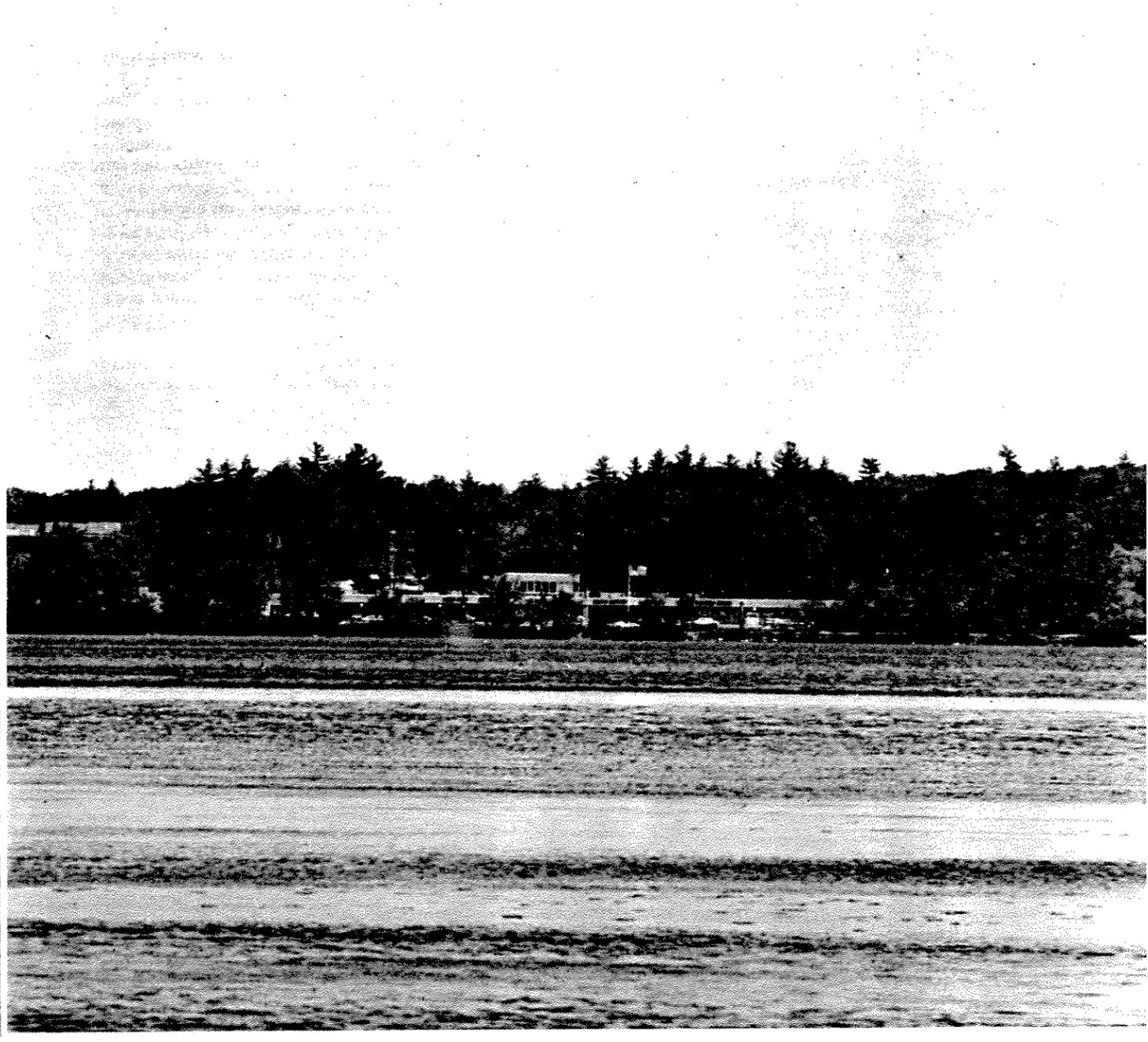


PHOTO BY KYLE BAJAKIAN

ACTON'S NAGOG POND BELONGS TO CONCORD

BY PETER MOORE

TOWN OF CONCORD PUBLIC WATER SUPPLY

ALL PERSONS ARE WARNED.
FISHING, BOATING, BATHING,
WADING OR OTHERWISE POLLUTING
THE WATERS OF THIS POND IS
STRICTLY PROHIBITED AND ANY
PERSON TRESPASSING UPON THIS
PROPERTY WILL BE PROSECUTED.

