



# HOUSE BILL No. 4756

May 11, 1993, Introduced by Reps. Stille, Bobier, Llewellyn, McManus, Hill, Fitzgerald, Dalman, Bodem, Baade, Agee, McNutt, Munsell, Alley, Brackenridge, Randall, Brown, Byrum, Kukuk, Gernaat, Freeman, Voorhees, Dobb, Bender, Wetters, Shugars, Jondahl, Middaugh, Joe Young, Jr., Gnodtke, Shepich, Middleton, Schroer, Horton, Lowe, Goschka, Hammerstrom, Vorva, Rhead, Whyman, Galloway and Gustafson and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend sections 2b, 5, and 9 of Act No. 222 of the Public Acts of 1976, entitled as amended

"Sand dune protection and management act,"

section 2b as added by Act No. 146 of the Public Acts of 1989, being sections 281.652b, 281.655, and 281.659 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2b, 5, and 9 of Act No. 222 of the  
2 Public Acts of 1976, section 2b as added by Act No. 146 of the  
3 Public Acts of 1989, being sections 281.652b, 281.655, and  
4 281.659 of the Michigan Compiled Laws, are amended to read as  
5 follows:

6 Sec. 2b. (1) Notwithstanding any other provision of this  
7 act, the department shall not issue a sand dune mining permit  
8 within a critical dune area after ~~the effective date of this~~

1 ~~section~~ JULY 5, 1989, except under either of the following  
2 circumstances:

3 (a) The operator seeks to renew or amend a sand dune mining  
4 permit that was issued prior to ~~the effective date of this~~  
5 ~~section~~ JULY 5, 1989, subject to the criteria and standards  
6 applicable to a renewal or amendatory application.

7 (b) The operator holds a sand dune mining permit and is  
8 seeking a mining permit for land that is adjacent to property the  
9 operator is permitted to mine, and prior to ~~the effective date~~  
10 ~~of this section~~ JULY 5, 1989 the operator owned the land or  
11 owned rights in the land for which the operator seeks a permit.

12 (2) AS USED IN THIS SECTION, "ADJACENT" MEANS LAND THAT IS  
13 CONTIGUOUS WITH THE LAND FOR WHICH THE OPERATOR HOLDS A SAND DUNE  
14 MINING PERMIT AND NO LAND OR SPACE INCLUDING A HIGHWAY OR ROAD  
15 RIGHT-OF-WAY EXISTS BETWEEN THE PROPERTY ON WHICH MINING IS  
16 AUTHORIZED AND THAT FOR WHICH THE OPERATOR SEEKS A PERMIT PURSU-  
17 ANT TO THIS SECTION.

18 Sec. 5. The environmental impact statement submitted to the  
19 department shall ~~follow guidelines prescribed by~~ COMPLY WITH  
20 THE REQUIREMENTS OF the department and shall include ALL OF THE  
21 FOLLOWING:

22 (a) The compatibility of the proposed mining ~~operation~~  
23 ACTIVITY with adjacent existing land uses or land use plans.

24 (b) The impact of the proposed mining ~~operation~~ ACTIVITY  
25 on flora, fauna, or wildlife habitats.

26 (c) The economic impact of the PROPOSED mining activity on  
27 the surrounding area.

1 (d) The effects of the PROPOSED mining activity on  
2 groundwater ~~supply~~ LEVEL, QUALITY, and flow IN THE SURROUNDING  
3 AREA.

4 (e) The effects of the PROPOSED mining activity on adjacent  
5 surface resources.

6 (F) THE EFFECT OF THE PROPOSED MINING ACTIVITIES ON NOISE  
7 LEVELS FOR RESIDENCES, SCHOOLS, AND COMMERCIAL DEVELOPMENT IN THE  
8 SURROUNDING AREA.

9 (G) THE EFFECT OF THE PROPOSED MINING ACTIVITY ON AIR QUAL-  
10 ITY IN THE SURROUNDING AREA.

11 (H) WHETHER THE PROPOSED MINING ACTIVITY IS LOCATED WITHIN  
12 ANY OF THE FOLLOWING:

13 (i) 1,000 FEET OF A RESIDENCE.

14 (ii) 2,000 FEET OF A SCHOOL.

15 (iii) 500 FEET OF A COMMERCIAL DEVELOPMENT.

16 (I) ~~(f)~~ Alternatives, if any, to the LOCATION OF THE pro-  
17 posed mining ~~site~~ ACTIVITY and the reasons for the choice of  
18 the LOCATION OF THE proposed mining ~~site~~ ACTIVITY over those  
19 alternatives.

20 Sec. 9. (1) The department shall deny a permit if, upon  
21 review of the environmental impact statement, it determines that  
22 the proposed ~~sand~~ mining ~~operation~~ ACTIVITY would have an  
23 irreparable harmful effect on the environment OR WOULD RESULT IN  
24 3 OR MORE OF THE FOLLOWING:

25 (A) INCOMPATIBILITY WITH ADJACENT EXISTING LAND USES OR LAND  
26 USE PLANS.

(B) AN ADVERSE IMPACT ON FLORA, FAUNA, OR WILDLIFE HABITAT.

(C) AN ADVERSE IMPACT ON AIR QUALITY.

(D) THE PROPOSED MINING ACTIVITY WOULD BE LOCATED WITHIN ANY OF THE FOLLOWING:

(i) 1,000 FEET OF A RESIDENCE.

(ii) 2,000 FEET OF A SCHOOL.

(iii) 500 FEET OF A COMMERCIAL DEVELOPMENT.

(E) THE IMPACT OF THE PROPOSED MINING ACTIVITY ON THE LEVEL OR QUALITY OF GROUNDWATER IN THE SURROUNDING AREA.

(F) THE EFFECT OF THE PROPOSED MINING ACTIVITIES ON NOISE LEVELS FOR RESIDENCES, SCHOOLS, AND COMMERCIAL DEVELOPMENT IN THE SURROUNDING AREA.

(2) AS USED IN THIS SECTION:

(A) "IMPACT" OR "IMPACTED" MEANS ANY ALTERATION OR CHANGE IN AN ELEMENT OF THE ENVIRONMENT. A DETERMINATION OF WHEN A CHANGE HAS OCCURRED IS BASED ON AN EVALUATION OF THE EXISTING STATE OF THE ENVIRONMENTAL ELEMENT IN QUESTION.

(B) IRREPARABLE HARMFUL EFFECT IS USUALLY, BUT NOT EXCLUSIVELY, ASSOCIATED WITH LARGENESS OF SCALE, UNIQUENESS OR SCARCITY OF RESOURCES AND ENVIRONMENTAL ELEMENTS, AND WITH THE RATE OF CHEMICAL, BIOLOGICAL, OR PHYSICAL ALTERATION, BUT IS NOT SYNONYMOUS WITH ONLY PERMANENT OR IRREVERSIBLE MODIFICATIONS.

IRREPARABLE HARMFUL EFFECT CHARACTERIZES THE IMPACT OF THE SCALE OF A PROPOSED MINING ACTIVITY ON THE SIZE OR IMPORTANCE OF THE ELEMENTS OF THE ENVIRONMENT WITH REGARD TO CHANGES IN THE INTEGRITY AND THE BEHAVIORAL STABILITY OF THE ELEMENTS AND OF THE

- 1 BIOLOGIC SYSTEM OF WHICH IT IS A PART EITHER IN THE SCOPE OF AN
- 2 IMPACTED DUNE RANGE OR AN INDIVIDUAL DUNE FORMATION.