

BRIEFING BEFORE THE SUBCOMMITTEE  
ON WATER RESOURCES AND ENVIRONMENT  
OF THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED SEVENTH CONGRESS  
FIRST SESSION  
JULY 23, 2002

Presented by:

**SOS**  
SAVE OUR SHORELINE



a Michigan nonprofit corporation

By: Ernest Krygier, Jr., President  
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## INTRODUCTION

Michigan property owners along the Saginaw Bay, who have groomed and maintained their beautiful sugar sand beaches for decades without incident, have for the first time in history been met by enforcement efforts of the US Army Corps of Engineers intended to stop the beach grooming so that new proliferating vegetation may grow. In response, in August of 2001, Saginaw Bay property owners formally organized a grass roots effort to respond to the Corps. Known as Save Our Shoreline (SOS), a nonprofit membership corporation, our group of Saginaw Bay residents and property owners has grown to approximately 1100 households. (See Exhibit 1)<sup>1</sup>. Saginaw Bay residents are up in arms about recent lawsuits brought by the Corps against their Saginaw Bay neighbors, and in response, Save Our Shoreline has formed a legal defense fund, and has raised over \$215,000.00 in just two months time to mount a response to what homeowners believe is inconsistent, unfair, and unreasonable action by the Corps. Our organization now petitions Congress, through this subcommittee, to take immediate and appropriate action to stop these actions by the Corps. Well aware of the worthy and necessary goals

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<sup>1</sup>It appears from our research that Saginaw Bay beach owners are not alone. In its "Public Notice" for a proposed regional permit dated 3/12/01 (Corps File No. 80-200-001-6), the Corps scheduled meetings in the area of both the Saginaw Bay and the popular Grand Traverse Bay. SOS plans organizational activities in the latter area in August of 2002.

of the Clean Water Act, the 1100 households of Save Our Shoreline believe the Corps has not only exceeded its authority under the law, but it ignores the dramatic changes to the shallow Saginaw Bay brought about by unceasing sewage spills and agricultural runoff, along with the introduction of non-native zebra mussels, and it has refused to properly balance the needs and interests of Saginaw Bay shoreline owners as well as the beach-going public responding to these challenges with the needs of the environment. Unfairly characterized as "polluters" by the Corps, those living and working on the shores of the Saginaw Bay, with their irreplaceable knowledge of the Bay's history, are in fact the Bay's beach stewards.

#### HISTORY OF LIFE ON THE SAGINAW BAY

The Saginaw Bay is a relatively shallow bay along Lake Huron, with predominant depths of only 20 to 30 feet. A portion of the Bay contains a shipping channel providing access for Great Lakes shipping into the Saginaw River. Because of its shallow depth, the Bay's predominant shoreline characteristic is that of shallow marshy areas which have seen little development. A few areas, however, including the areas around Caseville, North of Bay City, and Tawas and areas south to Au Gres, offer traditionally higher ground and have seen more development that is almost exclusively residential. In earlier times, this development took the form of cottages. In more recent times, those cottages have become homes. At the time of writing, we

do not have accurate figures, but we estimate that less than 20% of the Saginaw Bay shoreline has any substantial residential development, with the vast majority of the shoreline being either publicly owned, agricultural, or large, rural residential parcels.

SOS submits that it is because of the beautiful sandy beaches that the State of Michigan decades ago developed four large State Parks along the coast of the Saginaw Bay: Tawas Point State Park near Tawas; Bay City State Park near Bay City; Sleeper State Park near Caseville; and Port Crescent State Park between Caseville and Port Austin. The Bay is also home to many county and municipal parks featuring sandy beaches. Anecdotal and documentary evidence demonstrates that prior to the invasion of the non-native zebra mussels from the ballast water of international ships entering the Great Lakes through the St. Lawrence Seaway, vegetation at these popular beaches was the exception. As early as 1913, a postcard from Bay City's Wenona Beach depicts a large, weed-free beach as hundreds of fully clothed enthusiasts enjoy it. (See Exhibit 2). Earl Powers, a lifelong Bay City Area resident, recalls camping in a tent on the beach at the nearby Bay City State Park as a small child with his father (camping is no longer permitted on the beach) in the late 1920s and early 1930s. He recalls a sandy beach, and not any vegetation. In the 1950's, home movies show his daughter, Susie

Powers, who appears to be about age 5<sup>2</sup>, frolicking with her cousin and dozens of others in the beautiful sand and water of the Bay City State Park. (See Exhibit 3). The color pictures show no vegetation in site other than the forest, which lies well upland from the water.

