

SOS

SAVE OUR SHORELINE

SOS October 2013 NEWSLETTER

WWW.SAVEOURSHORELINE.ORG

MESSAGE FROM SOS PRESIDENT ERNIE KRYGIER

Inside this issue:

A Word from Ernie	1
Restore Our Water International	1
Beach Grooming Act	2
Shallows and Miseries	3
\$Waters\$	5
Wheeler Rd	5
Update on Offshore Wind Turbines	6
Annual Dues Reminder	7



I hope that everyone had a good summer. It is hard to believe that another summer has gone by again. I have talked to a number of you about cleaning your beach. I am happy to say that most of the members have a clean beach. Unfortunately, that does not mean that everyone has a clean shoreline. SOS continues to have words with the Michigan Department of Environmental Quality (MDEQ). I believe that the MDEQ will always look for ways to take over our shoreline. We are working with our lobbyist to make sure that they do not try to pass legislation that would harm our rights to a clean beach.

Your SOS board members continue to work with Restore Our Water International on our low Great Lakes water issues. Our water levels have been higher this summer, but not at the level of a normal year. It is now estimated that up to 10 billion gallons are lost per day. This is water that will never come back to the Great Lakes Basin.

Please remember to support SOS and talk to your neighbors if they are not already SOS members. You shouldn't be the only one fighting for everyone's right to a clean safe beach. We have been able to do great things together for our shoreline. Working together we will continue to protect our property rights and our beautiful Michigan shoreline.

RESTORE OUR WATER INTERNATIONAL (by Al Weverstad)

We have all noticed the levels of Lake Michigan and Huron dropping for the last 14 consecutive years. While we recognize that weather has played a large role with low precipitation and high evaporation, we also know that some action must be taken now. Dredging, sand/gravel mining and channel bottom erosion in the St. Clair River have created increased outflow capacity which has permanently lowered Lakes Michigan and Huron by 20 inches since 1855. The excess outflow from Lakes Michigan and Huron is estimated at 10 billion gallons a day.

As mentioned in previous newsletters, SOS had been monitoring the activities of the

International Upper Great Lakes Study. This was a bi-national study being conducted by a group of experts appointed by the International Joint Commission (IJC) to investigate the causes and impacts of fluctuating water levels on the Great Lakes. IJC issued its final report in 2012. The report indicated that dredging at the outlet of Lake Huron in the St. Clair River has contributed to the artificial lowering of water levels in Lake Huron.

This outflow can be corrected without damaging the other lakes in the system. The Army Corps of Engineers developed preliminary plans in 1965 to slow the outflow

RESTORE OUR WATER INTERNATIONAL (by Al Weverstad) continued

and thereby increase the lake levels. Modifying the flow in the Great Lakes is not simply a State of Michigan issue but is a multistate international concern. It will require action in Congress and Canadian federal levels to provide approval and funding to return our water levels to normal ranges. SOS cannot do this alone and has therefore joined a coalition called Restore Our Water International (ROWI).

ROWI is an alliance of Canadian and US organizations concerned about the low water crisis on Lakes Michigan and Huron. In addition to Save Our Shoreline, the Sierra Club of Ontario, Les Cheneaux Watershed, Lake Charlevoix association, and the Georgian Bay

Association are among the organizations included. ROWI represents at least 15,000 shoreline owner and commercial interests across these water bodies. ROWI has been actively lobbying in Canada and Washington DC since early this spring. We have testified and met with the IJC leadership which advises both governments on the Great Lakes. In fact, IJC recently changed their recommendations for action based on advocacy from groups like ROWI.

SOS will continue to monitor this situation and press for action by the US and Canadian Governments. We will provide updates as progress is made. More information can be found at www.restoreourwater.com.

BEACH GROOMING PUBLIC ACT 247 of 2012: ONE YEAR LATER

Governor Rick Snyder signed the Beach Grooming Bill Senate Bill 1052 (which became Public Act 247 of 2012) into law on July 2nd. This law amended the Natural Resources and Environmental Protection Act Parts 303 (Wetlands) and 325 (Great Lakes Submerged Lands) to eliminate the state requirement that beachfront owners obtain a permit for grooming or removal of vegetation between the ordinary high-water mark and the water's edge. SOS substantially lobbied for passing of this bill.

