

S.O.S. DUNES NEWS



Save Our Sand Dunes

S.O.S. DUNES NEWS IS PUBLISHED INTERMITTENTLY BY PRESERVE THE DUNES, INC.

VOL. 9 NO. 2 May 2006

NEWS UPDATES

PTD APPEAL MOVES FORWARD

All parties have agreed to a stay of PTD's complaint in its suit against the MDEQ for issuing a renewal of a permit to mine in a critical dune area.

This agreement will allow the court to deal with the central issue of the appeal: does TechniSand qualify for the permit that includes mining in the critical dune area?

In January PTD appealed the DEQ's administrative decision to the circuit court. As a backup measure we also filed a complaint asking for injunctive relief.

If the appeal is decided on the merits, PTD will withdraw its complaint.

On May 4, pretrial motions were heard by Judge Paul Maloney in PTD's complaint.

At that time, the judge did not rule on any of the motions before him. The DEQ and TechniSand had submitted motions for dismissal of Preserve the Dunes's (PTD) complaint on several grounds. They maintained that the issue had already been resolved by the Michigan Supreme Court, and that PTD had no standing in the case (i.e. we could not be a party to a suit since we were not injured).

In 2002, the Court of Appeals ruled unanimously that the DEQ violated the sand dune mining law when it issued TechniSand a

permit to mine in the critical dune area in Hagar Township. The court declared the permit invalid.

In 2004, the Supreme Court ruled in a 4-3 decision that PTD had been time-barred from challenging the permit under MEPA. In that opinion, the court wrote that it had not reviewed the legality of the permit.

The remaining issue in the complaint was "standing." The judge instructed PTD to amend its complaint to fully explain PTD's injury and to show why it is cause for action. Prior to this hearing PTD had supplied sworn statements from a number of its members alleging injury. Another hearing was tentatively scheduled for August.

For the hearing on May 4, PTD had filed a motion for a stay of all proceedings in the complaint until our appeal had been resolved.

The judge had postponed ruling on that motion until he was satisfied with our standing in the complaint. The new agreement has made that motion moot.

REVISED ZONING THREATENS SHORELINE IN COVERT

On May 24 the Covert Township Planning Commission will hold a hearing on a major revision of the zoning ordinance. Proposed revisions include:

- Decrease setbacks and lot widths for the area along Lake Michigan from the southern edge of the township to the

Palisades Nuclear Power Plant on the west side of the Blue Star Highway.

- PUDs (Planned Use Developments) are allowed in all residential districts.
- Allow transfer of development rights in PUDs (i.e. allowing an increase in the allowable density on one PUD by preserving land on a non-adjacent property from development.)
- Allow up to a 50% increase in density of a PUD as an incentive to a developer to use a cluster development.

SOS Dunes News stated in error in the last issue that "some members of the commission want to increase development in this district by increasing the allowable density and by allowing Planned Unit Developments."

There have been no proposals to increase the allowable density to more than one residence per 5 acres. At the following Planning Commission meeting, it was unanimously agreed that one dwelling unit per 5 acres should be maintained.

However, PTD has identified provisions that would allow drastic increases in actual density of development along the lakefront.

- Allow the zoning administrator (rather than the Zoning Board of Appeals) to approve "administrative variances" to specified regulations within specified

limits. This eliminates notice to neighbors and a ZBA hearing.

We have provided comments to the commission (read them at sosdunes.daac.com). We applaud the township's efforts to make the zoning requirements clear and in conformity with state law; but strongly oppose any significant relaxing of regulations and protections in the environmentally sensitive area.

We will report on the outcome of the hearing in the next issue and on the website.

RESIDENTIAL DESIGN AWARDS

PTD is sponsoring a design award program for residential projects built in the critical dunes of Michigan.

Architects from Michigan, Indiana, Illinois and North Carolina have submitted entries. Awards will be announced in mid-June after the jury meets later this month.

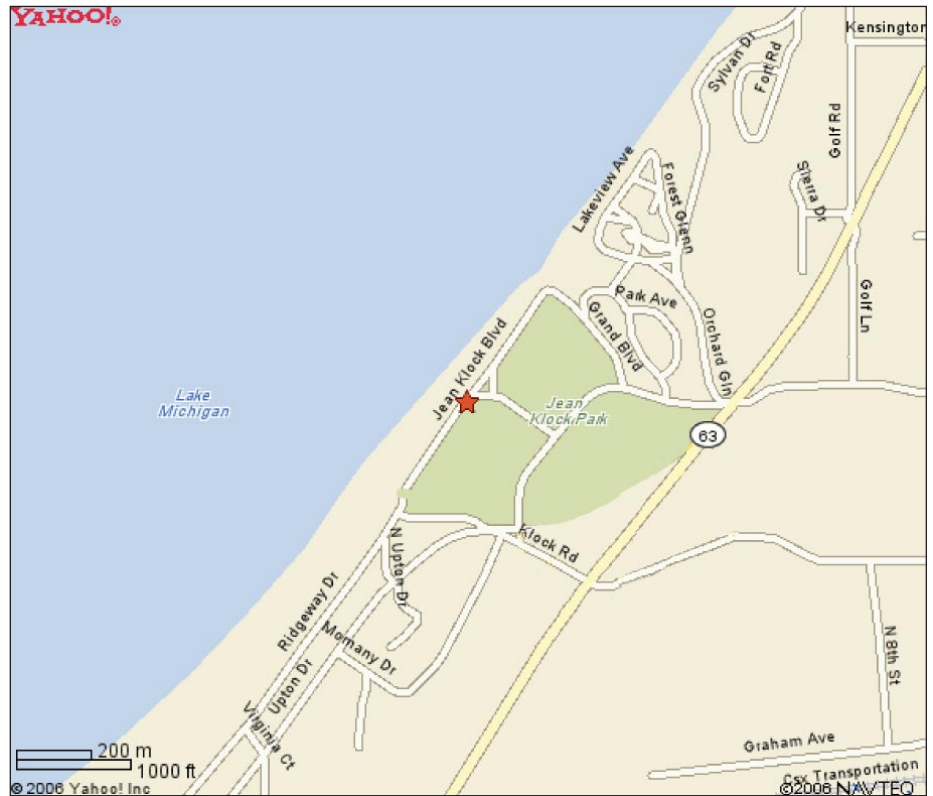
DUNE WALK SCHEDULED

Join us on June 10, at 3:00 PM for a walk through the dunes and park land at Jean Klock Park starting at the parking lot.

Chuck Nelson, director of Sarett Nature Center, will be our guide.

These dunes have a different geologic history than those we have seen in Hagar and Covert — and Chuck will explain all.

We will meet in the parking



area of the park. Exit M63, north of the bridge over the St. Joseph River at Klock Road (at traffic light). Drive toward the lake, take the first right then the first left and follow your nose.

YOUR SUPPORT NEEDED

Now that we are back in court, we will again be incurring significant legal fees. The need for funds has been dramatically increased.

Continued monitoring of sand

mining activities and maintaining vigilance requires financial resources, as well.

Our successes to date, have been made possible by the financial donations of our members. Your financial support of these efforts is once again crucial. Please help out again.

Please continue your support. Donations are tax deductible. Send to Preserve the Dunes, Inc., P.O. Box 581, Riverside, MI 49084.

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ADDRESS SERVICE REQUESTED

Preserve the Dunes, Inc.
 P. O. Box 581
 Riverside, MI 49084-0581