

S.O.S. DUNES NEWS

Save Our Sand Dunes

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NEWS ITEMS

SUPREME COURT TO HEAR APPEAL

The Michigan Supreme Court will hear oral arguments in the appeal of the DEQ and TechniSand of the appellate court ruling that prohibited mining of the critical dune area at the Nadeau Site in Hagar Township.

The hearing will be scheduled in September for a date in October. Our brief was prepared by Phil Neal of Neal Gerber Eisenberg in Chicago. The services of Mr. Neal are being provided *pro bono*.

The case has taken on importance in the State's jurisprudence. Lake Michigan Federation and West Michigan Environmental Action Council have each filed briefs as friends of the court in support of our position.

Our brief has been posted on the web: www.daac.com/sosdunes/mscbr.pdf.

COVERT TO HOLD WORKSHOP

The planning commission has scheduled its next "workshop" on the Coastal Zone Management (CZM) Plan. The CZM area includes land between Lake Michigan and I-196 as shown in the map to the right. The meeting will be held Saturday August 16, at 10:00 AM in the Township Hall. All interested citizens and property owners are strongly encouraged to attend.

The Township received a grant to complete this study from the M/DEQ and NOAA. The purpose is to develop a future land use plan for the shoreline area.

The township has an Environmentally Sensitive Areas (ESAs) Ordinance that created an overlay district

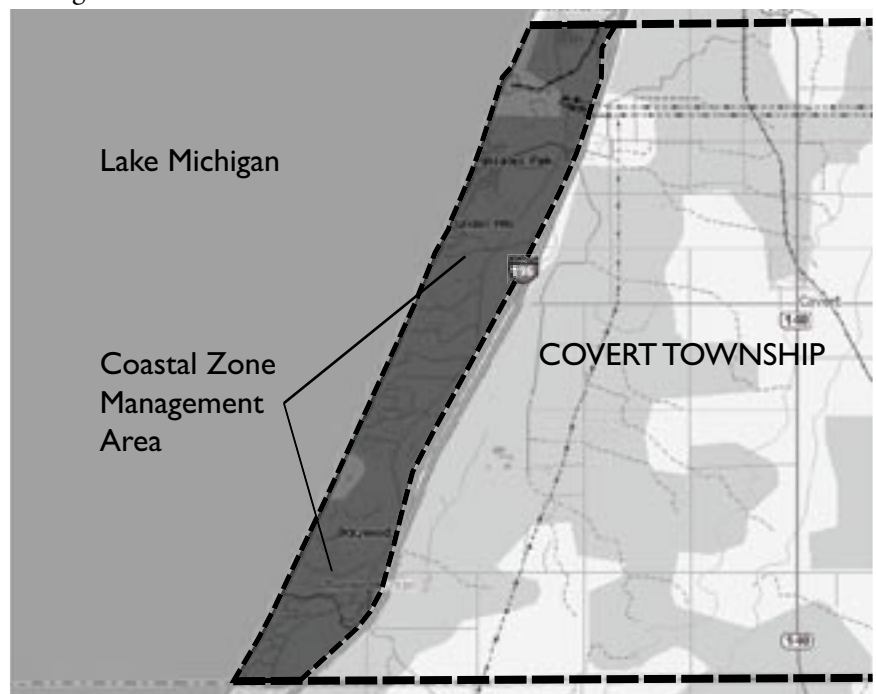
called the ESA which includes the CZM area as the "Lake Michigan Area."

Covert Park, which is currently being leased for private use, should be returned to use by the citizens and property owners of Covert. Improvements should be made to provide picnic areas, public toilets, etc.

Otherwise, *SOS Dunes News* sees no reason for the future land use to be other than current land use. Development of the CZM plan can provide evidence in the record of the ESA ordinance of the significance and fragility of this area. This will improve the defensibility of the ordinance to a court challenge.

The ordinance currently establishes conditions on development in the ESA including:

- A special permit is required
- No area larger than 7,500 square feet per five acres can be clear-cut for a residence (3.44% of the land.) *SOS Dune News* believes this restriction should be expanded to apply to any development or use.
- In no case can the clear-cutting or ground disturbance exceed 10% of the land.
- Selective cutting of trees is limited to 10% of the healthy trees on the site.
- Septic systems must be 150 feet from any existing or proposed well.
- Width of private roads is limited to 12 feet.
- Environmental impact statements are required when more than 3 acres will be disturbed by development. Most of the land west of the Blue





"Reclamation" at the TechniSand/Brown mine leave much to be desired. The mining company has reported that it has planted numerous

Star Highway is zoned Shoreland Residential. This district has further restriction on lot size (minimum 5 acres), setbacks, use (single family residential), etc. Sand mining is prohibited.

