

THE MICHIGAN RIPARIAN

SPRING 2021 | VOLUME 56 | NUMBER 2



THE PERE MARQUETTE RIVER

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DIRECTOR'S NOTES



If some of you remember the Riparian in the 1990s, you might have seen my name as the President of The Riparian Magazine Corporation. At that time the magazine was a separate entity from MLSA. Fast forward a couple of decades and I have the privilege of being the President of MLSA. We have a different corporate and director structure but the same mission: “the preservation, protection, and wise management of Michigan’s vast treasure of inland lakes and streams.”

In the interim, I was engaged in the “political process” at both the county and state levels. (I was a township trustee before that). Though not as “political” as many, I did learn a few things about government (and governance) along the way.

While many folks have disdain for the political process, the actions taken (or not taken) by those elected office holders (and those in the administration that carry out the laws) have a substantial impact on our lives and property.

Local government activity does not get the attention that state and federal activities do. However, planning and zoning, and local police powers have a great impact on one’s quality of life and property values. Local ordinances can impact (at least for the present) rental property activities and even waterfront docks and activities on the water. Local governments’ power to regulate rental properties in our neighborhoods was the subject of one of our Zoom webinars (with pro and con representation) that took the place of our in-person annual conference last year. A healthy discussion with the proponents and opponents (legislator, property interest group, and municipal governments) relative to the role of private property rights (both sides claimed that banner) and the role of regulations was had in a civil manner. That issue is on target for re-introduction in the 101st Michigan Legislature.

State laws, like those passed last year in the 100th Legislature that allow local governments (creatures of the state they are) to regulate boating activities during high water, protect all those that share our “collective back yards” from the few that seem not to care about the impact of large wakes on the rest of us. (The issue of wake impact is a prescient topic and the MLSA is deeply involved in the issue. More to come.)

I say all of the above to make the readers remember the importance of having a relationship with all their elected officials. It is too easy in this era of heightened partisanship to just brush them off as “politicians”. The vast majority of them want to serve the public interest – many times at a cost to their professions and families. Get to know them. Attend a constituent coffee hour. Use their toll-free numbers or email address to contact those in the Capitol to communicate your concerns on issues that are important to you. Contact is especially important with your own elected officials. It is less effective with those who do not represent you. Legislators have many issues to balance timewise – and constituents are their foremost concern.

I hope to see you on Zoom at our MLSA Annual Conference on April 30th. We will have a legislative presence and other presenters from state and local government, institutions, and the private sector to tackle the concerns we all face as Michigan Riparians. R

DAVID MATUREN | MLSA PRESIDENT



MLSA is a 501(c)3 non-profit, state-wide organization dedicated to the preservation, protection, and wise management of Michigan’s vast treasure of inland lakes and streams.

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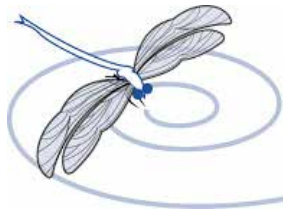
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REPUTABLE SOURCES:

WHERE TO LOOK AND HOW TO USE THEM

SHIKHA SINGH | JLW Cisma COORDINATOR/BIOLOGIST



Folks who live near or recreate in water bodies have likely come across new organisms they couldn't identify, noticed changes in water chemistry, or wanted to make their property more "green". Many turn to Google or some other search engine to help them find answers, which can produce an overwhelming amount of information from a variety of sources. However, not all sources contain information that is factual

or based on science, and other pages allow anyone to edit content. This highlights the need to evaluate the legitimacy of a source, and cross-check the information with other sources! Here we will discuss how to evaluate a source, and suggest places you can look to find helpful information.

When evaluating a source, one of the first things to assess is an organization's mission and goals. Reputable organizations have their mission and goals clearly identified on their website and/or in their strategic management plan. Sources that have vested interests in furthering a position or trying to sell you a product or service may not provide you with all the information you need to make an informed decision. For example, when trying to control invasive species, if you only look at a place that provides herbicide treatment, you may miss out on other control methods such as hand pulling or biological control, thus limiting your options.

Next, you will want to look at where their funding comes from. Funding sources may have stipulations and restrictions that the page must follow, thus information may be biased or represent a conflict of interest.

Another question to ask is whether the author of the article is qualified, or has the expertise that allows them to interpret or write about the topic. It is not uncommon for journalists or writers to interpret or summarize technical data in a manner that leaves out important caveats or context due to word limitations or lack of training on the subject matter. If the author of the article is not the one who did the research, they should provide information or references to the original source/researcher so one can verify the information. Un-verifiable information, social media screenshots without sources, or unsubstantiated opinions may lead to costly mistakes, introduction of invasive species, and/or other environmental mishaps.

Being familiar with key domain names can allow you to prioritize reputable sources

(CONTINUED ON PAGE 8)



REPUTABLE SOURCES

(CONTINUED FROM PAGE 7)

when presented with many options. Domains such as .gov, .edu, or .org respectively denote government, educational institutions, and advocacy organizations. Note that not all countries use .gov. Examples of countries that use an alternate domain name include Canada (.ca) and Sweden (.se). Government websites contain information such as rules and regulations, species information, press releases, alerts on emerging environmental threats, learning modules, educational materials, and contact information for relevant personnel. Government sources are considered credible as materials are created by those with relevant experience and training, must undergo quality control, and be authorized for release by managers before they can be posted on the website or carry the official department logo.

Educational and advocacy domains need to be examined carefully as they contain a mix of personal, professional, and academic sites. Every state has a “land grant” university with an extension office which operates as a partner with the federal government (mainly United States Department of Agriculture), county, and local governments. Extension articles are written by a specialist in the field, and are geared towards a variety of audiences. Individual student and staff pages are not reviewed by the university, and information should be assessed on a case by case basis. Advocacy organizations generally tend to be non-profit organizations, but you should assess their credibility to determine their legitimacy as some could be special interest groups or have



THERE ARE A VARIETY OF WAYS ONE CAN SEARCH FOR INFORMATION, HOWEVER, ONE MUST TAKE THE TIME TO ENSURE THE SOURCES ARE FACTUAL, VERIFIABLE, AND HAVE QUALIFIED PERSONS DRAWING CONCLUSIONS.

