

HERRING POND WAMPANOAG TRIBE

Seeqanamâquhpâhqut



Adapting to Constant Change

2021

***What is Environmental Justice
Virtual Event***

Hosted by Watershed Action Alliance

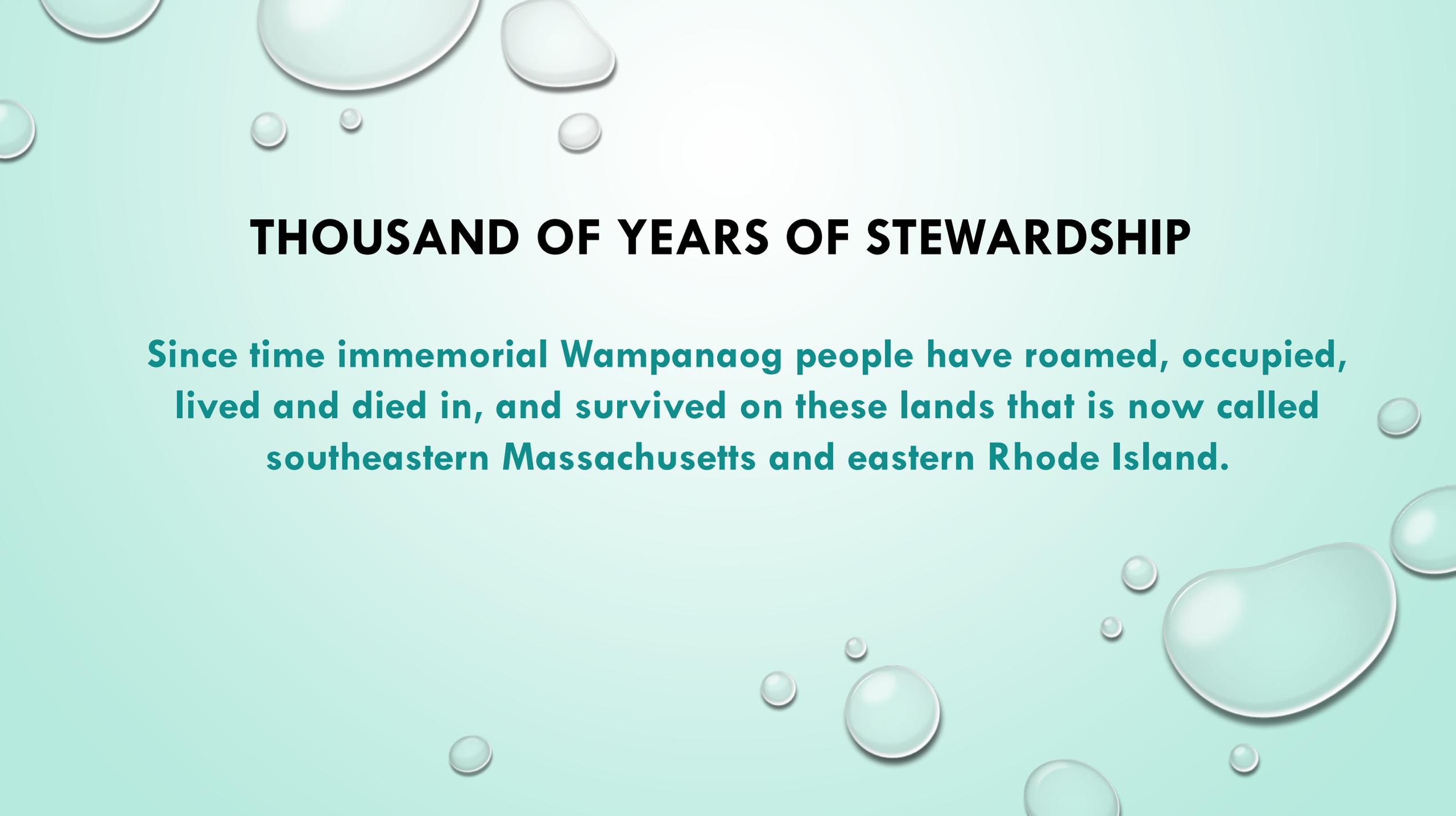
Supporting Public Access to Recreational Waters

MELISSA (HARDING) FERRETTI, CHAIRWOMAN

HERRING POND WAMPANOAG TRIBE

OF

PLYMOUTH AND BARNSTABLE COUNTIES - MASSACHUSETTS

The background is a light teal color with several realistic water droplets of various sizes scattered across it. The droplets have highlights and shadows, giving them a three-dimensional appearance. The text is centered on the page.

