

SOS

SAVE OUR SHORELINE

SOS APRIL 2010 NEWSLETTER

WWW.SAVEOURSHORELINE.ORG

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PRIDE IN MEMBERSHIP

The days are now staying lighter longer. The ice is melting on the Great Lakes. Soon we will be cleaning all of our beaches in front of our beach front homes. We don't have our hands out, lucky for government money, we just do what we have been doing for generations. We want our shoreline safe and healthy for our children, grandchildren and family members.

We now have a new director for the D.N.R.E. I am not sure what direction Rebecca Humphries will take the D.N.R.E., but one thing is for sure, we will never give up our traditional beaches. As past board member, Joe McBride has stated, "There

are plenty of wetlands to save, especially from phragmites, and that is what our agencies should be doing. Shoreline property owners agree that wetlands are important and so are beaches. Let's keep 'traditional beaches', beaches. Let's provide reasonable regulations that respect private property. Let's minimize the damage caused by overzealous government agents who exceed their authority. There are many regulators that do not want to do what is good for the world, but just want to exercise dominion and control over the individuals and perhaps to move the world to a new order. That is something that SOS will not tolerate.

Simply put, SOS respects the law and we want our government to do the same."

This spring I would like all of our members to show everyone that you are a proud SOS member. Display your sign. Contact SOS if you need a new sign to display. Together we will be heard.



Ernie Krygier
President
Save Our Shoreline

SOS BOARD MEMBERS REMEMBERED

We are sorry to report the death of SOS board member Mr. George Sarris, and former original board member Mr. John Dwan. George was a Traverse City businessman and Save Our Shoreline Director. George contributed a great deal of time and effort to SOS.

John was one of the original board members and worked tirelessly for SOS members. John worked on all the little things behind the scenes that made all the board members look good. We will miss both John and George.

Our condolences to John's and George's family.

TREASURER'S MESSAGE

I would like to explain how and when we send out dues notices. SOS was formed August 2, 2001 and we are a 501 corporation. As a 501 corporation we must file a tax return at the end of our fiscal year and donations to SOS are not tax deductible. The IRS has our fiscal year from August 1 through July 31 each year. In other words our 2010 fiscal year would begin on August 1, 2010 and end on July 31, 2011. We usually send dues notice just after August 1 each year. Some years we have been a month or two late with the dues notice because we have incorporated other communication along with it in order to save a few bucks.

As you know each year we have fixed expenses like, our lobbyist in Lansing, Mr. Pat McCollough from Kelley/Cawthorne, legal reviews for new rules and action (or inaction) by the Department of Natural Resources and Environment (DNRE) and the Army Corps, newsletters, mailings, web site and so on. Of course, the board members work for free and we hire out work as needed. We do try and keep cost down as best we can but it is important that our friends in Lansing and Washington know we are serious and have the membership and funds to challenge them when needed.

Our general and PAC funds are not in too bad of shape until the next fiscal year which begins in August. Our legal fund is a little low but we are hoping we do not have any major legal challenges before August. If needed we will send a request for help, but I do not see that happening.

I hope this clears up some of the confusion on getting dues reminders late in the calendar year. Thank you for your support and look for the dues notice in August or early September.

Chuck Groya, Treasurer, Save Our Shoreline

**FORMER SOS VICE PRESIDENT APPOINTED TO
INTERNATIONAL WATER LEVELS STUDY BOARD**

The International Joint Commission recently named David Powers to its Study Board for the Upper Great Lakes Levels Study, and U.S. Co-Chair of the Study's Public Interest Advisory Group. In that position, Dave will be part of a ten-member board (five U.S., five Canadian) overseeing a five-year, \$15 million study of Great Lakes water levels. The International Joint Commission is a bi-national agency formed in 1909 by the governments of the U.S. and Canada to make recommendations regarding waters along their shared border.

"As you can imagine, there are a lot of differing views about how water levels should be regulated," said Powers. "The purpose of the study is to obtain sound information about water levels to inform future decision making," he said. "People from the Georgian Bay area are concerned with low water, while Michigan's Lake Michigan residents worry about high water. Environmentalists are concerned about preserving wetlands, and we are concerned about beaches. Clearly, there are a lot of interests that must be considered in regulating water levels."