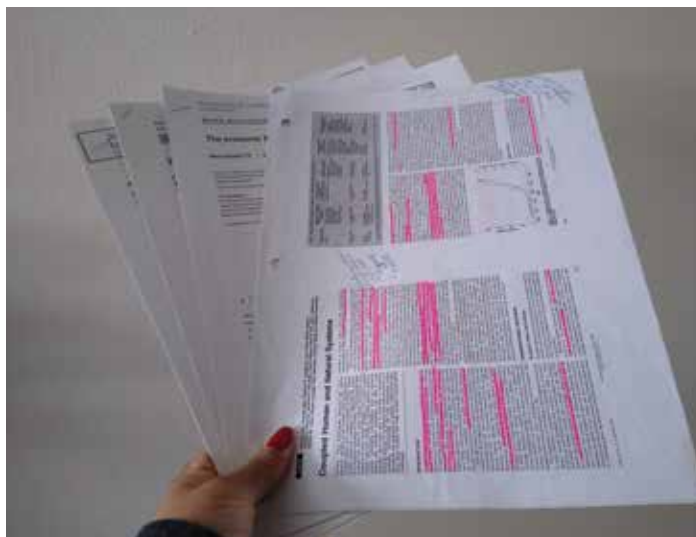
biases you may not have known about. Websites with the domain .com or .net should not be dismissed outright. Domains can be expensive to maintain, thus legitimate smaller non-profit organizations/associations may opt for these free or affordable options.

Peer-reviewed journal articles are a great source for cutting edge information and new advancements in all fields. They are submitted by scholars to be reviewed by experts in the field prior to being published to ensure that the conclusions reached are accurate, methods used are logical, and the work meets accepted standards of the field. In addition to original research data, published articles include a summary of what has been found to date, methodology, and results, and they conclude by placing results in context. Google scholar and JSTOR.org are some search engines you can use to search for scholarly articles, with Google Scholar also returning reports, case law, and scholarly books. While many journal articles are hidden behind a paywall, authors are generally happy to email you a copy if you reach out to them personally. If that fails, you can quarry your friends and family who might have access if they work for a government agency or educational institution. Royal and national societies, academies, and professional organizations also are worth checking out as they host conferences, publish peer-reviewed research articles, and proceedings that may be useful to you. Some will host conferences and webinars that are open for members of the public to attend, however some may have expensive registration fees.

Technical reports, journal articles, and government documents can be complex and sometimes confusing to read. Do not hesitate to reach out to the authors, relevant governmental employees, the conservation district, and extension staff for clarification. They can either assist you, or help direct your questions to the right people. After you have your questions answered, some scenarios may require



ANYTIME YOU TAKE WATER SAMPLES OR SEE ANYTHING OUT OF THE ORDINARY, LIKE AN INVASIVE SPECIES, DOCUMENT YOUR FINDINGS AND INCLUDE RELEVANT PICTURES IF POSSIBLE.



PEER-REVIEWED ARTICLES ARE GREAT PRIMARY SOURCES FOR RESEARCH DATA, LITERATURE REVIEWS, AND IMAGES.

some sort of action be taken. If you think you have found an invasive species, you can report it to the state or your local cooperative invasive species management area. If regulatory action needs to be taken, you can summarize your research in a short report that also includes any evidence that you have compiled (references to reputable sources, water quality reports, pictures, etc.). Keep a paper or electronic trail of all communications in case you need to refer back to them at a later date.

With the internet (especially social media platforms) being a hub of information, organizations, companies, bloggers, and individuals now have an extended reach in who consumes their materials. Ultimately, it is in your best interest to ensure you are consuming accurate and factual material. To learn more about scholarly sources, information on water related issues, and invasive species, please contact the JLW Cisma Coordinator Dr. Shikha Singh via email (shikha.singh@macd.org) or by phone at (517) 432-2089. Or visit our website at www.jlwcisma.weebly.com. R



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ATTORNEY WRITES

THOSE WHO WAIT, LOSE...

In Michigan, riparian or waterfront property owners have two general legal ways of protecting their property from others. First, riparians can pursue litigation for trespass or nuisance or when another property owner or members of the public violate their riparian rights. Unfortunately, those lawsuits tend to be expensive and time-consuming, and the riparian landowner does not always prevail. Second, and as importantly, local municipal ordinances enacted by cities, villages, and townships can also help protect riparian rights and the waterfront.

I am constantly amazed at how few riparian land owners, lake and river associations, and others who are interested in protecting waterfront properties in Michigan, lobby and become actively involved with their local government to enact and enforce ordinances to protect the waterfront. Although virtually every municipality in the state has zoning regulations, not all of those local ordinances adequately protect riparian rights and the waterfront. And, only a few municipalities have in place specialized non-zoning, or police power ordinances that regulate boats, docks, marinas, sensitive lake areas, and wetlands. If a major housing development proposal, commercial water withdrawal, new marina, or other use arises that will hurt the waterfront community, is presented to the municipality, then it is almost always too late to enact a regulatory ordinance or amend the local zoning ordinance to prohibit or regulate such adverse uses.

Some of the municipal ordinances that riparians should not only lobby their local municipality to enact or amend, but also to enforce once adopted, include the following:

- A. A good and comprehensive zoning ordinance, which would also include strict regulations regarding funneling/keyholing, large minimum lot sizes for new lake lots (including significant lot width and water frontage requirements), strict lot width-to-depth ratio requirements, adequate setbacks for new buildings from lakes (for example, at least 60 feet), prohibitions on new or expanded canals or channels, and good private road regulations.

- B. A regulatory or police power ordinance to regulate docks, boats, swim rafts, water skiing obstacle courses, bubblers, etc.
- C. A local wetlands protection ordinance.
- D. A marina regulatory ordinance (which would supplement the regulations in the local zoning ordinance regarding marinas).
- E. A short term rental ordinance.
- F. A fertilizer ordinance.
- G. A septic system ordinance.
- H. A blight and junk ordinance.
- I. A private road ordinance.