THOUSAND OF YEARS OF STEWARDSHIP

Since time immemorial Wampanaog people have roamed, occupied, lived and died in, and survived on these lands that is now called southeastern Massachusetts and eastern Rhode Island.

ADAPTING TO CHANGING CONDITIONS...

*WHILE MAINTAINING OUR INHERENT AND ANCIENT RIGHTS TO
“PUBLIC ACCESS”*





Phyllis (Harding) Hunt-Nixon

July 9, 1919 – September 1, 2019

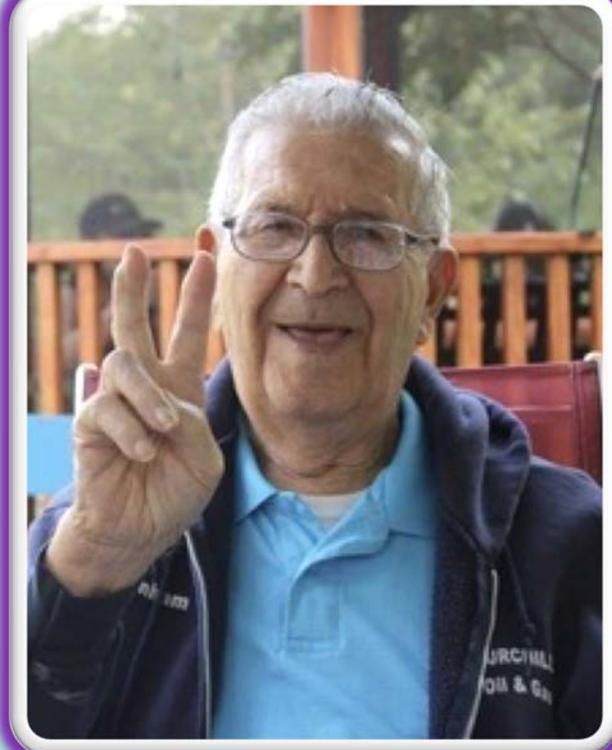
AGED 100 YEARS



Verna May Harding

January 28, 1905 – September 6, 1994

AGED 89 YEARS



Warren E. (Tunney) Harding

September 27, 1926 – February 13, 2020

AGED 93 YEARS

IN MEMORY OF...

WHAT ARE ABORIGINAL RIGHTS

USUFRUCT / ABORIGINAL RIGHTS

- Native American Tribes retain their aboriginal rights to hunt, fish, trap and gather unless abrogated by treaty, abandoned or extinguished by statute.
- The right to resort to the fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not much less necessary to the existence of the Indians than the atmosphere they breathed.
- Unlike MANY TRIBAL NATIONS THROUGHOUT THE UNITED STATES TODAY the Herring Pond WAMPANOAG (and others) Have **NEVER CEDED** our rights to the territory, lands or waters and have on several accounts through petitions, lawsuits and other means fought to keep that right.
- Usufruct (“Use and enjoy”) rights are the rights of the Indians to hunt, fish, and gather forest products off the land. In some cases, the Indians sold their lands to the United States, but they reserved their usufructuary rights.

The 1982 Commonwealth of Massachusetts Aboriginal Rights Proclamation

*Resolutions Recognizing and
Protecting the Aboriginal Claim of the
Indians of the Commonwealth*

NOTE In 1982, the Massachusetts
House of Representatives passed a
Resolution Recognizing and Protecting
the Ancient and Aboriginal Claim of
the Indians of the Commonwealth, in
response to concerns that a 1941
revision of the laws governing
municipal regulation of shellfishing
had mistakenly omitted
acknowledgement of the aboriginal
and treaty rights of Native Americans.*

THE COMMONWEALTH OF MASSACHUSETTS

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-TWO

RESOLUTIONS RECOGNIZING AND PROTECTING THE ANCIENT AND
ABORIGINAL CLAIM OF THE INDIANS OF THE COMMONWEALTH.

