



# Great Lakes Region Report

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# Illinois

In July 2005 the IDNR/OWR placed a moratorium on private shore protection projects in Lake Michigan.

IDNR/OWR convened a technical/scientific advisory group to discuss the effects of private shore protection projects on the shore and bed of Lake Michigan.

Moratorium lifted in January 2008 and resulted in permitting guidelines for construction on Lake Michigan.

Construction in Lake Michigan is permitted using the IDNR's Part 3704 Rules "Regulation of Public Waters" and its recently created Guidelines for Shore Protection Projects in Lake Michigan.

# Illinois Con't

- Increasing the timeframe and scope of the public notice period.
- Requiring before and after construction surveys on projects extending into the bed of Lake Michigan.
- Projects involving shore-perpendicular or offshore structures should utilize qualified professionals with coastal expertise.
- Requiring a written explanation concerning the need for the proposed project.

# Illinois con't

- Requiring shore protection projects in Lake Michigan to be of similar size to other projects in the area.
- Requiring wave and littoral drift analysis on projects proposed for areas where no offshore projects currently exist, or when a project exceeds the size of structures in the area.
- Recommending that private shore protection projects provide some type of access over or around the proposed project













# **New York**

**New York State is developing an Ecosystem Based Management Plan. In 2007 the Legislature passed the "New York Ocean and Great Lakes Ecosystem Conservation Act". Nine State Agencies have been working to develop a plan that will be presented to the Legislature in November.**

# **New York**

**Cultural Resources- Legislature passed Chapter 593 of the Laws of 2008 which enhances the salvage of archeological and or paleontological objects and increased the penalty to a class "A" misdemeanor.**

**trust by the State.**

An aerial photograph of Lake Erie, showing the vast expanse of blue water and a clear blue sky with light, wispy clouds. The text is centered over the middle of the image.

# Lake Erie Wind Energy Facilities in Ohio

# Background Information

- Ohio Wind Working Group's Environmental Action Team developed voluntary cooperative agreement between ODNR and developers to aid in environmentally responsible siting of wind turbine facilities
  - Cooperators agree to standard monitoring protocols and review methods as they apply to birds and bats throughout lifetime of wind power projects. ODNR and Cooperator agree to sharing of all information concerning wildlife and possible adverse impacts.

# Background Information cont'd.

- ODNR's Office of Coastal Management begins drafting new Ohio Administrative Code Rules for the leasing of submerged lands for Lake Erie Wind Energy Facilities
  - Based upon current draft OAC rules for submerged lands leases; tailored to address unique aspects of wind turbines

# What's Next?

- October, 2008 – Draft Lake Erie Wind Energy Facility Rules to undergo internal review and comments
- November, 2008 – Draft Lake Erie Wind Energy Facility Rules submitted to Coastal Resources Advisory Council and Ohio Wind Working Group for review and comments
- 2009 – Public Meetings to roll out new draft rules
- Submission of new rules to Joint Committee on Agency Rule Review

# Issues Under Consideration

- Potential effects to archeological (e.g., shipwrecks) and commercially sensitive (e.g., commercial fishing areas, shipping/navigational channels) areas
  - Should wind turbines be permitted to occupy these areas?
- Required environmental studies to assess impacts on avian and fishery habitat

# Issues, cont'd.

- Upland ownership issues
- Multiple applicants for overlapping areas within Public Trust
- Water dependency criteria
- Duty to develop
- Royalties/rental fees

# Issues, cont'd.

- Wind turbine siting
  - How will siting be determined?
  - Based upon production capacity?
- Possible permit for feasibility study period, then conversion to submerged land lease
- Local municipalities and villages and their role (i.e., resolution)

# Issues, cont'd.

- Coordination with other agencies:
  - United States Army Corp of Engineers
  - Federal Aviation Agency
  - United States Environmental Protection Agency
  - US Coast Guard
  - Ohio Environmental Protection Agency
  - Ohio Office of Aviation
  - ODNR's Division of Watercraft
  - ODNR's Division of Wildlife
  - Ohio Power Siting Board (over 5 MW)
  - Public Utilities Commission (over 50 MW)

# Open Water Disposal of Dredged Material

- Ohio is proposing to limit open water disposal of dredged material in Lake Erie to a maximum of 50,000 cubic yards per applicant per twelve month period effective 2011
- Previously issued Section 401 cert to USACE to phase out open water disposal from Toledo Channel by 2013
- Currently USACE disposes up to 800,000 cubic yards from Toledo Channel offshore – 1 mile from Michigan line

# New Regulatory Policy Regarding Coastal Land Management

- The State and ODNR have argued that the lands along the shores of Lake Erie up to the "Ordinary High Water Mark" (OHWM) are lands held in trust by the State of Ohio on behalf of its people.

As a result of lawsuit regarding the ownership and management of property along the shores of Lake Erie, Governor's policy reinforces that apparently valid real property deeds must be honored unless a court of law determines that the deeds are limited by or subject to the public's interest in those lands or are otherwise defective and/or unenforceable.

Construction activities along the shores of Lake Erie that could or would impact coastal lands will no longer be required to obtain leases for the submerged lands within their deeds which are beneath such structures, but will be obligated to obtain appropriate permits from ODNR's Office of Coastal Management before commencing any such construction.

# Ontario

**Ontario lifted moratorium on offshore wind energy development and is reviewing several applications**

# **Wisconsin**

**Wisconsin Public Service  
Commission issued draft offshore  
wind energy potential report and  
is currently seeking public  
comment through November 10,  
2008**

# Michigan Public Access

- 2005 Supreme Court case decided the public has the right of walking the beaches between the natural ordinary high water mark and water's edge
- Cannot sunbathe, picnic, camp, etc.
- Property owners hold title according to deed – generally to the water's edge

# Copper Stamp Sands

- The Keweenaw Peninsula was home to the world's most abundant deposits of pure, elemental copper.
- Over the past 150 years, copper mining resulted in the accumulation of approximately 33 million cubic yards of stamp sand – essentially waste rock crushed and separated from the higher grade copper ore – which was deposited onto 250 acres of Lake Superior bottomlands

# Copper Stamp Sands

- DEQ has been contacted by a firm proposing to process stamp sand and market this material for use in the manufacture of roofing products – mainly asphalt roof granules
- Company claims the material requires little processing, as it is similar in size and composition to current roofing granules
- In addition, the stamp sand has a small amount of elemental copper, which has proven to be an algaecide.









**Michigan Offshore Great  
Lakes Wind Turbine Siting  
Permitting Dry Run**

**02/08/2008**

# RECOMMENDATIONS

**Establish an offshore wind-energy technical-siting council that would identify criteria for mapping the least favorable development areas (“categorical exclusion areas) and most favorable development areas (best potential areas)**

**Develop a handbook describing the process that will be used to engage all Michigan stakeholders in wind-energy development.**

# RECOMMENDATIONS CON'T

Enact legislation that would:

- authorize offshore leasing by non-riparian property owners
- determine how the public will be compensated for wind farm lakebed occupation – fees, habitat mitigation, etc.
- establish permitting criteria – fish/wildlife impacts, bottom surveys, decommissioning etc.

- **It should also be noted that the dry run was not designed to evaluate either the economic viability of the hypothetical fields or the viability of Michigan's offshore development public engagement mechanisms.**
- **These will be tested when the marketplace for offshore wind ripens.**