Can riparian property owners or lake associations force their local municipality to enact or amend an important lake protection ordinance? For some cities and villages, the answer is “yes”. Certain cities and villages have charter provisions that allow an ordinance (or ordinance amendment) to be instituted by a citizens’ initiative petition and a vote of the municipality’s electors. There is no right of ordinance initiative for townships, or for some cities and villages, or for zoning ordinance provisions. In those instances, the local municipality cannot be forced to enact or amend an ordinance.

What should riparian property owners do if their local municipality refuses to enact or amend a necessary ordinance for the protection of riparian rights and the waterfront? First, riparians can petition the local municipal government to enact a new ordinance or amend an existing ordinance, particularly if the citizens provide draft ordinance language for consideration. Second, if “light feather” suggestions or mild lobbying of local municipal officials does not do the trick, lake associations and riparian property owners can



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try to prompt large turnouts of people in favor of a new ordinance or amended ordinance at the local city, village, or township board, council, or commission meetings. Finally, if all else fails, lake associations and riparians can seek out candidates for the next election of the local municipal offices who are pro-lake and river in an attempt to have them elected to the city, village, or township board, council, or commission involved.

Having well-drafted, reasonable, and comprehensive local municipal ordinances in place can be the single most effective matter that riparians and lake associations can do to protect the waterfront. The best time to enact or amend such ordinances is before a significant problem arises. That is why it is often referred to as “zoning and planning”, not “zoning and reacting”!



On February 4, 2021, the Michigan Court of Appeals issued an unpublished decision in *Devils Lake Ventures, LLC v Devils Lake Highway Acreage, LLC* (Case No. 349166; 2021 WL 408671). That case involved a dispute over the ownership of bottomlands underwater in Devils Lake

in Lenawee County. The plaintiff owns five acres of land that abuts the lake. The defendants claim that title to the bottomlands was severed long ago and that they now own the bottomlands and riparian rights as to the properties involved. Following a non-jury trial, the trial court held in favor of the plaintiff and agreed that the plaintiff’s purchase of the upland (i.e., dry land) property included littoral or riparian rights to the abutting bottomlands property. The Court of Appeals upheld the decision by the trial court and agreed that, generally, riparian rights and bottomlands cannot be “detached” or “severed” from the adjoining parcel or uplands. Both courts pointed out that, as a general rule, with some very limited exceptions, title to the riparian rights follows the shoreline and adjoining upland property. The courts confirmed that riparian rights generally cannot be severed from the riparian land, although a riparian landowner may grant a lake easement to non-riparian owners. The fact that an original federal land grant was involved did not matter, as state law will generally apply if the original grant from the federal government does not provide otherwise. R





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THE PERE MARQUETTE

DICK SCHWIKER | LAKE COUNTY RIVERSIDE PROPERTY OWNERS ASSOCIATION

The Pere Marquette River watershed is located in West-Central Michigan encompassing 755 square miles. The drainage area is roughly 42 miles east to west by 26 miles north to south, with 380 lineal miles of streams, tributaries, and feeder streams. From the eastern headwaters, the river covers 96 miles and falls 585 feet upon entering Lake Michigan at Ludington.

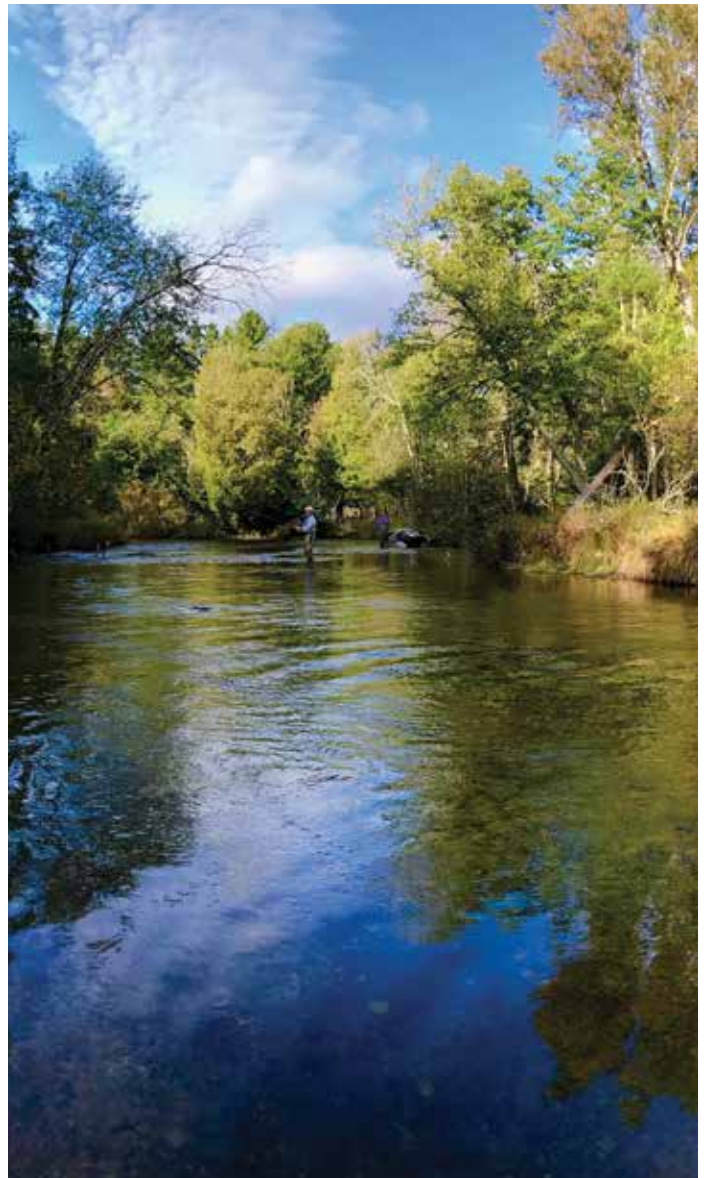
The river is named for the Jesuit missionary and explorer Jacques Marquette who died on the shores of Lake Michigan in 1675. Five major streams comprise the river system: the Baldwin River, the Middle Branch, the Little South Branch, the Big South Branch, and the Pere Marquette mainstem. The US Department of Agriculture and US Forest Service have designated the Pere Marquette River as a wild and scenic (recreational) river which limits development in favor of citizen enjoyment. The Michigan Department of

Natural Resources has designated the Pere Marquette River as one of the seventeen Michigan Natural Rivers, which controls zoning and development along the river. The State of Michigan also designates the river as a Blue Ribbon Trout Stream. The Pere Marquette River is the only free-flowing river in the entire Lake Michigan watershed, as there are no dams on the mainstem.