WHEREAS, INDIANS IN THE COMMONWEALTH OF MASSACHUSETTS HAVE AN ANCIENT
AND ABORIGINAL CLAIM TO THE WILDLIFE OF THIS LAND AS A SOURCE OF FOOD FOR THE
SUSTENANCE OF THEIR FAMILIES; AND

WHEREAS, THIS ANCIENT AND ABORIGINAL CLAIM HAS BEEN RECOGNIZED BY
TREATIES, INCLUDING THE FALMOUTH TREATY OF 1749; AND

WHEREAS, THIS ANCIENT AND ABORIGINAL CLAIM HAS BEEN RECOGNIZED BY
LEGISLATIVE ENACTMENTS OF THE COMMONWEALTH, INCLUDING CHAPTER 71 OF THE ACTS OF
1795, AND SUBSEQUENT ENACTMENTS, UP TO AND INCLUDING SECTION 136 OF CHAPTER 130
OF THE GENERAL LAWS; AND

WHEREAS, THIS ANCIENT AND ABORIGINAL CLAIM WAS IGNORED IN THE
REVISION OF THE GENERAL LAWS, BY THE ACTS OF 1941; AND

WHEREAS, THE COMMONWEALTH OF MASSACHUSETTS HAS CONTINUED, EVEN AFTER
1941, TO RECOGNIZE THE SPECIAL STATUS OF INDIANS WITHIN THE STATE, BY EXECUTIVE
ORDERS, AGENCY AGREEMENTS, AND LEGISLATION; AND

WHEREAS, INDIANS IN THE COMMONWEALTH OF MASSACHUSETTS HAVE CONTINUED,
EVEN AFTER 1941, TO MAKE CLAIM UPON THE WILDLIFE OF THIS LAND AS A SOURCE OF
FOOD FOR THE SUSTENANCE OF THEIR FAMILIES; AND

WHEREAS, THE ANCIENT AND ABORIGINAL INDIAN CLAIM TO WILDLIFE FOR
SUSTENANCE IS SUPPORTED BY CONSIDERATIONS OF JUSTICE AND EQUITY; AND

WHEREAS, THE ANCIENT AND ABORIGINAL INDIAN CLAIM TO WILDLIFE FOR
SUSTENANCE DOES NOT INTERFERE WITH THE PROPER MANAGEMENT OF NATURAL RESOURCES BY
THE COMMONWEALTH; AND

WHEREAS, STATE INTERFERENCE WITH, OR FAILURE TO RECOGNIZE, INDIAN
HUNTING AND FISHING RIGHTS ELSEWHERE IN THE UNITED STATES HAS RESULTED IN
EXTENSIVE LITIGATION, COSTLY TO ALL PARTIES; AND

WHEREAS, STATE INTERFERENCE WITH, OR FAILURE TO RECOGNIZE, INDIAN
HUNTING AND FISHING RIGHTS ELSEWHERE IN THE UNITED STATES HAS RESULTED IN SOCIAL
AND RACIAL TENSION; AND

WHEREAS, STATE INTERFERENCE WITH, OR FAILURE TO RECOGNIZE, INDIAN
HUNTING AND FISHING RIGHTS ELSEWHERE IN THE UNITED STATES HAS PROMPTED THE
FEDERAL GOVERNMENT TO INTERVENE IN LOCAL AND REGIONAL MATTERS; THEREFORE BE IT

RESOLVED, THAT THE MASSACHUSETTS HOUSE OF REPRESENTATIVES HEREBY
RECOGNIZES THE ANCIENT AND ABORIGINAL CLAIM OF INDIANS WITHIN THE COMMONWEALTH
OF MASSACHUSETTS TO HUNT AND FISH THE WILDLIFE OF THIS LAND FOR THE SUSTENANCE
OF THEIR FAMILIES, BUT NOTHING IN THESE RESOLUTIONS SHALL BE TAKEN TO PERMIT ANY
PERSON TO ENGAGE IN SPORT OR RECREATIONAL HUNTING OR FISHING WITHIN THE
COMMONWEALTH EXCEPT AS PROVIDED FOR AND REGULATED IN THE GENERAL LAWS OF THE
COMMONWEALTH; AND BE IT FURTHER

RESOLVED, THAT A COPY OF THESE RESOLUTIONS BE FORWARDED BY THE CLERK
OF THE HOUSE OF REPRESENTATIVES TO RICHARD CRONIN, DIRECTOR, DIVISION OF
FISHERIES AND WILDLIFE OF THE COMMONWEALTH.

HOUSE OF REPRESENTATIVES, ADOPTED, NOVEMBER 9, 1982.

Thomas W. McAuliffe
SPEAKER OF THE HOUSE

Wallace C. Mills
CLERK OF THE HOUSE

OFFERED BY:



How can YOU support Public Access?

