RECENT EVENTS
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In the November, 2004 issue of *The Riparian,* I reported on a Michigan Court of Appeals decision which decisively upheld a township's anti-funneling regulations. However, at the time when the court opinion was issued, it was an unpublished opinion and was not binding precedent. Recently, however, the Court of Appeals ordered that the opinion in that case of *Yankee Springs Township* v *Fox* (Case No. 249045) be published, such that it is now binding precedent throughout Michigan. Accordingly, if a riparian property owner or lake association is trying to prompt a reluctant municipality to enact anti-funneling regulations, the *Yankee Springs Township* decision (as well as the earlier Michigan Supreme Court decision in *Hess* v *West Bloomfield Township*, 439 Mich 550 (1992)) can be cited to support the validity of anti-funneling regulations.

Unfortunately, the Michigan Legislature did not adopt House Bill 4141 before the legislative session ended this past December. That bill would have made misuse of public road ends at lakes (whether by installing unauthorized dockage, leaving or mooring boats overnight, and similar prohibited activities) a state offense, pursuant to which any sheriff deputy or other police official could write a ticket. Storing or mooring boats, installing shorestations, and similar activities at public road ends is generally not permissible under civil law, and normally requires a private civil lawsuit to remedy the situation. HB 4141 would have streamlined the enforcement process by authorizing prosecutions through the criminal justice system.

A small number of backlot property owners (many of whom favor floating private marinas at public road ends and often advocate the private appropriation of these public properties by a few backlot individuals) were able to lobby and confuse matters so much that HB 4141 was not be enacted during this past legislative session. Even though this common-sense legislation was supported by such respected and diverse groups as the Michigan Lake & Stream Associations, Inc., the Michigan Townships Association, Michigan United Conservation Clubs, the state of Michigan, the Michigan Waterfront Alliance, and other groups, a small group of self-interested backlotters was able to derail the legislation by playing upon some legislators' sympathies and making rather silly arguments. In fact, the backlot owners groups even tried to have inserted into the proposed legislation a "grandparent" clause which would have given those who improperly took over the road ends in the past exclusive privileges to continue to do so in the future! It is not clear whether a similar bill will be introduced again in the future or whether this matter will be left to the courts to shut down improper activities at public road ends on a case-by-case basis.

An important published decision was issued by the Michigan Court of Appeals on December 7, 2004, in the case of *Glen Lake-Crystal River Watershed Riparians* v *Glen Lake Ass'n* (Case No. 248580). The case dealt with important issues regarding the level of Glen Lake, the Inland Lake Level part of the Natural Resources and Environmental Protection Act, water flowage to the Crystal River, and other issues.

Finally, the Michigan Court of Appeals in its unpublished decision in *Czeryba* v *Marzolo* (Case No. 246955, decided November 2, 2004), once again confirmed that an easement which merely grants access to a lake does not encompass the right for a backlot owner to construct and maintain a dock and boat lifts at the easement or to moor boats at the easement. The court also discussed whether or not the original scope of the easement rights could be exceeded due to prescriptive easement claims.