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Libert closer to identifying ship wreckage he believes is Le Griffon

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By Benjamin Gohs Courier Editor

Wednesday, June 11, 2008 10:28 AM EDT

After years of legal wrangling over salvage rights to what may be a 17th century ship, explorer Steve Libert now has at least some assurance Michigan officials will not swoop in and pilfer 28 years of sweat equity and intellectual property.

Libert's Great Lakes Exploration Group (GLEG) won this most recent battle following the April 22 opinion of the U.S. Sixth District Court of Appeals of Cincinnati, Ohio, demanding the Michigan U.S. Western District Court, Southern Division to correct its mid-March decision not to issue an admiralty arrest to Libert's GLEG, the lower court has issued the arrest.

"The court shall issue a conditional warrant for the arrest of defendant unidentified, wrecked, and, for salvage-right purposes, abandoned sailing vessel," stated Chief United States District Judge Robert Holmes Bell in the June 2 filing. "Upon the Marshal's execution of the arrest warrant the Court SHALL have jurisdiction over Defendant and no person shall seize, remove, take physical possession of, or otherwise disturb Defendant without prior authorization from the Court."

The justice further stated that GLEG, "Shall disclose to Intervenor Michigan Department of Environmental Quality (MDEQ) and Michigan Department of History, Arts, and

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Libraries (DHAL) the precise location of Defendant."

According to Libert's attorney Richard Robol this was a necessary victory in the fight to identify the wreck his client believes to be Le Griffon.

"This is an historic victory, but it is not simply a victory for Great Lakes Exploration," he stated in an e-mailed response to questions. "It is a victory for the future exploration of the Great Lakes."

He added, "Great Lakes Exploration has been fighting to have the federal court issue the warrant of arrest since ... the suit was first filed over four years ago."

Though weary of the seemingly never-ending court battles with the State of Michigan, Libert was pleased with the most recent ruling in the hunt for what he believes is a ship built by Rene-Robert Sieur de La Salle, a man instrumental in securing the territory which would later become part of the Louisiana Purchase, which was lost sometime in autumn of 1679 most likely somewhere in Lake Michigan.

"That's exactly why we appealed," he said. "We have asked the federal courts to protect our rights and the interests of all concerned."

While Libert's main focus is retaining some rights to identify, record and document the potential gem of Lake Michigan, he is also concerned as a Charlevoix homeowner and taxpayer.

"It is not a question of money, per se, but the Attorney General resources defending the state's interest," stated Rusty Hills, Director of Communications with the Michigan State Attorney General's Office in an e-mailed response to questions. "Approximately 1,200 (to) 1,500 hours of attorney time have been devoted to the matter."

In e-mailed responses to questions, Libert wants to know why the State of Michigan "invested in such expensive legal proceedings when the identity of the site has never been scientifically established. To many involved in this professional field, their legal arguments seemed to indicate that the State of Michigan was claiming title and management authority over any shipwrecks on state bottomlands, submerged lands, whether a vessel proved to be abandoned or not."

He added, "The state's interests would have been much better served without such ill-conceived legal actions. The State of Michigan has spared no expense fighting our small, entrepreneurial company."

Libert feels the state's position that "the State has title to abandoned property in its bottomlands. If it's the Griffon, we believe it is abandoned. France has not made any claim at this point, and is presumably embedded in the bottomlands."

Hills also stated that Michigan has a right to any information GLEG has in addition to the right to investigate the wreck and defend claims to wrecks on its bottomlands.

"This political position, of course, is inconsistent with federal law and the current opinions of case law. Instead, it made more sense for the State of Michigan to cooperate with GLEG on establishing the identity of the site before wasting its limited public funds on the more complicated and future questions of title," Libert stated. "As in the past, the State is trying, after



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the fact, to justify its continuing waste of taxpayer's money. Great Lakes Exploration has always stated that it would provide the location of the shipwreck site once the vessel was arrested and placed under federal jurisdiction."

Hills' response follows public outcry after an opinion column in the May 14 edition of Charlevoix Courier chastised the State of Michigan for failing to address questions posed to it.

"DHAL and MDEQ are authorized under state law to enter into agreements with private parties for the exploration of wrecks and other items on state bottomlands. The agencies are and have been willing to enter into an agreement to jointly explore the wreck," Hills stated. "But, GLEG has demanded the recognition of its exclusive "right" to the data, video, information, etcetera from exploring. Again, if this is the Griffon, it is abandoned and embedded, and those rights belong to the State.

While Libert continues to cite the Abandoned Shipwreck Act of 1987, which states abandonment and embeddedness, and potentially eligibility to be listed in the National Register of Historical Places, must be proved to "exert actual title and management authority over a shipwreck," state officials are confident they will prevail.

"If it is the Griffon, it is a part of the state's and France's history," Hills stated. "The State, subject to any interest or claim by France, should be controlling any investigation, retain title to the wreck and any artifacts, and decide what happens with any information gathered."

Libert said foreign states have not yet interceded because it is too early for such a move.

"Why would they (France) make any claims to title until the identity of the site is scientifically established? I am sure that their legal counsels view such claims as premature and not consistent with the procedures of admiralty law," Libert stated. "Under federal admiralty law, the State of Michigan might have the right to review certain information that 'would allow the state to investigate the wreck and defend claims to wrecks on its bottomlands,' but not any information. In addition, the State of Michigan would not secure ownership rights to such information provided by GLEG."

He added, "All we have ever wanted are the fruits of our labors. We invested our time, our money and our research. More importantly, we risked our lives at sea month after month, year after year: 28 to be exact. We found the shipwreck; The State of Michigan did nothing."

Robol added that Great Lakes Exploration hopes the State of Michigan will now abide by the law.

"Great Lakes Exploration has extended the olive branch to the State of Michigan and has invited the state to participate in a cooperative investigation of the shipwreck, along with expert scientists and archaeologists from France, Canada and the company's own team of experts," he stated. "We are hopeful that the state will take a new direction and will work cooperatively with all involved."

Great Lakes Exploration must now work with the U.S. Marshal's Service to ensure the arrest complies with the law.

For more information about the La Salle - Griffon Project, visit www.lasalle-griffon.org.

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