All rivers have a mainstem. The mainstem is usually the name of the river, but it also includes branches, tributaries, lakes, and swamps; all of which are collectively termed the watershed. Raindrops falling within the watershed here in Michigan have one outlet discharging into one of the Great Lakes. With the usual westerly winds, this causes the soft soil (sand in many cases) to erode along Michigan's west coast to form lakes known as "drowned mouth lakes" adjacent to the river's outlet. This combination of the flowing stream water



TE RIVER



and sheltered steady lake water draws numerous species of freshwater fish. But Pere (“Father”) Marquette most likely wasn’t here to go fishing. Nowadays, however, visitors travel many miles to fish the Pere Marquette River.

Brown trout, native to Germany, were brought here in milk cans via rail for planting. But a hot summer day in 1884 led to the decision to save the trout by emptying the milk cans into the Baldwin River from the railroad trestle just east of the village. Many voices were heard in protest claiming the new transports “were too tough to catch.”

With civilization came the opening of maritime transportation into the Great Lakes via the Erie Canal (Hudson River) and Welland Canal (Niagara Falls). This allowed access to all watersheds within the entire Great Lakes. Over time many unwanted species took the

“The Pere Marquette River is the only free-flowing river in the entire Lake Michigan watershed.”

(CONTINUED ON PAGE 14)



PERE MARQUETTE RIVER

(CONTINUED FROM PAGE 13)

opportunity to become permanently established within the Great Lakes basin. Among the more well-known nuisances are Eurasian watermilfoil and lamprey. To counter some of the invaders, in 1966 the MDNR introduced both Chinook (“King”) and coho salmon to northern Michigan’s rivers. These transplants now inhabit every river that has access to the big lakes. But the Pere Marquette, having no dams, is the sole watershed with access to its headwaters, providing numerous fish nurseries. The Pere Marquette has become the most productive river fishery with its German brown, steelhead, rainbow, and brook trout along with Chinook and coho salmon.

The Greek philosopher Heraclitus reportedly said, “You never step in the same river twice”. Rivers are constantly changing and you will always find some criticism; i.e. “too much sand in the river” or, conversely, “there’s not enough sand”. Most are opinionated disagreements. Each summer’s “aluminum hatch” is no longer solely canoes; as kayaks, paddleboards, drift boats, and inflatable rafts now predominate. Extensive use of US Forest Service lands lend to more and more trespassing, and the most recent menace is high water—overflowing banks, flooded roads, erosion, and beaches constantly changing.

It just goes to show that everyone in Michigan loves the water. Be it a small “crick”, a pond, a wading stream, our numerous inland lakes, navigable rivers, or our harbors and beaches along the Big Lakes’ coasts, we all love our water! *R.*



DON'T FORGET!



You can access Cliff Bloom's archives and previous issues of *The Michigan Riparian* magazine online. All articles and magazines from 1990 to 2018 are available at mi-riparian.org.


Log into the member section of the Michigan Lakes and Streams Association website, mymlsa.org/member-login/, to access this issue and all others dating back to 2019.


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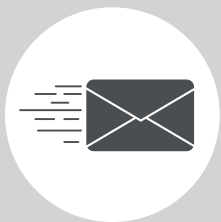
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EDENVILLE DAM FAILURE - NO LOSS OF LIFE, MANY LESSONS LEARNED

MARK TEICHER,
INSURANCE FOR ASSOCIATIONS

MATT MEERSMAN,
WORKING WITHIN THE WATERSHED

RALPH BEDNARZ (et al.),
VOLUNTEER MONITORING ON MICHIGAN INLAND LAKES AND STREAMS

TERESA SEIDEL,
EGLE AND AQUATIC INVASIVE SPECIES

THE LAKES MONITORING PROGRAM TRAINING WILL BE ON
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PROTECTING INLAND LAKES FOR FUTURE GENERATIONS:

THE MICHIGAN SHORELAND STEWARDS PROGRAM IS FIVE YEARS OLD THIS SPRING. HERE'S A LOOK BACK ON THE PROGRAM AND SOME OF ITS SUCCESSES SO FAR.

JEN DEMOSS | TIP OF THE MITT WATERSHED COUNCIL COMMUNICATIONS DIRECTOR

“Not everyone
can do everything,
but everyone can
do something for
the lake.”

Steve Stephens of Crystal Lake wants flowers to bloom on the property he shared with his wife Lynn for as much of the year as possible. “My wife loved that we could have flowers on the table from May to October,” he reminisced over the phone.

Stephens is a Shoreland Steward, a Crystal Lake & Watershed Association board member, and an advanced master gardener. True to his intention of protecting wildlife habitat, the list of perennials he tends is extensive: purple and yellow coneflowers, New Jersey tea, butterfly weed, blue-eyed grass, side-oats grama, prairie smoke, bottle gentian, Canada anemone, Joe Pye weed, boneset, common milkweed, swamp milkweed, prairie dock, hoary vervain, sedum, dogwoods, and more.

Stephens has been gardening since he could walk, and he learned to grow plants without extensive chemical use from his father. “When I grew up, we had fifty varieties of apples and my father refused to use chemicals on them besides whitewash at the base of the tree,” he remarked.





PHOTO CREDIT: MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY



His limited use of pesticides and fertilizers, along with other conservation practices, earned him a gold level Shoreland Steward score. The numerous geese that plague his other neighbors don't bother him anymore now that he's limited his open lawn space, and deeply rooted perennials help filter stormwater before it can flow into the lake.

"My father taught me to leave the place better than you found it, so I'm trying to do that," he said.

SHORELAND STEWARD FOUNDATIONS

The Michigan Shoreland Stewards program was founded to solve a problem. According to Julia Kirkwood, Senior Environmental Quality Analyst and chair of the Michigan Natural Shoreline Partnership, in 2016 when the program was founded, multiple lake organizations were struggling to implement their own stewardship programs. "It takes a lot of volunteer time and some groups didn't have capacity at the volunteer level," said Kirkwood.

