

# SOS

## SAVE OUR SHORELINE

**SOS JANUARY 2012 NEWSLETTER**

**[WWW.SAVEOURSHORELINE.ORG](http://WWW.SAVEOURSHORELINE.ORG)**

Inside this issue:

Message From Ernie	<b>1</b>
Ohio Lakefront Victory	<b>2</b>
We need your support	<b>2</b>
Michigan General Permit Regulations Update	<b>3</b>
Offshore Wind Turbines Update	<b>4</b>
ACOE Proposed National Permit Regulation	<b>4</b>
Annual Membership Meeting	<b>5</b>
Treasurer's Message	<b>5</b>

### MESSAGE FROM SOS PRESIDENT, ERNIE KRYGIER

I sure hope that everyone had a good summer and wonderful holidays. For the most part the membership did not have any issues with the D.E.Q. or the Army Corp of Engineers (ACOE). This is great news. We have been doing a lot of work this past year on our beach issues. I have met with the ACOE in Detroit, and had many trips to Lansing to meet with the D.E.Q and state legislators.

We all owe a special thanks to Senators Mike Green and Tom Casperson. They are leading the way for us to change the laws, or at least to make clear that our beaches are not "wetlands" or state-owned "bottomlands" regulated under state law. We also have a great friend in the Michigan House of Representatives with Charlie Brunner. Past board member & Attorney Dave Powers is doing all of the legal background work. I believe that the work that Dave Powers did on behalf of S.O.S. for the Ohio Lake Front Group helped in the Ohio group winning their court case on property rights issues. Dave is worth every dime that he bills us.

We have been together now for over 10 years. I know that we have made a difference. We have now worked with 3 different governors. We will not stop until we have claimed back

our beaches. I am very proud of all of our members. Because of your support, D.E.Q. & the ACOE are listening to us.

I have 3 things that I would ask of the members. When spring arrives, I would hope every one of you will display your S.O.S. sign proudly for all to see. If you lost your sign, or if your sign has worn out, drop me a line and I will see to it that you will have a sign by spring.

The second one is to talk to your neighbors that are not S.O.S. members. Very nicely talk about how you have made it possible to keep their beach clean. They should hopefully help all of us continue the battle. It is always good to have more members. That is where our strength is.

The third request, and probably the most important, is that we let our state legislators know that we need them to support the work of Senators Mike Green & Tom Casperson. That is to protect our ability to keep our traditional beach safe and that a clean beach in front of your home or business is good for Michigan. That is why people from all over the country come to our Great Lakes State.

Again let me say thank you to all of you. Happy New Year & never give up the fight.



Ernie Krygier  
President  
Save Our Shoreline

## OHIO LAKEFRONT VICTORY!!!

As reported in our September 14<sup>th</sup> press release, the Ohio Lakefront Group has prevailed in the Ohio Supreme Court. This is a significant victory for shoreline property owners. This case, i.e. State of Ohio, ex rel, Robert Merrill, trustee et al and Homer S. Taft, et al v. State of Ohio, Department of, and State of Ohio and Natural Wildlife Federation, involved a challenge by the Ohio Attorney General to existing state law in 2006 that attempted to stipulate that the state owns the dry shore lands of Lake Erie including the backyards and heretofore private property of lakefront owners. This would have required property owners to lease or pay rent for seawalls, docks, boat hoists and other items commonly associated with beachfront property.

The Ohio Lakefront Group had prevailed in all of the lower court decisions but state officials continued to contest this matter culminating in the final Ohio Supreme Court decision. The court unanimously rejected claims that the State of Ohio

owns and controls the state's Lake Erie beaches. The high court held that the state's public trust ownership rights end at "the natural shoreline, which is the line at which the water usually stands when free from disturbing causes." In issuing its decision, the court notably stated: "[T]his court has a history of protecting property rights, and our decision today continues that long standing precedent."

Save Our Shoreline participated in the case by submitting an amicus, or "friend of the court" brief. That brief explained why the contrary 2005 Michigan decision of *Glass v. Goeckel* was wrongly decided.

"This is a great victory for Ohio shoreline owners, and is good news for shoreline owners everywhere," said Ernie Krygier, SOS President. "This will put pressure on the Michigan Supreme Court to give back our beaches that it stole from us in the *Glass v. Goeckel* decision," he said.

The Ohio decision may be read in its entirety at [www.saveourshoreline.org](http://www.saveourshoreline.org).

## WE WILL NEED YOUR SUPPORT

Your SOS board of directors is working on getting some positive legislation passed this fall and winter. We have had a rare opportunity to participate in the development of legislative language related to beach maintenance. But in order to get our legislation passed and enacted we will need your help. Passing legislation is always more difficult than defeating it because you need yes's in two legislative bodies, their committee structures and the Governor's office. Any no vote or tabling (not taking a vote) will stop our bill. We believe that we have a

window of opportunity to actually pass this legislation. We have bill sponsors lined up and a Governor that is willing to look at new approaches. In addition there are no elections to distract our legislators. So consider this a "Heads Up". We will be asking you to contact (call, write, email or visit) your legislators and ask them to support our bill. We will provide you a bill number and a summary of the content. We will also ask you to talk with your neighbors and friends to get them to contact legislators as well. Together we can get this done.

