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PRESERVE THE DUNES, INC.

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Save Our Sand Dunes

FOR IMMEDIATE RELEASE

March 7, 2000

FOR MORE INFORMATION

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SAND DUNE MINING TRIAL

On Tuesday May 14, 2000 at 8:30 A.M. the trial of Preserve the Dunes, Inc. (PTD) vs. TechniSand, Inc. and the Michigan Department of Environmental Quality (MDEQ) will begin in Judge Paul Maloney's courtroom at the Berrien County Courthouse in St. Joseph, MI.

PTD filed suit in June 1998 under the Michigan Environmental Protection Act (MEPA) alleging that the MDEQ without legal authority amended a permit to expand sand dune mining into a Critical Dune Area at the "Nadeau Site" in Hagar Township, Berrien County, MI, and that the actions permitted will unalterably destroy a natural resource.

This suit is one of an increasing number of citizens' suits seeking to have the MDEQ enforce environmental laws. The attached opinion column was printed February 28, 2000, in the Detroit *Free Press* and discusses this phenomenon.

The 1989 amendments to the sand dune mining statute of 1976 prohibit sand dune mining in Critical Dune Areas. There are only two exceptions to this otherwise blanket prohibition against mining critical dunes. Both were intended to allow then current operators to continue operations. PTD asserts that the law does not allow expanding from a non-critical into a Critical Dune Area. PTD further maintains that TechniSand was not the operator in 1989 and therefore has no right to mine this Critical Dune Area. In addition, an exemption from statutory regulation cannot be transferred upon sale and it expires when the holder to the exemption ceases ownership of the property or use of the exemption.

PTD will show that the strip mining will destroy the critical dune area, that the dunes will not be recreated in human time, that threatened flora will be destroyed, that the ecology of the site is itself unique. Witnesses will testify that the sand dune mining will effect adjacent wetlands, exaggerate variations in the water table, and adversely effect Interstate 196. We will further show that there are effective and prudent alternatives to mining this critical dune area. One witness is a retired Vice President at Ford Motor Co. In the late 1970's he directed the shift from the use of dune sand in Ford's foundries to inland sand. He will testify that dune sand is not required to operate foundries or for the automobile industry of Michigan.

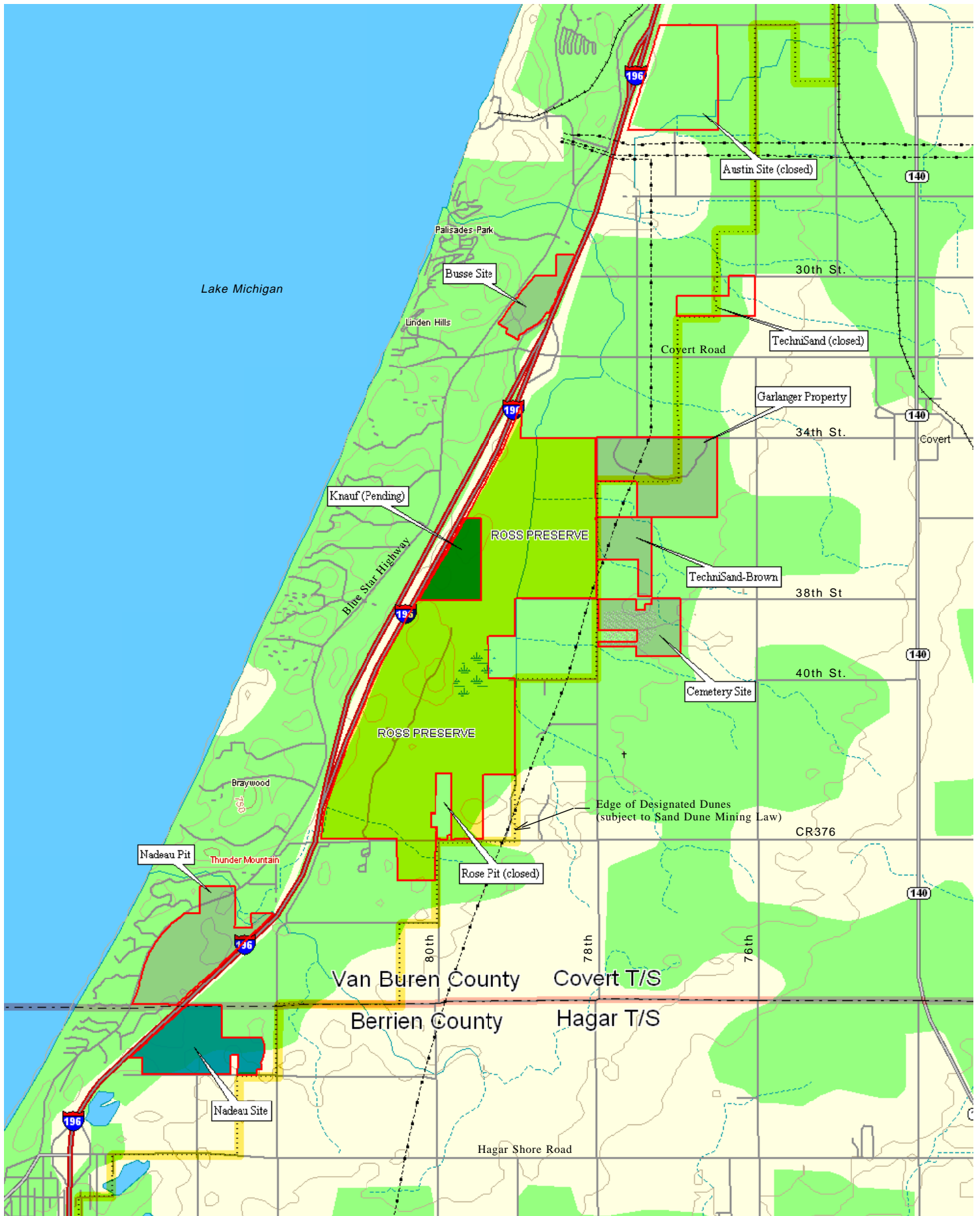
The attached map shows the location of the Nadeau Site in Hagar Township and nearby sand mines in Covert Township.