(CONTINUED ON PAGE 20)



PROTECTING INLAND LAKES FOR FUTURE GENERATIONS

(CONTINUED FROM PAGE 19)

The MI Natural Shoreline Partnership wanted a stewardship program that was consistent across the state and protective of the lakes, and that would allow residents to enjoy their properties. The program also needed to provide flexibility for the many different lake and property shapes and sizes without being an exhaustive survey.

Jen Buchanan, Associate Director at Tip of the Mitt Watershed Council, agreed to be a lead partner in the program and help with funding and focus groups to test their ideas. Other partners included the Michigan Lakes and Streams Association, the MI Department of Natural Resources, Huron Pines, and many inland lake associations across Michigan.

Ed Hoogterp and Bob Kingon remember the early days of the focus groups. Hoogterp is now the Benzie County drain commissioner, but back then he was the president of the Crystal Lake & Watershed Association. “We wanted to provide our members with more expertise than we had,” he recalled. “We had a lot of admin and board members who are retired with a lot of care, but not a lot of experience with shoreline conservation.” Hoogterp, Kingon, and others attended meetings in Petoskey to try out the Shoreland



(CONTINUED ON PAGE 22)

LEGISLATIVE UPDATE

In the Winter 2021 issue, Cliff Bloom authored an Attorney Writes article regarding the possible extinguishment of deed restrictions/restrictive covenants by relatively new legislation and also the risk of a real estate property tax cap “pop-up” by transferring waterfront properties to a limited liability company. After the current issue of the magazine had already gone to press, the Michigan Legislature enacted (and the Governor signed, at the last moment) legislation extending the requirement for filing a Notice of Claim to preserve certain deed restrictions/restrictive covenants for another 3 years or until March 28, 2024. The new legislation can be found at MCL 565.103.

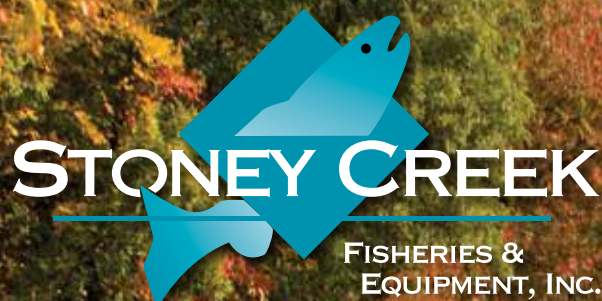
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PROTECTING INLAND LAKES FOR FUTURE GENERATIONS

(CONTINUED FROM PAGE 20)

Steward website and offer advice. Kingon, who is a director for the Elk-Skegemog Lakes Association, said he also identified “ambassadors” within his community charged with spreading the word about the program.

According to Kirkwood, over 1,100 inland lake property owners have taken the online Shoreland Stewards questionnaire, and 43% of respondents have registered. Of those registered, 74% qualified as Shoreland Stewards. To date, over 1,728 acres and 123,380 linear feet of shoreline have been protected by registered participants from 286 Michigan lakes.

The program has a five year goal of having 100 registered lake associations. Kirkwood mentioned that in the future, she’d like to see more folks using the wealth of materials available at the Shoreland Stewards website.

“I think because we created such a solid foundation, it’s been a success,” said Buchanan. “It’s just going to continue to grow.”

THE SURVEY

The survey for rating a shoreline property resides at mishorelandstewards.org. Shoreland Stewards can receive a bronze, silver, or gold level status, while someone whose property needs help to become more lake friendly will receive a “starter level” score.



I made up a property on Burt Lake with 100 feet of shoreline to try out the survey, and created an alternate persona. With over 75 percent of my imaginary property paved, a neglected septic system, and stormwater piped directly into the lake, I received a “starter level” score. When I answered the questions as the shoreline property owner I aspire to be, I got a “silver level” score.

There are more answers than questions within the survey. “It’s more of an educational push for us,” explained Kirkwood. On a page with a question about lawn vegetation cover, there are drop-down boxes that describe how trees and herbaceous plants prevent erosion and provide wildlife habitat. There are even links to websites about Michigan native plants. Rich resources and images are distributed throughout the survey.

Once a property has been assessed, homeowners can purchase a sign to display their stewardship level. That sign, and extensive beds of perennials, often cause passers-by to strike up conversation as they pass Stephens’ property. “Stop and smell the roses,” he encourages them.

DON'T MOW WHILE YOU'RE ON VACATION

Jill Baker is another gold level Shoreland Steward at Crystal Lake. Five generations of her family have enjoyed the lake, and preserving the natural elements of her property was always a priority. She is concerned about the future of Crystal Lake and wants to raise awareness about how development and other factors could cause problems down the road.

One concern is the use of rip rap or boulders on the shoreline, which cause erosion on neighboring properties. Little bluestem and other native plants keep her shoreline stable and are, as Baker noted, easier on the feet than rocks. Another concern is the use of pesticides and fertilizers. She has elected to forego the traditional Kentucky bluegrass lawn and allow shoreline plants free rein.

“Who wants to mow a lawn when you’re on vacation?” she asked. “All those fertilizers and chemicals go right into the lake, especially with the sandy soil we have here.”




Baker can recall the efforts that her grandparents and their neighbors put into maintaining the health of Crystal Lake for future generations. Fortunately, inland lake residents all over Michigan have a wealth of resources in the Shoreland Stewards program to help them do the same.

You can find these resources at www.mishorelandstewards.org. On the home page, you can find the link to rate your shoreline, with lots of information to help guide your answers. There's also a shoreland guide to explain the program and information on how to become a lake ambassador. The website www.mishorelinepartnership.org provides even more information and training for inland lake property owners.

Kirkwood has a favorite saying: "Not everyone can do everything, but everyone can do something for the lake." R


"The time to make preparations for a flood is **not** when it's raining."