Similarly, at the Huron County Beach in the heart of Caseville, home movies from the 1950s show a large, beautiful beach without vegetation. (See Exhibit 4). Residents from both of those communities can and often do give testimony to the fact that these public beaches have historically always been beautiful sandy beaches without the nuisance of any significant vegetation. (See Exhibit 5). Many others<sup>3</sup> have historical recollections of the vegetation-free state of the Saginaw Bay beaches. See "Wetlands Dispute," Bay City Times, Peoples Forum (see Exhibit 5):

I have been going out there for over 70 years and my grandparents even had a cottage on the beach. It was always a nice sandy beach and the ecological state of the planet was doing just fine. The water was pure -- they even had an ice house out there where they cut and stored the ice.... How many of the [Corps of E]ngineers are even from Bay City and remember how nice the shoreline was?

In contrast to this historical setting, in recent years the Bay has seen dramatic changes. Even the Lone Tree Council,<sup>4</sup> the only

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<sup>2</sup>Ms. Powers will celebrate her 50<sup>th</sup> birthday this summer, which places the date of the home movie at about 1957.

<sup>3</sup>See also historical photographs at exhibit 4.

<sup>4</sup>Headed by Terry Miller, the Lone Tree Council is an environmental organization that speaks out on local environmental

non-governmental organization publicly opposing the mission of SOS, agrees that the recent beach vegetation is "nature's response to the build-up of nutrients in the bay":

Nothing produces a nutrient rich shoreline (and therefore vegetation) more than one spiked with human sewage, regularly fed phosphorus from farm fields that surround the bay or border drainage ditches that empty into the bay.<sup>5</sup>

In its 2002 Final Report, the Great Lakes Conservation Task Force, a committee of the Michigan Senate, concluded at page 24 that "[i]n 2000, over 48 billion gallons of raw or insufficiently treated raw sewage were discharged in Michigan's waterways, including the Great Lakes." (See Exhibit 7, page 24). These problems bring more pronounced effects in the shallow Saginaw Bay, which lacks the capacity of deeper water basins.

While sewage, fertilizers, and other pollutants are a big part of the Bay's problem, a dramatic change occurred in 1988 when the non-native zebra mussels appeared. (See Exhibit 7, page 44). The rapidly growing mollusks promptly multiplied, creating profound changes to the Saginaw Bay. First, the filtering effects of the zebra mussels, over a few short years, changed the bay from a dirty, murky waterbody where visibility was limited to a foot or two, to a

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issues. While we do not know the size of the organization's membership, an SOS representative did attend one of the organization's public meetings. Only 3 other people attended the meeting, suggesting the group may have little support.

<sup>5</sup>Miller, "Balance Needed on Wetland Weeds," Bay City Times, 10/11/00 (See Exhibit 6).

clear state where visibility exceeds ten feet.<sup>6</sup> Officials from the Michigan Department of Environmental Quality (MDEQ) reported at a recent meeting<sup>7</sup> that they can now view the Bay's bottom at its deepest parts from a helicopter. That clearing of the water has had a domino effect. Plant growth under the water is now much more rapid as the sun more easily reaches the plants.<sup>8</sup> As a result of the increased biological activity, there is increased decay. Unfortunately, this decay seems to gather at the shoreline.

The zebra mussels brought another problem for the Saginaw Bay beaches: their dead shells. In the early part of their development in the Saginaw Bay, beach stewards would have such an accumulation on their beach that they would hire dump trucks to remove them, without interference from the Corps or the MDEQ.<sup>9</sup> To long-time beach residents, this was reminiscent of the late 1960's, when a vast kill of alewives littered Michigan beaches, requiring beach stewards, without government assistance, to rid their beaches of the decaying fish. (See Exhibit 9). Even with today's cyclical

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<sup>6</sup>Miller, supra.

<sup>7</sup>Comments of Joseph Haas, MDEQ, at a meeting of Leadership Bay County held on June 14, 2002.

<sup>8</sup>Miller, supra. (See Exhibit 6); see also James, et al, "Enhanced Phosphorus Recycling by Zebra Mussels at High Density Levels in Relation to Food Supply," Water Quality Technical Notes Collection (ERDC WQTN PD-09), US Army Engineer Research and Development Center, Vicksburg, MS (See Exhibit 8).

