

November 21, 2007

Dear SOS Member:

I am writing to provide you with an update on our activities.

**The Underwater Great Lakes State Park.**

In our last letter, we told you about the Great Lakes State Park bills and how they could affect your shoreline. We are pleased to report that after several meetings, the sponsor has agreed to make several changes to this set of bills that address our concerns. These changes include language limiting the extent of the state park to the water's edge, and referring to the park as an *Underwater* State Park. As a result of these and other changes, the Save Our Shoreline Board recently voted to remove our opposition to this set of bills, instead taking a neutral position, and I personally delivered a letter indicating our change of position to the office of the bill sponsor in Lansing.

**The Great Lakes Compact.**

With that matter settled for the moment, there is now another potential threat looming on the horizon: the Great Lakes Compact. The Great Lakes Compact was developed by an organization of the governors of the Great Lakes states, as well as representatives of Canada, to provide additional protection for the Great Lakes. This Compact has been touted as being necessary to prevent further water withdrawals from the Great Lakes, specifically addressing concerns that warmer states like Arizona will try to get our water. While this is a worthy goal, as always, the devil is in the details. Riparian rights advocates in other states, like Ohio State Senator Tim Grendell, have raised concerns that the language of the Compact will impair riparian rights.

It is no surprise, then, that the usual crowd recently attended hearings in Lansing to strongly support the proposed Compact. These groups include, among others, Michigan United Conservation Clubs and Tip of the Mitt Watershed Council. More disconcerting are the comments of Professor Chris Shafer of Cooley Law School, formerly of the MDEQ, and a known enemy of riparian rights, who testified, in essence, that the Compact would replace common law riparian rights with "regulated riparianism."

In other words, it appears that the environmental community believes that the Compact will take away our riparian rights, and instead, the Legislature will determine what rights we have as shoreline property owners. Even if the Compact does not stand for this proposition, the environmental community's assertion that it does is enough to give us pause. As a result, the SOS Board has retained a law firm to look into the Great Lakes Compact, and advise us as to how it may impact our riparian rights.

The Great Lakes Compact has been passed by two states. We understand that it must be passed by all of the Great Lakes states and by Congress, in addition to approval on the Canadian side, in order to be effective. Once we hear from our attorneys, the SOS Board will take a position on the Compact and we may be calling upon you in the future on this issue.

### **Possible Suit to Declare Beach Raking Legal Under Federal Law.**

On another matter, the SOS Board has learned that in January of 2007, a federal district court issued a decision that we believe calls into serious question the Army Corps of Engineers Detroit District's continued campaign to regulate beach raking. The decision, National Home Builders Association v. U.S. Army Corps of Engineers, issued from the District Court for the District of Columbia, invalidates the most recent attempt of the Corps of Engineers to regulate "incidental fallback." The decision suggests that the movement of soil only a very short distance in a very brief time period (like what occurs when a rake goes through beach sand) does not constitute the "addition of a pollutant" under the Clean Water Act, and therefore may not be regulated by the Corps of Engineers. As a result of this decision, the SOS Board has already conducted preliminary research into the viability of a lawsuit against the Corps of Engineers, and it appears there is a reasonable probability for success. Your Board continues to investigate a possible lawsuit, and we expect to meet with attorneys later this month.

Unlike other legal matters we have been involved in, this action may involve Save Our Shoreline as a direct party in a lawsuit against the Detroit District. If the Board, after further investigation, concludes there is a reasonable chance for success, we will then contact our membership to see if there is adequate support for such a lawsuit. If you would like to comment now on this issue (or any other issue), please send an email to [sosboard@avci.net](mailto:sosboard@avci.net).

I have placed several phone calls to Lt. Colonel Leady, the Detroit District Commander, to discuss beach grooming issues, but he has not returned any of my phone calls.

### **Board Member Search and Administrative Changes.**

Due to the resignation of a board member, we currently have a vacancy on the SOS Board of Directors, which the SOS Board needs to fill in the near future. We are asking each of you to consider nominating a person that you may know who could well serve the SOS Board. If you know of a strong, talented, and committed individual that is passionate about their beach and their riparian rights, or if you are such an individual, please contact President Ernie Krygier at (989) 793-3711 or Vice President Dave Powers at (989) 892-4861. Alternatively, you can contact us on the SOS website, or [sosboard@avci.net](mailto:sosboard@avci.net). Tell us as much as you can about your nominee's skills and background. SOS is at a critical juncture. If you have ever thought about

helping out, or if you know of a person that you always thought should be a leader on this board, now is the time to take action. Call us!

We regret that our first executive director, Ziggy Kozicki, has left the organization. The Board has not yet addressed the hiring of a replacement for Ziggy, as we continue to assess the economic viability of sustaining this position.

### **Water Levels Study.**

SOS Vice President David Powers recently returned from a three day conference in Toronto as a member of the International Joint Commission's Public Interest Advisory Group to the Upper Great Lakes Study Board. The study board is conducting a five year, \$14 million study of Great Lakes water levels. He heard debate about how climatic factors may be responsible for current low water levels, especially unusual warming and increased wind speeds over Lake Superior and its surroundings. He also attended a presentation by Dr. Robert Nairn, whose recent study of the St. Clair River concludes that erosion in that river has caused a lowering of water levels. Dave is convinced that the study chairs are committed to doing the best study possible, and has confidence in the study board. Dave continually advises the SOS Board on the status of the study and its implications to shoreline owners. For more information, visit the IJC's website at [www.ijc.org](http://www.ijc.org).

### **Dues Payment Reminder.**

Finally, we have received a strong response from our most recent dues letter, but there is still a substantial portion of our membership that has not yet responded. If you have not yet responded to our dues request, please accept this letter as a reminder to please send in your dues. As a reminder, the SOS Board once again is requesting that each member donate \$100 so that we can keep our legal fund and political action committees strong. Whether you choose to pay the requested amount of \$100, or simply the regular dues at \$25, SOS needs your continued support. Please send your check to us today! Send it to SOS, PO Box 2307, Bay City, Michigan 48707-2307.

As you can see from this letter, and as you know from the past, the attacks on our riparian rights simply keep on coming. As long as we all stick together, we have a much better chance of preserving our rights and our beaches for ourselves, our children, and our grandchildren.

Sincerely,

Ernie Krygier,  
President