



Save our

Shoreline

June 2015

Message From SOS President Ernie Krygier

Welcome to another summer in Michigan. This year brings us more changes and since our water levels are up, we have a little less beach to care for this year. However, that does not mean we have less to be concerned about with government impingement on our property rights. SOS is still involved with beach grooming issues and with the support of our members, we are still able to watch the activities of our State government in Lansing with David Ladd. Mr. Ladd is our lobbyist that watches the bills in both the House and Senate. You can be sure that we are in good hands with David.



SOS is working on a new tri-fold with information about why beach front property owners need to be a member of Save Our Shoreline. We have been able to work with Lansing and the army corps of engineers over the years and the reason for our success has been the support of the membership. The advocacy and financial support of our members encourages our government to listen and work with us more. SOS has also supported other shoreline property owners in other states

including furnishing their groups with good sound legal briefs as we have seen it is not only Michigan that has shoreline issues between property owners and the government. Those of us that have worked hard to own property on the Great Lakes need to stay together to protect our rights.

I hope that all our members have clean safe beaches this year. SOS will continue to keep its members informed on our efforts to protect our property rights and maintain our beaches.

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A Primer On Water And Its Levels

BY MARY MUTER

Do you find the language on water and water levels too scholarly? If so, ROWI will simplify some of the language - a couple at a time for non-scientists.

“Bathymetry” simply means the study of water depths. It comes from the Greek words for “deep” and “measure”. Currently the bathymetry of the St. Clair River is an issue because not enough measurements are publicly available of the river’s depth before and after the mining and dredging of its bed prior to 1971. Other factors have also led to serious changes in the river’s depth, and they too need to be made known more broadly. ROWI is engaged in this issue and hopes soon to come up with as much clarity as possible about changes to the bathymetry of the St. Clair River and their impact on how much water flows through it.

“Conveyance Capacity” simply means the ability to flow a certain amount of water through something such as a river or pipe. For instance the conveyance capacity of your bath or shower depends on the size of the pipe that discharges the water and its actual flow depends on how wide you open the faucet. In mathematical terms, for the bath/shower the conveyance is flow times pressure. For a river it is conveyance factors times head factors. What are the “conveyance factors” for the St. Clair River? They are river depth, width, the slope and roughness of the bottom, and the twists and turns or turbulence of the river course. Depth is the most important of these; hence clear mathematical numbers about changes to the bathymetry or depth of the St. Clair River are critical. One disturbing factor is already known: the depth of the St. Clair River has increased from under 20 feet in 1850 to over 30 feet today, with many spots being as deep as 70 feet. What are the river’s “head factors”? The pressure or “head” of the St. Clair River is determined by how much higher Lake Huron’s level is than that of Lake Erie. In 1900 the head was 2 meters (6.5 feet). Now it is only 1.1 meter (3.6 feet).

What has happened to the conveyance capacity of the St. Clair River? It increased by about 16% between 1930 and 2000 because of dredging and erosion. Preliminary comparisons of 2002 to 2012 bathymetry measurements suggest the river’s conveyance capacity has increased somewhat since 2000 as well.

Why should we all be interested in understanding these terms and their significance for the future of the Middle and Upper Great Lakes? ROWI believes that the rise in their levels between March 2013 and March 2015 was due to a Great Lakes anomaly in the globally warmer weather pattern; i.e. locally cold weather and high precipitation. ROWI notes that at any time that weather situation could be reversed. The result? At some time in the not too distant future, with forecasted dry, warmer weather, a new low water level in the Middle and Upper Great Lakes, below that of January 2013, could result.

Hence ROWI must continue its work in Washington, Ottawa and elsewhere to convince the authorities in charge that there is a solution. We remind everyone that such work in Washington is costly. ROWI has proposed a possible solution based on existing legislation and a flexible installation in the St. Clair River. The International Joint Commission agrees with us, and the U.S. Army Corps of Engineers is keen on examining the design our brilliant engineer has modeled, and on doing a definitive analysis of the current bathymetry and conveyance capacity of the St. Clair River.