Scheduled times for the trial are shown in the table below:

		<u>Morning</u>	<u>Afternoon</u>
Tuesday	March 14, 2000	8:45 AM - 12 Noon	1:15 PM - 4:30 PM
Wednesday	March 15, 2000	8:45 AM - 12 Noon	1:15 PM - 3:15 PM
Thursday	March 16, 2000	8:45 AM - 12 Noon	1:15 PM - 4:00 PM
Friday	March 17, 2000	No morning session	1:15 PM - 4:00 PM
Wednesday	March 22, 2000	8:45 AM - 12 Noon	1:15 PM - 4:30 PM
Thursday	March 23, 2000	8:45 AM - 12 Noon	1:15 PM - 4:30 PM

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PTD, a not-for-profit grass roots organization, was formed in October, 1997, to protect the fragile, irreplaceable and environmentally sensitive sand dunes of western Michigan from destruction by strip mining of sand. These are the only tall, fresh water dunes in the world. PTD is an affiliate of the West Michigan Environmental Action Council.



LOCAL COMMENT

Groups get in line to sue the DEQ

By KEITH SCHNEIDER



WHEN HE marched into the governor's office in 1991, John Engler's view of environmental regulations was crystal clear.

They were, he asserted, largely an intrusion into how businesses operate.

The governor then appointed people to run the state's environmental agencies who were more comfortable promoting economic activity than conducting inspections, issuing fines and aggressively enforcing the law.

Nine years later, the administration's hands-off approach has become not just a state and national policy issue but is subject to legal challenges brought by citizens, county officials and even the federal government. The state Department of Environmental Quality increasingly finds itself in court facing incensed groups that are frustrated when the agency looks the other way.

The latest in this series of high-profile court tests, this one involving wetlands, is being heard in Macomb County Circuit Court. Other cases are under way in Detroit and Berrien County.

The Macomb case was brought in 1998 by Mark Richardson, the county's special environmental prosecutor. It involves a housing developer who, ignoring a state inspector's directive, filled an eight-acre wetland in Sterling Heights without a state permit. The 1979 Wetland Protection Act requires a permit to fill or drain any wetland larger than 5 acres.

The law specifically recognizes wetlands as cost-effective natural resources that purify runoff, provide storage capacity

that prevents floods and give wildlife a place to live. No region of the state is suffering more from the loss of its wetlands — resulting in frequent flooding, contaminated coastal waters, declining habitat — than Macomb County and its neighbors in southeast Michigan.

What makes the case especially interesting is the role of Chad McIntosh, the former deputy director of the state Department of Environmental Quality. According to Richardson, McIntosh gave the developer an out by touring the site after the wetland was filled

and then overruling his district inspectors. McIntosh issued his own finding, which said the developer's action was exempt from the state's wetland protection law. Before leaving the DEQ last year to take a job at Ford Motor Co., McIntosh defended his finding as proper and lawful.

But Richardson and other Macomb County officials argue the developer's activities were plainly illegal.

The Sterling Heights case is not an isolated incident. The administration's resolve to enforce the law, while never strong, had grown noticeably weaker starting in October 1995, when the governor split environmental staff off from the Department of Natural Resources and put them in the newly created Department of Environmental Quality. Activities previously deemed illegal by the DNR soon were judged lawful by the DEQ.

Late last year, for example, the DEQ approved an application by a couple from Antrim County, near Traverse City, to fill a wetland to build a home, garage,

deck and driveway, construction that had been forbidden by the DNR. Antrim County officials have protested, calling the permit decision unlawful, and the county is considering legal action against the DEQ.

In 1997, DEQ director Russ Harding issued a permit to a Texas company to extract peat moss from nearly 1,900 acres of the Minden Bog, a wetland in Sanilac County. Only two years previously, the DNR had denied the same permit request, judging that the mining would wreck a rare ecosystem and violate the state's wetland law. The U.S. Environmental Protection Agency, citing its authority under federal law, has since intervened in the case, which is being heard in federal district court in Detroit.

And in 1996, the DEQ issued a mining permit to a Michigan company to take thousands of tons of sand from critical coastal dunes in Berrien County. It is illegal to harm a critical dune under the state's 1976 Sand Dune Protection Act, and the DNR had declined to issue the permit in April 1995. But in April 1996, the newly formed DEQ advised company executives of the changes in agency structure.

The company resubmitted its application and gained approval in 7 months. A citizens group, Preserve the Dunes, sued the company and the DEQ in 1998. A trial is scheduled next month in Berrien County Circuit Court.

In several more cases, citizens and local officials have stepped in to challenge the DEQ. That's quite a statement about how Michigan is managing the environment.

The very agency charged with enforcing state environmental statutes now may be judged one of the worst violators.

KEITH SCHNEIDER is executive director of the Michigan Land Use Institute in Benzonia.