This meant that most Great Lakes shoreline property owners could maintain their beaches without seeking a permit from the Michigan Department of Environmental Quality (MDEQ). The new law prohibited the state from using laws or regulations governing wetlands or submerged lands to prohibit beach grooming. As a result, the following activities were no longer subject to state regulation:

- Leveling of sand, removal of vegetation, grooming of soil, or removal of debris in typical beach areas of sand, rock, or pebbles, located between the ordinary high-water mark and the water's edge

- Mowing of vegetation between the ordinary high-water mark and the water's edge

SOS has been monitoring member activities related to the beach grooming changes throughout 2013 and for the most part, it appears that MDEQ has respected the intent of the law. However, it is important to continue to be vigilant in protecting our shoreline property rights as the past has proven to us many times that being on the right side of the law does not always prevent others from ignoring or usurping individual rights.

We also encourage SOS members to remember that that Army Corps of Engineers (ACOE) still has regulatory control over all navigable waters of the United States, including beach front property. Many beach front activities may still require a permit from the ACOE to maintain compliance with the Clean Water Act.

More details regarding the ACOE permits for shoreline work may be found at www.lre.usace.army.mil

SHALLOWS AND MISERIES (by Douglas Heuck)

For 51 straight summers, I have travelled to Michigan's Upper Peninsula to sail, fish, swim and enjoy the beautiful waters of the Les Cheneaux Islands. There has been high water years, when we built catwalks above our docks, and low water years when our docks towered above the boats tied to them. Now, however, we face something we've never seen – shockingly low water that leaves us unable to reach those docks at all. Increasingly large sections of area are simply drying up, and we fear for the future of communities like ours across Lake Huron, Lake Michigan and Georgian Bay.

It used to be that the scientifically inclined among us would explain that the water levels followed general cycles. But whatever patterns existed for the 10,000 years since glaciers created the Great Lakes began to change in 1910 when the U.S. Army Corps of Engineers (ACOE) began dredging a deeper commercial shipping channel at Port Huron. ACOE dredged again in 1933, deepening the channel to 22 feet, and a third time in 1962, cutting through the natural sand and gravel bar at the south end of Lake Huron that acted as a natural barrier restricting outflow from the lake.

The 1962 dredging deepened the channel flowing out of Lake Huron and into the St. Clair River to 27 feet. Unfortunately, however, it also set off a disastrous process that has essentially pulled the plug on Lake Huron and Lake Michigan. The dredging disturbed the bottom so much that the passage has eroded beyond anyone's expectations. It is now up to 70 feet deep, and estimates indicate that an extra 10 billion gallons of fresh water leak from Lake Huron every day.

These unintended effects have resulted in a broad array of crises and irreversible damage across the "middle" Great Lakes, which are more than 30 inches below historic averages and deteriorating rapidly. Since July alone, water levels in the Les Cheneaux Islands have dropped 18 inches to the lowest levels ever recorded.

So what?

Taken together, Lake Michigan and Lake Huron represent the largest recreational asset in the Midwest, and perhaps in America. While there is no figure on the dollar amount that Lake Michigan and Lake Huron tourism brings to the federal government and to the four states – Wisconsin, Illinois, Indiana and Michigan – that surround the two lakes, it is difficult to overestimate the economic importance of the lakes to the region and the nation.

In a magazine article, it's impossible to describe the aggregate impact of this building environmental and economic disaster on the 15 million people who live in the cities and communities along the 5,467 miles of Lake Michigan and Lake Huron shoreline. However, we can get a glimpse by looking at the tiny community I visit each summer. Home to about 2,200 year-round residents, population roughly triples in the summer, as visitors come from across the nation to enjoy the 36 islands and the protected bays and channels. The waters and islands of Les Cheneaux provide the economic foundation for the little towns of Cedarville and Hessel in Clark Township, Michigan.

That foundation, however, is crumbling. Historically low water and the resulting unprecedented penetration of sunlight have led to a proliferation of invasive weeds. The combination is choking the area's bays and channels and threatening all water-related recreation. Island residents can no longer reach their docks; cruising boats must bypass the islands; and vast areas of our bays and channels can no longer be navigated for any purpose.

If current conditions persist and trends continue, an inexorable logic of economic collapse will accelerate: Property values will plummet; tax bases will evaporate; jobs will disappear; and high percentages of local residents and summer residents alike will leave the area.

SHALLOWS AND MISERIES (by Douglas Heuck)

Lake levels are overseen by The International Joint Commission (IJC); its Upper Great Lakes Study Board has recommended "doing nothing." The IJC Commissioners have yet to decide whether to accept this recommendation, but large numbers of citizens spoke at their summer hearings, imploring the Commissioners to "Restore Our Water."

The thousands of people organizing across the nation and in Canada believe that the costs of the "do nothing" approach prove that it is untenable. Those costs are already in the billions of dollars, as ships carry loads that are 25 percent less. Marinas, harbors and communities across the lakes face huge dredging costs. And the likelihood is great that financial institutions will simply cease to lend for dredging -- a strategy that has no successful end in sight.