"Dave's appointment to this important position shows how SOS continues to gain respect and influence regarding Great Lakes matters," said SOS President Ernie Krygier. "With Dave there, we know that our problems with low water, like rampant phragmites growth, will not be ignored," he said.

The IJC is conducting the Upper Great Lakes Study in two phases. The first phase considered whether the St. Clair River was continuing to erode and drain the Lakes, as suggested by several media reports and a study funded by Georgian Bay residents. The study found that the St. Clair River is not eroding.

The second phase of the study will focus on Lake Superior and its impact on Lakes Huron and Michigan. The study is scheduled to be concluded in 2012. For more information, visit www.ijc.org.

IJC STUDY OF LAKE LEVELS ENTERS FINAL PHASE
by DAVID POWERS

SOS was formed nearly ten years ago, when Lake Huron and Lake Michigan water levels went below normal, and our beaches thereby grew. With the growing beaches came growing vegetation and invasive *phragmites* plants, at which point our problems began. If only we had control over the lake levels, we might have kept the water high, and the unwanted vegetation away. Right?

Of course, we already exercise some control over the lake levels. The primary point of control is the St. Marys River at Sault St. Marie, where we control how much water enters Lake Huron, and thereby, Lake Michigan. Also, some out-of-basin water enters Lake Superior from the Long Lac and Ogoki diversions in Canada, which slightly exceeds the current outflow at Chicago. But we could better control the lake levels if we wanted to. We could build structures, such as a weir in the St. Clair River, and hold back the water. The question is, should we? And at what cost? And with what impacts downstream?

Those are the questions currently being studied by the International Joint Commission's Upper Great Lakes Study Board. I am one of the ten members in charge of a study on this issue, and we will ultimately make a recommendation to the International Joint Commission about changes to the current regulation plan for structures already in place at the Soo, which would then make a recommendation to the governments of the US and Canada.

It is not an easy question. Lakes Michigan and Huron have historically varied by as much as six feet. Long-time residents are accustomed to that change, but others are not. Some wetlands depend on that change. Other facets of nature most certainly depend upon that change. But this variance in water levels is problematic for many that use the lakes. Low water negatively affects shipping, marinas, boating, beaches, water quality, wetlands, water supply intake pipes, and many other interests. On the other hand, high water can flood homes and businesses, cause erosion, and create many other problems.

Add another issue to the mix: when we originally dredged shipping channels, and then deepened them to 27 feet in 1962, we lowered water levels. When we add in mining projects, we have lowered historic lake levels by several inches. Since then, our study showed that water levels decreased another 10 cm or so from erosion in the St. Clair River. Should we try to make up for these losses?

And, as if that's not complicated enough, we have to consider another natural process: "global isostatic adjustment," also known as "glacial rebound." Back 10,000 years ago, at the end of the last ice age, a glacier one mile high sat atop the land in this region. That caused the land to compress. But now, the ice is gone, and scientists tell us that the earth's crust is expanding. That means the land's surface is rising in some places. For example, over the last 100 years, the land in the eastern Georgian Bay region has gone up by 27 cm. But this rise does not occur everywhere. In the northwest portion of Michigan's lower peninsula, the land is actually going down. It is likely no coincidence that the primary concern of folks in the Georgian Bay is low water, while folks on Lake Michigan fear high water. Should we make water level changes to reduce the negative effects of these natural processes?

Then we have to consider another topic at the forefront of public debate: global warming. To what extent should we consider global warming as part of our proposed future regulation plan? If global warming causes substantial, long-term changes to water levels, does that change our plans and priorities? For example, the study board is examining and refining various climate change scenarios in order to determine whether a structure in the St. Clair River might be necessary in the future and what kinds of steps might be necessary to adapt to those changes.

These are just some of the topics that the study board must address in making recommendations about the next water level regulation plan. We will be soliciting public input for another 16 months or so before the final recommendation is written and the study ends. Some interest groups are closely following the study, and providing professionally prepared comments along the way. Other public feedback comes from the study's Public Interest Advisory Group (PIAG), which includes representatives like me from various interest groups. The IJC and its study team wants to hear from people about their thoughts on Great Lakes water levels. If you have comments, please send them to me or any other PIAG member. I can be reached at dpowers@smpklaw.com.

