June 9, 2023

Ms. Molly Wingrove
Clerk
House Committee on Regulatory Reform
Michigan State House of Representatives
mwingrove@house.mi.gov

Re: Proposed Gravel Mining Substitute for House Bill 4528

Dear Ms. Wingrove,

[This letter opposes proposed Substitute to House Bill 4528 which we understand has been scheduled for a hearing on Tuesday, June 13, 2023 before the House Committee on Regulatory Reform. Could you please place this letter in the packets of the Committee Members prior to the hearing.]

Dear Members of the House Committee on Regulatory Reform,

As Supervisor for Kasson Township in central Leelanau County, I am writing to make you aware of Kasson Township's opposition to what has been identified as the Substitute for House Bill 4528 ("SB"). About one month ago, the Township previously opposed House Bills 4526, 4527 and 4528.

The Township has reviewed the SB and finds that there has been no material change from the prior bills that would cause Kasson Township to change its position. The SB continues to restrict – or for the most part eliminate – local zoning and planning control over gravel mining - while also containing a weak set of mining standards that would be implemented statewide to the harm of residents neighboring a gravel mine.

For example, Section 63903 of the SB continues to preempt local mining regulations. Section 63904 provides standardized mining setbacks that may not be appropriate for local conditions and provides for noise standards, i.e. 75 decibels for residential areas, that are above acceptable sound levels. For example, a 1975 US EPA Report recommended outdoor sound levels of 55 decibels. Seventy-five (75) decibels is four times louder (each increase of 10 decibels doubles the sound level) than the 55 dB level recommended by the US EPA.

It is the Township's further understanding that the SB does not include any proposed changes recommended by the Michigan Township's Association ("MTA") or by any of the interested private environmental groups. The SB only reflects a collaboration between the gravel industry and EGLE.

For your reference, attached is my prior letter explaining the history of gravel mining in Kasson Township, the Township's working relationship with the mining operators under local

zoning and why the Township generally opposes legislation that would eliminate local control over mining.

Note that part of the Sleeping Bear Dunes National Lakeshore lies within Kasson Township. The Township's Zoning Ordinance provides for a 500-foot setback for mining activities from the National Park. In a letter, dated, January 2, 2008, addressed to the Kasson Township Zoning Administrator Jim Frey, Tom Ulrich, Deputy Superintendent, Sleeping Bear Dunes National Lakeshore stated:

> We believe that Kasson Township's foresight in establishing a 500 foot setback from parks for mining operations was intended to include precisely such situations as this, where recreational enjoyment (and public safety!) needs to be protected on parkland. We imagine the enjoyment of a Kasson Township hunter or hiker using the Bow Lakes unit of the Lakeshore would be lessened considerably if heavy equipment were operating a stone's throw away, rather than the greater distance clearly prescribed by the current ordinance. [Emphasis added]

Such *local zoning* regulations like that setback would be abrogated by the SB mining legislation.

I would note that I have been asked by a representative for Metamora Township in Lapeer County, and Sharon Township in Washtenaw County, to add their voices to the opposition to the SB.

In summary, based on all of the discussion above, Kasson Township requests the SB be opposed during review at the House Committee on Regulatory Reform, as the Township similarly opposed House Bills 4526, 4527 and 4528. I would be glad to discuss this further at your convenience. I can be reached any time on my cell phone at (231) 883-2560.

Sincerely,

Gregory Julian
Supervisor, Kasson Township

May 8, 2023

House Committee of Regulatory Reform
Michigan State House of Representatives

Re: Proposed Gravel Mining House Bills 4526, 4527 and 4528

Dear Representative,

As Supervisor for Kasson Township in central Leelanau County, I am writing to make you aware of Kasson Township's strong opposition to proposed House Bills 4526, 4527 and 4528.

Kasson Township opposes the series of bills because they aim to restrict – or for the most part eliminate – local zoning and planning control over gravel mining, while also containing a weak set of mining standards that would be implemented statewide to the harm of residents neighboring a gravel mine.

The Township opposes the bills for the following general reasons:

The current mining statute, MCL 125.3205, within the Zoning Enabling Act is already very restrictive with respect to local government control over gravel mining, and was amended as late as 2011.

The legislation would overturn decades of practice in Michigan granting local control over gravel (and sand mining) which has been distinguished from the state regulation of the mining of other minerals such as iron and copper. These decades of practice have recognized that supplies of gravel, and the local/regional need for gravel, vary across the state, and that local communities deserve the right to adopt reasonable regulations, and to zone and plan, in order to accommodate for the public need for gravel, while also protecting neighboring property owners, in the context of those specific conditions.