<sup>9</sup>The MDEQ has recognized this was a necessary activity to preserve the status quo of the Bay. (See exhibit 7, p. 44).

lower water levels, there are still areas where zebra mussel accumulation would warrant removal by use of heavy equipment after strong winds drive them ashore. Unlike native clam shells, zebra mussel shells are a nuisance not simply due to their number, but because their sharp edges will cut feet, especially those of small children. In fact, unlike the beach walker before zebra mussels, who could easily walk in bare feet, today's beach walker will likely be wearing shoes.

Additionally, recent studies have shown that zebra mussels in high density enhance the solubilization of phosphorus which leads to noxious blue-green algae. (See Exhibit 8). This solubilization of phosphorous occurs after times of high turbidity (i.e. periods when rain causes farm sediment runoff, as well as combined untreated sewage discharges). The blue-green algae eventually dies and washes ashore along with the untreated sewage.

This organic mass, when pushed to the shore, creates a greenish brown, and sometimes black, "muck." Like the marsh-like vegetation, this muck is much more pronounced in the flat, shallow areas of the Bay than in other areas. Because the muck is biological decay, it also carries with it a strong foul odor associated with anaerobic decay. In flatter areas, such as Bay City State Park, David Powers and his wife in July 2002 waded through twenty to thirty feet of thick, knee-deep muck to reach open water. Because this muck traps dead fish, dead birds, and other decay, many people, especially



children, will not wade through it, and many families in the summer of 2002 have built short docks to reach the water from their beaches or have abandoned their beach. Unfortunately, the muck collects even in areas where the beach slope is much greater. Before the zebra mussels, a Saginaw Bay beach walker in Bay County on a calm day would hear the gentle lapping of the small waves on the beach; she could see the myriad small stones and pebbles that collect just beyond the water's edge; and she could enjoy the smell of a fresh summer breeze. Today, that same beach walker hears no waves as the muck absorbs the wave action; she sees greenish brown muck in place of stones, and she must endure a foul odor for the length of her walk.

Another profound change observed by Saginaw Bay residents since the appearance of the zebra mussels is the marked increase in the existence and growth of beach vegetation which grows in the decaying organic mass due to the zebra mussel and organics of sewage. Nowhere is this more evident than at the Bay City State Park, now known as the Bay City State Recreation Area.<sup>10</sup>

Along with the metamorphosis of its name, the park's beach, once the crown jewel of the Bay City area, has taken on the character of a

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<sup>10</sup>In a 1987 publication of the Jennison Nature Center entitled "Tobico Marsh -- A story of the Land and the People," the authors begin by pointing out: Sandy beaches at Bay City State Park draw many people who come for fun and relaxation. Although most visitors come during the summer to enjoy water related recreation.... Unknown to the authors in 1987, that characterization of the beach was soon to change when the zebra mussels came in 1988.

swamp. Gone is the vast sandy beach, now replaced by aquatic vegetation towering over the heads of the few visiting adults. (See Exhibit 10). The entire Bay area community, as well as its tourists, is up in arms about this change, and the poor condition of the beach is the visitor's number one complaint.<sup>11</sup> For example, a team of high school students from Youth Leadership Bay County included in their model of ideas for the park "a beach free of vegetation." (See Exhibit 12). In May of 2002, the park's operators applied for a permit from the Corps of Engineers to restore a portion of the beach by clearing the vegetation, and they expect a response to that request in August<sup>12</sup>. Save Our Shoreline supports that request, although we would like the entirety of the beach to be restored to its original grandeur. The permit, if issued, will allow restoration of only 575 feet of the beach of approximately one mile.

Like the Bay City State Park, other public and private beach stewards saw an increase in beach vegetation along the Saginaw Bay. They responded, in varying degrees, with maintenance efforts intended to preserve their historical perspective and use of their beaches. Those efforts ranged from use of hand tools, including rakes and

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<sup>11</sup>See "Chief Gripe at State Park," Bay City Times, Monday, 8/28/00; "Caseville Beach is a Huron County Peach," Bay City Times, undated; Disaster at "Beach," Bay City Times People's Forum, 6/22/00; "Clean Beaches," Bay City Times, People's Forum, 2/21/02. (See Exhibit 11).