For more information visit www.restoreourwater.com

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Water Quality and Wildlife

BY DAVE ALMETER



Microbeads -- tiny pieces of plastic, threaten our water quality and wildlife. These tiny pieces can be found in hundreds of personal care items as exfoliating agents. Because they are so small, they literally slip through the filters at most watershed treatment plants and get washed into the Great Lakes.

The 5 Gyres Institute estimates a single tube of facial cleanser can contain 330,000 microbeads. Recent research by Professor Sherri Mason at the State University of New York in Fredonia found anywhere from 1,500 to 1.1 million microbeads per square mile in the Great Lakes.

Inland Seas Education Association, located in Suttons Bay, Mi., has been sampling northern Lake Michigan for Dr. Mason for the 2013-2014 summers. "The numbers in our region are consistent with what Dr. Mason is finding in the Great Lakes," reports Fred Sitkins, Executive Director of Inland Seas.

In addition to not being biodegradable, microbeads absorb pollutants and may pose a danger to aquatic life. "They are

about the same size as fish eggs, which means that, essentially, they look like food," Mason says. "So our concern is they are making their way into the food web."

Lawmakers in nearly every Great Lakes shoreline state are considering legislation banning the manufacturing and sale of products with microbeads. Illinois became the first state to pass such a ban in June of this year. The law prohibits the manufacture of products with microbeads by the end of 2017 and requires stores to stop selling them by the end of 2019. Legislatures in New York, New Jersey, California and Ohio are considering bans similar to Illinois. Michigan has a bill pending, but has not yet brought it up for a hearing in committee.

To check products in your home, see the label for the words "polyethylene or polypropylene" in the list of ingredients, it likely has microbeads. Visit website: www.beatthemicrobead.org for more on products containing these plastic tiny pieces.

PRIVATE PROPERTY RIGHTS

The year was 1607 when the pilgrims landed in Virginia at what was to become Jamestown. Thirteen years later, another colony was established in Massachusetts called Plymouth. Both colonies were founded as communal settlements with collective-interest economies in which all workers received equal benefit, regardless of individual labor or output. These early settlements floundered and experienced massive starvation.

THE PROBLEM In one firsthand account, the "starving time" was not attributed to any "barrenness or defect on the country...which boasted plentiful fish, game, fruits and nuts; but surprisingly, to a lack of industries. Investigators sent by colony investors in England quickly identified the collectivist arrangement as the primary source of the low morale and productivity issues. In other words, spreading the wealth was killing motivation, lowering productivity and destroying these early communities.

THE SOLUTION To solve these problems, private property ownership and property rights were introduced. Governor William Bradford of the Plymouth Colony explained what happened in his now famous passage on private property in "Of Plymouth Plantation". It was decided to "set corn every man for his own particular And so assign every family a parcel of land....This had very good success for it made all hands very industrious."

THE RESULT By 1623, just 16 years since the first Jamestown settlers arrived, all land holdings were converted to private ownership. By 1750, private farms were predominant in New England. By 1775, the American economy was a hundred times

larger than in the 1630's. The colonists enjoyed a much higher standard of living than their parents or grandparents. Their per capita income of \$60 made them the richest in the world at the time.

PRINCIPLES FOR ALL TIME The principles of private property ownership and the right to use that property not only saved the pilgrims, it made our nation the most prosperous and freest in history. We study history to avoid repeating the mistakes of the past. The pilgrims left us with an important lesson we should remember every day of the year. If we allow these important rights and freedoms to wither away, we do so at our own peril. Study the nations of the world and you will find those nations with no property rights are ruled by dictators and remain the poorest on the globe.

Remember the words of colonist Arthur Lee of Virginia: **"The right of property is the guardian of every other right and to deprive people of this is in fact to deprive them of their liberty."**

Thank you for participating in this ongoing battle to keep America the land of the free and the home of the brave.