Supporting public access to waterways from an Indigenous perspective begins with understanding the **human** and **inherent rights** of protected marine areas and the ancient connection local Indigenous people have to the lands and to recognize the profound relationship between natives and the lands and the sea.

CASE LAW

Indigenous people do not need your permission to gain access to the sea and local marine areas as there is a continuous and ancient easement that allows tribes to walk or cut through to any property to access these natural resources...but do we do that? the short answer is sometimes yes, we do...

- Fishing Rights exist independent of land rights. See *Supreme Court Decision Maxim & Greene*
- *Oregon Dept of Fish and Wildlife vs Kamath Indian Tribe* ‘the right to take fish at all usual and accustomed places outside the reservation implies an easement over private lands’
- Supreme court case *United States vs Winans* cited in that the native fishing rights fixes in the land such easements as enable the right to be exercised.
- *La Courte Oreilles Band vs Voit* states Fishing Rights “ depend neither on title nor right of permanent occupancy”

In other words, Native Fishing, Hunting and Gathering rights include an easement over land as necessary to exercise fishing rights

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP)

WHAT IS THE UN DECLARATION?

The Declaration is an international human rights instrument adopted by the UN General Assembly following over two decades of negotiations. It sets the minimum standard for treatment of Indigenous people and states that the rights contained within it “constitute the minimum standards for the survival, dignity and well-being of the indigenous people of the world.” The Declaration contains 24 preambular paragraphs and 46 articles. While it does not have any legal teeth, it is a significant milestone on the march to protection and promotion of Indigenous rights.

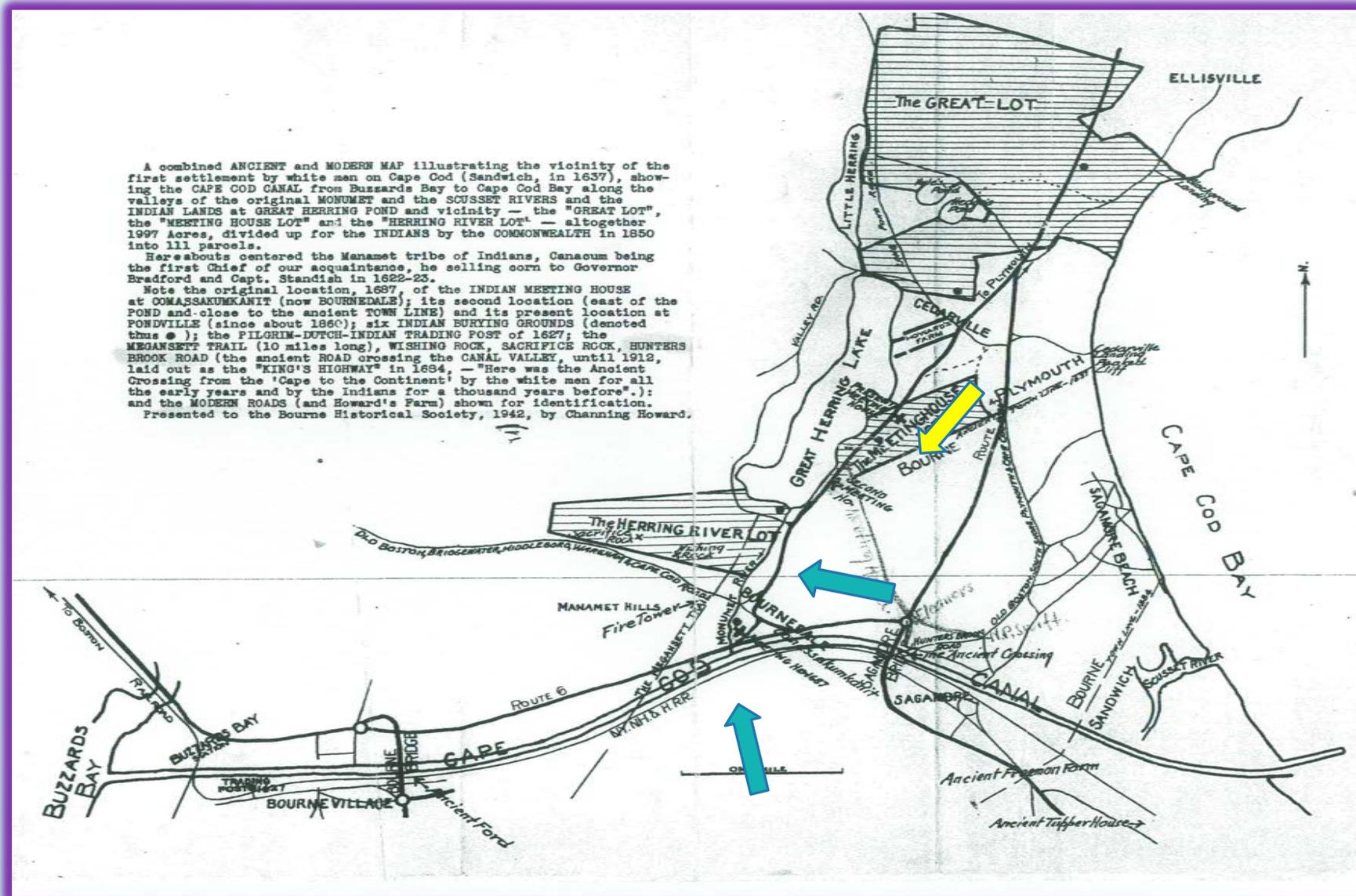
24 Preambular paragraphs and 46 Articles Total