- Tom Newhof, Co-founder



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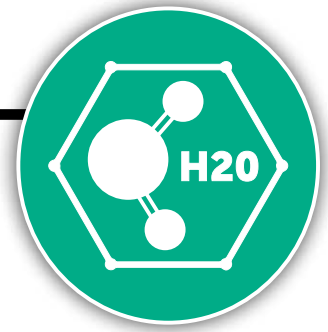
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ALUM TREATMENTS TO REDUCE INTERNAL PHOSPHORUS LOADING IN LAKES

TONY GROVES | WATER RESOURCES GROUP, PROGRESSIVE AE



Internal phosphorus loading occurs when deep waters in lakes become devoid of oxygen and phosphorus that has accumulated in sediments is released to the water column. This is a common occurrence in nutrient-enriched lakes. In some lakes, the release of accumulated phosphorus can greatly impact lake water quality. Much of the phosphorus that is released from sediments is dissolved phosphorus, a form readily available to stimulate algae growth. Yet, while internal phosphorus loading can have profound water quality impacts, it is often an overlooked source of phosphorus. However, in recent years, a better understanding of the importance of internal phosphorus loading has begun to emerge. Internal phosphorus loading has become the focus of many lake management projects and considerable research is being conducted to identify the best ways to mitigate and control internal phosphorus loading. Much of this research has focused on the use of the compound aluminum sulfate, commonly called “alum.”

Alum is a chemical that has been used successfully in many lakes to reduce phosphorus levels by preventing phosphorus release from lake sediments. Once applied, alum binds with phosphorus in the water column and settles to the bottom as a floc. The floc inhibits the release of phosphorus from lake sediments. Alum is commonly used to treat wastewater and drinking water and, over the last half-century, there have been hundreds of lake alum treatments.

The longevity of an alum treatment in reducing phosphorus levels is finite and dependent on several factors including alum dose, lake depth, and amount of phosphorus entering the lake from the watershed. In general, if properly dosed, the effectiveness of an alum treatment in reducing phosphorus levels is longer in deeper lakes with relatively small watersheds. In an analysis of data from 83 lakes treated with alum, Huser et al. (2015) found that alum treatments of deeper lakes were effective in reducing phosphorus for an average of 15 years. Similar results were documented on two Michigan lakes treated with alum. Byram Lake, a 133-acre lake located in Genesee County, was treated with alum in 1990. When comparing pre- and post-treatment water quality data, Byram Lake had significant reductions in phosphorus and algae growth and increased transparency 26 years after the treatment (Figure 1 and Table 1). Spring Lake, a 1,091-acre lake in Ottawa and Muskegon Counties, was treated with alum in 2005, and had similar, though less dramatic results, 15 years after treatment. Recent data for Spring Lake suggests the alum treatment in Spring Lake may be beginning to lose its effectiveness.

In addition to applying alum to prevent internal loading, known as an “inactivation treatment,” alum can be used to remove phosphorus from the water column and make it temporarily unavailable for algae growth. However, unlike phosphorus inactivation treatments, the effectiveness of phosphorus removal treatments is relatively short-lived, perhaps 1 to 3 years.

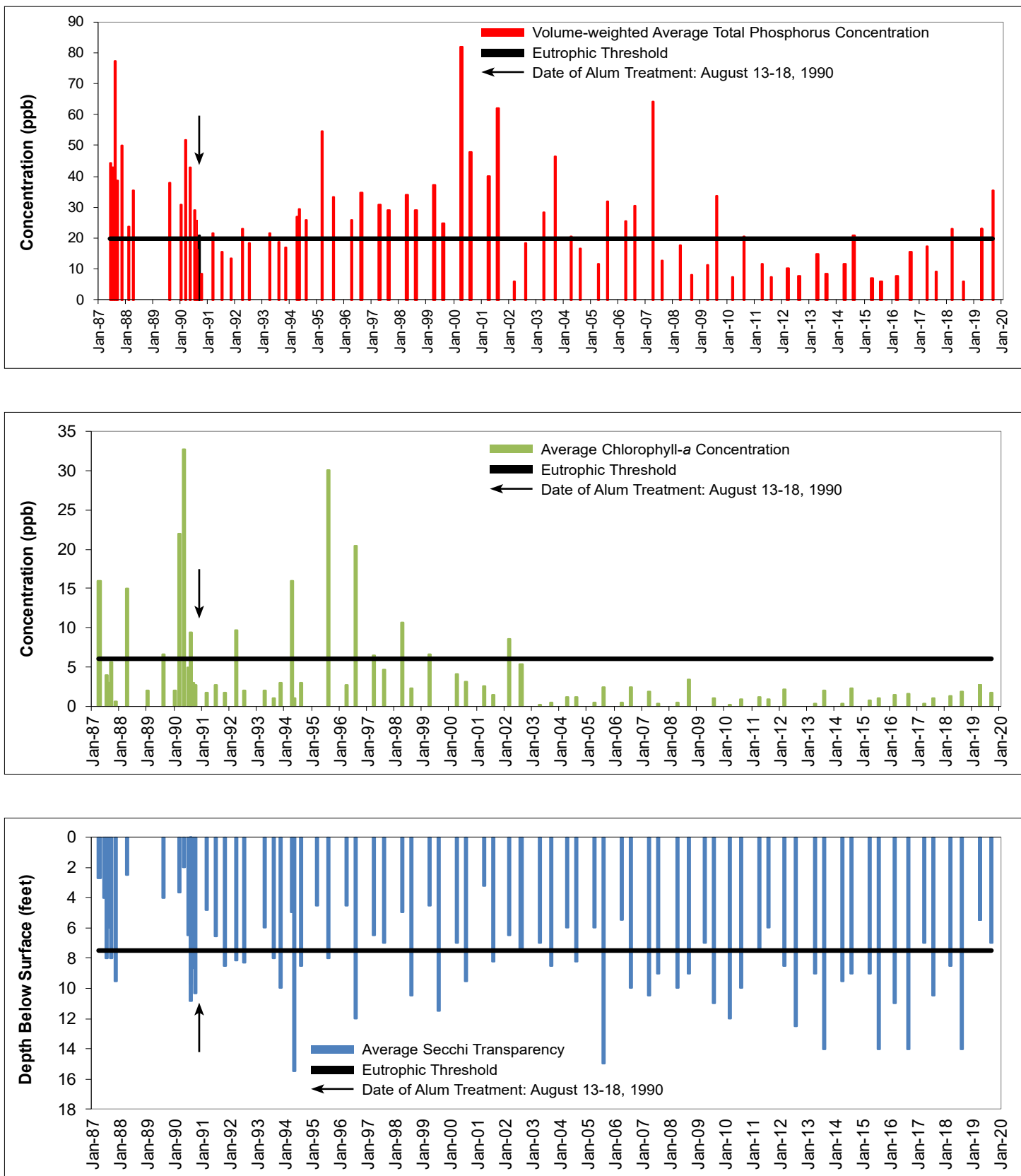


FIGURE 1. AVERAGE TOTAL PHOSPHORUS (TOP), CHLOROPHYLL-A (MIDDLE), AND SECCHI TRANSPARENCY (BOTTOM) MEASUREMENTS AT BYRAM LAKE, GENESEE COUNTY, 1987-2019 BEFORE AND AFTER AN ALUM TREATMENT.