Reprinted from CPPR (Citizens for Private Property Rights)



Off Road Vehicles and Shoreline Property

In 2005, the Michigan Supreme Court held in *Glass v. Goeckel* that the public had a right of beach walking on private riparian land between the water's edge and the ordinary high water mark. It was argued that beach walking was inherent to the exercise of traditional rights including boating and fishing on lakes and rivers that are held in "public trust" by the State of Michigan. However, regardless of the ultimate consistency of the *Glass v. Goeckel* decision with previous case law, it clearly limited this right to beach walking.

The Michigan Department of Natural Resources (MDNR) has indicated the following in relation to the use of ORVs in Michigan:

- ORVs may only be used in areas specifically designated as "open" areas by the MDNR such as forest roads, trails, routes on State Lands and National Forest Lands
- ORVs may not be used in State Game Areas or State Parks and Recreation Areas except those designated areas in Silver Lake State Park
- In general, ORVs may not be used on roads, streets and highways unless the ORV is registered with the State as a motor vehicle and/or permitted by local ordinance
- Private land is closed to ORVs operation except as authorized for use by the property owner
- ORVs may not be operated in a manner that creates an erosive condition including along soils and shorelines, stream banks and other waterways

Unfortunately, not all of Michigan's citizens understand or respect the laws related to accessing the waters of the Great Lakes. One common example of this relates to the use of off road vehicles (ORVs). ORVs are motor vehicles that can be operated cross-country over land, snow and other natural terrain. This includes multi-track or multi-wheel vehicles; all-terrain vehicles; motorcycles or related multi-wheel vehicles; amphibious machines; hovercrafts and other vehicles that use mechanical power including 2- or 4-wheel drive vehicles that are highway registered but operated off highways or off roads.

Thus, it is clear from MDNR regulations that ORV use on your beach or shoreline is prohibited. This could technically be considered trespassing, regardless of the public trust doctrine, since the use of ORVs has nothing to do with beach walking. In the event that you have ORVs driving along your beach, it might be necessary to consider contacting local law enforcement or the MDNR for assistance. It might also be helpful to have camera or video evidence to share with public officials in order to help deter such activity in the future.

For more information regarding ORV requirements, please see the "MDNR Handbook of Michigan Off-Road Vehicle Laws, 2014 edition" or go to www.michigan.gov/dnr

Wind Turbine Update

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. We have been fortunate that attempts to extend wind turbines into offshore locations such as Grand Traverse or Saginaw Bay have been unsuccessful.

Much of the wind turbine development has occurred in Huron County, home to more than 300 operating turbines. This is more than all of the other counties in Michigan combined. Huron County residents initially welcomed the wind turbines as sources of clean energy and supplemental revenue for property owners but recent events seem to suggest that some people are having second thoughts.

Several townships have been considering passage of stricter turbine regulations that go farther than the original laws

passed by Huron County. These changes are in response to complaints from citizens that the low-frequency noise and flicker effects from the turbines have adverse health impacts on area residents. In addition, the US Fish and Wildlife Service recommend that wind turbines be set back a safe distance from shorelines in order to avoid interfering with bird migration.

The Huron County Commission passed a 90 day moratorium in March that limits any new turbine development until stricter regulations can be enacted. These new regulations will most likely address the setback distance for future turbines, create tighter noise restrictions, reduce flicker effects on neighboring homes and prevent development too close to lake shorelines. SOS will continue to monitor these developments and its impact on future efforts to place wind turbines in our Great Lakes.

Indiana Shoreline Update BY DAVE POWERS

As reported in the SOS Newsletter last November, the issue of shoreline ownership has made its way to the Indiana Court of Appeals.

The case is LBLHA, LLC et. al. v. Town of Long Beach, Indiana. The town of Long Beach passed a resolution that it would not enforce private property rights below the “ordinary high water mark” and encouraged the public to use the beaches, regardless of the preferences of the shoreline property owners. The owners sued the town for taking away their property rights. The trial court concluded that no rights were taken by the policy. The owners appealed the decision.