**MICHIGAN GENERAL PERMIT REGULATIONS UPDATE**

The Michigan Department of Environmental Quality (MDEQ) released the proposed general permitting requirements for wetlands, inland lakes, streams and the Great Lakes scheduled to be effective in 2012. These regulations would be the replacement for the existing general permitting regulations that had included beach grooming activities and are scheduled to sunset in the next year. SOS had strongly supported the general permitting process negotiated in 2003 as a much more reasonable approach as compared to state regulations implemented in the late 1990s. It simplified the permit application process for any beach grooming activities that had only a minimal adverse effect on the environment or aquatic resources. It also avoided the much more time consuming and expensive process of obtaining an individual permit.

The SOS board initiated a legal review of the proposed general permitting changes and submitted comments to MDEQ on behalf of the membership. Unfortunately, the MDEQ chose to exclude beach grooming activities entirely from the proposed new general permitting process for next year. This would essentially reverse much of the regulatory progress attained in the last 6 years that supported reasonable beach maintenance activities by shoreline property owners. Riparian owners would most likely be required to obtain individual permits again for even minor beach grooming activities. We have

been told that MDEQ still intends to review the regulations expiring in 2012 but that has not yet occurred.

SOS was very disappointed in this action by MDEQ, particularly given all of our mutual conversations related to shoreline maintenance during the last several years. As many of the unelected state officials involved in this process have remained constant during this time, it is difficult not to consider this a deliberate provocation toward shoreline property owners in general and SOS in particular.

As a result, SOS has been working more directly with legislative leaders in Lansing to identify a more definitive solution to beachfront maintenance activities. SOS has been in communication with Senators Casperson and Green related to this issue and the actions of the MDEQ. We are encouraging consideration of a beach grooming bill that will revise the Natural Resources and Environmental Protection Act (Public Act 451 of 1994) to clarify Michigan law related to shorelines, wetlands and submerged lands of the Great Lakes, and avoid misinterpretation by the MDEQ. Our intention would be to restrict the state from the ability to unreasonably bar the grooming of traditional beaches under wetlands or submerged lands protections. This would represent significant progress for protecting our shoreline property from unnecessary and burdensome regulation.

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**US ARMY CORPS OF ENGINEERS  
PROPOSED NATIONAL PERMIT  
REGULATIONS**

**OFFSHORE WIND TURBINES  
UPDATE**

As reported in our last newsletter, the US Army Corps of Engineers released revised regulations concerning the existing nationwide permits (NWP), general conditions and definitions in February. These regulations are reissued approximately every 5 years and provide the context for the Army Corp of Engineers oversight responsibility for the waters of the United States as defined in the Clean Water Act.

The regulations are intended to ensure that actions by state and local governments, corporations and individuals have a minimal adverse effect and cause only minimal cumulative adverse effect on the aquatic environment. These regulations guide, overlap and in some cases supersede the general and individual permitting regulations issued by the MDEQ.

The SOS board arranged a legal review of the NWP regulations but did not identify any significant changes to beach grooming or wetlands regulations.

It is anticipated that the Army Corps of Engineers Detroit office will most likely issue regional conditions to the NWP that may have the most relevance for shoreline property owners. The regional conditions will probably address issues such as leveling of sand and beach grooming. SOS will continue to monitor and be prepared to respond if any regional conditions proposed by the Detroit office have unreasonable limitations for shoreline property owners.

The SOS board has continued to monitor developments related to the possibility of offshore wind turbines being authorized for placement in the Great Lakes. There was a significant amount of political activity in Lansing related to offshore wind power in early 2011 corresponding to the transition processes for the new administration. This was the reason that SOS surveyed the membership related to the support for offshore wind development last summer. The board needed to understand the perspective of the members before taking any related policy position. In the interim, the momentum for offshore wind development in the Great Lakes has slowed considerably. Most of the recent news has related to inland wind turbines and the necessary discussions by local municipalities related to zoning and the environmental impact on the community. As a result, SOS is continuing to take a cautious "wait and see" approach to the subject of offshore wind turbines.



**MESSAGE FROM SOS TREASURER,  
CHUCK GROYA**

I would like to thank everyone for their support to the SOS mission. Without your support SOS would not have the opportunity to represent your rights as a shoreline property owner.

We are not aware of any action taken by the DEQ or the Army Corps of Engineers against our members lately. That being said, we still need to keep our eyes and ears open to actions that would not be beneficial for our members. Of course that means having the funds to let our friends in Lansing and Detroit know we are still a force to deal with.

If you have paid your dues for this fiscal year (August 1, 2011 to July 31, 2012) thank you very much. If not please send in your \$25 (or more) as soon as possible. Like we have mentioned in the past, \$25 a year to have a voice in Lansing and Detroit is very reasonable. Also, if you are not in the position to pay the dues for this year please just send us a note letting us know.

Thank you again for your support.

**ANNUAL MEMBERSHIP MEETING  
SUMMARY**

The SOS Annual membership meeting was held at 6:30pm on October 27<sup>th</sup> at the Bangor Township Hall located near the Bay City State Park. The agenda included a Treasurer’s Report, general discussion of the recent Ohio Lakefront decision, the US Army Corp of Engineers regional permitting process and SOS strategic goals for the next year. In addition, Ernie Krygier and Dave Almeter were both reelected to new 4 year terms as board members. The SOS board would like to send a thank you to Ernie and Dave for their continued support of our mission and all the members that were in attendance or that submitted their proxy cards for the election process.

Visit us on the web:  
[www.saveourshoreline.org](http://www.saveourshoreline.org)

**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

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_ Fax: \_\_\_\_\_

Name of your beach area: \_\_\_\_\_

(i.e. AuGres, Bay City, Caseville, Grand Traverse area, Tawas):

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



# SAVE OUR SHORELINE

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Al Weaverstad	Director		Suttons Bay	(248) 625-4335

### ***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.”