What can be done?

The ACOE recognized the inherent dangers of its dredging and in the early 1960s designed a series of sills (compensating structures) that could reduce the flow of water from the lakes. The 1970s, however, brought a period of cold winters with heavy snow and increased lake ice. Lake levels rose and before the erosion began, the project to construct the sills was abandoned. Those compensating sills were part of a bi-national agreement and a condition of the 1962 dredging; and that agreement has not been withdrawn -- only the funding for the sills.

When lake levels began to dramatically drop in the late 1990s, the Georgian Bay Association in Ontario began an extensive study of the cause. Their work has continued, unabated and as a result many other groups have joined the effort. These groups commissioned two extensive and well-respected engineering studies, which confirm that the dredging and subsequent erosion has caused the levels of Lakes Huron and Michigan to drop significantly. The studies further conclude that building compensating

structures, such as the sills, would gradually increase water levels in Lakes Huron and Michigan by at least 10 inches with minimal and temporary downstream impact of two-three inches. Another major benefit of this would be stabilization of the St Clair Riverbed.

In the past five months, new reports about the shrinking lakes are appearing with increasing regularity, as recognition of this environmental and economic crisis spreads.

The Canadian groups -- now along with rapidly growing numbers of Americans -- are presenting information to the International Joint Commission and the ACOE in an effort to persuade them of the wisdom in re-authorizing sill construction. The Canadian groups also are enlisting the support of their Federal and Provincial Governments. We need to do the same with Congress and our State governments.

Whether you live on or visit the Great Lakes, whether you have a business that depends on the lakes, or whether you are simply aware of the increasing value of fresh water to our nation, I encourage you to become part of the growing effort to preserve one of our planet's most unique and precious resources -- the Great Lakes.

(If you are interested in getting involved, please visit www.restoreourwater.com)



Douglas Heuck, of Pittsburgh, Pa., is a summer resident of Michigan's Upper Peninsula.

This article and photo originally appeared in Great Lakes Scuttlebutt online in January, 2013 and is reprinted by permission of the publisher. More

information about Great Lakes Scuttlebutt and related environmental issues may be found at www.GreatLakesScuttlebutt.com.

\$WATER\$ (by Richard Mayor)

According to the American Journal of Legal History, in 1928 when the water levels in both Lakes Michigan and Huron, which are hydraulically one body of water, abruptly receded to a record low it was determined Chicago was diverting about 10,000 cubic feet of water per second, which a substantial amount was leaving the basin via the shipping and sanitary channel that was constructed in the later 1800s.

Michigan was one of the riparian states that successfully argued before the US Supreme Court that this diversion had influenced this event and Chicago was restricted to 3500 cubic feet per second but was found to have been violating this restriction and in the 1990s was sanctioned. While it is contended that currently Illinois diverts only about 3100 cubic feet per second somehow around 1984 Lake Michigan water found its way out of Cook and Lake Counties and expanded the diversion into DuPage, Kane and Will Counties supplied mainly by Chicago. It has been estimated that within this five county area, which is primarily outside of the basin, over seven million people, more than half the population of Illinois, are now relying on Lake Michigan water. In addition, it should be pointed out that part of the nomenclature of the shipping and sanitary channel is to divert the Chicago, Des Plaines and Calumet Rivers to the Mississippi, which once fed Lake

Michigan.

This last April, Michigan Congresswoman Candice Miller started pressing the Army Corps of Engineers (ACOE) to account for how much water Illinois is diverting from Lake Michigan complaining that the agency has not provided an account of water diverted from Lake Michigan for four years despite being required to do so.

Obviously there are many factors which influence the water levels within the Great Lakes basin but there are certain things surrounding this current record low that deserves scrutiny. This includes the record speed which the water receded subsequent to a 1999 Senate appropriation bill requiring the Michigan DEQ to establish policies needed to address the adverse impact of new and increased Great Lakes water diversions in the 21st century and a report from the Brookings Institution indicating that the financial impact from cleaner Great Lakes water might run as high as \$50 billion. This would benefit all of the riparian states, particularly Illinois being the highest up to \$13.3 billion. Under the last compact agreement Illinois, unlike the other riparian states is not required to return Great Lakes water diverted outside of the basin and three of the five Illinois Counties receiving Lake Michigan water are not even contiguous to the lake.

WHEELER RD (by Bernie Uhlmann)

Recently on May 24, my wife and I traveled from Bay City to Auburn, Michigan. As we proceeded along the Wheeler road, I noticed that the Kawkawlin River was well over its banks even though we had experienced only a two inch rain fall over the previous three days. The ditches that drained the fields were full. The water charged off in the direction of Saginaw Bay. The fields were



clear of weeds. They had recently been planted and sprouts of corn were just breaking the surface. The ditches were clean and there were no weeds restricting their flow. It is not uncommon to see different governmental agencies cleaning the ditches in our area.

