

WINTER
2011



Vol. 46 No. 1

THE MICHIGAN RIPARIAN

RIPARIAN (ri-'pair-ee-en) adj. Relating to or living or located on the bank of a natural watercourse, such as a river, or of a lake or a tidewater.

DEVOTED TO THE MANAGEMENT AND WISE USE OF MICHIGAN'S LAKES AND STREAMS Published Quarterly



Michigan Lake and Stream Associations 50th Annual Conference

Boyer Mountain Resort

Friday, April 15, 2011 and Saturday, April 16, 2011



50 years of working to protect and preserve Michigan's inland waters

The Michigan Supreme Court Does the Right Thing in the 2000 Baum Family Trust v Babel Case

By **W. Scott Brown**

Executive Director

Michigan Lake & Stream Associations, Inc.

Michigan riparians dodged a bullet! On the last day of its 2010 session, December 29, 2010, the Michigan Supreme Court reversed the disastrous Michigan Court of Appeals' decision in 2000 Baum Family Trust v Babel, 284 Mich App 544; 733 NW2d 44 (2009). A copy of the Michigan Supreme Court's lengthy decision can be viewed by going to the Michigan Lake & Stream Associations, Inc. ("ML&SA") website at www.mlswa.org.

Great credit should go to pro-riparian attorneys Bill Carey and Cliff Bloom, who helped navigate the case through the Michigan Supreme Court. The Michigan Waterfront Alliance and the Higgins Lake Property

Owners Association helped fund amicus curiae briefs in support of the riparians. ML&SA contributed moral support to the riparians, together with as much publicity and educational resources as possible. Finally, waterfront property owners throughout Michigan owe the riparians in the 2000 Baum Family Trust v Babel case a great debt. Without their perseverance and decision to fight all the way to the Michigan Supreme Court, the disastrous Michigan Court of Appeals decision would have stood.

Untold riparians throughout Michigan probably have no idea how close they came to losing their riparian rights. Happily, the Michigan Supreme Court has now held that where a platted road was created in the original plat along the shoreline (with no intervening land shown between the public road right-of-way and the water on the plat), the first tier of platted lot owners

are deemed riparian. Both the Charlevoix County Circuit Court and Michigan Court of Appeals had ignored nearly a century of appellate case law and held that in such situations, the local road commission actually owns the public road right-of-way (almost like a separate parcel) and that the first tier lot owners are not riparian.

The final Michigan Supreme Court decision in this case was a close call for riparians—the vote was four to three, with one liberal justice joining three conservative justices in the majority opinion.

Given that the Michigan Supreme Court's decision came down just before the article deadline for this issue of The Michigan Riparian, there will be more about this case, both in future issues of The Michigan Riparian and on the ML&SA website and in ML&SA newsletters.



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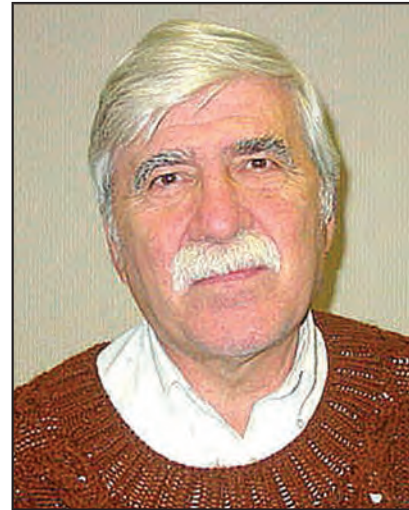
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FROM THE PUBLISHER

IT'S TIME TO BE VIGILANT

The elections are over, the voters have spoken and the political landscape has dramatically changed. This change is occurring both in Lansing and in Washington, DC. We have a new governor, numerous newly elected state senators and representatives in Lansing; already announced reorganization of many state agencies; and a Republican House of Representatives in Washington. What does all this change mean for those committed to protecting Michigan's natural resources and, in particular, its water resources for future generations? That's the great unknown. That's why the operative term is BE VIGILANT. The Webster Dictionary definition for vigilant is "alertly watchful, especially to avoid negative change" and that is where we find ourselves.



All of us need to monitor changes that are being recommended in environmental policy both at the state and national level. All of us need to communicate with our newly elected and appointed officials the importance of continuing to protect and enhance our natural resources. We need to help educate each and every one of them why these issues are important for Michigan's future. Given the existing budget constraints and the many demands for the limited available dollars, we will need to consistently support and communicate our beliefs that the protection of Michigan's environment and especially its water resources is critical to the State's economic future and well being.

The Michigan Riparian, Michigan Lake and Stream Associations, Inc. and the Michigan Waterfront Association are committed to providing you with the knowledge you need to successfully present and support the case for the importance of protecting Michigan's environment. The next issue of The Michigan Riparian will provide you with information regarding who the key individuals dealing with environmental issues will be in Lansing and how to communicate with them. We will also keep you up-to-date and educated on the status of proposed policy changes and issues as they occur. By being constantly vigilant and by working together, we can insure that the environment we leave our children and grandchildren will be better than the one we inherited.

In this issue are articles updating the fight against the Asian carp; Shoreland Overlay Zoning and a related article titled "Natural Landscape or Blight" plus many more of interest.

Finally, remember we are very interested in your input. Letters to the Editor or other thoughts are always welcome. Ideas for articles or articles themselves are encouraged.

– Publisher, Franz Mogdis

**Starting with the next issue of the Riparian we will have
a new feature titled "Ask the Experts".**

**If you have a question about water related issues, riparian rights,
and/or lakes and streams, etc. Let us know by email or snail mail.
Our experts will respond to your questions.**

Save the Dates !

Michigan Lake and Stream Associations



50th Annual Conference

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Save the dates!

Join us in Boyne Country as we celebrate 50 years of working to protect and preserve Michigan's inland waters. Your participation in our 50th Annual Conference will help make this a very special occasion !

The ML&SA 50th Annual Conference has been endorsed by the Michigan Inland Lakes Partnership



For more info visit our web site:

www.mlswa.org



Bruce Lichliter, Big Glen lead tester, collecting chlorophyll a sample.

By Paul Steen

The Cooperative Lakes Monitoring Program (CLMP) has been an important part of Michigan's inland lakes monitoring program for over 30 years. It is the second oldest volunteer lake monitoring program in the country. Since 1992, MLSA has administered the CLMP jointly with the Michigan Department of Environmental Quality (DEQ).

The CLMP does many important things for both its volunteer members and the DEQ. First of all, the state government simply does not have the funds to collect important baseline data from all of Michigan's 11,000 lakes. Without this data, none of us are able to determine if a lake is getting "sick" and if some type of lake management program is needed. CLMP volunteers collect information that would not otherwise be available, and together with the DEQ, CLMP volunteers are able to track the health of Michigan's lakes.

Secondly, the CLMP is important because in the process of collecting lake data, CLMP volunteers are converted from mere lake residents to lake stewards. When you become a volunteer with the CLMP, you are taking an active stake in the future of your lake. CLMP volunteers are extremely important for advocating for their lake and assuring that lake associations are making the proper decisions in the management of the lake.

Are you concerned about invasive plants

Join the Cooperative Lakes Monitoring Program This Spring and Summer!

getting into your lake? Through CLMP, you can be trained to recognize those plants and be taught how to look for them.

Do you think that your lake is becoming less clear and more filled with algae? Through CLMP, you will be trained to take measurements of lake transparency, phosphorus, and chlorophyll.

Are you concerned that fish do not have the proper environment to live in your lake because the water becomes too warm and loses its oxygen? Through CLMP, you will be trained to take dissolved oxygen and

temperature measurements and given access to a dissolved oxygen meter.

In 2010, residents from 226 lakes across Michigan decided that they would be active participants in the health of their lakes. In 2011, we want you to join this dedicated group of people by enrolling your lake into the CLMP.

To learn more and to enroll in the CLMP, visit www.micorps.net/lakeoverview.net. You can also call Jean Roth at 1-989-257-3715. Enrollment for the 2011 sampling season is open now!

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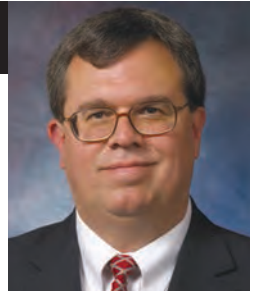
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“To Litigate or not to Litigate, that is the Question ...”

By Clifford H. Bloom, Esq.
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If possible, litigation should be avoided. That...from a lawyer. Unfortunately, litigation is typically expensive, time-consuming, frustrating, and unpredictable. In the overwhelming majority of situations, it is better to work out controversies regarding riparian, lake, river, and stream matters informally (or less formally) through mediation or arbitration. Litigation should be a last resort.