<sup>12</sup>See Bay City Beach Cleaning May Start in August, Bay City Times, 7/11/02. (See Exhibit 13).

shovels, to the use of mechanized equipment. The Corps attributes the growth of the vegetation and the beach stewards' efforts to clean it as responding to declining water levels, without any acknowledgment of the profound changes the zebra mussels and other factors effected to the Saginaw Bay environment.<sup>13</sup>

While mechanized beach maintenance did increase in the 1990's because of the zebra mussels, much of the mechanized maintenance, like the maintenance at the Huron County Park referred to above, has occurred in the areas of public beaches and residential areas alike for decades.<sup>14</sup> For example, especially in times of low water, vast amounts of sand, if left unchecked, would overtake lawns and homes. (See Exhibit 16). Sands, blown by winter winds, pile against seawalls and deposit on lawns. For decades, residents have used plows and other methods to pull these piles of sand away from the walls and back to the shore from where the sand came. In many areas, like at the beautiful Tobico Beach in Bay County, an entire neighborhood joins together and contracts the necessary equipment to restore their beach to the condition they left it in the previous fall. To those that live or vacation along the Saginaw Bay, these

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<sup>13</sup>In its website publication, "The Corps of Engineers Jurisdiction Over the Control of Emergent Vegetation on the Shoreline of the Saginaw Bay," the Corps opines that "[l]ow water conditions have allowed for the re-emergence of vegetated marshes along much of Saginaw Bay's shoreline. (See Exhibit 14)

<sup>14</sup>Corps of Engineers Sues Caseville Property Owners, Huron Daily Tribune. (See Exhibit 15).

are normal and customary occurrences, and in many cases have been a part of life not only for the current residents, but for their parents and grandparents before them.

**CHALLENGING OUR WAY OF LIFE:**  
**ACTIONS OF THE MDEQ AND THE CORPS**

Until the year 2000, residents and public beach stewards went about their business removing washed up organic matter, zebra mussel shells, trash and weeds, and moving sand accumulations away from their seawalls, all without interference from any governmental agencies, and without requesting or obtaining individual permits. It was in that year that residents maintaining their beaches were surprised to be met on their beaches by officials of the MDEQ and the Corps, ordering them to cease their activities. Both agencies immediately asserted, contrary to the law, that the beaches below the "ordinary high water mark" (a term defined under state and federal law as a certain elevation above sea level, which point is not the same under both jurisdictions), were the property of the State of Michigan. At least one agency placed stakes along the beaches delineating the asserted "property line." Cease and desist letters followed, with the agencies sending out hundreds of letters in coordinated mailings, the first to the area north of Bay City, (see Exhibit 17) and then to the Caseville area. Unfortunately, while the letters referred generally to the law purporting to establish their jurisdiction, the language, such as references to "dredging" and

"filling," was confusing and foreign to residents. For example, while the letters referred to Section 404 of the Clean Water Act, they did not clearly demonstrate how beach maintenance came within that Act. (See Exhibit 17).

Soon after the initial beachfront confrontations in Bay County, shoreline residents informally organized a few meetings in the year 2000 and petitioned their state and local officials.<sup>15</sup> In response, the MDEQ submitted a proposed compromise which "authorized" certain beach maintenance 30 feet landward of the actual shoreline. (See Exhibit 19). The MDEQ informally advised residents that it would not undertake enforcement as long as the guidelines of their proposed permit were followed. Confusion reigned, however, as the Corps' local enforcement officer, William Leiteritz, refused to follow the State's lead.

Beachfront residents in the Bay City area formally organized Save Our Shoreline, Inc. in August of 2001. (See Exhibit 1). In December of 2001, the Corps formally denied the MDEQ proposal to allow beach maintenance 30 feet landward of the actual shoreline. Most beachfront residents, including the leaders of SOS, did not even know the Corps was considering the proposal. Yet when the Corps determined to deny the proposal, it submitted a letter to the Bay City Times, Bay City's only newspaper, to advise of the denial. (See

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<sup>15</sup>Beachfront Owners Won't Give Up Fight, Bay City Times, 9/21/00. (See Exhibit 18).

