

Corps of Engineers' Detroit District Renews Attack on Michigan's Beaches--and Again Misrepresents the Facts

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According to the Corps of Engineers, travel and tourism is America's number one industry, and beaches are the biggest draw for tourists. Michigan's beaches help our state's tourism industry earn nearly \$23 billion in revenues each year.

Sadly, the Detroit District of the Corps of Engineers has other plans for Michigan's beaches. In fact, they recently singled out Michigan alone to cut in half the amount of beach area that can be groomed without a permit. Unwilling or unable to distinguish a beach from a wetland, the Detroit District seeks to convert Michigan's dynamic beaches into wetlands.

If that sounds very familiar, it is. On the heels of a failed effort by the state of Ohio to claim ownership of the beach and charge residents to use it, both the Detroit District and the Michigan Department of Environmental Quality in 2001 embarked on a mission to stop beach grooming along the Saginaw Bay, and then expanded that effort northward to Traverse City. That ill-advised campaign was filled with lies, like their assertion that the state owned the beaches, and that the Detroit District regulated every beach up to the elevation of 581.5 feet above sea level.

Like the response in Ohio, Michigan owners banded together as "Save Our Shoreline." We created a legal fund, collected over \$200,000, and went to court to protect Michigan's beaches. In the process, the Michigan Supreme Court rejected a request to find that the state owned the beaches; a federal court ruled that the Corps *did not* regulate the beaches up to the elevation of 581.5 feet above sea level; Congress passed a bill which scolded the Detroit District for its actions against beach owners; and a Supreme Court justice weighed in, saying "I don't think Congress wanted the homeowner to have to worry about raking."

The Michigan legislature and its Governors responded. In 2003, they passed a temporary law to allow beach grooming, and after much debate and study, in 2012, they passed a law protecting beach grooming permanently.

Despite this substantial rebuke of their efforts, the Detroit District has learned little. They have fought tooth and nail to curtail beach grooming at the Bay City State Recreation Area, and recently backed away from a compromise with area residents which would have allowed an additional 1000 feet of beach grooming at the park.

Just last month, on June 15, the Detroit District proposed a new regulation—their “Regional Condition” to Nationwide Permit 18, which would effectively cut in half the amount of beach an owner could groom in Michigan. More to the point, this “regional condition” applies only to Michigan. In other words, the Detroit District has singled out Michigan beaches alone for their new restrictions. They are accepting comments through July 29, 2016, and we hope that residents will let the Detroit District know what they think about their plan to convert Michigan’s beaches to wetlands.

The most recent attack from the Detroit District is also their most egregious. In their “News Release” dated July 13, 2016, the Detroit District warns of a “rising trend this summer in unpermitted shoreline structures and grading along the Great Lakes.” The Press Release includes a photograph, presumably depicting this summer’s “unpermitted...grading.” In fact, it is a picture from about 2003, during the low waters years, when conditions were much different. At the end of this letter, we include the Detroit District’s photo, and a photo of that beach now, in 2016, after the water has risen. If anything, those photos show the utter futility of the Detroit District’s attempt to vegetate Michigan’s dynamic Great Lakes beaches: all the vegetation from 2003 is gone!

The Detroit District’s recent Press release also includes a misleading statement that work waterward of a sheet steel bulkhead or riprap falls under Corps jurisdiction. In fact, if the Corps has jurisdiction over beaches at all (a point still undecided by the Supreme Court), it is below the ordinary high water mark, which is defined by regulations, not where a seawall exists.

In light of the strong public rebuke of the Detroit District’s prior efforts to convert Michigan’s dynamic beaches to wetlands, Save Our Shoreline urges the Detroit District’s current management to rethink its position, and its methods. The people of Michigan deserve more from the federal government.