Unfortunately, riparian controversies and related controversies sometimes do end up in court. If you are considering filing a lawsuit, you should weigh the proverbial “pros” and “cons” of litigation. First, litigation is almost always expensive. Many people are shocked when they hear from friends about the actual attorney fees, court costs, and other expenses incurred in litigation. In Michigan, attorney fees for real estate, riparian, and litigation attorneys can range from a low of approximately \$150 per hour (which tends to be younger, less experienced attorneys) to a high of \$300 per hour, \$400 per hour, or even more for highly experienced and renowned attorneys. On average, experienced riparian and litigation attorneys in Michigan normally charge in the range of \$225 to \$350 per hour.

Anyone involved in litigation regarding riparian, water resources, or related matters in Michigan should know up front that Michigan subscribes to the American system of attorney fees. That is, in the overwhelming majority of cases, win, lose, or draw, each party normally bears its own attorney fees, without reimbursement by the losing party. Most other industrialized nations in the world have adopted the English system of attorney fees, where the loser in litigation normally reimburses the prevailing party for its attorney fees (and in addition, the loser must also pay its own attorney fees). On relatively rare occasions, a prevailing party can recover certain attorney fees from the other side if the other side’s claims, defenses, or tactics are deemed frivolous by the court,

but that does not happen very often. Also, pursuant to certain mediation and offer of judgment court rule provisions, limited attorney fees reimbursement from the other side can sometimes be obtained, but again, that is not always the case. The prevailing litigation party in Michigan is sometimes entitled to certain “court costs” from the losing party, but those court costs do not include attorney fees and normally involve a relatively narrow segment of costs (for example, court filing fees, certain miscellaneous fees, and in some cases, deposition fees).

Litigation involving riparian, water law, or general real estate matters can often cause a party to incur \$30,000, \$40,000, \$50,000, or even more in attorney fees and costs should a matter proceed through trial, which does not include any damages award that might occur in certain cases. Attorney fees and costs for any appeals are in addition to those trial court expenses.

Another matter that should be pondered prior to commencing litigation is obvious, but is often overlooked by litigants: the human factor. Although relations between two adverse parties may be strained or even outwardly hostile prior to litigation, litigation will frequently permanently destroy friendships and potentially create permanently hostile relationships. In most cases, litigation is the “nuclear option.”

In addition, litigation is almost always unpredictable. For many litigation attorneys in Michigan, it seems that the outcome of court cases has become even more unpredictable over the past few decades. Many lay people have a mistaken belief that the law is clear, cut and dried, and that courts normally make very decisive decisions, where one party wins and the other party loses. The reality in litigation is often more murky. Some judges will put great pressure on parties to settle, even up to the eve of trial and sometimes even after a trial has actually begun! It is difficult for any judge (no matter

how conscientious and learned) to know all areas of Michigan law. Many judges are not well-versed in riparian or water law. The chances of a trial court judge making a major error in a trial involving riparian or water law issues is sometimes higher than would be the case with more common legal issues. Sometimes, the decision of a trial court is very unsatisfying for both parties, and more than one judge in Michigan has tried to “cut the baby in half” à la Solomon. More often than not, that simply leaves both parties to the lawsuit seething, particularly given how much time, emotion, and money both sides have invested in the lawsuit.

Typically, from the time the lawsuit is filed, it takes anywhere between eight months and two years for a case to move to trial and for the trial court to decide the case. An appeal to the Michigan Court of Appeals will normally remain pending anywhere between six months to two years. Should the Michigan Supreme Court decide to take a further appeal of the case, a case can be pending before the Michigan Supreme Court for between several months and a year or even longer.

Litigation can also be an emotional rollercoaster. Many parties in Michigan have celebrated significant victories at the trial court level, only to be devastated when the Michigan Court of Appeals or Michigan Supreme Court later completely overturns the trial court’s decision and rules in favor of the other party.

There are many factors that can increase litigation costs (and the litigants’ frustration levels). Parties to a lawsuit generally have the right to engage in “discovery” if a circuit court case is involved. The theory behind discovery is that if the litigants have the ability to elicit all relevant documents, facts, and testimony from the other side before trial, it will lead to more concise trials, all relevant information will come out well in advance of trial, and no one will be surprised at trial. In theory, discovery also helps prompt settle-

ments. In practice, however, discovery often leads to longer trials, greater frustrations, and more expensive lawsuits. Pursuant to discovery, a party can subject the other side (or even third-party witnesses) to depositions (being questioned under oath), interrogatories (which require written responses under oath), and document requests (where documents must be disclosed), all of which can be overwhelming.

Parties to litigation are often dumbfounded when they reach the conclusion that the other party or witnesses appeared to have lied under oath, either in discovery or at trial. However, many seasoned litigators believe that few people actively or intentionally lie under oath. What appears to be a lie can sometimes be based on people's differing perceptions of reality, memories playing tricks on a person, or even someone actually convincing themselves that something occurred differently than the true reality.

The party filing a lawsuit is called the "plaintiff." The party who is being sued is called

the "defendant." Of course, a defendant really has no choice regarding whether to initiate the litigation, as litigation has already occurred and the person or entity is involuntarily part of the litigation. However, once a lawsuit has been brought against a defendant, the defendant may have the right to file a "counterclaim" against the plaintiff who initiated the lawsuit, and seek money damages or other relief against the plaintiff.

In Michigan, there are two general trial courts for civil matters. District courts handle damages controversies up to \$25,000, as well as certain statutory proceedings such as landlord/tenant, land contract forfeitures, and small claims court cases. Michigan circuit courts are the courts of general jurisdiction, and handle cases with damages claims over \$25,000, as well as most riparian, real estate, and water law civil controversies.

Two alternatives to litigation are mediation and arbitration. These are called "alternative dispute resolution" options. In most cases, mediation prior to litigation

is optional. In some cases, however, if a contract is involved, the contract may require mediation or arbitration in lieu of litigation if there is an alleged breach of the contract. Mediation is not binding. Rather, mediation involves a "facilitator" who attempts to have the parties reach a voluntary agreement. Arbitration is a binding process whereby someone who is not a judge (although the arbitrator might be a retired judge) presides over a "mini-trial" and makes a binding decision, which is generally not appealable. In circuit court cases, most judges will order mediation after a lawsuit has been filed.

It is true that I have painted a rather bleak picture of litigation in Michigan. However, in some cases, there are no reasonable alternatives to litigation. Before initiating litigation, riparians should retain an attorney or attorneys with significant experience in riparian law and litigation. The riparian should carefully weigh all of the costs likely associated with litigation, as well as the chances of prevailing through court action. ♦



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☐ I am not ready to join yet. Please send me more information.



MICHIGAN WATERFRONT ALLIANCE

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WE LOBBY TO PROTECT MICHIGAN'S LAKES AND STREAMS. THAT'S WHAT WE DO.

By Richard Brown, Vice President of MWA

We invite individuals and lake associations to join Michigan Waterfront Alliance (MWA). By doing so, they help in a statewide effort to protect Michigan's lakes and streams. MWA lobbies state government on a wide variety of issues that affect our water resources, such as road-end access, funding for the state's permitting system, marina regulations, septic upgrade regulations, phosphorus fertilizers, and much more.

You know how it works. When the legislature is pushed to weaken water resource protection measures, they will do just that—unless we speak out to protect our lakes and streams. It is difficult for one

person or one lake association to carry the burden of protecting 11,000 lakes. And though we'd like to think that right will always prevail, one lone voice is not enough to get the attention of the leaders in state government. That is why we must join together to make our collective voice heard in Lansing. These efforts, for example, were utilized in getting legislation passed, this year, to restrict use of phosphorus fertilizer on turf.

To get our message out, we retain professional lobbyists who are skilled and experienced in issue advocacy. While this expertise is very effective, it is also costly. As such, we ask you to join or renew your individual membership for \$50, Lake Association membership for \$100 or your

Corporation membership for \$200 per year.

Please note the line "MWA Legal Assistance Fund" on the above application form. After costly filing on two (2) Amicus Briefs (Appellate court and Supreme Court) and direct mail fundraising campaigns (to Lake Charlevoix residents), MWA incurred a total cost of over \$3000 on just this one case regarding the loss of riparian rights by court action. The fund was created to provide the funds to support significant legal cases relevant to the mission of MWA. We need to build this Legal Assistance Fund as soon as possible. Please be as generous as you can.

FW Spotlight

The Riparian Magazine recently contacted the Michigan State University, Fisheries & Wildlife, and FW Spotlight Magazine in regard to the possibility of including some of their articles in the Riparian Magazine. We are excited about our plans to include them on a regular basis.

Our hope is that this will introduce some of the students and the work they are doing to our readers. These are the future leaders and caretakers of our precious waters. We also hope it will introduce the Michigan population to these same students and alert them to some of the issues that concern us the most.

FW SPOTLIGHT is a biannual publication written, edited, designed and distributed by graduate students in the Department of Fisheries and Wildlife at Michigan State University.