The Indiana Court of Appeals has reversed the trial court decision which originally upheld the town’s resolution

that it would not enforce private property rights below the elevation it called an “ordinary high water mark” along Lake Michigan. In its decision favorable to the shoreline owners, the Indiana Court of Appeals ruled that the State of Indiana should have been a party, since claims had been made that the state owned the beach below the asserted “ordinary high water mark.” Since the landowners sought a decision that they owned their beach to the water’s edge, the state was a necessary party. The court reversed the ruling in favor of the town, and instructed the trial court to allow the addition of the state as a party and to conduct further proceedings.

SOS filed an amicus brief in the case, and applauds the decision against the town. The brief can be viewed at our website: www.saveourshoreline.org.

Walleye And Water Levels BY BERNIE UHLMANN

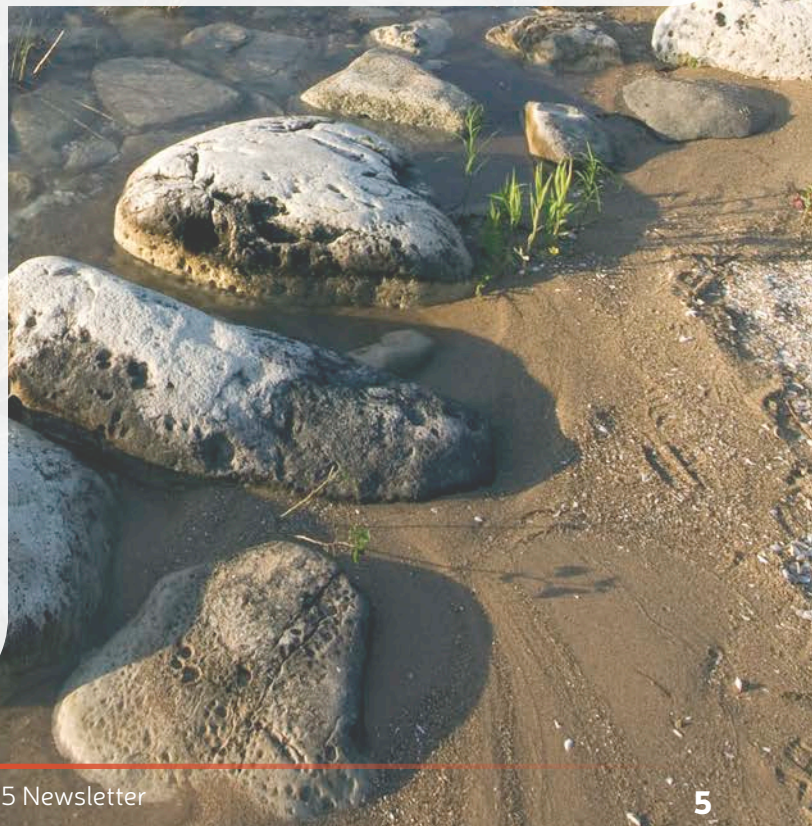
In the mid 80’s fishermen found walleye in the lower bay alongside the Spoils Island near the mouth of the Saginaw River. It was strange that the walleye bite in those days did not pick up until July. August was an excellent month to fish walleye. Things changed dramatically when the water levels dropped in 1999 and stayed low for the next 13 years. Angler’s started to catch walleye earlier in the year. May and June became great months to fish the lower bay. Fish were found in shallow water. Were the fish always there and fishermen did not know it? Was it a change in the kind of weeds that invaded Saginaw Bay? Was there a change in the chemical make-up of the water coming down the rivers and supplying the Bay with oxygenated water?