YOU CAN LOOK, but you'd better not touch. That's the basic rule of behavior for Actonians when it comes to enjoying the picture-postcard beauty of Nagog Pond in the fall - or anytime. As inviting as the cool pond waters may seem, especially on those record-hot summer days that we recently experienced, there's no swimmin', no boatin', no fishin' - and no drinkin' - allowed. About the only thing Actonians can do is quickly admire the breathtaking view as they drive along Great Road near the Littleton border in northwest Acton.

It's been that way for more than a hundred

years, thanks to Chapter 201 of the Acts of 1884 of the Massachusetts legislature, which granted the town of Concord the right to "take and hold" the waters of Nagog Pond as a drinking water supply. The act, while not denying access to the pond's waters by Acton or Littleton (well over half of the pond is in Littleton), effectively quashed both towns' chances of ever using Nagog Pond as either a public water supply or recreational site.

(Acton is not unique in having another town's water supply within its limits. For instance, the Cambridge reservoir on Route 2 is actually located in Lincoln and Waltham.)

Actonian Charles E. Orcutt, attorney for the Acton Water District for the last twenty years, believes the legislation originally was passed so that the state prison in Concord

could be supplied with water. "They needed to supply water to the prison, and this was clearly the way to do it," Orcutt said. Orcutt also speculated that Concord, a hundred years older and a much more established town than Acton, had more political clout with the state legislature at the time and therefore was able to push the law through. And Acton apparently voiced no objections to Concord's plan.

Acton has long rejected Nagog Pond as a source of drinking water anyway. When the town first was exploring public water supplies in the late 1800's, it found the pond's water level too low to support a gravity-based distribution system, and excavating and building a pumping station were deemed too costly. "For these reasons, attention was

directed to a ground water source for supplying the town," according to an entry in Acton's 1895 Report of the Committee on Water Supply. Meanwhile, Concord proceeded to buy up land on the pond's shores and invested millions of dollars in a distribution network. Today, Concord owns about sixty percent of a band of land around the pond, with widths varying from fifty to several hundred feet. The last acquisition of less than an acre off Nashoba Road was in 1986. A brown cottage that was sitting on the land was then torn down. A Concord-owned pumping station of red brick is located on Great Road near the state-owned railroad spur that crosses Route 2A just east of the Route 27 intersection.

The state prison at the Concord Rotary on Route 2 - and the rest of Concord - has gotten

The waters of Nagog Pond off Great Road near the Littleton border in Acton stand calm today. The scenery is all that Acton residents can enjoy of the two hundred eighty nine-acre, thirty four-foot deep pond. Concord has had exclusive rights to use the pond as a drinking water source since 1884.

In this photograph, taken in the late 1800's, there is a recreational boat on Nagog Pond and Great Road is a dirt stretch. The pond was a popular recreational spot until the 1930's when the discovery of a drowning victim's body allegedly put an end to boating, swimming and fishing. The house on the hill today is home for Boundaries Therapy Center at 518 Great Road. The house in the woods on the pond's shore currently is a private residence.



its water. Currently, Nagog Pond yields an average of one million gallons of water per day and supplies up to forty percent of Concord's water annually, according to Harold Storrs, Concord's Director of Community Services. The rest of Concord's water supply comes from five wells.

Acton's long-standing policy of focusing on ground water wells continues today. With its new, \$325,000, W.R. Grace & Company-financed water treatment plant now on line just off School Street in South Acton, Acton will have nine active wells supplying up to four million gallons of water per day, according to John MacLeod, Acton Water District Manager. "Our master plan should allow us to meet Acton's Water demand through the year 2020, assuming growth projections stay in line," MacLeod said.

In spite of year-round restrictions on outdoor water use and the chemical contamination in recent years of three Acton wells by what was a battery division of W.R. Grace in South Acton, there is no serious talk about Acton's trying to increase its water supply by regaining control of Nagog Pond. That would be impractical and costly, MacLeod said, because the 1884 act would require Acton not only to compensate Concord for its capital investment in the Nagog system, but also

to locate a suitable alternative water supply for Concord.

There is the matter of taste as well. "You can run into problems when you mix pond water with well water," MacLeod explained. "In the summer, the warmer pond water can cause minerals to flake off the pipes in the distribution system, and you end up with bad-tasting water." Concord residents have been known to complain about the taste of their water, Storrs admitted. "Nagog is a shallow surface water supply, and it has a musty taste at times. But the water is pure and safe for drinking purposes," he said.