If you have any questions about FW SPOTLIGHT, please contact the magazine coordinator, Bret Muter, at muterbre@msu.edu or fwspotlight@gmail.com.

Roger Carey
Riparian Publishing Committee

Capturing Nature with a Camera

Since 2007 I have teamed up with the NCCS Boys and Girls Club of Newaygo County (in Fremont) and the Big Brothers Big Sisters of Mecosta and Osceola Counties (in Big Rapids) to take groups of teens on photographic expeditions of some of the Upper Peninsula's most scenic public lands. The trips are part of a program called the Stewart L. Udall Parks in Focus program, which aims to connect youth to nature through digital photography.

Parks in Focus (PIF) is a program of the Udall Foundation, an independent federal agency based out of Tucson, Ariz. PIF began in Arizona in 1999 with the Boys and Girls Clubs of Tucson; however, the Foundation has since expanded the program and has supported trips with Boys and Girls Clubs in New Jersey, Michigan, Maine, Washington, Montana, California and Georgia. Since the program's inception, hundreds of youth have participated in PIF.

In its four-year tenure, 40 youth have participated in PIF Michigan. In 2011, I'll take another group of 12 teens on the annual adventure. Participants spend the week camping

at Tahquamenon Falls State Park, where we search for salamanders, bounce on bogs and crawl into bear dens. Other trip highlights include fishing and bird watching at Seney National Wildlife Refuge and taking a boat cruise of Pictured Rocks National Lakeshore.

Participants learn about the natural history of each site we visit while learning about the fundamentals of digital nature photography. Each participant documents his or her adventures, taking hundreds (and sometimes thousands) of photos of the people, places, plants and animals they encounter along the way. Photo highlights from our trips have been featured in various media outlets and have been displayed in several exhibits around the country, including the Department of Interior Museum in Washington, D.C.

For more information about PIF, or to view photo highlights from all of the PIF trips around the country, visit <http://pif.udall.gov>.

Bret Muter is a first-year doctoral student under the direction of Dr. Meredith Gore and Dr. Shawn Riley. He is currently researching human dimension issues surrounding bovine tuberculosis in Michigan and Minnesota. Contact Bret at muterbre@msu.edu.



Bret A. Muter (above) leads a lesson on landscape photography with participants in the 2008 Parks in Focus Michigan program. Photo courtesy of Bret A. Muter.

Shoreland Overlay Zoning

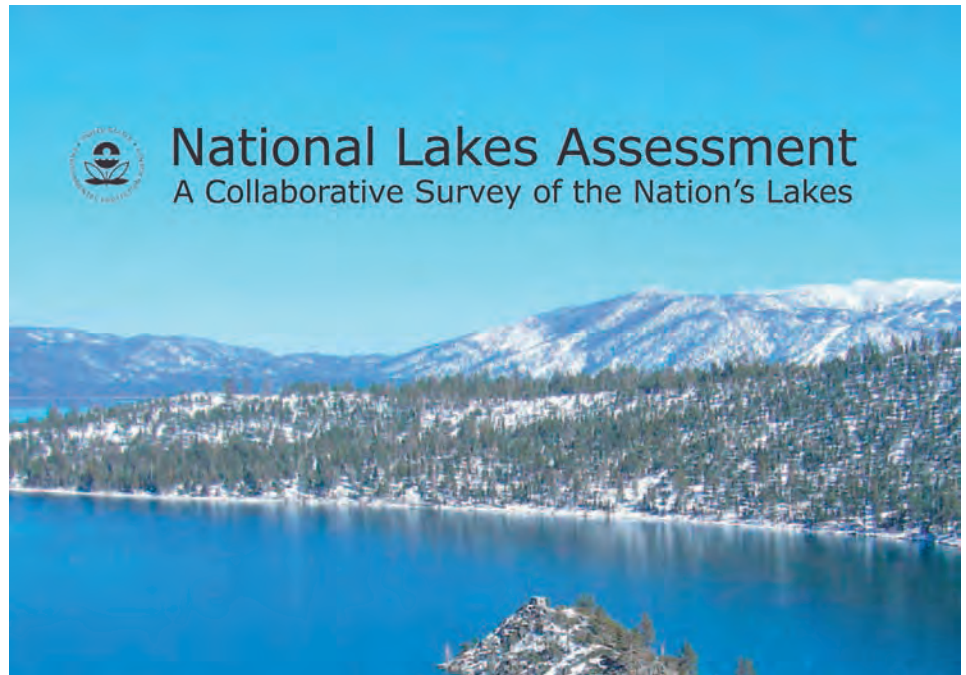
By: Tony Groves

Water Resources Practice Leader, Progressive AE

In a recent nationwide assessment conducted by the US Environmental Protection Agency, loss of shoreland habitat was found to be the greatest stressor of the nation's lakes (USEPA 2009). Lakes with poor shoreland habitat were three times more likely to be in poor biological condition. These findings underscore the need to promote restoration and preservation of natural shoreline areas. One way this might be accomplished is through the establishment of an overlay zoning district.

In an overlay zoning district, development must meet all the conditions of the underlying zoning district in addition to the provisions of the overlay district. Essentially, overlay zoning is the application of an additional set of regulations to an established zoning district. Overlay zoning can be used to ensure that uniform regulations are in place across several zoning districts or political jurisdictions where zoning rules may vary. Overlay zones can be used to protect areas with special characteristics such as floodplains, stream corridors, watersheds, and high risk erosion areas.

The sample regulation presented in this article is a "shoreland" overlay district for lakes. The intent of the regulation is to limit certain activities within shorelands adjacent to lakes to help prevent water quality problems. Shoreland regulations would only apply to new development; existing structures and situations would be nonconforming and allowed to continue. However, use of shoreland regulations in combination with a vigorous public education program for existing



nonconforming properties could be an effective approach to help protect and restore vital lake shorelands.

A key component of lake shoreland overlay regulations can be a requirement for a shoreline vegetative buffer. In addition to aesthetic appeal, vegetated buffers can enhance fish and wildlife habitat and help to protect water quality by controlling erosion and reducing runoff.

Shoreland regulations can be enacted either as a stand-alone ordinance or as a general provision of a zoning ordinance. The community's master plan should cite the need to preserve and protect lake shorelands to provide justification and legal support for a shorelands protection regulation.

A possible first step toward implementing shoreland regulations would be to review existing land use regulations in your community to see if shoreland regulations and issues are adequately addressed. If not, it would be wise to request assistance from a professional community planner or a municipal attorney to determine the best way to integrate shoreland regulations into your community's planning and zoning documents. The sample ordinance language included in this article was developed jointly by Progressive AE and LSL Planning, Inc. and may provide a good starting point to begin discussions with your local planning and zoning officials.



Land use planning and zoning in Michigan is largely in the hands of local units of governments such as townships. This “home rule” approach to planning and zoning allows many zoning decisions to be made locally. However, the resulting “fragmented authority” can present a major challenge to watershed management efforts, especially in watersheds with multiple political jurisdictions. Several states, such as Maine, Minnesota, and Wisconsin have adopted state-wide shoreland zoning regulations. These regulations establish uniform setbacks for homes and structures, restrictions on certain uses in shorelands, and require shoreland vegetation be preserved to the extent practical. Michigan’s Natural Rivers Program affords some of these protections to designated river stretches; however, in Michigan there are no state-wide shoreland regulations for lakes. Loss of shoreline habitat and the attendant adverse ecological impacts have been well documented (U.S.

Environmental Protection Agency 2009; U.S. Geological Survey 2006; Schindler et al. 2006; Merrell et al. 2009; Francis 2009). Given the importance of preserving natural shoreland habitat and cover, maybe it’s time for Michigan to consider statewide shoreland protection standards.