Article 29 -1 States Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programs for indigenous peoples for such conservation and protection, without discrimination.



MAP OF THE HERRING POND WAMPANOAG HISTORICAL RESERVATION

BY CHANNING HOWARD (1942)

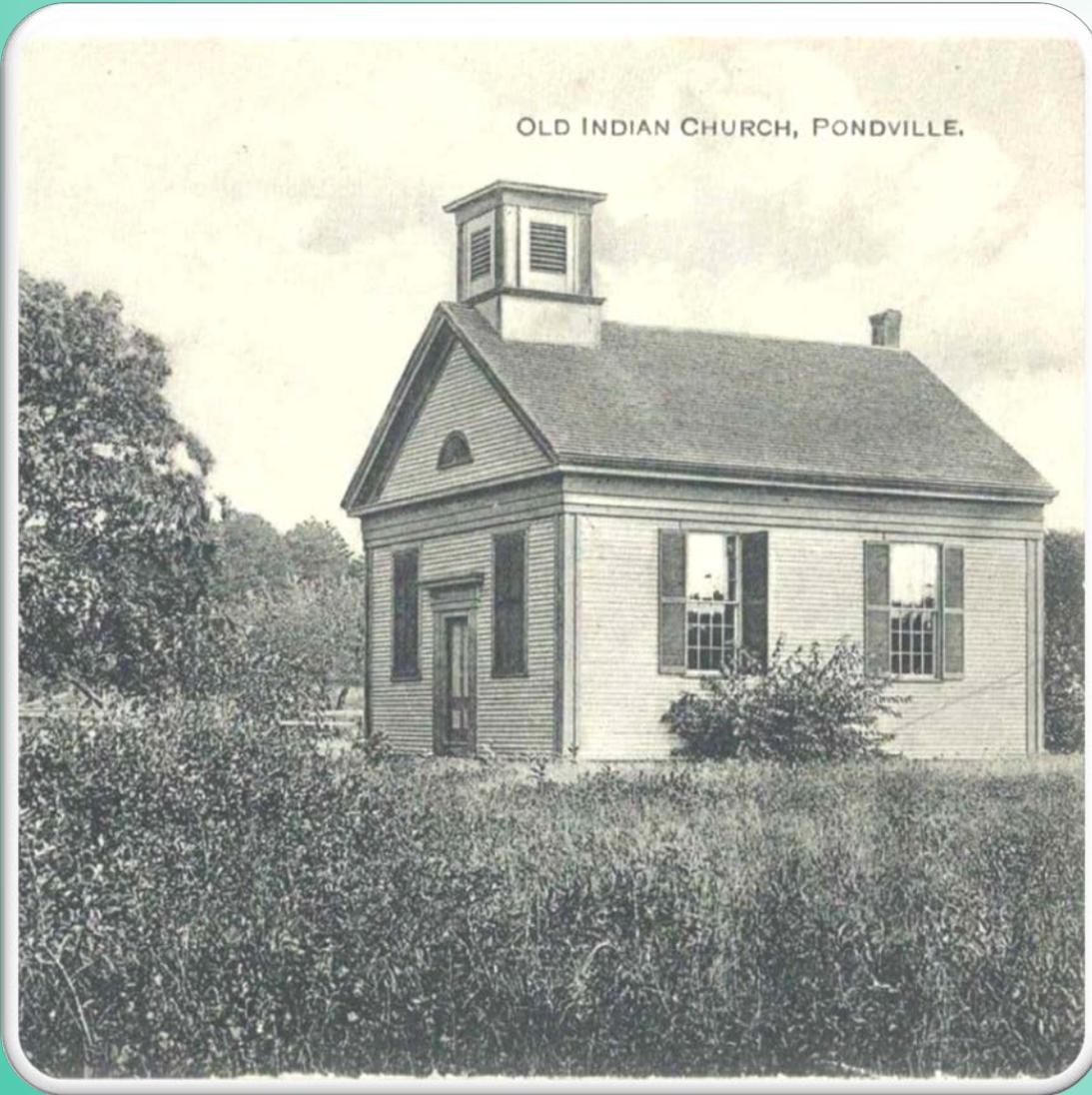


Teal arrows indicate the location of a Herring Pond Wampanoag Tribe historic meetinghouse.

Yellow indicates an existing meetinghouse that is still standing today know to the Tribe as the Pondville Meetinghouse/Church.

19TH CENTURY PONDVILLE MEETINGHOUSE THEN AND NOW





HERRING POND WAMPANOAG PONDVILLE MEETINGHOUSE

- ❖ BUILT FROM AN 1838 TRIBAL PETITION TO THE COMMONWEALTH
- ❖ THE PONDVILLE INDIAN MEETINGHOUSE AND CHURCH WAS THE CENTER OF TRIBAL EXISTENCE AND CHRISTIANITY THROUGHOUT THE 20TH CENTURY, AND REMAINS SO TODAY

IMAGE COURTESY OF NATIVE NORTHEAST PORTAL

HERRING POND WAMPANOAG TRIBE TRIBAL COUNCIL AND COMMITTEE MEMBERS

OFFICERS:

- ❖ MELISSA (HARDING) FERRETTI,
CHAIRLADY/PRESIDENT
- ❖ RODNEY HUNT, VICE CHAIRMAN
- ❖ KATHERINE HUNT, SECRETARY / TREASURER
- ❖ **BOARD OF DIRECTORS/COUNCILORS:**
- ❖ JENNIFER (HARDING) MCKEITHAN
- ❖ LORI (HARDING) WENTWORTH, TRIBAL
COUNCILOR
- ❖ LISA (HARDING) TEDSTONE, TRIBAL COUNCILOR

MEDICINE MAN

TROY CURRENCE

ENROLLMENT:

HAZEL CURRENCE, ELDER
KATHY H., ELDER