ALUM TREATMENTS TO REDUCE INTERNAL PHOSPHORUS LOADING IN LAKES

(CONTINUED FROM PAGE 25)

Not all lakes are good candidates for an alum treatment and alum should not be viewed as a panacea. In fact, while internal loading occurs in many lakes, it often does not rise to a level that would warrant intervention. However, in some situations, internal loading can cause persistent water quality problems such as algae blooms. In some lakes, the magnitude of internal loading is so great that watershed management alone will not improve lake conditions. In these situations, an alum treatment may be worthy of consideration.

JAMES (2016) NOTED:

Simply reducing watershed phosphorus loading to eutrophic lakes without also managing internal phosphorus loading may not be enough to reverse impaired water quality. Even though internal phosphorus loading is ultimately derived from the watershed, it can take years to decades to flush sediment phosphorus out of the system after watershed best management practice implementation, resulting in delayed recovery and continued impairment.

TABLE 1. BYRAM LAKE PRE- AND POST-ALUM TREATMENT SUMMARY STATISTICS, 1987-2019

	Total Phosphorus (µg/L) ¹		Chlorophyll- <i>a</i> (µg/L) ¹		Secchi Transparency (feet)	
	Pre	Post	Pre	Post	Pre	Post
Mean	100	32	9	3	5.5	8.5
Standard deviation	109	33	11	5	2.5	2.7
Median	50	22	5	2	5.0	8.5
Minimum	14	5	0	0	2.0	3.2
Maximum	466	374	37	30	10.0	15.5
Number of samples	62	366	11	67	11	71

1 µg/L = micrograms per liter = parts per billion.

The optimum alum dose for a particular lake can be determined by collecting sediment cores, measuring the amount of available phosphorus in the upper sediment layer, and calculating the dose rate accordingly. Alum is typically applied at a certain dose over the deeper portions of the lake with a specialized application barge (Figure 2). If applied properly, alum should not adversely impact aquatic life.

In Michigan, the application of alum to surface waters requires a Rule 97 Certification of Approval from the Michigan Department of Environment, Great Lakes, and Energy. State approval would likely require monitoring of lake conditions before, during, and after the alum treatment.

To find out more about internal loading, visit www.michiganlakeinfo.com



FIGURE 2. ALUM APPLICATION BARGE.

Some practical considerations in evaluating an alum treatment include:

- Ample pre-treatment water quality data must be collected to document that internal loading is a problem and the extent to which an alum treatment may control internal loading and improve lake conditions.
- While alum is effective in controlling algae growth, rooted plants generally are not impacted since they are able to draw phosphorus from the lake bottom sediments.
- The potential benefits of an alum treatment (e.g., reduced phosphorus levels, less algae growth, improved transparency) must be compared to the financial costs and anticipated years of effectiveness.

Again, it is important to emphasize that alum should not be viewed as a cure-all. It is but one tool that can be used to restore water quality; alum should not be applied to the exclusion of other management alternatives such as the preservation and restoration of natural shoreline areas. As with any lake improvement technique, sufficient information must be gathered to evaluate effectiveness, technical feasibility, environmental impacts, regulatory requirements, and costs.

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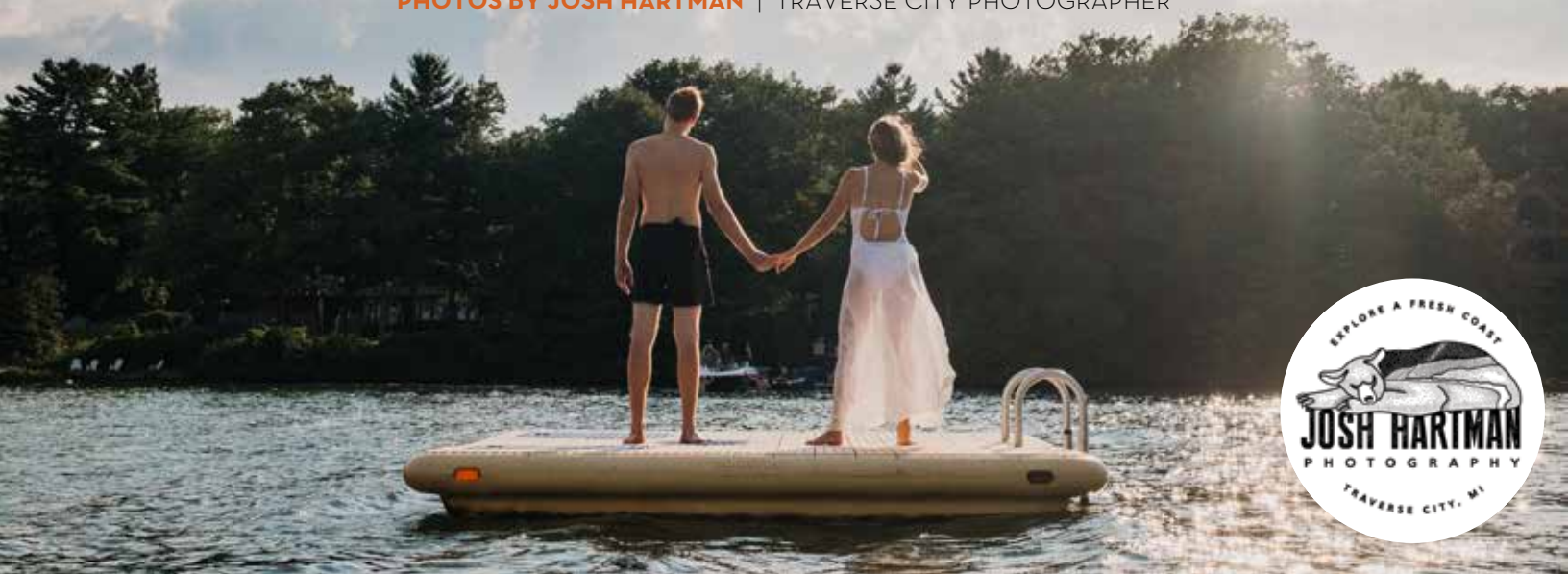
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Living through the COVID-19 pandemic during 2020 was hard in a lot of ways, but this is not a story of hardship. This is a story about happiness in an otherwise trying time. Josh Hartman is a Traverse City photographer who specializes in capturing elopements in Northern Michigan. Paige and Jerry are some of his clients who found the opportunity to start their lives together in a memorable way during a time when many couples have had to postpone or greatly alter their nuptial plans.