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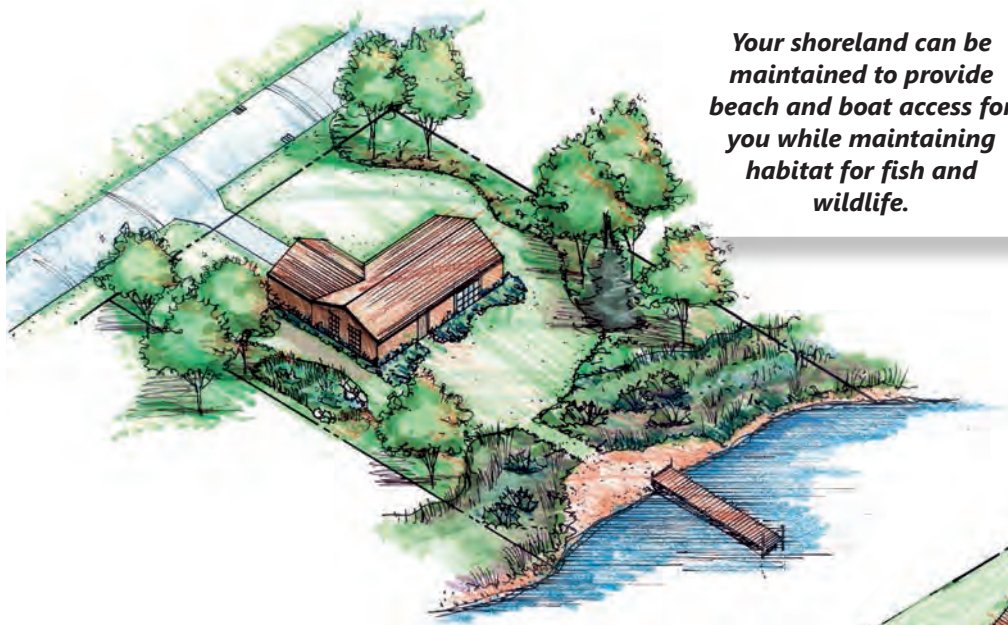
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To find out more, visit:

- <http://water.epa.gov/type/lakes/shoreland.cfm>
- www.shoreline.msu.edu
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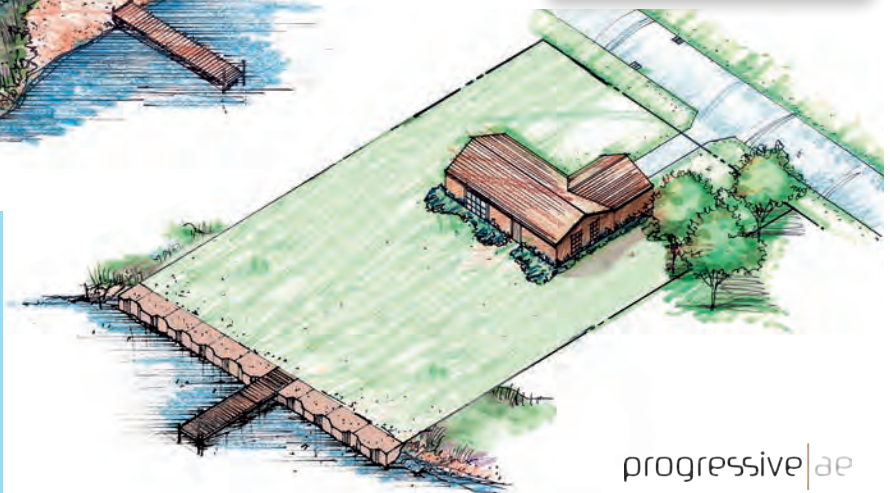


Your shoreland can be maintained to provide beach and boat access for you while maintaining habitat for fish and wildlife.

Failure to preserve some of the natural features of the shoreland will diminish the quality of your lake.

“The Wisconsin Department of Natural Resources has estimated that unbuffered developed sites contribute **five times** more runoff, **seven times** more phosphorus, and **eighteen times** more sediment to a lake than naturally forested sites.”

Source: EPA National Lakes Assessment Report.



progressive|ae

(Continued on page 10)

SAMPLE SHORELAND OVERLAY DISTRICT

SECTION 1 PURPOSE AND APPLICATION

- A. The purpose of this District is to recognize the unique physical, environmental, economic, and social attributes of lakes and shoreland properties in _____ Township, to ensure that the structures and uses in this District are compatible with and protect these unique attributes. Other specific purposes include the prevention of water pollution, preservation of wildlife habitat, protection from the negative effects of erosion and storm water runoff, conservation of natural beauty and open space, and management of development in sensitive shoreland areas.
- B. The Shoreland Overlay District is a supplemental District which applies to certain designated lands, as described in this Section and illustrated on the _____ Township Zoning Map, simultaneously with any of the other Zoning Districts established in this Ordinance, hereinafter referred to as the “underlying” Zoning District. The Shoreland Overlay District includes all lands located within five hundred (500) feet of the shoreline of the lakes in the township. In cases where a parcel is partially inside and partially outside of the Shoreland Overlay District, only those portions located within the Overlay District are required to comply with the requirements of this district.
- C. All other requirements, including parking, signs, and other similar provisions shall be as required by the underlying zone district, except that where specific requirements of the Shoreland Overlay District vary or conflict with the regulations contained in the underlying zoning district, the stricter shall govern.

SECTION 2 DEFINITIONS

For the purposes of this Chapter, the following definitions shall apply.

- A. **Lot Coverage** - The part or percent of a lot occupied by impervious surfaces, including, but not limited to, buildings or structures, paving, drives, patios, and decks.
- B. **Natural Vegetative Cover** – Natural vegetation, including bushes, shrubs, groundcover, and trees, on a lot. Lawn shall not qualify as natural vegetative cover.
- C. **Shoreline** - The ordinary high water mark on a lot or parcel of land.
- D. **Shoreline Vegetative Buffer** - The area along the shoreline maintained in natural or planted vegetation.
- E. **Structure** - Includes anything constructed or erected, which requires permanent location on the ground or attachment to something having such location. The term “building” shall mean the same.

SECTION 3 DEVELOPMENT REQUIREMENTS

- A. **Permitted Uses:** With the exception of uses and activities prohibited herein, the following uses of land and structures shall be permitted in the Shoreland Overlay District: Permitted Uses and Special Land Uses permitted in the underlying District, provided that Special Land Uses meet the requirements of Chapter * (Special Land Use chapter).
- B. **Prohibited Uses:** The following uses and activities shall be specifically prohibited in the Shoreland Overlay District:
 - 1. Confined Feedlots
 - 2. Slaughterhouses
 - 3. Gas Stations
 - 4. Auto Repair Shops, either major or minor repairs and including oil change establishments
 - 5. Auto Washes, either self service or automatic
 - 6. Hazardous Waste Storage Facilities
 - 7. Petroleum Storage Facilities
 - 8. Landfills, Salvage or Junkyards
 - 9. The construction of a canal, channel, or any artificial waterway
 - 10. Any other use not specifically permitted in the underlying Districts
- C. **Lot Area, Width, Yard, Building Area, Height, and Setback Requirements**
 - 1. Except as noted below, minimum requirements for lot area, lot width, yards, building area and building height shall conform to those required by the underlying District.
 - 2. The following additional requirements shall apply for structures within the Shoreland Overlay District.
 - a) As of the effective date of this Ordinance, all dwellings or other main buildings or accessory buildings shall be set back a minimum of twenty-five (25) feet, as measured from the shoreline.
 - b) No dwelling shall be constructed or placed on lands which are subject to flooding.
- D. **Shoreline Vegetative Buffer**
 - 1. A vegetative buffer bordering the lakes of the Township shall be maintained along the shoreline. Lawn shall not qualify as natural vegetative buffer under this section. The minimum width of the buffer, as measured from the shoreline, shall be twenty five (25) feet.
 - 2. Within the shoreline vegetative buffer, no more than an aggregate of twenty (20) feet for each one hundred (100)

SAMPLE SHORELAND OVERLAY DISTRICT

feet of shoreline may be cleared to afford lake access, provided that the clearing does not cause erosion or sedimentation. Since the intent of the vegetative buffer is water quality protection, the lake access area must be covered in lawn or other vegetative groundcover. Impervious materials such as asphalt or concrete shall not be used within the shoreline buffer area.

3. The Zoning Administrator may allow limited clearing of the vegetative buffer when required for construction of a permitted building or structure outside the vegetative buffer, provided that the land cleared is returned to a vegetative state of approximately the same quality as that which existed prior to clearing and is equally effective in retarding runoff, preventing erosion, and preserving natural beauty, and the functionality of the vegetative buffer.
4. These provisions shall not apply to the removal of exotic, noxious, dead, diseased, or dying vegetation or trees that are in danger of falling, causing damage to dwellings or other structures.
5. The shoreline vegetative buffer shall not be used for any motorized vehicular traffic, parking, or for storage of any kind, including junk, waste, or garbage, or for any other use not otherwise authorized by this Ordinance.

E. **Lot Coverage and Natural Vegetative Cover**

1. Notwithstanding the requirements of the underlying zoning district, lot coverage shall not exceed forty percent (40%).
2. At a minimum, lots shall maintain a minimum of thirty percent (30%) of the entire lot area in natural vegetative cover. To the extent practical, natural vegetative areas shall be maintained along lot lines, the shoreline, natural drainage courses, wetlands, and steep slopes. On lots bordering lakes, the Shoreline Vegetative Buffer required by this provision may be included as part of the Natural Vegetative Cover.
3. In the case of planned unit developments, site condominiums, and open space developments, each individual lot need not meet the requirements of this Section, provided that the total project or an individual phase of a project meets the requirements of this Section.

