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When the Lake Michigan Federation issued its report *Vanishing Lake Michigan Sand Dunes: Threats from Mining*, the Michigan Department of Environmental Quality (DEQ) issued a press release defending its actions and the mining of the dunes. The document was misleading and inaccurate. We have included the complete press release in the left column. The right hand column is our response to the DEQ press release, point by point based on Preserve the Dunes' (PTD) own observations and experience trying to get the DEQ to enforce the sand dune mining law.

FOR IMMEDIATE RELEASE
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STATE OF MICHIGAN

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Sand dune mining in Michigan is a tightly regulated and important activity despite an environmental group's claims, Department of Environmental Quality Director Russell Harding said today.

A report by the Lake Michigan Federation urges a blanket prohibition of all dune mining. The report is flawed by numerous inaccuracies and lacks the proper historical perspective, according to Harding.

"Sand dune mining has long been an issue in Michigan," Harding said. "Our dunes are highly prized for their scenic beauty and recreational value, yet the sand also is a unique resource used in the foundry industry. The question as to whether mining should be allowed was played out in the Legislature in 1976. Without a doubt, the Legislature's intent was to permit mining with stringent oversight. That is the policy which Michigan operates under today.

The 1976 debate resulted in passage of the Sand Dune Protection and Management Act, now Part 637 of the Natural Resources and Environmental Protection Act. It imposed tight restrictions on mining, requiring 15-year mining plans, detailed permit applications, and environmental impact statements before issuance of a permit.

The act was amended in 1989 to prohibit mining of "critical dunes," or dunes that are immedi-

The DEQ is lax in its enforcement of sand dune mining despite Mr. Harding's claims to the contrary. Their press release is misleading and inaccurate.

The destruction of the dunes by sand dune mining is being monitored by just two individuals within the DEQ. When these dunes are gone, they are gone forever.

There is no stringent oversight of sand dune mining. PTD documented numerous violations at several mines, including failure to reclaim according to the mining and reclamation plan, use of reclaimed areas for mining activities, inadequate fencing and signage, premature stripping of vegetation and topsoil, *de facto* expansion of the Plant Site by over 50% and dredging a 25 acre lake without a permit. The law is not being strictly enforced.

15 year mining plans are never updated even when a mine is sold or when a permit is amended. Environmental impact statements identify destruction of the environment but always conclude that there is no way to avoid the destruction. This reasoning has always been accepted by the DEQ.

PTD has filed a lawsuit against the DEQ and a mine operator in Berrien County Trial Court that

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ately adjacent to the shoreline and have a unique value. An exception is made where a mining company owns property adjacent to the critical dune and already was conducting mining operations there.

Dune sand is composed almost entirely of silica, which is able to withstand high temperatures. The sand particles are well-rounded, of uniform grain size, and free of impurities. Because of these properties, dune sand is uniquely suited for making molds for the sand casting of metal parts. Michigan sand dunes provide more than 30 percent of the nation's foundry sand and more than 90 percent of the foundry sand used in the automobile industry.

In contrast, sand deposited by glacial ice or by rivers is not suitable for foundry moldings since it is made of a variety of minerals which are not heat-resistant, contain impurities, and have sand grains that are irregular in size and shape.

The Lake Michigan Federation report erroneously claims that mining has dramatically increased since 1976 and that the dunes are rapidly being mined away. In fact, the volume of sand mined has declined from 6 million tons in 1975 to 2.5 million tons last year.

The entire sand dune mining industry in Michigan currently has rights to mine about 5,000 acres of designated dunes. Of those 5,000 acres, fewer than 1,600 acres are under permit for mining. That represents about one-half of 1 percent of the 285,000 acres of sand dunes. In comparison, a significant number of dunes are subjected each year to development for residences, golf courses and other purposes.

The Lake Michigan Federation alleges that the DEQ is not adequately enforcing the dune mining law because only one permit has been denied, which the Federation claims was due to "public protest." Actually, the DEQ notifies companies if inadequacies are found in their applications. The company then has the chance to amend the application to meet the standards. The permit denial referred to by the Federation occurred because the company did not meet the legal criteria, not because of public protest.