SOS Dune News would like to see mining prohibited from all ESAs. In addition, requirements of the sand dune protection act, including those limiting the slope on which construction can be made and proximity of construction to the edge of a steep slope, should apply to all of the ESAs.

PTD QUESTIONS RECLAMATION AT TECHNISAND/BROWN MINE

In a letter to Covert Township, Preserve the Dunes pointed out that apparently no trees had been planted on the site as specified in the Township issued mining permit. Mining was completed June 30, 1999.

The mining ordinance requires that the site be returned to the pre-mined condition except for topography. In this case, the Brown property was to be graded flat with the understanding that the land would be used for blueberry fields. The TechniSand land was about half of the total mined area. It was to be replanted with trees.

As apparent in the photograph above, the site has only been seeded with grasses. Some wildflowers and tree seedlings have escaped from surrounding undisturbed land.

TechniSand had supplied a U.S. Department of Agriculture standard for stabilizing sand and indicated that they would follow that standard. This

would have required nearly 15,000 trees be planted. A year ago they proposed planting 800 trees instead. At that time they committed to complete the planting in the fall of 2002.

When questioned by the Township, TechniSand is reported to have stated that they had planted trees — they are just so small that they are not visible in the grass. In the fall when the grass has died back, perhaps the trees can be counted.

Once again TechniSand has shown itself to be a greedy corporation with no regard for its commitments or concern for the township from which it has taken a fortune in sand and given back nothing.

GATHERING RAISES INTEREST

On Sunday, July 27, Penny Pritzker and Bryan Traubert in support of Preserve the Dunes hosted a gathering for about 80 guests at their home on Lake Michigan.

Charles Davis, President of PTD, updated the guests on the status of our lawsuit and of efforts to have the state and local laws governing sand dune mining enforced.

Dana Debel, Environmental Policy Advisor to the Governor, then spoke about Governor Granholm's commitment to protecting the environment of the state and the sand dunes in particular. She pointed out that over development was also a threat to the survival of the dunes. Former Congressman Paul Todd read a letter to those gathered from the Governor

expressing her support for prohibitions against any further mining in the critical dunes.

Chuck Nelson, Director of Sarett Nature Center, discussed the formation of the dunes, their uniqueness as the tallest fresh water dunes in the world, and the continuing change in this delicate ecosystem. The event concluded with Pam Chapell's performance of her emotionally moving song "Maggie Thorpe and Creepin' Joe" about the destruction of two extraordinarily large dunes and their loss to future generations.

It is hoped that the event will lead to major donations to defend the ruling of the Court of Appeals in our lawsuit against the DEQ and TechniSand which seeks to prohibit mining of the critical dune area at the Nadeau Site in Hagar Township. Funds are also needed to fund PTD's monitoring of continuing mining operations to ensure compliance with the sand dune mining law and with permits. Funds will also be used for educational efforts to increase public awareness and support of dune protection.

Many thanks to Penny and Bryan for graciously hosting this reception. And thanks to the organizing committee headed by Jo Ann Eisenberg.

GRAND MERE HIKE SCHEDULED

PTD will sponsor a sunset dune hike jointly with Lake Michigan Federation and Sarett Nature Center. It will be held on Thursday, August 21 from 7:00 to 9:00 PM. Naturalist Chuck Nelson, director of Sarett Nature Center will be



s trees. They are just too small to see in the grass. Here is evidence that TechniSand should never be allowed to mine in Covert again.



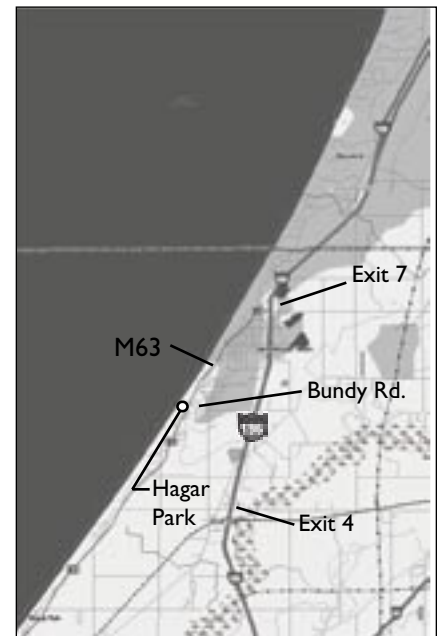
the guide. The walk will begin from the parking area at the main entry to Grand Mere. A charge may be made for entry into the state park.