Exhibit 20). Apparently, the newspaper did not think the announcement newsworthy, as it did not carry the story. Undeterred, the Corps, on January 8, 2002, issued a more formal "press release" of its denial of the MDEQ permit request. (See Exhibit 21). The newspaper then carried the story.<sup>16</sup>

One of the confused beach residents was John Stuart, a retiree who was the subject of the Corps' first U.S. District Court Complaint against a Saginaw Bay beach owner maintaining his beach. That Complaint was filed on February 27, 2002. (See Exhibit 23). Stuart's understanding of what was permitted was that he could groom all of his beach that lay beyond 30 feet landward of the water. He had heard of the agencies' position that beach vegetation had value as a filter of the water, so he reasoned that it was the vegetation in the 30 feet nearest the shore that would best serve that purpose. A retiree who learned of the lawsuit just days before undergoing back surgery, Mr. Stuart strongly disagreed with the actions of the Corps, but did not have the financial means or the requisite disposition to combat the complaint. He sold his tractor at a loss of \$15,000 and promptly settled with the Government, agreeing to pay a \$1,000.00 fine and to not groom his beach again. See draft Consent Judgment, Exhibit 24. His home is for sale, but as a result of the "forest" of vegetation where he once had beach, his house has not sold, despite

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<sup>16</sup>"Corps Of Engineers Keeps Ban On Digging Lakeshore Weeds," Bay City Times, 1-5-02. (See Exhibit 22).

drastic price reductions. The District Court has not yet entered the Consent Judgment, but instead has set the matter for hearing.

At about the same time, beachowner Chuck Groya, a union autoworker retiree, was sued by the Corps. (See Exhibit 25). He settled in a similar fashion. His home is for sale.

Just days before the announcement of an SOS organizational meeting scheduled for June 25, 2002, the Corps filed a third complaint, this time in Caseville, Michigan. (See Exhibit 26). Herb and Marion Kincaid, retirees in their late 70's, had a tractor pull down their winter accumulation of sand from their seawall, just as they have done every spring. They have retained counsel and are now defending a lawsuit brought by the Corps. (See Exhibit 27).

Geneva Halliday, the assistant U.S. Attorney who filed the suits on behalf of the Corps, has advised SOS director David Powers that the Corps has submitted a request to file over 100 complaints against Saginaw Bay beach residents.

### LOCAL SUPPORT OF SAGINAW BAY RESIDENTS

Confronted with cease and desist orders and stakes on their beaches, residents first approached their local units of government for help. Told that only the state and federal government, not local government, had jurisdiction over the affected areas, local units of government nevertheless passed resolutions supporting the efforts of Saginaw Bay residents to continue the maintenance of their beaches. For the residents north of Bay City, they obtained resolutions from their townships (Kawkawlin and Bangor), and their county, Bay County. Caseville residents, who saw MDEQ and Corps enforcement efforts later, have recently obtained similar resolutions from their local units of government (Village of Caseville and Caseville Township). (See Exhibit 28).

### RESPONSE OF STATE OFFICIALS

In November of 2001, SOS appeared before the Great Lakes Task Force, a committee of the Michigan Senate chaired by State Representative Ken Sikkema, and made a detailed presentation before the chairman and other local state Senators. In its 2002 Final Report issued in January, 2002, the Task Force concluded that "the needs of beachfront homeowners must be given reasonable and consistent consideration when habitat protection laws are enforced." (See Exhibit 7, page 66).



In addition, SOS had determined after discussions with State of Michigan officials that the State does not anticipate bringing enforcement efforts as aggressively as the Corps. To date, SOS is unaware of any suit brought by the MDEQ to restrict beach grooming. As the MDEQ and the Corps have been working in concert on this issue, SOS believes that the Corps, rather than the MDEQ, has brought litigation because both agencies know that of all units of government, the federal government will be least responsive to local residents' concerns.

**INCONSISTENT, UNFAIR, AND UNREASONABLE ENFORCEMENT EFFORTS**

Like other property rights groups, SOS believes that the Corps has exceeded its Congressional mandate, and that the Clean Water Act of 1972 does not prohibit Saginaw Bay beachowners from grooming their beaches, nor does it require a permit for them to do so. The Corps' local enforcement efforts demonstrate their inconsistent and unreasonable stance.

One example of inconsistent enforcement is the issue of permitting for beach grooming in Tawas, Michigan. On February 23, 2001, the City of Tawas filed a joint application for permit to groom its Saginaw Bay beaches. (See Exhibit 29). The permit was granted by the MDEQ. (See Exhibit 30). When reviewed by the Corps' local enforcement officer William Leiteritz, he concluded, without explanation, that a permit was simply not necessary. (See Exhibit

31). SOS questions why a permit was not necessary for the City of Tawas, but just 10 months later, the Corps started filing suits against private owners for conducting similar activities.

