

March 21, 2018

Katie L. Otanez  
Regulatory Project Manager, Permit Evaluation  
Western Branch Regulatory Office  
US Army Corps of Engineers -- Detroit District  
477 Michigan Avenue

RE: Saugatuck Dunes Proposed Boat Basin and Channel Development

Dear Ms. Otanez,

Since May 2017, the West Michigan Environmental Action Council's (WMEAC) Policy Committee and staff have been working with the Saugatuck Dunes Coastal Alliance (SDCA) to provide capacity and feedback in their efforts to protect a vital area of designated Critical Dunes from inappropriate and potentially harmful development by excavating an extended channel connecting to the Kalamazoo River and inserting a 6.54 acre boat basin with a capacity to berth 51 large boats near the river's mouth. Careful consideration has been given to a thorough collection and review of information from an array of sources including:

- 1) The formal site plans proposed by the new property owners and DEQ applicants
- 2) The Tri-Community Master Plan documenting the vision and legal framework for development as adopted by Saugatuck Township and the Cities of Douglas and Saugatuck.
- 3) Pertinent Michigan and United States laws.
- 4) Existing literature documenting the environmental, economic, and cultural values of the site.
- 5) Public meetings and hearings.

As you know, the site development plans for the boat basin and channel were recently approved by the Michigan Department of Environmental Quality (MDEQ). This decision will be appealed. Additionally, the legality of the decision by the Saugatuck Township Planning Commission to allow the development plans to move forward is being challenged in Michigan State Court of Appeals. We now await the permitting decision by the U.S. Army Corps of Engineers (USACE). We deem this the appropriate time for the undersigned partners to formally share our consensus position on this regionally critical and potentially precedent-setting issue.

Based on the evidence gathered to date, we oppose the plans currently submitted to develop a boat basin and channel within the 300 acres of dunes, wetlands, shoreline, and forest between Saugatuck Dunes State Park and the mouth of the Kalamazoo River. The primary reasons for this decision are as follows:

1. The proposed basin poses a **navigational safety hazard**.

2. The proposed channel excavation **violates Saugatuck Township's model zoning ordinance**, Article XII - Water Access and Dock Density Regulations. Specifically the development is in violation of Section 40-910(h), "In no event shall a canal or channel be excavated for the purpose of increasing the Water Frontage."

3. The proposed development violates Part 353 of Act 451, the Michigan Natural Resources and Environmental Protection Act, which requires a **balanced approach to development that considers the environment, public interest, property rights, and economic impact**. The current proposal calls for the removal of 241,750 cubic yards of sand from a 285,000 square foot area. This will fundamentally change the character of the dunes, potentially impact the historically significant buried town of Singapore, and damage other culturally significant artifacts such as a Native American burial ground which is believed to be on the site.

4. The proposed development plan directly violates the Tri-Community Master Plan which repeatedly specifies that in its current state this development's location provides **vital assets to the local community** both economically and culturally and its natural resources and appearance require the highest protections. These clear local land use priorities are not satisfied or addressed in the plans/application even though there have been feasible and prudent alternative designs presented that would preserve the property owner's right to pursue a return on their investment while protecting the public trust.

5. The proposed excavation plan calls for removing 241,750 cubic yards of sand for a commercial use which constitutes sand mining and requires a special permit. As this property is also designated a critical dune area as shown by the State of Michigan Critical Dunes Atlas, the current proposal clearly violates Section 324-63702 of Part 637 of the Michigan Natural Resources Protection Act (MNREPA) which states: "Notwithstanding any other provision of this part, the department **shall not issue a sand dune mining permit within a critical dune area** as defined in part 353 after July 5, 1989."

6. The **Environmental Impact Statement (EIS) as submitted with the application to the MDEQ is inadequate and incomplete**. Under the Threatened and Endangered Species Concerns portion of the Statement the applicants noted they conducted a Bird Survey in May 2017 and a Rare Species Survey in August 2017. Their findings are summarized as, "The study area was not found to be of critical use by any state or federally listed endangered or threatened species," and that no rare species or habitat for rare species were observed on the property." There have been a number of ongoing formal and informal studies of the area by academics and hobbyists alike that would dispute those findings. Specifically they can be contradicted by the results of a survey done in 2008 as part of a DEQ application to have the area classified as a Designated Environmental Area. In that survey the applicants found, 1) At-risk birds: Sixty-seven of the 208 species observed in the study area are designated as Endangered, Threatened, Special Concern species, or belong to the category of Neotropical Migratory Birds. 2) At-risk aquatic life: The Kalamazoo River Mouth section of the river provides important habitat for over 100 species of fish, including the Lake Sturgeon. 3) At-risk terrestrial habitat: The survey found there are both imperiled and rare ecosystems in the area as defined by the Natural Features Inventory.

7. The revised plan -- submitted to the MDEQ after the public hearing and after a hydro-geological study conducted by the applicant projected negatively consequential effects for the original basin excavation plan on water levels and the dependent ecosystem -- fails to adequately address expected impacts on the hydrology of the site by digging out the 241,750 cubic yards of sand and redistributing it elsewhere on the site.

