

THE SENATE



STATE OF MICHIGAN

HARRY GAST

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October 9, 1997

Mr. Russ Harding, Director  
Department of Environmental Quality  
Hollister Building  
Lansing, MI 48933

Dear Russ:

We received the Evaluation of Critical Dune areas conducted by Michigan State University. Senator Gast, as sponsor of much of the original Sand Dune Protection program currently administered by your department, and the rest of us, are mindful of the need to continue to review this program for issues that affect both the resources of this state and the people of Michigan.

Although we have just recently received this report and have yet to study it, a briefing conducted by staff from your department indicates that many new acres of dunes may be up for consideration as critical dune additions. We wanted you to know that we regard this report as a document that must be carefully analyzed by the appropriate parties before the Legislature should consider taking any action.

There are several thoughts on the findings which need to be addressed. With over 12,000 new acres of dunes up for consideration, we believe that a balanced review of this proposal must be done, focusing on both the environmental and economic impact. Questions that come to mind are the following:

--Have the appropriate people in your department reviewed the report and do they concur with the methodology used in completing the report?

--What are the physical characteristics of the proposed dune additions and are they primarily developed or relatively undeveloped? Would adding these dunes to the atlas improve the state's ability to protect the existing critical dune areas? During the initial dune mapping process, discussions were held centering around other adjacent dune formations that may be deserving of protection but not necessarily as "critical" as the initial grouping. Along



these same lines, could the Department review this report and develop some prioritization of the value of these dunes in adding to the protection of the resource base?

**--How many "takings" claims have been filed against the Department and of these claims what level of damages have been awarded to property owners since the original Sand Dune Protection Act took effect?**

**--What is the potential liability for "takings" for the addition of another 12,000 acres? It is critical that we have some idea as to the level of liability that the state might assume for potential "takings" claims, particularly in the case where property owners might have purchased land in this new area based on a review of the current dune atlas.**

**--What new administrative burdens would the addition of this new level of acreage present to your department? If we added the entire amount of over 12,000 new acres, which would represent a 17% increase in regulated dunes, we assume that this would add to your department's workload. Given the concerns over the current workload of the permitting programs in the DEQ would your department be able to take on the additional regulatory responsibilities with existing staffing levels?**

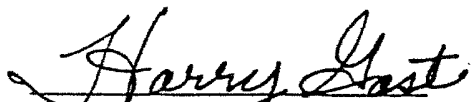
**--Could you explain to me the circumstances surrounding the timing of the release of the report? The date of the cover sheet of the report indicates that one of the reports was completed in October of 1996 and the other in June of 1996. Why did it take a year for the Legislature to receive these reports?**

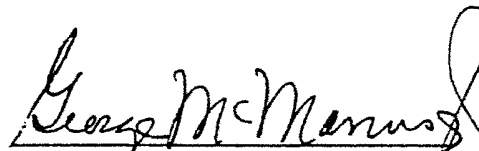
**--Finally, based on your review of the report, could you please provide the Legislature with an analysis of the factors we might consider regarding the addition of the 12,000 acres to the Critical Dune Atlas?**

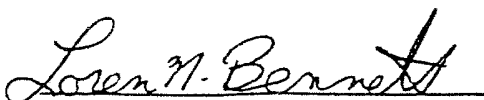
The above questions and other concerns surrounding this report are currently being discussed in various legislative offices. Senator Gast has convened a group of legislators to facilitate these discussions and will continue to host this group to reach a consensus on how this new information should be used. Please let us know, after an initial review of the questions above, how long it will take the Department to issue a formal, in-depth response.


We need to move both expeditiously and at the same time thoroughly in our review of this report. Thank you for your cooperation.

Sincerely,

  
Harry Gast, State Senator

  
George McManus, Jr., State Senator

  
Loren Bennett, State Senator

  
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Bill Bullard, Jr., State Senator

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Philip E. Hoffman, State Senator

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