F. **General Design and Development Standards:** For all development in the Shoreland Overlay District, the following design and construction standards shall be followed:

1. Natural vegetation shall be maintained wherever possible.
2. Existing mature trees shall be maintained on site where feasible.
3. To the extent feasible, natural drainage areas should be protected from grading activity.
4. Grading shall be conducted to minimize undue compaction of site soils.
5. Buildings and structures shall be clustered as much as possible to retain open space and surrounding tree cover, and to minimize changes in topography.
6. The smallest practical area may be exposed at any one time during construction.
7. When land is exposed during development, the exposure shall be kept to the shortest practical period of time.
8. Appropriate measures shall be taken to ensure stormwater drainage will not adversely affect neighboring properties or the quality of area water resources. Where feasible, steps shall be taken to retain and infiltrate stormwater on site via bioretention facilities such as rain gardens, infiltration trenches, rain barrels, and other low impact development approaches.

SECTION 4 APPROVALS

A. Site plan approval, in accordance with the requirements of the Site Plan Review provisions of this Ordinance, shall be obtained for the following uses or buildings (including additions or extensions to these uses or buildings) that are located wholly or partially within the Shoreland Overlay District.

1. Any new or expanded Commercial establishment
2. Any new or expanded Industrial establishment
3. Multiple Family Residential Dwellings
4. For all development including single-family residential development, a site plan must show existing natural features such as trees, wetlands, steep slopes, the ordinary high water mark (if applicable); the placement of proposed structures; grading limits; areas where vegetation is proposed to be cleared; a calculation of lot coverage; areas of vegetative cover and the percent cover of vegetation; existing structures on the subject property and abutting parcels; and low impact development stormwater controls proposed to be used on the site.

B. Development within the Shoreland Overlay District must conform with all applicable County, State, and Federal, and Township statutes and ordinances including, but not limited to, Part 91, Soil Erosion and Sedimentation Control, of Michigan Act 451 of 1994. A building permit shall not be issued in the Shoreland Overlay District unless a copy of the soil erosion control permit required pursuant to Part 91 has been submitted to the Zoning Administrator.

MICHIGAN LAKE & STREAM ASSOCIATIONS, INC.

MLSA NEWSLETTER



Michigan Lake & Stream Associations, Inc.
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PHONE 989-831-5100

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William Scott Brown, EXECUTIVE DIRECTOR

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50TH ANNUAL MICHIGAN LAKE AND STREAM CONFERENCE

Friday, April 15, and Saturday, April 16, 2011

This year's Annual MLSA Conference is going to be something very special. Imagine! We have been working to protect and preserve Michigan's inland waters for 50 years, and that's something to celebrate.

Boyne Mountain Resort in Boyne Falls, Michigan is the site for the 2011 Conference. Friday night's annual banquet will highlight the Green Jacket Award and the Inland Lake Stewardship of the Year Award. The evening's keynote speaker will inspire, inform and entertain you.

Check out the topics for this year's conference on page 4.

In addition, MiCorps Cooperative Lakes Monitoring Program volunteer water quality monitor training is available. The training is free. Lodging/meals are attendees' responsibility.

- You must be pre-enrolled in MiCorps CLMP prior to attending the training.
- Pre-Enroll in the MiCorps CLMP Program by contacting Ms. Jean Roth, Program Administrator at 989-257-3715, email her at jroth@mlswa.org or enroll online at www.micorps.net.
- To register for the CLMP Training Event, print the online form (one for each attendee), and send your CLMP Training Event registration form to the MLSA Treasurer (address is on the form).

Registration for the Annual Conference and Boyne Mountain Resort

- Print out the Conference pre-registration form and complete one for each attendee
- Pay for your registration by completing the credit card info on the form or remit a check made payable to Michigan Lake and Stream Associations (MLSA)
- Send your pre-registration form and check (if applicable) to the MLSA Treasurer
- Print out and complete the Boyne Mountain Resort Hotel Reservation form
- Fax or mail the Boyne Mountain Resort Hotel Reservation form directly to Boyne Mountain Resort
- Do not send your hotel reservation form to the MLSA Treasurer
- Keep a copy of each form and your check for your records
- To assure lodging, please make your reservation no later than March 15, 2011

All registration forms are available online at www.mlswa.org or call the Michigan Lake and Stream office at 989-831-5100. Leave your name and address to have forms mailed to you.

Don't forget the Silent Auction and Door Prizes.

Join us April 15 & 16 at Boyne Mountain Resort!

MICHIGAN LAKE & STREAM ASSOCIATIONS, INC.

MLSA NEWSLETTER



EDITORIAL

Cygnal Enterprises Partners with ML&SA in Combating Spread of VHS Fish Virus

Approved and Effective VHS Disinfectant Available at No Charge in Limited Quantities

Michigan Lake and Stream Associations is proud to announce that it has partnered with Cygnal Enterprises Great Lakes regional corporate office in creating a program to assist in state-wide efforts to prevent the spread of the deadly fish disease known as Viral Hemorrhagic Septicemia (VHS). The initiative will make Virkon Aquatic, an effective and aquatic ecosystem friendly disinfectant, available free of charge in limited quantities to lake associations, stewardship groups and concerned individuals seeking to protect their respective lakes from the

deadly virus by providing volunteer watercraft disinfection stations at public boat launches.

"We are pleased to be collaborating with Michigan Lake and Stream Associations in providing an aquatic ecosystem safe VHS disinfectant to lake communities willing to build and support watercraft disinfection stations at their public boat launches," commented Joe Bondra, Vice-President of Cygnal Enterprises Great Lakes regional office. Virkon® Aquatic is exclusively distributed to lake associations and commercial applicators by Cygnal Enterprises, Inc. for use in reducing the spread of fish pathogens. Cygnal Enterprises is the largest, single source distributor of aquatic management products in the United States. Viral Hemorrhagic Septicemia has been detected in all of the Great Lakes as well as several inland lakes in the Lower Peninsula of Michigan. VHS arrived in the Great Lakes via ballast wa-

ter of ocean-going ships from the St. Lawrence Seaway. The aquatic virus kills fish by causing internal bleeding.

Michigan Lake and Stream Associations sought and was granted approval by the Michigan DNRE Fisheries Division in 2009 to launch a program to provide technical assistance to those seeking to pre-empt the spread of VHS into their lakes. Complete instructions on building and maintaining a VHS disinfection station can be found at www.mlswa.org/DisinfectionStation/DisinfectionStation.htm.

Michigan lake associations, stewardship groups and concerned citizens are invited to contact the Michigan Lake and Stream Associations Central Office at 989-831-5100 for more information regarding the program.

By Scott Brown
MLSA Executive Director

A Viable Solution for Controlling Invasive Zebra and Quagga Mussels?

Common Bacteria Based Product Effective in Testing

Editor's Note: *This is an updated and enhanced version of an article regarding this product which first appeared within the May 2010 ML&SA E-Newsletter*

After years of intensive research, a group of New York State Museum scientists has discovered that a strain of the bacteria known as *Pseudomonas fluorescens* selectively kills zebra and quagga mussels without harming other aquatic organisms. The naturally occurring and environmentally safe bacteria is commonly utilized by the agricultural community to help prevent delicate fruit crops from freezing.

Marrone Bio Innovations, Inc. of Davis, California has been chosen to develop

and test the product utilizing the bio-engineered technology. SePro Corporation of Carmel, Indiana has been selected as the North American distributor for the product.

According to Zequanox North American distributor SePro Corporation, "*Pseudomonas fluorescens* is worldwide in distribution and is present in all North American water bodies. In nature, it is a harmless bacterial species that is found protecting the roots of terrestrial plants from plant diseases. However, when a zebra or quagga mussel ingests artificially high densities of these bacteria (formulated as Zequanox), compounds within these bacterial cells destroy the mussel's digestive system."

Invasive *Dreissena* mussels first appeared in Michigan waters in the late 1980's and have since caused hundreds of millions of dollars in damage to water related infrastructure and have negatively impacted aquatic eco-systems throughout the Great Lakes regions.

Mark Heilman, SePro Corporation product manager for Zequanox, has indicated that the United States Environmental Protection Agency has deferred action on approving the product for use in aquatic ecosystems until the spring of 2011. Pending the U.S. EPA decision, Marrone Bio Innovations and SePro have continued optimizing the product and are also in the process of devising methods to effectively apply the product in open water situations. In order to be effective in killing Quagga mussels in the Great Lakes, deep water application techniques will need to be devised and refined.

For more information regarding the product, visit the SePro's product dedicated web page at www.sepro.com/default.php?page=zequanoxdetail

By Scott Brown
MLSA Executive Director

ASIAN CARP UPDATE

The battle to stop Asian carp from entering the Great Lakes continues. In late October the Michigan Department of Natural Resources and Environment (MDNRE) Fisheries Division Management Team released their draft plan for Michigan to address potential monitoring and assessment needs for Asian carps. MDNRE indicates that the plan is not intended as a rapid response plan, but rather as a beginning of a comprehensive strategy for addressing the threat of Asian carps dispersing, or being introduced, into Michigan waters. The question the plan attempts to address includes the following:

- What does the Department need to do to adequately address the threat of Asian carp species invading Michigan waters?
- What sampling strategies are appropriate in addressing this threat?
- What should our response be if Asian carps, either isolated individuals or abundant populations, are detected in Michigan waters?
- What are the pros and cons of various possible management strategies?