In an interview with the couple Josh asked, "What inspired you two to get married on Long Lake?" Paige and Jerry had this to say, "Jerry's grandma is the matriarch of the family. She brings the whole family together. Jerry spent much of his childhood at her house on Long Lake. Jerry is constantly promoting Northern Michigan as the best place in the world and early in his relationship with Paige, he shared his hometown with her. Paige has grown to love Traverse City; the water, the beautiful views of Sleeping Bear Dunes, and of course the amazing wine and beer scenes. Paige and Jerry plan on sharing this amazing place with all of their family and friends with a larger wedding celebration next year, but they still wanted to have a special day on what was supposed to be their wedding day. What better way to announce their love for each other than by being married by Jerry's grandma on Long Lake!" Best wishes to Paige and Jerry. For more of Josh's photography, visit joshhartmanphotography.com. R.



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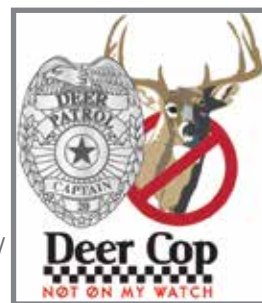
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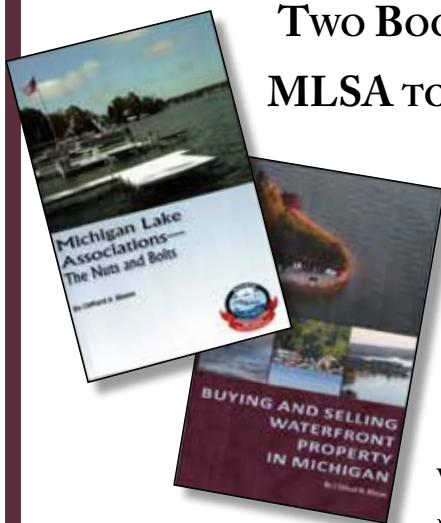
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KEEPING THE FAMILY COTTAGE:

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AMY R. JONKER | BLOOM SLUGGETT, PC GRAND RAPIDS, MICHIGAN WWW.BLOOMSLUGGETT.COM

Transferring the family cottage without careful planning can inadvertently lead to a big jump in property taxes. Waterfront properties have tended to increase in value more rapidly than non-waterfront properties. This is especially true now that Michigan's real estate market is so hot, causing waterfront property values to soar. Factor in unexpected COVID-related deaths, and you have a recipe for unexpectedly having to sell the family cottage due to sky-rocketing property taxes, or at least a monstrous, unforeseen, and potentially crippling property tax bill. Transferring a vacation home to a limited liability company (an "LLC") had been an estate planning tool and also a common way to try to avoid those unexpected property increases, but according to the Michigan Court of Appeals, that may no longer be an option.

Most cottage owners are familiar with Proposal A (adopted by Michigan voters in 1994), which states that the taxable value of a property (the amount on which a property owner pays property taxes) cannot increase from one year to the next by more than the rate of inflation or five percent—whichever is less—until there is a transfer of ownership. When there is a "transfer of ownership" to a new owner, the taxable value of the property is "uncapped" so that it increases to the state equalized value, which is supposed to represent 50 percent of the property's fair market value.

This means that when real estate markets are hot (fair market values are high and increasing quickly) and inflation is low (like it has been for some time now), property taxes increase gradually with inflation from year to year until there is a transfer of the property. Then the taxable value (which may be lower than the assessed or state equalized value) is uncapped and jumps up to reflect the current market value—and the new owner gets a whopper tax bill and will have to continue paying property taxes at that new higher rate. This is true even in some cases when it is transferred between family members—unless certain steps are taken to avoid this uncapping.

An uncapping event can be avoided if the proper procedure is utilized to put members of the immediate family on the deed or the property is transferred to the appropriate trust based upon the advice of an expert estate planning attorney or other qualified professional. However, if the proper process is not utilized, an uncapping event could occur.

Michigan cottage owners have often transferred their vacation homes to limited liability companies while they are alive to allow for a smooth transfer of the property to their children later and to avert an uncapping of property taxes that could cause the children to lose the family cottage. While this used to be considered a solid transfer plan for a family cottage, the Court of Appeals shot that down in *Scott v South Haven*.

In that case, the cottage owner transferred her cottage from herself to an LLC. Ms. Scott was the only member of the LLC. Several years later, she had the LLC transfer the cottage back to herself. The city of South Haven dubbed the transfer from the LLC to Ms. Scott a transfer of ownership that uncapped the taxable value of the property despite Ms. Scott having been the only actual beneficiary of the transfer for both sides of the transaction. Ms. Scott contested the uncapping, but the tax tribunal affirmed it. She then appealed the tribunal's ruling to the Michigan Court of Appeals, but it held that because she owned the cottage for personal use and the LLC did not conduct any business, it did not qualify as a "legal entity". Accordingly, the transfer was subject to uncapping. The Michigan Supreme Court declined to review the Court of Appeals' ruling, so the Court of Appeals decision is final.

While the Court of Appeals' decision is unpublished (meaning it does not formally set a precedent that other courts must follow), it is a strong guideline for the pitfalls of an uncapping event. For further guidance on how to avoid property tax uncapping in the event of a transfer, please contact an experienced estate planning or real estate attorney. *R.*

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