**COMBINED SEWAGE OVERFLOWS IN SAGINAW RIVER/BAY – IS IT RAW SEWAGE?
by LAURA OGAR**



Like many people I've been horrified each time the local newspaper reported on a "CSO into the Saginaw River" ...Millions of gallons of sewage...I knew enough about sewer systems to know an overflow was the result of heavy rain or snow melt flooding the underground sewer collection piping to the point where it would discharge into the river before going through the treatment plant.

I knew enough not to like the thought of it: sewage dumping into the mighty Saginaw River that flows through our downtown and into the bay I've become so familiar with from exploring every weekend. I also knew I needed to work to try and stop this from happening. A year and a half ago Bay County leaders pulled together a group of city and county public utility managers, the state wastewater regulators from DEQ (MDNRE) and other interested persons (waterfront land owners, fishermen, environmental groups) to review what could be done to stop CSO's. I've learned a lot in the process.

First, I learned that I was a late comer to this issue. The Bay area community has been actively working to prevent raw sewage from entering the Saginaw River for decades...in fact the City of Bay City has not had an overflow of raw sewage since the late 1970's when the last of the retention treatment basins were completed. These retention treatment basins (RTB's) were purposely constructed throughout Bay City during the 1970's in order to prevent the raw sewage discharges into the Saginaw River. While federal dollars provided the bulk of the funding (80%) of the \$80 million project, the City of Bay City took out 15 year municipal bonds to cover the remaining 20% costs. The bonds have since been paid off, and the RTB's do what they were designed to do, capture those 'flash' flows in the sewer system that occur during heavy storm events, retain the flow long enough for treatment (settling and disinfection) prior to overflowing into the river. I learned that the 'CSO events' that get covered by our local news reporting is actually - and more accurately - RTB discharge event's - with very similar water quality results as the wastewater treatment plant produces and discharges every hour. We looked at the data. The actual sampling results show that on average, we have about 6 RTB events a year and the RTB discharge meets the same water quality treatment level as the wastewater treatment plant more than 90 % of the time. We are still compiling specific numbers for better reporting purposes and will get that information out to the public in the next six months. Also, the City of Saginaw is working with us as they are completing construction of their own RTB program as well. We understand there are concerns about community wastewater systems further upstream, and we've got leaking septic systems around the bay to investigate and cow manure piles to keep away from ditches and we need to ensure land spreading of sewage sludge/septage for agricultural purposes is done right. Our collective work to improve water quality in the river and bay is not done at all, but I do take a lot of comfort in knowing that on the summer weekends when our fishing boat moves through nearshore water that is sometimes too green and murky looking, I do now know that it isn't the result of millions of gallons of raw sewage being dumped into our beloved bay. For more information on the Saginaw Bay Coastal Initiative (SBCI) please visit the Bay County Environmental Affairs and Community Development web site at: <http://www.baycounty-mi.gov/EACD/Default.aspx>

SAVE OUR SHORELINE MEETS WITH GREAT LAKES WIND COUNCIL

Your-president, Ernie Krygier, Dave Powers, former board member and SOS attorney, and Chuck Groya, treasurer, met with members of the Great Lakes Wind Council (GLWC) Skip Pruss, chair, Tom Hickner, Bay County Executive and GLWC board member, and Liesl Eichler Clark, Deputy Director of Labor Energy and Economic Development. Also in attendance, Laura Olgar, Bay County Environmental Affairs and Community Development Director, Howard Wetters, County Extension Director.

This meeting was a fantastic opportunity to share SOS concerns regarding off shore wind. As you can imagine there are several concerns, appearance, maintenance, legal issues involving use of State owned bottoms lands for private enterprise and so on.

SAVE OUR SHORELINE MEETS WITH GREAT LAKES WIND COUNCIL
Continued...

SOS has asked our attorneys to dig into legal issues that may arise from the public trust doctrine and State laws related to use of bottom land. **SOS has taken no position on off shore wind.** We want to have our facts correct for any future discussion on this issue.

The GLWC has sent proposed legislation related to off shore wind to our Governor. Read more on their web site: <http://www.michiganglowcouncil.org/>.

IS IT JUST A BEACH ISSUE?
by BERNARD UHLMANN

Water levels of the Great Lakes dropped in 1999 and the following year. Property owners had no idea that there would be a ten year battle with the Department of Environmental Quality over who owned the exposed land. They were surprised when this agency determined it had the authority to regulate how that property was managed.