- What types of resources (both financial and human) are necessary to adequately address this threat?

To access the complete 69 page draft plan go to www.michigan.gov/dnr.

Also, in late October the Army Corps of Engineers (ACE) announced the completion of barricades along the Des Plaines River and the I&M Canal. These barricades are intended to reduce the risk of Asian carp being swept from the Des Plaines River and I&M Canal into the Chicago Sanitary and Ship Canal (CSSC) during heavy rains and flooding. As stated by the ACE these measures are crucial to reducing the risk of Asian carp bypassing the electrical barriers. The electric barriers focus on the largest, most direct, pathway. The new barriers reduce the possibility of Asian carp entering the CSSC via flanking waterways. Also completed was work on a third electronic fish barrier on the CSSC.

In December federal officials announced a \$47 million battle plan for 2011 which calls for refining technologies that detect the presence of Asian carp by identifying their DNA in water samples, and for developing better means of trapping, netting or starving carp already in waterways leading to the Great Lakes. It also pledges to continue initiatives begun in 2010, such as researching ways to prevent the unwanted fish from breeding.

On the legal front, U.S. District Judge Robert Dow in December refused to order the locks closed temporarily while the lawsuit by Michigan, Wisconsin, Minnesota, Ohio and Pennsylvania goes forward. This lawsuit by the five Great Lakes states calls for closing shipping locks on Chicago-area rivers. Judge Dow's decision is being appealed to the 7th Circuit Court of Appeals in Chicago.

For those of you who want to keep abreast of the latest information regarding Asian carp control go to www.asiancarp.org for frequent updates and FAQs on efforts to keep them out of the Great Lakes.

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5 & Under - FREE



CottageandLakefrontLiving.com

History of the McArthur Family

Stories shared from lake association members and individual lake property owners from around the state

Contributed by Cathi Kirkbride

*Big Pine Island Lake
Association Newsletter*

October, 2010

Roy McArthur, grandson of Frank and only child of Ray represents the third generation farming and living on BPIL. Roy married Leona on September 24, 1931 and had two children, Gwen (Stanton) and Charles. They farmed the land as did the last two generations.

Potatoes being their main source of income, they also raised hogs. In the mid 30's Roy ventured into dairy farming; the cattle grazed freely on his land at the north end of BPIL. Roy had the foresight as a teenager and envisioned a new way to profit from the lake.

He borrowed money from his grandfather, Frank so he could build six

fishing boats to rent. McArthur grew his fleet adding more boats each year; eventually, he had 33 boats renting at \$1.50 per day. He used his mother's washtub so he could cool pop he sold to the boat renters. As time went on, he developed a tourist campground at the northeast end of the lake and built a log cabin that he rented for \$8.00 per week which included a fishing boat.

Business was doing so well that he added two more cottages which he rented for \$10.00 and \$12.00 a week. Of course the cost included a fishing boat. One of the original cottages still stands north of the swimming area at the trailer park.



We'd love to hear from you!

In each issue of The Michigan Riparian, we invite subscribers and readers to tell us why they love their lake and to share one or two photographs. If you'd like to feature your lake in a future issue, please write and tell us why you love your lake via email swagner@mlswa.org or mail to: The Michigan Riparian, 304 E. Main Street, Stanton, MI 48888. Please include your name, your lake name, county/ location of your lake and your story. Please make sure photos are jpeg or 300 dpi.

Part 301, Inland Lakes and Streams

By Kip R. Cronk
Inland Lakes and Streams
Program Coordinator
Michigan Department of Natural Resources
and Environment

One of the ways in which the Michigan Department of Natural Resources and Environment (DNRE) protects Michigan's inland lakes and streams is through Part 301, Inland Lakes and Streams, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The goal of Part 301 is to protect the public trust, riparian rights, and the physical structure of Michigan's inland lakes and streams. The original Inland Lakes and Streams Act was created in 1972, the same year as the federal Clean Water Act.

Part 301 regulates inland lakes, not the Great Lakes. A regulated inland lake is defined as a body of water that is five acres or larger in size. Under Part 301, certain construction activities occurring where the land meets the water require a permit, such as dredging, filling, seawalls, permanent docks, marinas, rock riprap, bioengineering,


complete plant removal, swim area sanding, and boat hoists to name a few. While it appears that a single permanent dock would not have much of an environmental impact, the cumulative impact of several structures placed along the shorelines of our inland lakes does have an impact upon shallow water and near-shore habitats, which are both crucial to the health of our lakes.


When thinking about the role of Part 301 in the protection of Michigan's inland lakes and streams, it is important to understand riparian rights and the public trust. Riparian rights are defined in Part 301 as the rights accruing to the owners of riparian property, including access to navigable waters, dockage to boatable waters, use of water for general purposes, and title to natural accretions. The public trust is defined as the perpetual duty of the state to preserve and protect the public's right to navigate and fish in all inland lakes and streams that are navigable, and to protect the air, water, and other natural resources of this state against pollution, impairment, or destruction. In short, the DNRE, under Part 301, must consider the rights of landowners and

of the general public while looking at the resources as a whole.

The DNRE's Water Resources Division (WRD) staff has the immense responsibility of protecting Michigan's inland lakes and streams under Part 301. When WRD staff process permit applications, they seek public comments, ask for assistance from other professionals, such as DNRE fisheries and wildlife biologists, review statutory requirements, and review prudent and feasible alternatives to the project impact. In addition, the WRD staff investigates violations. Reviewing requests to impact Michigan's inland lakes and streams, coordinating and making decisions regarding the health of our inland waters, and bringing violations into compliance requires a dedicated and knowledgeable staff. The decisions made have long-lasting effects on the health of Michigan's lakes and streams for generations to come.

Additional information about Part 301 can be found at www.mi.gov/wrd or by contacting your local WRD district staff.





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Clifford Lake Inn 2011 Winter Carnival and Polar Plunge for Special Olympics Michigan



2010 Polar Bear Plunge at Clifford Lake

Jim Dennis, Coordinator for the 2011 Polar Plunge at Clifford Lake in Stanton and Connie McKeown, owner of the famous Clifford Lake Inn on Clifford Lake in Stanton, teamed up and planned a four-day event to benefit Special Olympics. The Polar Plunge is on February 12, but the entertainment doesn't stop there.

February 10, at 7 p.m. is the Kick-Off Reception. Starting 11:00 Friday morning thru Sunday afternoon, it's one more fun thing after another— cross country skiing, snowshoeing, ice skating under the lights, Clifford Lake Inn chefs ice sculpturing, fireworks, ice fishing contests, Texas Hold'em tournament, 5-hole Putt Putt Golf Tournament AND The Polar Plunge.

The annual Law Enforcement Run (LETR) Polar Bear Plunge series is known for its

many costumes and courageous participants. After raising funds, these participants dress up in costume, jump in and freeze their fur for a good cause. Funds can be raised by collecting donations from friends, family, co-workers and neighbors.

Proceeds from these plunges help support year-round sports training and athletic competition for more than 18,600 children and adults with intellectual disabilities in Michigan.

Registration for the plunge is Saturday, February 12 at 2:00 and the parade of costumes, The Plunge, awards and post plunge party begin at 3:00. You can also register online at www.somi.org for the Polar Plunge.

Registration for all other Winter Carnival



Joe Vos, 2009 Most Money Raised Award. (\$2,544.50)

events is on site at the Clifford Lake Inn. Want more details? Check out Events in the cliffordlakeinn.net website.

So, get your costume ready, register online or at the Inn, raise money for this year's Polar Plunge for Special Olympics and have a blast at this year's Winter Carnival/Polar Plunge at Clifford Lake.

Photos courtesy of Chelsea Dennis.

Higgins Lake Foundation

Some of the highlights of the last year: The 21st Annual Awareness Day last August had a good turnout and was a big success. Our office building has been painted and signage installed, thanks to a 50% matching grant from Roscommon's Downtown Development Authority. The HLF was represented again this year at the Conservation Expo and the Roscommon County Community Foundation's Donor Appreciation Day. We provided lunch for the fourth graders at the Higgins Lake Property Owners' Lake Saver Day. We have contracted with Huron Pines to do a road end erosion survey to evaluate the effect of the 319 Environmental Grand provisions that were established years ago. We are investigating the feasibility of using a suction harvester in the lake for Eurasian Water Milfoil. We're also pleased to provide funding for a boat wash in the South State Park. In addition, we've agreed to help sponsor a capacity study to expand use of the Camp Curnalia waste water treatment facility. And, we're looking forward to offering swimming lessons for area youth next summer.