Unaddressed concerns include the following issues:

**A. Interdunal Wetlands remain at-risk.** Near the proposed basin is an area designated as an important interdunal wetland. As Northshore has pointed out in their response to the MDEQ letter stating concerns with their application, these ecosystems are not beholden to man-made boundaries. This vulnerable wetland is critically important habitat for birds, amphibians, reptiles, and plants that utilize the habitat provided across the larger critical dune region. These wetlands have specific topographical, geologic, and hydrologic characteristics which could easily be impacted at this site when that amount of sand is removed and redistributed.

**B. The basin and subsequent structures will alter the natural hydrology of the site.** The Northshore proposal to add a clay liner to the boat basin as a means to prevent negatively impacting groundwater levels, does not address the effects of introducing a layer of clay in the midst of a sensitive dune ecosystem or provide fail-safe alternatives for if/when the "impermeable liner" is penetrated. Plans to redirect rainwater to underground catchment basins, which alters the natural groundwater and wetland recharge cycle, remain unaddressed and of concern.

**C. Impacts of the requisite filters/pumps to circulate water in the artificial basin will harm resident wildlife.** Of particular concern are small lake sturgeon for which efforts to restore the population have been both extensive and expensive.

**D. Buried Toxic Hazards.** The proposed footprint for the basin lies over the former Broward Marine yacht manufacturing site. Like most legacy industrial sites in Michigan, there are concerns of soil and sediment contamination even though the physical structures were long ago removed. Northshore has proposed to do soil testing during excavation rather than pursue a comprehensive round of boring and testing prior to breaking ground. There could be disastrous impacts if contaminated sand or soil were allowed to be removed and "stockpiled" next to the critical dune area and then used in "future construction" on-site or to fill-in low areas on site as the plan suggests. In addition, unearthing or disturbing long-buried chemical contamination from the Superfund Kalamazoo River bed could create renewed problems and risks to both terrestrial and aquatic wildlife.

**E. Historical and Cultural Preservation concerns.** As the Federally Recognized Gun Lake Tribe, also known as the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians, wrote in their October 27, 2017 letter to the Michigan Department of Environmental Quality adamantly opposing the proposed marina development, "The village of Wakazoo, reported in The Archaeological Atlas of Michigan by Wilbert Hinsdale, is known to be within the project vicinity.

There are several burial grounds along the river, one is documented to be just north of the Kalamazoo River mouth. The excavation and spreading of sand in these areas has potential to disturb these cultural areas. The Tribe recommends leaving buried Native American sites in the ground, undisturbed. The vastness of the proposed development makes that unlikely.” In 2012 the National Trust for Historic Preservation named the Saugatuck Dunes Cultural Landscape to their renowned list of America’s 11 Most Endangered Places. The National Trust and the Michigan Historical Preservation Network have both voiced concern regarding a proposed marina development’s impact on the buried ghost town of Singapore by the previous owner. Those concerns remain with the current proposal.

**F. Inappropriate Influence.** If denied the ability to develop the basin to the full extent of their proposal, Northshore has threatened that, in order to make up their financial investment in the property, they would have to expand the footprint of the overall development to include 56 additional structures located in the critical dunes area. The new owner, Jeff Padnos, paid a ‘reported \$18 Million for the property’ which leads to a conclusion that it is not necessary to build out the property to a maximum level from a pure economic perspective. To approve any basin that would be in violation of environmental and zoning laws due to a developer's threat of future deleterious development is unreasonable. If this basin plan is acknowledged as inappropriate, the developers would need to submit new plans and assessments for any proposed structures within the USACE jurisdiction.

In conclusion, the signatories to this letter are asking the US Army Corps of Engineers to deny the Northshore applications relating to the proposed boat basin and channel on the property along the Kalamazoo River in Saugatuck Township.

Respectfully submitted,

Bill Wood, Executive Director  
West Michigan Environmental Action  
Council

Lisa Wozniak, Executive Director  
Michigan League of Conservation Voters  
Education Fund

David Swan, Board President  
Saugatuck Dunes Coastal Alliance

Patricia L. Birkholz  
Former Michigan State Senator (SD 24)

Oday Salim, Executive Director & Managing  
Attorney  
Great Lakes Environmental Law Center

Brad Garmon, Director of Conservation and  
Emerging Issues  
Michigan Environmental Council

Liz Kirkwood, Executive Director  
FLOW: For Love of Water

Margrethe K. Kearney, Senior Attorney  
Environmental Law & Policy Center

Jill M. Ryan, Executive Director  
Freshwater Future

Heather Good, Executive Director  
Michigan Audubon Society

Mary Brady-Enerson, Michigan Director  
Clean Water Action

Gail Philbin, Director  
Sierra Club Michigan Chapter

Terry Miller, Board Chairman  
Lone Tree Council

Nancy M. Finegood, Executive Director  
Michigan Historic Preservation Network

Christine Maletic, Board President  
West Michigan Environmental Action  
Council

Phil Roos and Bruce Wallace  
Michigan League of Conservation Voters  
Board

Dayle Harrison, President  
Kalamazoo River Protection Association

Charles Davis, President  
Preserve the Dunes, Inc.