Unfairness and unreasonableness in enforcement efforts is best exemplified by the Corps' misrepresentations to the public about the ownership of their beaches. As this Subcommittee knows, while having little affect on regulatory authority, in the area of public debate, ownership is a powerful tool. William Leiteritz has been quoted in numerous newspaper accounts as asserting that all land below the ordinary high water mark is owned by the State of Michigan. (See Exhibit 32). While consistent with the flawed position of the MDEQ, this position would be of much surprise to Michigan's Circuit judges (see Exhibit 33); Michigan's Attorney General (see Exhibit 34), and most notably, Michigan's Supreme Court (see Exhibit 35), which have all opined that the riparian owners own to the water's edge.

Unfairness is also evidenced by the Corps' refusal to supply to SOS information requested under the Freedom of Information Act. In preparation for this briefing, SOS sought from the Corps in December of 2001 records regarding permits allowing the grooming of beaches in the Saginaw Bay. (See Exhibit 36). The Corps declined to provide records, asserting that it does not maintain records in that way. (See Exhibit 37). Yet the MDEQ was able to produce the requested records promptly. Notably, it was from the MDEQ records that SOS

learned that the Corps had deemed a permit to the City of Tawas as "unnecessary." The Corps continues to this day with its refusal to supply requested records. (See Exhibit 38).

Yet another unfair tactic by the Corps is revealed by a recent example involving an elderly Caseville couple. In its letters, and in a publication, the Corps offers to "meet on site to discuss matters of jurisdiction and application/permit requirements." (See Exhibit 14). Ken McAuley wanted to pull his sand down from his seawall as in previous years, so he took the opportunity offered by the Corps, thinking he would get a helpful hand. The result was a determination that his nearly vegetation-free beach (see Exhibit 39) contains "wetlands within the regulatory jurisdiction of the Corps of Engineers." The Corps then advised that its "jurisdiction determination is valid for a period of five (5) years," and that if he chose to appeal, his appeal "must be received by the Division Engineer within 60 days of this letter." (See Exhibit 40). Mr. McCauley had hoped, from the Corps' seemingly friendly offer, that he would get help to address his sand problem. What he received instead was a legal proceeding threatening his future use of the property.

Misrepresentation is also a tool of the Corps. On July 1, 2002, Linwood resident Jan Sallmen was having a neighbor pull the sand that had accumulated on her seawall down with a tractor when the Corps' William Leiteritz appeared and demanded she cease, telling her she

was violating the law. She called his office and inquired why Mr. Leiteritz was on her beach. A Michelle at the office advised that she was unaware of any specific complaint, but that they had received a number of complaints about beach grooming. In a subsequent phone call, Michelle backed away from that assertion, and in response to a Freedom of Information Act request, the Corps now reports that "[t]here is no method of tracking complaints in our database and Mr. William Leiteritz of the Saginaw Field office does not recall any complaints on "beach" grooming or maintenance. Thus, we have no documents responsive to your request." (See Exhibit 41). The Corps has created the perception that the public has complained about beach maintenance activities, but apparently its records do not evidence a single complaint by the public over the entire Saginaw Bay about the beach maintenance.

#### THE CORPS' POLICY IS CONTRARY TO PUBLIC POLICY

For the residential areas around the Saginaw Bay, the Corps' policy of converting longtime beach areas to wetlands is contrary to public policy. The Corps' actions may serve to increase wetlands, but the benefit from gaining a few feet of coastal wetland on only a small area of the Saginaw Bay -- at least until the next period of high water in the Bay's 30 year cycle -- pales in comparison to the area's loss of tourism, reduction in property values and resultant

tax revenue, negative impact on the public health, and the loss of enjoyment by the public.

It is no surprise that marshlands bring with them mosquitos, snakes, rats, and other undesirable attributes not appropriate for populated residential areas. In addition, Michigan residents are now especially concerned about West Nile Virus, a potentially deadly virus carried by mosquitoes. The virus has appeared in Michigan in recent summers, and health officials advise residents to reduce their risk of becoming infected with the virus by "drain[ing] standing water in yards which can be mosquito breeding sites such as flower pots, pet bowls, clogged rain gutters, swimming pool covers and discarded tires." (See Exhibit 42). As recently as Friday, July 19, 2002, the Bay City Times reported that birds with the West Nile Virus were found in Saginaw County, where they will begin spraying the pesticide Malathion. The paper reports:

There have been no confirmed cases in Bay County, but officials say the disease -- spread by mosquitoes and potentially fatal to humans -- is either here or will be soon.