The proponents of the bills largely argue local governments, such as rural townships, should not, and/or cannot, regulate gravel mining in their communities (and impliedly that state agencies are better equipped to do so).

Kasson Township's experience with gravel mining is a case in point that *rebuts* this premise and is also a warning about the danger of not having close local oversight over both how and where gravel mining occurs.

Kasson Township has one of the largest gravel reserves in northwest Michigan (and perhaps in Michigan as a whole) and has also gone to great lengths to *accommodate* gravel mining. For example, the Township has set aside about 3,100 acres or *five square miles* for gravel mining within a *defined gravel mining* district under the Township's Zoning Ordinance. There are now multiple large gravel mining operators inside the district that have worked well with Township officials over decades.

But the current degree of harmony in Kasson Township did not come easily. It required the extensive work of knowledgeable *local officials* working with professional planners, gravel operators and others on a *local* level to make things work.

As a result of that local effort, in 1997 the Township adopted the boundaries of the current 3,100 acre gravel district. Prior to the adoption of the defined district, there was a great deal of zoning conflict and uncertainty over gravel mining. Between 1988 and 1994, there were seven rezonings that added another 600 or so acres to the existing mining areas. The rezonings occurred *haphazardly* because there was no defined gravel district.

One of the worst effects of these haphazard rezonings was the *uncertainty* they created in the Township for ordinary people buying property and homes. People did not know where a gravel mine would open, and once a mine did open, it made it very hard for people to live there, with the result that people wanted to leave, but then could not sell their homes. After experiencing the noise, dust, heavy truck traffic and other effects of gravel mining, one young family filed a lawsuit against their realtor arguing fraud where a pending gravel mining rezoning was not disclosed to them prior to the time they purchased their home. The couple could not sell their home, so the real estate company bought it back to resolve the lawsuit.

Kasson Township's five-square mile defined gravel district, *under local zoning*, was designed to stop that problem. When at a later time, the Township needed to defend the boundaries of the five-square mile district from what the Township perceived as an unnecessary request for expansion, in a court action, the Township conducted a subsequent costly study by a professional geologist to further *map out and calculate the reserves* within the gravel district to serve the regional Traverse City market. That study, in 2006, estimated a 50-75 year supply of gravel in the district to serve the regional need for gravel. The Township did a similar study in 2013-2014. The Township's own mapping studies were consistent with what John Yellich, Director of the Michigan Geological Survey, has recommended statewide in a recent report.

Proposed House Bills 4526, 4527 and 4528 would facially undermine and even destroy the comprehensive and effective efforts of local governments, like Kasson Township, to balance the public interest and need for gravel with the need to provide land use predictability and assurances to its residents. If such bills are adopted as law, gravel mining in Kasson Township would revert back to the haphazard uncontrolled conflict that existed 30 years ago. The gravel district's boundary, established through close *local* review and study would be meaningless. Permit decisions would be made by state officials on an ad hoc basis with no deference to the Township's zoning district and plan and unique circumstances.

So, in short, Kasson Township, a rural township in northern Michigan proved that a local government can and should be in position to regulate gravel mining as has been the case for decades in Michigan. Other local governments have done so, and can do so in the future as well. So the premise behind House Bills 4526, 4527 and 4528 is flawed and untrue.

Additionally, the proposed bills would impose inadequate mining performance standards statewide, unmindful of the need to adjust standards to local conditions. For example, the bills would allow gravel mining noise to reach sound levels of up to 75 decibels in *residential* areas. Such a sound level is *four times* louder than the 55 decibels recommended by a US EPA study with

respect to outdoor residential noise levels. Further, this 75- decibel standard is proposed to be applied based on an 8-hour average, which means that noise could *exceed* the 75 decibel level (i.e. 100 decibels) for substantial periods of time. This would allow very loud and harmful noise levels. Even higher noise levels are allowed for commercial (85 decibels) and industrial areas (90 decibels), respectively, which could still be used for residential or small business purposes.

The bills also provide for standardized mining setbacks, i.e. 500 feet from a residence, which may not be appropriate in the context of local conditions.

In summary, based on all of the discussion above, Kasson Township requests House Bills 4526, 4527 and 4528 be opposed during review at the House Committee on Regulatory Reform. I would be glad to discuss this further at your convenience. I can be reached any time on my cell phone at (231) 883-2560.

Sincerely,

Gregory Julian
Supervisor, Kasson Township