The pumping of well water instead of pond water is the general rule of thumb in Massachusetts. According to the Department of Environmental Quality and Engineering (DEQE) estimates, only twenty five percent of the state's drinking water comes from surface sources such as ponds. Surface waters generally are more vulnerable to pollution, a DEQE spokesperson said, especially if the bodies of water are near major roads.

Does the use of salt to melt winter snow and ice on Route 2A, which nudges the shore of Nagog Pond for 1,500 feet, affect the quality of the water? "There's no doubt about that," MacLeod said. "In fact, there's an effort under way to have the state declare that

ACTON HISTORICAL SOCIETY

strip a low-salt area."

Though never tapped for drinking water by Acton, Nagog Pond for many years enjoyed a fine reputation locally as a popular recreational spot. Known as Lake Nagog during the 1800's, the pond used to attract large numbers of water enthusiasts, many of whom stayed in summer cottages that once stood on its shores. For swimmers, boaters, duck hunters and fishermen, the pond was a natural paradise. Today, several relatively new private homes facing Nashoba Road west of the pond back up nearly to its shores, and a small residential development of eight lots, Breezy Point, is planned for nearby Breezy Point Road four to five-hundred feet east of Nagog Pond. Another ten-lot subdivision off Nagog Hill Road - two with shore-front footage - also is in the early planning stages.

Nestled among stately pines, maples and oaks, Nagog Pond covers two hundred eighty nine acres and boasts four miles of shoreline along its perimeter. Its average depth is twenty feet, fairly shallow as ponds go, with a maximum depth of thirty four feet. The pond is fed by underground springs and has a relatively small, one hundred ten-acre watershed.

The name "Nagog" appears to be a variation of "Magog," a word that meant "water" to the Nashoba Indians who once roamed this area. An 1878 historical document calls the body of water "Magog," while records dating back to 1669 clearly refer to "nagog pond." The latter spelling obviously prevailed.

Nagog Pond is one of about eight hundred bodies of water in Massachusetts classified as "great ponds" under state law. A great pond is any naturally formed pond covering more than ten acres. Since the 1640's, great ponds have been considered public property, open for swimming, boating, fishing and hunting. Of the eight hundred great ponds, however, only one hundred and twenty six are in fact readily accessible to the public, according to the Massachusetts Public Access Board. And sixty three great ponds, including Nagog, are off-limits to all of these activities because they are used as public water supplies.

Some Actonians apparently would like to again see Nagog Pond used as a recreational site. On warm sunny days, it's not unusual for people who live or work near the pond to eat lunch atop a slab of granite overlooking the water. Nagog Pond Road, which runs on one side of the pond, often is glutted with lunchtime joggers and strollers. It's no secret that swimmers occasionally ignore the list of "Do Nots" painted on a black-on-white, wooden sign on Route 2A, and succumb to the tempting waters.

"There's really no place even to go sailing in Acton," said Acton Selectman Nancy Tav-

ernier. "I think that would be a compatible use of the pond without denying Concord its drinking water." Water District Manager MacLeod agreed that the pond would be an excellent addition to Acton's recreational resources. "I would like to see it as a recreational facility," he said. "I just don't think Concord would agree to it."

Because of strict state regulations governing the use of public water supplies, it is likely that both Concord and DEQE would have to agree to any arrangement with Acton to use Nagog Pond for boating or other recreational activities. That prospect seems dim. "Opening up the pond that way seriously threatens the purity of the water," said Concord's Storrs. "You'd have to have the area heavily policed at all times." Storrs added that limited boating was permitted on Nagog Pond in the early 1930's, but a drowning put an end to it. "You can imagine the uproar when a dead body was found in a public water supply," he said.

Acton and/or Littleton also would be required by law to pay Concord for surrounding land that would be needed to create a public access to the water. Parking, zoning and other thorny issues probably would be major obstacles to negotiations. "It wouldn't be impossible," Tavernier said. "But it's not something we're pursuing."

Unless Concord chooses to abandon Nagog Pond as a water supply or Acton mobilizes a wholehearted effort to gain control of the pond's waters, there will continue to be no swimmin', no boatin', no fishin' and no drinkin' allowed for Actonians. But at least we can look at Nagog Pond in its red, gold-and-orange fall splendor. And if you really want to take a dip, it's only a short drive down Great Road to Route 126 and another "great pond", the one Henry David Thoreau wrote about.

You know, the one in Concord.



KYLE BAJAKIAN

A lunchtime jogger takes advantage of the shade provided by towering trees that line Nashoba Road on the western shore of Nagog Pond.