

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
Northern Division

GREAT LAKES EXPLORATION
GROUP LLC

Plaintiff

Civil Action No. 1:04-CV-375

v.

HON. ROBERT HOLMES BELL

The Unidentified, Wrecked and (For
Salvage-Right Purposes), Abandoned
Sailing Vessel, her tackle, apparel,
appurtenances, cargo, etc. located
within a circle having a radius of 3.5
statute miles, whose center point is at
coordinates 45° 32.8' North latitude and
86° 41.5' West longitude,

In Rem

Defendant.

and

MICHIGAN DEPARTMENT OF HISTORY,
ARTS AND LIBRARIES AND MICHIGAN
DEPARTMENT OF ENVIRONMENTAL
QUALITY,

Intervening Defendants

AFFIDAVIT OF THOMAS P. GRAF IN
SUPPORT OF MOTION TO DISMISS

STATE OF MICHIGAN)
)
COUNTY OF INGHAM)

Now comes Thomas P. Graf, and being first duly sworn, states:

1. I am employed by the State of Michigan, Department of Environmental Quality, where I am responsible for administering the State of Michigan Great Lakes Submerged Lands management program.

2. My duties with the Department include review of permit applications to dredge, remove material, fill, alter or modify Great Lakes bottomlands, which are required by Part 325, "Great Lakes Submerged Lands," MCL 325.32501, *et seq.*, of the Natural Resources and Environmental Protection Act (NREPA), MCL 324.101, *et seq.*, and by Michigan Administrative Code, R 322.1001, *et seq.*

3. My duties with the Department also include co-administration of Part 761, "Aboriginal Records and Antiquities," of NREPA, Michigan's submerged cultural resources program, coordinating with the Department of History, Arts and Libraries, Office of State Archaeologist. In this capacity, I evaluate impacts of proposed recovery activities on shipwreck sites through an underwater salvage permit application review process.

4. I have reviewed the amended complaint filed in this action and I am familiar with the civil action brought by Fairport International Exploration, Inc. concerning the Captain Lawrence, WDMI # 94-00164.

5. Attached as Exhibit A is a copy of a portion of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration National Ocean Survey nautical chart #1409 for northern Lake Michigan in the vicinity of Poverty Island. On it I have drawn a large circle to represent at map scale the location of the unknown vessel, as alleged in the complaint in the present action. I have also drawn a smaller circle at map scale to represent the purported location of the Captain Lawrence, as described in the earlier litigation.

6. The Lake Michigan bottomlands within the area described by the complaint were not patented by the United States before statehood, and Michigan claims them as state lands from the time of statehood.

7. Neither Plaintiff, Great Lakes Exploration Group LLC, nor Steve Libert nor any recognizable representative of the Chicago Field Museum has requested a permit to dredge, remove or place any material on or within Lake Michigan bottomlands, nor has any such person requested a permit to recover any abandoned property associated with any shipwreck in the described location.

FURTHER, AFFIANT SAYETH NOT.

_____/s/_____
Thomas P. Graf

Subscribed and sworn to before me
this _____ day of _____, 2004

_____/s/_____

_____, County, Michigan
My Commission Expires: _____

s:nrd/ac/cases/open/great lakes exploration 04ag/AFFIDAVIT GRAF