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**PRESERVE THE DUNES, INC.**

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Save Our Sand Dunes

**FOR IMMEDIATE RELEASE**

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**JUDGE RULES ON SAND MINING**

On November 30, 2000, Judge Paul Maloney of the Berrien County Trial Court issued a decision in a lawsuit brought by Preserve the Dunes, Inc. against TechniSand and the Michigan Department of Environmental Quality. The Court decided in favor of the defendants, effectively allowing mining of critical dunes at the Nadeau Site in Hagar Township contingent upon the mining company obtaining a permit from the Township to mine the site. Currently, the Township's mineral removal ordinance does not allow mining at this site. TechniSand's application for rezoning of the site will be discussed at a public hearing on January 2, 2001 before the Hagar Township Planning Commission in the Township Hall.

Preserve the Dunes will appeal this ruling and a prior ruling in the case made by Judge Schofield. In October 1999 Judge Schofield ruled that TechniSand, incorporated in 1991 in Delaware, was exempt from the law's prohibition of expanding a sand dune mine into critical dune areas. The law provides that only if prior to July 5, 1989, an operator had a sand dune mining permit and owned the adjacent land could it expand into a critical dune area. Preserve the Dunes continues to maintain that Technisand bought the land in 1991 and therefore is precluded by the law from mining within the critical dune area.

Preserve the Dunes is disappointed with the judge's ruling and maintains that the legal reasoning in the ruling was erroneous in several ways. The judge decided that these critical dunes were not protected by MEPA (Michigan Environmental Protection Act) because the entire ecosystem of critical dunes is not endangered by the proposed mining. Recent rulings of the Michigan Supreme Court hold that MEPA protects natural resources before they become threatened or endangered. Following the judge's reasoning, mining of critical dunes can continue until there are so few remaining that the entire dune ecology of Michigan is about to disappear.

Judge Maloney also ignored the Terchnisand's own admission in its own Environmental Impact Statement that the dunes would be irrevocably destroyed.

In his summary, Judge Maloney described the importance of sand to the automobile industry in Michigan, but totally ignored testimony that Ford Motor Company has been successfully using inland sand for over 25 years ago in their foundries. If Ford can use inland sand successfully, General Motors and Daimler-Chrysler should be able to do likewise.

During the trial, Tim Harrington, an expert witness for PTD, testified that the dunes act like a sponge, holding water during wet periods and then slowly releasing the moisture in subsequent dry periods. This action moderates fluctuations in the water table. The judge relied on testimony of Peter Collins who rebutted this testimony for TechniSand. Curiously, at the time of the trial Mr. Collins had already prepared an EIS for another proposed mine, the Knauf Property in Covert Township. In it he described how the same sponge effect would beneficially work in the storage piles of dredged sand. PTD is puzzled by Mr. Collins conflicting statements — clearly sand that works like a sponge in a man-made pile of sand also works like a sponge in a naturally formed sand dune.

The Michigan Legislature has determined that the critical dunes are a valuable resource of Michigan that deserve protection. The Legislature has found that these dunes areas are:

“a unique, irreplaceable, and fragile resource that provide significant, recreational, economic, scientific, geological, scenic, botanical, educational, agricultural and ecological benefits to the people of this state and to the people from other states and countries who visit this resource.”

Charles Davis, President of Preserve the Dunes, Inc. stated, “Preserve the Dunes will continue this litigation through an appeal. We will continue to notify TechniSand and the DEQ of those instances where we observe that TechniSand is not complying with the laws and regulations. We will continue to protect these irreplaceable sand dunes for future generations.”

Preserve the Dunes, Inc. is a non-profit organization of over 850 members. It was organized in 1997 to protect the sand dunes along Lake Michigan.

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Further information about Preserve the Dunes is available at <http://www.daac.com/sosdunes>