Property owners did not take dictates from the U. S. Army Corps of Engineers and the Michigan Department of Environmental Quality sitting down. These agencies expected they would.

This generation of beach residents knows what their abstracts say. They know where their rights end and where the authority of the Federal and State governments begin. Armed with this knowledge these owner's banded together to stop government from taking property that legally belonged to the property owners. **Save Our Shoreline** was organized to accomplish this goal.

Save Our Shoreline has fought hard. It has stalled the movement of these misguided agencies to take the property of citizens and turn it into health hazardous swamps. These agencies have used the vague Clean Water Act as a guise to justify their actions. It took a Michigan Supreme Court ruling to remind them that beach property owners do in fact own to where the land meets the water.

When they could not find clear legislation which would give them the right to take over this property they went to a new technique called implementation by regulation.

Is this policy of implementation by regulation just a problem for beach property owners? Truth is, this policy impacts everyone in Michigan. State agencies should not be allowed to devise regulations that are not supported by laws made by the legislature. These agencies are there to enforce the laws. The people have not given them the right to make law. These agencies feel they have the authority to stop a beach property owner from maintaining his beach. Citizens not owning beach property might think this is no big deal. Think about it! If they can stop beach owners from maintaining their sand what is to stop them from telling farmers what fields they can plow and till? Water falling on the land in Michigan eventually drains into the Great Lakes? Would this line of reasoning give these agencies the authority to dictate how all property in the State of Michigan is managed? Bureaucrats forget that we are a government of the people. Agencies have a tendency to devise ways of controlling property and issues so that they can survive. It is a process called **Job Security**. In the process of doing this they usurp the constitutional rights of the people whom they are suppose to serve. This process will continue unless the people stop these agencies from denying them their rights guaranteed by the Constitution. This is why it is important that citizens band together and support **Save our Shoreline**. This is a grass roots organization that has made bureaucrats take notice. **Save our Shoreline** has time and time again shown government agencies *this is where our rights begin and your authority ends*.

This year El Nino has reduced the winter snowfall. We may see another drop in water levels. This will expose more shoreline that government will want to control. Help us to help all the citizens of the State of Michigan as we fight the on-going process of government impingement of our rights as property owners. Support **Save our Shoreline**.

NEWS FROM THE OHIO LAKEFRONT GROUP

Ohio Supreme Court Accepts Jurisdiction Over Property Rights and Attorney General Authority

In the Supreme Court of Ohio Case Announcements issued on March 3rd, the OLG lawsuit was one of only six cases the Judges agreed to hear at this sitting. OLG issued the following press release soon after the Case Announcement.

Today, the Ohio Supreme Court accepted jurisdiction in a case that will give it the opportunity to protect the property rights of all Ohioans and address the authority of the state attorney general to disregard the governor's policy decisions.

"We look forward to the Supreme Court defending the Constitution and turning back this Richard Cordray-led assault on private property rights," said Tony Yankel, president of the Ohio Lakefront Group. "By accepting jurisdiction on the attorney general's authority, the Supreme Court will also get a chance to stop activist attorneys general like Marc Dann, Elliot Spitzer and Richard Cordray from pandering to special interests at the taxpayer's expense."

Since 2006, three different courts have ruled that Ohio property owners can't be forced to open their backyards to strangers. Despite that fact, special interest groups and Attorney General Richard Cordray have continued their efforts to reverse more than 200 years of Ohio law.

A briefing schedule for the case hasn't been set and the Supreme Court will likely hear oral arguments this summer.

