



JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

"Better Service for a Better Environment"

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

INTERNET: www.deq.state.mi.us

RUSSELL J. HARDING, Director

Working Copy

February 25, 1998

The Honorable Harry Gast
State Senator
State Capitol
P.O. Box 30036
Lansing, Michigan 48909-7536

Dear Senator Gast:

Thank you for your October 9, 1997 letter requesting the Department of Environmental Quality (DEQ) to provide you with additional information on the Report of the Sand Dune Review Committee. This study was completed as part of an evaluation of Part 353, Sand Dune Protection and Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 353). The DEQ has completed our review of the study, and our response to your questions is enclosed.

The DEQ is confident that the map set is accurate and the criteria used are appropriate. Upon a thorough review of the study, the DEQ is confident the existing 70,000 acres of designated Critical Dune Areas (CDAs) adequately identifies Michigan's most unique and fragile sand dunes. The majority of sand dunes identified in the study represent a secondary set of sand dunes mainly located landward of the existing set of CDAs.

In addition, the designation of over 12,000 acres of dune area would increase the workload of the DEQ's Land and Water Management Division (LWMD). The DEQ estimates that the additional cost of regulating 12,000 acres of CDAs would be \$200,000 annually. This additional cost includes three full-time employees, travel costs, equipment costs, and associated training needs. This cost increase also reflects that the program is currently staffed at a minimal level and compliance and permit processing time could be improved with additional staff.

In the process of providing you with answers to your questions, we have attempted to prioritize the sand dune features identified in the study and suggest that, if any areas are considered for designation as CDAs, the areas adjacent to the Great Lakes shoreline receive the highest priority consideration. Designating only those areas identified in the study that are directly adjacent to the Great Lakes shoreline, approximately 3,000 acres, would increase the cost of program administration by approximately \$75,000 annually.

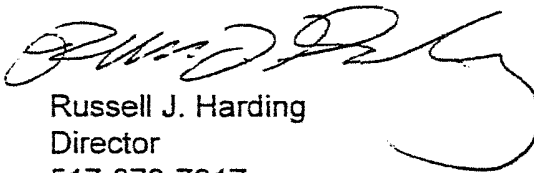
The Honorable Harry Gast
Page 2
February 25, 1998

We believe the addition of privately owned sand dune areas identified by the study may result in a significant increase in takings liability, although Part 353 of the NREPA does provide the DEQ with the tools to attempt to mitigate takings liability. Of the 12,000 acres of sand dunes identified in the study, slightly more than 8,000 acres are privately owned.

In summary, the DEQ has determined that the study was accurately completed and the criteria used was appropriate to identify sand dunes. Upon evaluation of the study by staff of the DEQ, it has been determined that the additional 12,000 acres identified represent a secondary set of sand dunes. Designating these areas as CDAs without additional staff could decrease the state's ability to protect existing CDAs and would increase the state's exposure to takings claims. The existing 70,000 acres of CDAs adequately identifies Michigan's most unique and fragile sand dunes. Therefore, the DEQ recommends that the 12,000 acres identified in the study not be designated as CDAs.

Just this information will assist you in your analysis of this study. If you have questions or need additional information, please contact Mr. Lawrence N. Witte, Chief, LWMD, at 517-373-1170, or you may contact me.

Sincerely,



Russell J. Harding
Director
517-373-7917

Enclosure

The Honorable Harry Gast

Page 3

February 25, 1998

cc/enc: Senator Loren Bennett
Senator George McManus, Jr.
Senator Michael J. Bouchard
Senator Bill Bullard, Jr.
Senator John A. Cisky
Senator Dan L. DeGrow
Senator Mat Dunaskiss
Senator Joanne G. Emmons
Senator R. Robert Geake
Senator Joel D. Gougeon
Senator Philip E. Hoffman
Senator Walter H. North
Senator Dick Posthumus
Senator Mike Rogers
Senator Bill Schuette
Senator John J. H. Schwartz
Senator Dale L. Shugars
Senator Glenn Steil
Senator Leon Stille
Senator William Van Regenmorter
Senator Don Koivisto
Mr. W. Charles McIntosh, Deputy Director, DEQ
Mr. Gary Hughes, Deputy Director, DEQ
Ms. Cathy Carlton, Legislative Liaison, DEQ
Mr. Lawrence N. Witte, DEQ
Mr. James Ribbens, DEQ
Mr. Steve DeBrabander, DEQ