Directions: Exit I-94 at exit 22, Drive west toward Lake Michigan to the first stop sign. Turn left and drive about 1/2 mile; take the first right (a dirt road) into the park. You will arrive at a parking area in about 1/4 mile.

Bring mosquito repellent. A flashlight might be helpful when leaving.

FALL DUNE WALK

PTD has planned a beach walk for Sunday, September 21. We will start at the Hagar Township park on M63 at 2:00 PM. Chuck Nelson of Sarett Nature Center will be our guide. For those who missed this walk last year, here is your chance.



Please return this response form to support the goals of Preserve the Dunes.

We need to tell elected officials and government employees how many residents and property owners support these efforts. This measure of support is critical to successfully protecting the dunes and restricting sand dune mining. Only your name and address are necessary.

If you can also contribute financially, the funds are needed to continue our struggle to preserve the dunes through distribution of information, keeping our state representatives and local officials informed, and ensuring that the laws protecting sand dunes are enforced.

Preserve the Dunes, Inc. — Response Form

Mail the completed form to Preserve the Dunes, Inc., Post Office Box 581, Riverside, MI 49084-0581

I want to preserve the dunes of southwest Michigan and am concerned about the expansion of sand dune mining.

Name(s) _____

Home Address _____	Michigan Address (if different) _____
City, State, Zip _____	City, State, Zip _____
Telephone 1 _____	Telephone 2 _____
Fax _____	eMail _____
	Fax _____

Annual Membership Form

In addition, enroll me(us) as a member for 2003 <input type="checkbox"/> Individual (\$6) <input type="checkbox"/> Family (\$10) I have also included a contribution in the amount of \$ _____	Please contact me to work on the following committees: <input type="checkbox"/> Legal Affairs <input type="checkbox"/> Finance/Fund Raising <input type="checkbox"/> Newsletter <input type="checkbox"/> Public Hearings <input type="checkbox"/> Memberships	Membership dues underwrite the expense of keeping members informed about efforts to preserve the dunes and to monitor sand mining activities in Berrien, Van Buren and Allegan counties. <u>Checks should be made payable to Preserve the Dunes, Inc.</u> , which has 501(c)3 status. <u>Contributions are tax deductible.</u>
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For those who don't remember all the fascinating details that Chuck shared, here is another chance.

Directions from the south: Exit I-196 at exit 4. Drive west toward the lake to M-63. Turn right and proceed north about two miles. The park will be on your left. (If you pass Bundy Road, you just went too far.)

From the north: Exit I-196 at exit 7. Drive west to the lake. Turn left at the stop sign and proceed south on M63 for nearly two miles. The park is on your right, just beyond Bundy Road.

PTD BECOMES A 501(c)3

Since its founding PTD has been an affiliate of the West Michigan Environmental Action Council (WMEAC). Gifts to the PTD Fund were received by WMEAC and were tax exempt. Now PTD has filed with the IRS as a not-for-profit tax exempt public foundation. Contributions made directly to PTD are now tax deductible.

DIGITAL PROJECTOR NEEDED

PTD needs a digital projector for use in making PowerPoint presentations and showing digital slides at meetings of township boards, planning commissions, and other public meetings. If you or your business has a projector that has been replaced with a newer model, we could make good use of it. And the donation is tax deductible. Contact Charles Davis at cfd3@daac.com or 269-208-1711.

FUNDING STILL URGENTLY NEEDED

As we have reported above, TechniSand and the DEQ have appealed the decision of the Court of Appeals to the Michigan Supreme Court. We need your continued financial support to continue this fight and to secure the victory.

There will continue to be the need for monitoring permit applications and ongoing sand dune mining. These require time. They require vigilance. But they also cost money. *Please renew your membership and make a financial contribution to these efforts.*

E-MAIL ADDRESS UPDATES

PTD maintains an eMail list. It is used to distribute PTD notices and news bulletins to members and supporters. If you have an eMail address and are not getting PTD eMail, then send your current address to sosdunes@daac.com.



"Reclamation" at Nadeau Pit, Nadeau Site and Busse Property by TechniSand. Too little, too late, every time.

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ADDRESS SERVICE REQUESTED

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