(See Exhibit 43). Saginaw Bay beach stewards are concerned about standing water in beach swales near their homes, and seek to fill them in, in part to prevent the breeding of mosquitoes. The Corps' attempts to stop the elimination of these mosquito breeding grounds in residential areas is contrary to public policy.

Beach vegetation also negatively affects property values. David Kraft, a real estate agent in Caseville, Michigan, recently conducted an informal study of relative home values. According to his study, he found that homes in the area with clean, sandy beaches sold for an average price of \$4,333 per front foot. Homes with some weeds sold for an average price of \$3,050 per front foot, and homes with substantial vegetation sold for an average of \$1,558 per front foot. (See Exhibit 44). SOS submits that the loss of sandy beaches to those with vegetation will not only negatively affect property values in the Saginaw Bay area, but will also result in reduced property tax revenues for area communities. This is not in the public's best interest.

The presence of beach vegetation is also bad for tourism, Michigan's second largest industry, and local economies. As evidenced above, the conversion of the Bay City State Park from a swimming beach to a marsh has substantially reduced visits to the park. A small amusement park adjacent to the State Park closed years ago, and the remaining adjacent businesses, an ice cream store/restaurant, and a grocery store, are both currently for sale. Business owners all around the Saginaw Bay have legitimate fears that the Corps' actions will result in a loss of tourism, and have a negative effect on the area economy. For example, utilizing a statistical model employed by Dr. Donald Holecek, director of

Michigan State University's Travel, Tourism, and Recreation Resource Center, campers spend about \$420 per party of four for a five day stay at a campground. Based upon computations by Margaret McBride, an SOS member, utilizing this statistical model and applying it to the historical number of annual campers in the Caseville area, the Caseville area parks bring about \$18 million in annual tourism revenues to the Caseville area. Caseville cannot afford to lose that revenue. (See Exhibit 45). Clean, sandy beaches also are a magnet for talented workers and executives alike who may come to our area to participate in and improve local industry for the good of all in our area.

The preservation of beaches for both the public and for residential owners is good public policy. As indicated above, SOS estimates that, unlike more populated areas in Michigan, less than twenty percent of the Saginaw Bay has any substantial development. Vast areas are publicly owned and maintained as parks, wildlife areas, and the like. Others have historically been marshlands and have low density use. In light of this, residents struggle to understand the public benefit of the virtual elimination of recreational beaches along the Bay. Not even the State and County beaches set aside for public use and access to the Bay, and used that way for decades, have been safe from the Corps' crusade in this regard. A proper balance requires that well established public

beaches and private residential areas should remain vegetation free as determined by their owners, in keeping with their historical usage. As evidenced above, previous generations enjoyed clean, sandy beaches. And as evidenced above, the current generation of young adults seeks clean, sandy beaches. While we desire a healthy environment, we also desire recreational beaches not only for ourselves, but for our children and grandchildren. We can have both.

#### CONCLUSION

People living and recreating around the Saginaw Bay, after at least a century of enjoying their clean, sugar sand beaches, have become accustomed to this as the natural state of their environment. Some residents obtained the benefit of a clean, sandy beach without much effort, while others have had to maneuver sand in relatively small amounts to maintain their beaches. But unnatural events, such as the continued sewage spills and fertilizer runoff, as well as the invasion of zebra mussels, have changed the environment and given rise to substantial vegetation along the Saginaw Bay's coast where it did not, in recent memory, exist. In reaction to those changes, area residents have taken a number of measures in an effort to groom and maintain their beaches so that they remain in their traditional state. Ignoring or unaware of the historical state of the Saginaw Bay, and the historical way of life of its residents, the Corps



instead merely attributes the sudden growth of vegetation to low water conditions, and has demanded that beach stewards let the vegetation proliferate. On behalf of the owners and stewards of the Saginaw Bay beaches, Save Our Shoreline petitions this subcommittee to take appropriate action to cause a reversal of the recent enforcement actions of the Corps, to discontinue all current litigation against Saginaw Bay beach owners and stewards, and to redirect its vast resources toward the true polluters and invaders of the Saginaw Bay, to the benefit of all of society.

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