The lower water levels allowed sunlight to reach the bottom in many places and weeds grew where they never were before. For many of those low water years Saginaw Bay experienced algae blooms that usually occurred the first week in August. It became very difficult to catch walleye when the water column was saturated with the blue/green suspended biomass generally referred to as algae. Saginaw Bay and the rest of the Great Lakes are impacted by many constantly changing natural and man-made phenomena. One thing is certain. The growth of unmanageable weeds at the mouth of the rivers and the former beaches is not going to solve the problems. What will stabilize the Bay and Lakes is better management of what goes into the water that comes down the rivers. It is time man manages the water levels of Lakes Huron and Michigan.

The drought in California and the American West is an indicator of how valuable fresh water is going to be in the near future. Should we allow this resource to run unabated to the sea? It would make sense, particularly in years with low precipitation, or warm winters, that we install mechanisms

that would reduce the amount of water leaving the middle lakes. I have a hard time recognizing any value realized by lowering the level of Lakes Michigan and Huron. Was it the increase of phosphate usage by agriculture that caused the algae blooms in Saginaw Bay? Will the higher water levels reduce the weed growth in the bay? Will the earth wobble on its axis bringing about a cool period? Will the increase in water levels make August a good month to fish Saginaw Bay once again? Change will happen.

This will be an interesting year to watch as Saginaw Bay responds to effects of the many impacts nature sends with each different year.





In Memoriam

Jay Graebner

SOS has lost a dear friend and advocate. Jay Graebner, former Treasurer and one of the founding board members of SOS, passed away in March. Jay had been retired as a partner in Area Independent Underwriters (formerly VanAuken-Graebner-Mason Insurance Agency) and was very active in the Saginaw Community. Jay was instrumental in the establishment of SOS between 2000 and 2004 and remained a strong advocate for shoreline property owners. He was an avid golfer, loved Corvette cars and spending time at Pt. Lookout. The SOS Board of Directors extends our condolences to his wife Nancy and the entire Graebner family.

Henry J.P. "Jay" Graebner II

Treasurer's Report

The SOS Annual Dues request for 2014-2015 was sent back in October. We extend a thank you to all of our members that have paid their current year dues by the time of this publication-----we appreciate your support. Unfortunately as a voluntary organization, we are unable to incur the time and expense necessary to send individual acknowledgments to every dues paying member. We just hope that our newsletter updates, annual meeting activities and website and media announcements consistently demonstrate our continuing gratitude for your support of SOS.

The proceeds of the annual dues and contributions from members are deposited at Independent Bank and Wells Fargo. The account at each institution separates the SOS cash into (3) funds: general expenses, legal and the political action committee (PAC). These funds represent

the dues, earned interest and contributions made to SOS by its membership during the course of the fiscal year between August 1st and July 31st.

For our members who have not renewed their membership, please mail your check to "Save our Shoreline, P.O. 2307, Bay City, MI. 48707. In addition, we encourage you to mention SOS to your friends and neighbors that may have not yet joined our organization. Only our collective efforts and vigilance will continue to protect our traditional beaches and shorelines from the encroachment of those that have no respect for the lands we have worked so hard to protect.





Save Our Shoreline

Application Form

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

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

Last Name: _____ First Name: _____

Address: _____ City: _____

State: _____ Zip Code: _____

Name of your beach or beach area (i.e. Linwood, Caseville): _____

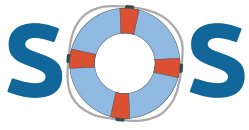
Email address: _____ Telephone: _____

Fax Number: _____

- I wish to join as a Voting Member (I own or reside on a natural body of water).
- I wish to join as an Associate Member (I do not own or reside on a natural body of water, but I support the organization's goals).
- I have enclosed \$50.00. (\$25 application fee and \$25 annual fee)
Please make your check payable to Save Our Shoreline.

If you are an Associate Member, you will receive all information that is sent to the Voting Members. This information will keep you informed of our progress, local meeting's dates, committee hearings, studies, surveys and etc. and will be distributed via our website, email and other forms of communications.

On behalf of Save Our Shoreline, we thank you for your support in protecting your property rights.



Save our
Shoreline

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Mission Statement

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.

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