THE TONE IN LANSING

by **PATRICK McCOLLOUGH** of **KELLY-CAWTHORNE**

Mired in debt caused by the deep world wide recession, and reluctant to make really significant cuts to the budget, the legislature hopes for more federal funds to lessen the cuts that are coming in next year's state budget. This is an election year, so no new revenue bills are likely to pass, with the exception of removing some old business tax exemptions. The new director of the consolidated DNR-DEQ department, Rebecca Humphries, promises that permit applications will be expedited if more staff can be assigned to that function. This impacts our beach grooming permits. **THE BATTLE TO PROTECT YOUR PROPERTY RIGHTS....SOS** is fighting a mighty battle to save traditional beaches from being regulated as wetlands. Environmental organizations want to control all Michigan beaches. Sports and fishing groups want unlimited access. Back lotters want the same use and privileges as shoreline property owners who keep paying high taxes on their lake front property. Property owners pay the freight, in some cases, to look at the spreading blight of phragmites, and just to see the lake, or get through the weeds to get into the water. Most of the senate and more than 60% of the house in Lansing are term limited out this year. This means SOS must build a war chest, as SOS is the only force shoreline property owners have working on their behalf, not just in the legislature, but in the courts, the governor's office, and before the regulatory departments. SOS needs your help to raise funds for the fight, and find candidates for

office who support property owners, who as we know, are the real day to day stewards of the great lakes. If you spend any extra money this year, your best investment, that is in your own long term self interest, is to keep your membership active and contribute some extra to the battle. I can't emphasize this enough. Your contribution to SOS benefits you directly. No one else is on the scene working for you. Problems threaten our beautiful great lakes. Non native invasive species, asian carp, commercial, industrial, municipal, and now energy needs such as off shore and shore line wind mills are daily engaged in the battle that threatens to diminish your enjoyment of your own property. We know in Lansing, where we are on the front line of the battle every day, that you need to keep your only ally, SOS, in good shape to carry on the battle.



SOS Objective: To support owners' rights to maintain the value the property had prior to new governmental assertions of jurisdiction.

STRENGTH IN NUMBERS

Members of SOS are the best representatives of organization. They provide input and they influence the methods we use to effectively represent the rights of property owners in the State of Michigan. We need members help to continue the fight against uncontrolled government agencies impingement on the legal defined property of citizens. As government agencies seek to expand their authority, our organization needs to increase its membership to stop this incursion on the rights of property owners.

Our Board of Directors understands that the membership drives organization. We need the insight only you can provide.

If people are interested in property rights, people have to stand up and become one strong voice.

Legislatures and State agencies respect a group who represent a growing membership. We want to show that there is increasing dissatisfaction with the policies of the DNRE. Demonstrate your dissatisfaction by helping us expand our membership. Give this membership application to a neighbor. Encourage them to join SOS. Help SOS grow so we can continue to be heard in Lansing and Washington.

Your Board of Directors



SOS Objective: To preserve the right to eradicate invasive species and muck, especially phragmites, and to remedy governmental mismanagement of our lakes and shores that led to these problems

Membership Application

Thank you for your interest in joining Save Our Shoreline. Please complete the following information and send it to:

Save Our Shoreline
 P.O. Box 2307
 Bay City, Michigan 48707-2307
 989-667-2910
www.saveourshoreline.org

Last Name: _____ First Name: _____

Mailing Address: _____ City: _____

State: _____ Zip: _____ Phone: _____

Email Address: _____ Fax: _____

Name of your beach area: _____
 (i.e. Au Gres, Bay City, Caseville, Grand Traverse area, Tawas):

- I wish to join.
- I have enclosed \$50.00 (\$25.00 application fee and \$25.00 annual fee). (Please make check payable to Save Our Shoreline.)
- I'd like to donate an additional \$ _____ for _____ Legal Fund _____ PAC Fund

Please enter the name you would like to have on the membership roster: _____

Please be very specific. (Example: Bob Jones, Mr. & Mrs. Bob Jones, or Bob and Mary Jones?)

On behalf of Save Our Shoreline, we thank you for your support in protecting
 Michigan's recreational beaches



SAVE OUR SHORELINE

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Sue Adams	Vice President	705 Bay Rd.	Bay City	(989) 414-3196
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David Almeter	Director	3804 Lee Point Rd.	Suttons Bay	(231) 271-6554
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Christopher Pinter	Director	1017 Brissette Beach Rd.	Kawkawlin	(989) 684-9542
Robert W. Foster	Director	3685 So Bay Ridge Ln.	Suttons Bay	(231) 271-6257

OUR MISSION:

“To organize waterfront property owners and those with similar interests consistent with the goals of the organization; to preserve and maintain riparian rights, including the right to maintain safe recreational beaches and waterfront areas, both public and private; and to preserve and maintain a proper balance for the coexistence of man and nature upon and near waterfront property.”