Winter on the Lake

Maggie Carey, Lake George Property Owners Association

Everyone is very aware of the fun and festivities to be enjoyed on and around our beautiful lakes during a Michigan summer. But fewer people get outside to enjoy what a winter lake has to offer. Michigan winters can be frigid with unrelenting snow and ice. And the lack of sunshine can pull your spirits down as quickly as our proverbial weather changes.

But a Michigan winter does not have to be spent hibernating inside. We have unique opportunities to see our lakes and streams with an unobstructed and often more peaceful view than those who only explore them during the summer.

Snowshoeing, cross country skiing, ice fishing and ice skating are incredible winter activities. New technologies in efficient winter clothing keep you toasty warm without restricting your movements. And more and

more people are staying to sample this season instead of scampering down to warmer states as soon as the snow starts to fly.

But to be perfectly honest, not everyone is satisfied with the solitude that often comes with a Michigan winter. And that is where your lake associations and/or other local groups can make a profound difference in how a Michigan winter is enjoyed.

Take, for example, the Wig Society of Lake George. They are starting to gear up for the third annual Winter Festival. What started out as a small idea has grown into a big local event much anticipated by those who choose to spend their winter months locally. Activities range from lake ice hockey, snowman building contests and a snow parade to a chili cook-off, huge bonfire and arts & crafts in the Township Hall for those periods when you just need to thaw out a bit. This year there will also be an ice fishing contest.

Starting a tradition like the Winter Festival may be easier than you think. Two things are essential, however. The first is a solid team of volunteers for planning, set-up, manning the events and putting things back to rights after it is all over. The second is a large degree of flexibility. Let's face it. Michigan winters are unpredictable. Even in the depth of February, thaws occur and you can have a week or more of almost spring-like weather. While this can do much to lift your spirits, it can also dampen a snowmobile race and play havoc with a snow sculpture contest. It is important to have a back-up list of activities that are not so weather related to be pulled out if the need arises.

So, start exploring those winter options that you and your organization may be overlooking. Check out what is available around the state. And you are most cordially invited to come and enjoy the Winter Festival at Lake George, Clare County, on February 5.

Send us your lake association newsletter or special announcements electronically. We love hearing from your lake. We will continue to use and spread the interesting and informative things happening on your lake in the Michigan Riparian. Please send your lake association newsletter to: swagner@mlswa.org.

NEW RIPARIAN MAGAZINE WEBSITE!

The Michigan Riparian Magazine and the Michigan Lakes & Streams Foundation have a beautiful new website. Please go to **www.mi-riparian.org**.

Most of the past issues of the *Riparian Magazine* (and all of the articles therein) are on the website now and all of the past issues will be on the website in the future.

MLSA's website, **www.mlswa.org**, is a great resource for accessing Michigan's water law issues, current and future MLSA events and much more.

LIFE-TIME ACHIEVEMENT AWARD FOR DR. NILES KEVERN

Contributed by Howard Wandell

The Michigan Chapter NALMS presents to Dr. Niles Kevern a life-time achievement award recognizing many years of work to understand, manage and protect the waters of the nation and Michigan.

After receiving his Doctorate Degree in 1962, Dr. Kevern worked for the Oak Ridge National Laboratory, returning to Michigan in 1966 to take a position on the faculty of the Dept. of Fish and Wildlife at MSU. Dr. Kevern's professional emphasis has been on water quality and pollution as it affects the communities of aquatic organisms and fish. He served on many state, national and international committees and published over 40 articles. He and his students produced 14 limnological surveys and reports on Michigan lakes.



Through his teaching he influenced more than 3,500 undergraduates. As a major professor, he mentored 70 graduate students. Many of these individuals hold influential positions in natural resource agencies throughout the world.

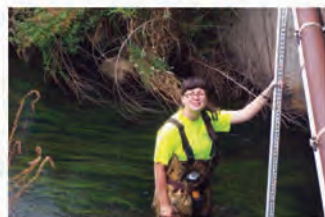
Dr. Kevern has been honored with the Morton John Elrod Memorial Prize in 1958, the Excellence in Fisheries Education Award from America Fisheries

Society in 1991 and the Distinguished Faculty Award in 1992.

In addition to his university responsibilities, Niles was involved with Michigan nonprofit organizations promoting lake management. For many years he was on the Board of Michigan Lake and Stream Associations and also chaired their Science Advisory Committee. Dr. Kevern also served on the Board of the Michigan Chapter North American Lake Management Society including as Society president.

Beyond his professional achievements, Niles has been a friend. His consideration for others, his positive attitude and friendly smile has endeared him to all those who have had the privilege to know and work with him. Dr. Kevern is a friend to Michigan's lakes and the people that care for them.

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The Michigan Inland Lakes Partnership – A New Collaboration for Michigan's lakes



By Dr. Jo Latimore
Lake, Stream, and Watershed Management
Outreach Specialist
Michigan State University Department of
Fisheries and Wildlife

Michigan is blessed with literally thousands of inland lakes, ranging from shallow ponds bordered with water lilies and filled with the calls of frogs and toads, to deep, cold waters patrolled by lake trout. Just as diverse as Michigan's lakes are the organizations dedicated to their protection. Associations of lakefront property owners, nonprofit environmental groups, professional societies and local, state, and tribal agencies all dedicate time and resources to keeping our lakes healthy and welcoming; and each has its own strengths.

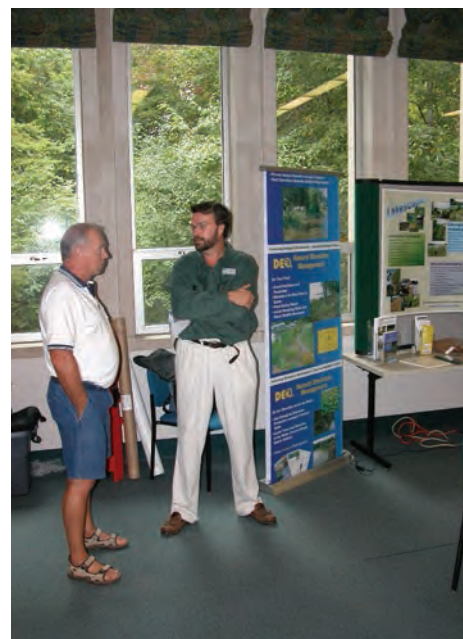
To make the most of the individual strengths of each of these organizations, a new collaboration has formed – the Michigan Inland Lakes Partnership. More than 20 organizations statewide have so far joined this partnership, which is entirely new to Michigan and promises to accomplish far more for Michigan's lakes than any single organization could on its own. Michigan Lake and Stream Associations, Inc. is a founding member of the partnership.

The Michigan Inland Lakes Partnership (MILP) has identified four key areas in which

to focus its efforts during its first three years of existence: invasive species, ecosystem-based monitoring and management, education of citizens and local decision-makers and controlling nonpoint source pollution, such as phosphorus and sediment. Citizen involvement in these efforts is crucial for their success. For example, volunteer monitoring through MiCorps' Cooperative Lakes Monitoring Program (CLMP) is specifically identified in the partnership's strategic plan as a program that must be sustained, and partners are dedicated to supporting and expanding CLMP statewide. Other citizen-based initiatives supported by MILP include the Clean Boats, Clean Waters program, which enlists local citizens to educate boaters on the importance of cleaning watercraft of plant material and other potential contaminants before launching, to prevent the spread of invasive species, and the Lake and Stream Leaders Institute, an educational program that trains people to be effective stewards of their local waters.

Michigan Inland Lakes Partnership also has launched a website that aims to be your one-stop source for information on Michigan's lakes and partner programs. Developed in close collaboration with Michigan State University Extension and the Department of Natural Resources and Environment, the website includes links to lake-related publications from those organizations as

well as many additional resources, a lake event calendar, and more. To learn more about MILP, see what organizations have joined, and to learn something new about Michigan's lakes, visit our website at <http://michiganlakes.msue.msu.edu> or contact Dr. Jo Latimore at MSU at latimor1@msu.edu or 517-432-1491.



John Skubinna of the Michigan Department of Environmental Quality discusses natural shorelines with a participant at the MILP Open Forum in East Lansing in 2009. (Credit: Scott Brown).



Participants at the MILP Open Forum in Traverse City discuss starry stonewort, a new invasive species in our lakes, with speaker Gary Crawford after his informative presentation (Credit: Lois Wolfson)



Participants at the MILP Open Forum in Traverse City in June 2010 review materials about volunteer monitoring through the Cooperative Lakes Monitoring Program (Credit: Lois Wolfson)

NATURAL LANDSCAPING OR BLIGHT?

By Clifford H. Bloom, Esq.

Law Weathers
800 Bridgewater Place
333 Bridge Street, N.W.
Grand Rapids, Michigan 49504-5320

Everyone is familiar with the phrase “one person’s trash is another person’s treasure.” And, in fact, many townships throughout Michigan have long had many blight, noxious weeds, and similar regulatory ordinances that impact both “treasure” and “trash.”