I have a hard time understanding governmental agencies who support clean farming, with tilled fields that drain water immediately with very little

WHEELER RD (by Bernie Uhlmann) continued

natural filtering. The same agencies, however, want beach owners to let noxious weeds grow unchecked supposedly to filter the runoff into the bay. Wait a minute! What is good for one segment of the society should be good for all.

If agriculture can remove weeds to further crop production beach owners should have the same right to control the growth of unwanted weeds where pristine beaches could exist with proper management.

Through the years we have heard many times from government agencies that there is a beneficial relationship between the growth of weeds on the shoreline and the reproduction of fish in Saginaw Bay. It seems strange that even though beach owners have maintained their beaches, the walleye and perch populations have flourished in recent years. It seems there is as little relationship between the growths of weeds on the Bay Shore to fish reproduction as there is to the growth of weeds on Callahan Reef to the reproduction of pheasants in Munger.

There is reason to believe that well managed beaches provide shallow water, clear of oxygen robbing decaying weeds, for fingerling fish to grow in. Maybe it is time to re-evaluate the bias of government agencies

who would love to continue their ongoing campaign to control the property of shoreline beach owners. The facts just do not support the contention.

If weeds were so beneficial to the environment, the government would be encouraging their growth in the ditches and the fields. Such a program would filter the water before it got to the mouth of the rivers. It would restrict the fast run off that brings tons of nutrient laden matter into the lake. This matter covers gravel beds that supported walleye spawning in the past. Historical records from before the turn of the century show that the mouth of the Kawkawlin River was a beach area used by early settlers as a swimming area. There is a great deal of documentation that shows Wenonah Beach as a clean beach that residents flocked to in the summer to enjoy Saginaw Bay.

Maybe it is time government realizes that the shoreline property owners who are maintaining those traditional beaches are doing the government and the environment a favor by removing harmful invasive species of weeds and providing favorable conditions for young fish to grow.

UPDATE ON OFFSHORE WIND TURBINES

The SOS Board first alerted its membership to the threat of offshore wind turbines being placed in the Great Lakes in 2010. The state had set aggressive renewable energy goals and viewed wind in general and offshore wind turbines in particular, as a preferred development strategy. SOS polled its membership and assumed a neutral position in relation to the value of wind energy. However, SOS did advise its members that elements in state government considered offshore wind energy worth further policy action and that existing regulations were being slanted to maximize the use of public rather than private lands for wind

development.

SOS opposed the convenient stretching of the "public trust" doctrine that would extend the state's interests in the Great Lakes bottom lands to include development of offshore wind turbines. This would clearly be an illegitimate use of public resources for the benefit of a few private interests. Instead, we encouraged pursuit of opportunities on inward land that met the test of due process such as city and township planning, remuneration of interested landowners and overall respect for private property.

SOS is pleased that three years after our initial warnings, we have noted very

UPDATE ON OFFSHORE WIND TURBINES *continued*

few actions by the State regarding this public trust argument in relation to offshore wind development. However, we must continue to be vigilant in the future.

With your help, we can prevent the picture below from happening in our beautiful Great Lakes.



SOS ANNUAL DUES REMINDER (by Chuck Groya; SOS Treasurer Emeritus)

First of all, I would like to apologize for reporting the wrong number of SOS total expenses at our last annual meeting. The correct number is \$1.6 million. This will be noted in the annual meeting minutes. All your donations go directly to protect your property rights. Your board members are all volunteers who donate and invest a great deal of their time to represent you and your property rights.

Without your financial support, SOS would not be the success that it is today. SOS asks for \$25 a year to carry out our mission. Your dues will be due starting August 1, 2013. That is a very small price to pay for your voice to be heard. We have a great number of members that go above and beyond the call to support SOS and we can't thank them enough.

With SOS moving up to the Federal level for relief from the ever over reaching bureaucrats, the need to support SOS is crucial. As you have noted in this newsletter

the forming of Restore Our Water International to petition the Federal Government to fix the problem of low water is under way. This will be a long and expensive process, so we need the financial support of all shoreline residents to help ROWI and SOS to succeed.

As a reminder to all who have not contributed in the last few years and have benefited from our successes: we need your continued support. Don't let your friends and neighbors do all the work, every dollar received will help in our quest to maintain control of our beaches. You will be receiving your dues notice soon, so please be generous and encourage your friends and neighbors to do the same.

Thank you for your support. Have a great fall and enjoy our beach!



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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.”