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Grooming beach case dismissed

Friday, May 23, 2003

THE ASSOCIATED PRESS

CASEVILLE -- At the recommendation of the U.S. Department of Justice and the Army Corps of Engineers, a federal judge has dismissed a government lawsuit filed against a couple who groomed their Saginaw Bay beach two years ago.

"We're happy to have that 800-pound gorilla off our back," Herb Kincaid said. "Now, Marion and I can go back to a somewhat normal life. I can't even tell you how happy we are."

The federal government sued Herb and Marion Kincaid last year, claiming they violated the Clean Water Act when they had the sand on their Caseville beach leveled out by a machine.

Government attorneys had warned the couple they could face fines of up to \$25,000 per day for each day the sand was moved and not put back.

Intervention by Thomas Magness, commander of the Corps' district office in Detroit, led U.S. District Judge David Lawson to dismiss the lawsuit, said Geneva Halliday, an assistant U.S. attorney.

"Col. Magness asked the Department of Justice to dismiss the case," Halliday said. "He felt the Kincaids weren't going to violate in the future, and he said all he ever wanted was compliance."

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The Kincaids have insisted they did nothing wrong.

"We believe the government decided to dismiss the case because they could not prove the allegations that they had made," said their Bay City attorney, Jonathan Martin. t

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