In this era of increasing environmental enlightenment, however, some of those ordinances are standing in the way of the protection of our natural resources. How? For example, the Michigan Department of Natural Resources and the Environment (MDNRE) (through the Michigan Natural Shoreline Partnership), state environmental groups, and others have promoted the use of natural buffer strips or areas along the banks and shorelines of Michigan lakes, streams, and rivers. Similar groups have promoted the idea of rain gardens and natural and native vegetation for both commercial and residential yards. Yet in many cases, such techniques run afoul of local township ordinance prohibitions. In most cases, officials of the township involved never considered the impact that blight, noxious weed, or similar ordinances might have on natural resource preservation techniques such as buffer strips, rain gardens, natural landscaping, and bio-engineered shorelines.

Township blight ordinances typically use broad language to prohibit nuisances and unsightly conditions. For example, township noxious

weed ordinances frequently prohibit grasses, weeds, and other foliage from exceeding a certain height (for example, six inches). Almost by definition, natural buffer areas along Michigan lakes, streams, and rivers, rain gardens, and wetlands contain grasses, foliage, and what some people consider to be “weeds” that exceed the normal height of grass on a manicured lawn. Some members of the community might deem the plantings in these buffer areas to be “unsightly” or a “nuisance.” Given the standard blight, noxious weed, and similar local ordinances on the books, a person could actually be prosecuted for using some of the nature-preserving techniques being advocated by the MDNRE, local environmental groups, and other organizations.

Interestingly, a township’s own zoning ordinance is sometimes actually at odds with the same township’s blight or noxious weeds ordinance in particular cases. For example, the zoning ordinance may promote (or even require) that a natural buffer strip be maintained within a certain distance of the shoreline of a lake, stream, or river. Or, a site plan approved pursuant to a variance, special land use, or planned unit development may require the use of a natural vegetative strip, rain garden, or similar item. However, if that same township’s blight ordinance prohibits nuisances or unsightly weeds, or its noxious weed ordinance requires that all grasses, weeds, and other foliage be cut and kept below a certain height, the ordinance and site plan approval process could be at odds.

Is there an “easy fix” to this problem? Yes. The following language could be added to most townships’ blight, noxious weed, or similar ordinances:

1. Notwithstanding the regulations in this Section _____, the following is permitted within thirty (30) feet of the ordinary high water mark of any lake, stream, river, or wetlands or if approved as part of a variance, site plan, planned unit development, special use, or similar township zoning approval:
 1. Leaving natural vegetation untouched and intact.
 2. The growth of natural vegetation (including, but not limited to, grass, vines, bushes, weeds, trees, shrubs and foliage), regardless of height.
 3. Planting and growth of native Michigan plants, grasses, bushes and trees.

Of course, prior to amending any of your municipality’s relevant ordinances, you should consult with your municipal attorney.

For more information regarding natural buffer strips along shorelines, rain gardens, and similar environmentally-friendly natural areas, please consult the following:

- The Michigan Townships Association website at www.michigantownships.org.
- The Michigan Lake & Stream Associations, Inc. website at www.mlswa.org.
- The Michigan Natural Shoreline Partnership website at www.mishorelinepartnership.org ❖

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WHERE'S MY MAGAZINE?

One of the most common calls we receive is about missing issues of The Michigan Riparian. It is a mystery, sometimes, why you may be getting your magazine and your neighbor is not. Here's what we discovered in our investigation concerning "missing subscriptions":

No Current Address — Please contact the office at 989-831-5100 or email swagner@mlswa.org with any corrections. You can also contact Roger Carey, Subscription Coordinator at 989-588-9538 or email him at mcarey55@charter.net.

Note: If you belong to a lake association, be sure to include its name.

Lake Association Members — Send both current and new lists of members to The Michigan Riparian office at 304 E. Main Street, Stanton, MI 48888. If possible send them in an excel file email list to mcarey55@charter.net. Please include additional subscription fees for each member you are adding as a new subscriber to your lake association.

Undelivered issues/Post Office Requirements — Unlike first

class delivery, non-profit bulk rate mailings are not forwarded. If you move or have a temporary address please let us know. Also, the post office requires an exact mailing address. (i.e. NW, SE, Drive, Trail etc) If your mailing address is a P.O. Box, we need to know that.

On the positive side, we are given a print-out of all undeliverable magazines. If the rejected address is part of a property owner's association subscription list, we will contact the association and alert them about the problem. We also attempt to reach individual subscribers for a current address. Neither of these options can solve all the mysteries, so the best way to let us know about missed issues is to contact Roger Carey, Subscription Coordinator, at 989-588-9538. His email address is mcarey55@charter.net. You may also contact the office at 989-831-5100 or by email to swagner@mlswa.net.

We could also use your help in letting us know if someone is receiving more than one issue and only needs one or vice versa. Being good stewards of our resources is a priority.

MICHIGAN LAKES & STREAMS FOUNDATION

YOUR GIFT LIVES FOREVER

What is the Michigan Lakes and Streams Foundation?

The Michigan Lakes & Streams Foundation is a 501(c)(3) nonprofit charitable organization that was founded in 2004 by Michigan Lake and Stream Associations, Inc. (MLSA) to establish endowed funds to support its many programs and initiatives.

What is an endowed fund and how is it used?

An endowed fund ensures that the principal from all gifts always remains untouched—only the interest earned is used. By only using the funds generated from the interest earned the foundation is able to provide MLSA with a stable source of funding for its programs and initiatives.

Why support MLSA?

As you can imagine, with over 300 lake and stream associations representing more than a 100,000 MLSA membership, our impact on legislation relative to protecting the future of Michigan's water resources is powerful. It is your voice in Lansing. For 50 years on national, regional and state levels, MLSA has labored on your behalf—most likely without your even knowing about it. Some key issues are riparian rights, lake and stream water quality, and controlling invasive species.

MLSA provides a wide variety of information for riparian property owners, hosts an annual conference featuring knowledgeable speakers; has a volunteer water quality training/testing program; works with schools, state programs and legislators to educate, protect and advocate for the protection of Michigan's water resources.

Ways you can contribute to the Foundation

There are several ways to give that provide tax benefits for you. Check with your attorney or financial planner for advice on which method of giving is most beneficial for you.

1. Donate a percentage of your estate. Through your representative, regardless of the value and kind of assets in your estate, only the specified percentage will be given.
2. Specify a fixed-dollar amount or other property that you wish to give to the Foundation.
3. Make a cash donation

Note:

General gifts may be used for programs/initiatives decided by MLSA.
Endowed gifts are used specifically according to the donor's wishes.

Reduced Riparian Subscription Rates

As you know, The Michigan Riparian is non-profit, with its only source of financial support through its subscribers and advertisers. Several lake associations have asked for a reduced subscription rate. The Riparian offers a discount for quantities of five or more at the reduced rate of \$8.00 per year. For orders of four or less, the price is \$10.00 per year, the same rate as for individual subscribers.

We are proud of the fact that we have been able to maintain our subscription price for the past several years despite the rising costs of postage, paper and printing. No change in this rate is anticipated at this time.

Questions or changes with your subscription? Please contact Roger Carey, *Subscriptions Coordinator*
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Milfoil Solution®: A natural control for invasive Eurasian watermilfoil

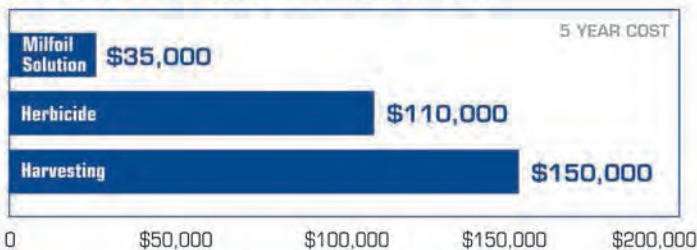


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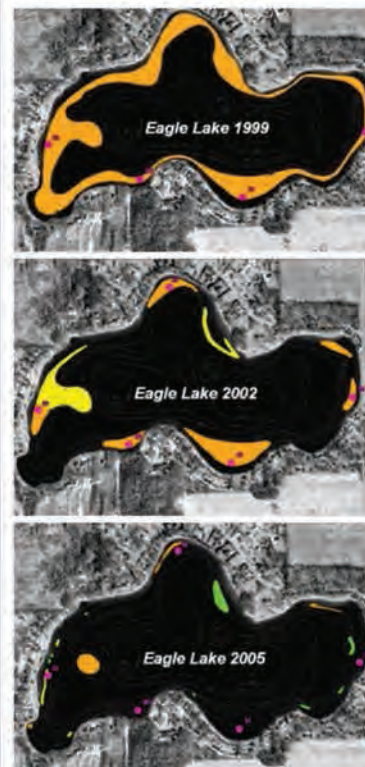


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— Chuck Cabbage, Eagle Lake, Van Buren County, Michigan

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