Regulations are strict. Applicants must post a bond to ensure that costs of reclamation are cov-

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maintains the law does not allow expanding from a noncritical dune to a critical dune. We further contend that even if the law did allow such expansion, the exception cannot be passed to subsequent owners or operators of a mine.

Dune sand can be cheaply mined. A front end loader lifts the sand from the foot of a dune and places it in a large "double bottom" truck. In less than ten minutes, 55 tons of sand are removed from the site. Other options are available to industry, including sand from non-dune sites.

Ford Motor Company stopped using dune sand for its casting operations in the 1970's in order to protect the sand dunes. With minor changes in process they have been able to maintain quality at competitive or reduced costs.

There are opportunities for recycling sand so that the sand is reused numerous times in the foundries, but the foundry industry has been slow to adopt these new technologies.

Statistics before 1976 quoted by the DEQ include all sand mined in the state. Statistics after 1976 include only sand mined within the dune areas designated by the Sand Dune Mining Act. There are numerous mines outside these limits.

In some localities a significant portion of critical dunes are being destroyed. In Covert, one mine in the critical dunes is 161 acres. The total area of the critical dunes in Covert is 1,680 acres. Nearly 10% of the critical dunes in Covert are nearing complete destruction.

Sand dune mining has totally removed major critical dunes in Covert Township. By comparison development within critical dunes *is* very tightly controlled. Building a house may effect 0.1 acre on a 5 to 10 acre site. Home owners quickly repair damage to the dune.

The basis for the permit denial was legal criteria, but the DEQ had recommended approval anyway. Only the public outcry and action of the Attorney General led to denial of the permit.

Preserve the Dunes documented 22 violations at the Nadeau Pit. The DEQ at first denied that

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ered. When an application for a new or amended permit is received, the DEQ provides public notice and conducts a public hearing if there is a response to the notice.

To limit disturbance and promote reclamation, only three 10-acre cells are allowed to be in active mining status at a time. After mining, the cells must be contoured and revegetated. DEQ staff inspects the sites regularly - about once a month for most operations - and ensures compliance with the law.

The report also cites an instance where the DEQ issued a permit to a company that "continued to mine in state park lands for almost a decade after its 30-year lease with the state had expired." In that incident, the state discovered that mining operations had transgressed onto state property.

The case was resolved by a court settlement. After the resolution, there was no legal basis for denial of permits for other properties.

"Michigan law maintains a balance between the beneficial use of dune sand and the preservation of the dunes' scenic and recreational value," Harding said. The DEQ will continue carrying out its mandate to achieve that balance.

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there were any violations. Over the past year they have incrementally admitted that some violations existed but only after measures had been taken to reduce or eliminate them. In one instance, the DEQ actually changed the boundaries of cell units, apparently to minimize permit violations.

Regulations are not stringently enforced. No bond is required for "Plant Sites" (areas set aside for storing, washing and processing sand). At Nadeau Pit the "Plant Site" before its unlawful expansion was 19 acres, about the size of two cells.

Permits are routinely amended without public notice or public hearings. The DEQ has issued six amendments for the Nadeau Pit without public notice or a single public hearing.

At the Nadeau Pit in Covert Township, aerial photographs revealed over 82 acres of bare sand in the winter of 1997-98. Yet only three cells were considered active by the DEQ.

According to DEQ files, in 1996 the DEQ inspected the Nadeau Pit only four times — in 1997, seven times. In recent years this mine has removed between 450,000 and 500,000 tons of sand each year. That is between 1/6 and 1/5 of all the sand mined under the Sand Dune Mining Act. Obviously, the DEQ does not monitor the mines monthly.

There are strict requirements in the law and in the special conditions of a permit but they are not enforced.

Unfortunately, the DEQ does not maintain that balance — instead they support mining and do little or nothing to protect the dunes. The evidence is clear and conclusive.

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