

Beach access: Should the Great Lakes shore be open to all?

POINT POINT



Larry Mitchell, Sr., is president of the League of Ohio Sportsmen, the Ohio affiliate of the National Wildlife Federation.

Larry Mitchell, Sr., League of Ohio Sportsmen

“You don’t belong here.”

That is a common refrain from landowners who have decided that the beaches of the Great Lakes are theirs alone.

Across the Great Lakes states there is a growing movement to add an “admission charge” to the beaches of the lakes. The charge is land ownership, and very few citizens will be fortunate enough to enjoy what is truly theirs.

From the founding of our country, the shores and waters of the Great Lakes have been in the public trust. In this area – codified in federal law as the beach below the ordinary high water mark – the general public has had the right to walk, fish, birdwatch and enjoy the Great Lakes for more than 200 years.

But now, in this period of low water levels, some landowners – and developers – want to use the public trust lands to extend their prop-

erties. To build exclusive developments where the general public is neither welcome nor wanted. To “groom” the beaches and get rid of the “weeds.” To destroy the critical habitat that is the nesting grounds for waterfowl today and will be our fisheries when the waters rise again.

Protecting the Public Trust is not only about walking the beach. It’s about protecting the habitat that is exposed today. Taxpayers have spent millions of dollars to restore these critical habitats for both fish and waterfowl, money that will be wasted if they are given to private landowners. And these critical habitats will be in great danger of destruction.

It is time for both sportsmen and the general public to stand up and demand that the public trust and its critical habitats be protected – for us, for our children and grandchildren.

counterpoint



Diane Katz is director of science, environment and technology policy for the Mackinac Center for Public Policy, a research and educational institute in Midland, Mich.

Diane Katz, Mackinac Center for Public Policy

Great Lakes devotees have nothing to fear from legislative and judicial efforts to protect property rights along the water’s edge. Private ownership of land yields greater environmental, economic and social benefits than government control.

Both Michigan and Ohio have lately debated whether the public can demand access to shoreline exposed by low lake levels adjoining private property. The Michigan Court of Appeals in *Glass v. Goeckel* upheld legal precedent in recognizing “the exclusive right [of property owners] to the use and enjoyment of the land that, once submerged, has now become exposed by receding waters.” In Ohio, legislation approved by the state House and pending in the Senate would likewise affirm the rights of owners to control access to their beach property.

The Michigan decision is under appeal, while the outcome in Ohio is uncertain. But the essence of the riparian rights tradition in both states is a property owner’s exclusive access to water. State control is rightly limited to submerged lands for

purposes of protecting navigation.

This position is consistent with numerous legal opinions dating as far back as 1896 and as recently as 1994. Moreover, both the ruling and the Ohio legislation are compatible with laws in neighboring states as well as in Delaware, Maine, Massachusetts, New Hampshire, Pennsylvania, Virginia and Wisconsin.

The public can still enjoy strolling our beloved beaches. As the Michigan Court of Appeals noted, “The state has several means available to it in order to preserve Great Lakes beaches for public use without interfering with a riparian owner’s property rights.”

There is ample evidence that property owners are superior stewards. Unlike government, property owners have a direct stake in protecting their investment. Collectivism, on the other hand, has repeatedly wrought environmental ruin.

Even if the state proved to be a faultless caretaker, citizens benefit more from privately held property. As John Adams said, “Property must be secured or liberty cannot exist.”

The views expressed are those of the authors or the organizations they represent alone and do not necessarily reflect those of the Great Lakes Commission or its member jurisdictions.