

## Summer 2010 Newsletter Article “US Supreme Court Upholds Beach Preservation” (continued)

The Florida Beach Preservation Act was upheld and the constitutionality of beach nourishment validated. The issue was argued orally in December 2009 in the case of Stop the Beach Renourishment v. Florida (08-1151). The decision supports Captiva’s rights to continue its beach nourishment practices. For detailed links to case articles, contact CEPD.

Florida’s Beach and Shore Preservation Act (BSPA) [<http://tr.im/cepdbpa>] empowers the Department of Environmental Protection (DEP) to set seaward beachfront property lines, Erosion Control Lines (ECL), for nourishment projects. Our ECL was set on Captiva’s beach at the old pre nourishment High Water Mark (HWM) in the late 1980’s— where the mean high tide peaked landward prior to the first island-wide renourishment. Sand accreting on the beach extends the publicly owned beaches seaward but will continue to have no effect on private property access to the water. As nourishment projects restore eroding beaches, BSPA legislation reset property lines to fixed ECLs. Historically on Captiva, the public could legally walk only on the wet sand (seaward of HWM) until the 1980’s, when the BSPA re-set the property lines of beachfront properties to the afore-mentioned ECL. The SCOTUS upholds the BSPA and continues to allow the public to walk on dry sand between the HWM and the fixed ECL or private property lines.

### Issues Still of Concern to Captiva

*Should the CEPD beach nourishments continue?*

*Will our beaches face an accelerated and critical state of erosion?*

*How much ancillary government funding for CEPD is achievable in the future?*

*What will be the effect of the BP oil spill?*

The reason we nourish with beach-compatible sand from offshore “borrow areas” is that beaches erode severely during storms, and routinely due to inlets’ hydrology and other natural and man-made causes. Erosion has long threatened Captiva’s beach and without our beaches and dunes, Captiva’s survival is also threatened. Severe erosion confounded Captivans for years and the beach was officially designated as critically eroded. Also for years, Captivans were divided over which approaches to take. However, in the 1980’s Captivans reached consensus and for over 25 years the CEPD has repeatedly demonstrated that beach nourishment prevails as the effective solution. Consequently, nourishment is critical to beach survival.



‘Tween Waters Inn Before and After Renourishment