KATHLEEN GATELY
JEANNINE RHONDA HUNT

HPWT LSYEP STEERING COMMITTEE

DONNA FISH
KATHLEEN GATELY
LORI (HARDING) WENTWORTH
JENNIFER (HARDING) MCKEITHAN
LISA(HARDING)TEDSTONE



**HERRING POND WAMPANOAG TRIBAL COMMUNITY MEMBERS
SEPTEMBER SOCIAL - 2017
HERRING RIVER LOT OF OUR ORIGINAL RESERVATION LANDS**

RESOURCES – CITATIONS

- **THE LAW OF NATIVE AMERICAN HUNTING, FISHING AND GATHERING RIGHTS OUTSIDE OF RESERVATION BOUNDARIES IN THE UNITED STATES AND CANADA**-[HTTPS://SCHOLARLYCOMMONS.LAW.CASE.EDU/CGI/VIEWCONTENT.CGI?ARTICLE=2489&CONTEXT=CUSLJ](https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=2489&context=cuslj)
- **UNITES STATES VS WINANS – 198 U.S 371 (1905)** - [HTTPS://SUPREME.JUSTIA.COM/CASES/FEDERAL/US/198/371/](https://supreme.justia.com/cases/federal/us/198/371/)
- **COMMONWEALTH OF MASSACHUSETTS ABORIGINAL RIGHTS PROCLAMATION** - RESOLUTION PROTECTING THE ANCIENT AND ABORIGINAL CLAIM OF THE INDIANS IN THE OF THE COMMONWEALTH
- **COMMONWEALTH VS GREENE/OTHER FROM GREENE**
- **COMMONWEALTH VS MAXIM**
- **UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES** - [HTTPS://WWW.UN.ORG/DEVELOPMENT/DESA/INDIGENOUSPEOPLES/WP-CONTENT/UPLOADS/SITES/19/2018/11/UNDRIP_E_WEB.PDF](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_WEB.PDF)
- **MASHPEE WAMPANOAG TRIBE** ABORIGINAL RIGHTS BRIEFING PAPER