

# Little Traverse Bay ENVIRONMENTAL PROJECT

# UPDATE

## A Message to Northwest Michigan Residents



**David Mengebier**  
President  
CMS Land Company

**IT** WAS A GREAT PLEASURE to return to my hometown recently for the grand reopening of Resort Township's East Park. While the weather for the June 20 celebration was cool and cloudy, the moods of those who attended were bright, and the event provided a visible example of the progress being made by CMS Land Company at the Little Traverse Bay Environmental Project.

At CMS Land, we are proud of the work that has been done at East Park and sections of the shoreline at the Bay Harbor community. The solutions installed at East Park have worked well and environmental results have been impressive. In June, the Health Department of Northwest Michigan opened all access to the lake at the park. At the development, monitoring of the bay shows that the safeguards installed there also are performing well.

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The important environmental accomplishments that we have achieved came about because of a lot of hard work and a substantial investment. Over the past five years, CMS Land has spent more than \$85 million on the Little Traverse Bay Environmental Project, including more than \$10 million at East Park. Now, with

residents and families enjoying East Park and the amazing new bike path along the shore, it's time to focus on bringing the project to conclusion.

On July 31, CMS Land delivered to the U.S. Environmental Protection Agency the detailed information collected from monitoring wells at the development. That data — and the substantial amount of scientific and technical information that the EPA already has — will help move the project toward completion. We expect the positive results from the latest well monitoring data to lead to oversight of the project being moved from the federal government to state officials here in Michigan.

In addition, CMS Land continues to work to find a safe and cost-effective local disposal option for the water collected at East Park and at locations in the Bay Harbor community. That includes using proven methods to return the water to the lake in an environmentally responsible manner.

We provide "Update" on a regular basis to help keep you informed about the latest news and activity surrounding the Little Traverse Bay Environmental Project. In this edition, we share some visitor observations from the East Park reopening celebration. We also look ahead and share the latest information about our efforts to treat and safely dispose of water collected as part of the installed safeguards.

As we move into the next phase of the project, we will continue to work cooperatively with federal and state government officials to determine the steps needed to complete the project.

In closing, I once again would like to thank all those who helped make the reopening of East Park such a great success. We plan to build on that success as we move into the final stages of this environmental effort.

More than 400 people enjoyed the official reopening of East Park on June 20



## Next Steps

*This once abandoned industrial site has been transformed into two public parks and the Bay Harbor community*

**M**ANY NORTHWEST Michigan residents remember that the sites now known as East Park and Bay Harbor were once home to a limestone quarry and cement plant that operated from 1904 – 1989.

When the plant was closed, the owners abandoned the site, leaving behind old buildings, industrial equipment, and piles of cement kiln dust. The site was described as a "moonscape" and put Northwest Michigan's natural resources at risk.

Using plans approved by environmental regulators, work began in 1994 to redevelop the site and to protect the Little Traverse Bay from the effects of the cement kiln dust left behind.

This once abandoned industrial site was transformed into two public parks and the Bay Harbor community, which draws tourists from around the world.

Today, CMS Land Company continues to work at the site and expects to spend \$177 million to address the environmental issues from the cement plant.

The installation of several environmental remedies has allowed East Park to be reopened to the public and substantial environmental progress has been achieved in the affected areas of the Bay Harbor development. With that accomplished, now is the time to focus on a final plan that completes the environmental work.

Below are important next steps needed to put a final plan in place to protect the bay for future generations.

### DECLARE AN END TO SHORT-TERM ACTIONS

Government regulators describe "short-term actions" as those intended to address imminent health and safety issues and typically mark the beginning of an environmental response. At the federal level, the U.S. Environmental Protection Agency places a \$2 million limit on short-term actions that it funds.

Over the past five years, CMS Land has spent more than \$85 million on the Little Traverse Bay Environmental Project. CMS Land expects that the environmental remedies already installed at East Park and the Bay Harbor development will be a substantial part of the long-term plan needed to bring the project to a close.



The work completed by CMS Land has provided additional environmental improvements to Little Traverse Bay.

### PREPARATION OF FINAL PLANS

A final environmental plan for East Park is being prepared and soon will be submitted for regulatory approval. The remedies installed at the park are performing well. There is no compelling reason for further delay of approval for the final environmental plan for the park.

CMS Land submitted information on July 31 that will provide the basis to develop a final environmental plan for the Bay Harbor development.

A prompt review by the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality will allow CMS Land to proceed with developing a final plan and implementing the remaining final remedies at the site.

### REASONABLE AND CONSISTENT TREATMENT ON STANDARDS

The EPA and MDEQ should approve final remedies that are reasonable and consistent with the application of environmental standards at similar sites.

The original development of Bay Harbor and Resort Township's East and West parks significantly improved the environment and continues to provide an important economic benefit to Northwest Michigan.

The work done so far by the Little Traverse Bay Environmental Project has provided additional environmental improvement. Now it is time to bring the project to a successful conclusion.



## East Park Opening Celebration

**A**FTER BEING closed for more than four years, Resort Township's East Park reopened June 20 to the sweet smell of pancakes and maple syrup and the festive music of the Petoskey Steel Drum Band. To local residents, it was a beautiful day at the park. To local leaders and CMS Land officials, it was a good day to celebrate a milestone in their efforts to protect Lake Michigan, East Park and Bay Harbor from the effects of buried cement kiln dust piles left behind at the abandoned limestone quarry and cement plant. About 400 residents and community leaders celebrated the park's reopening and dedication of a new segment of the Little Traverse Wheelway. Below are some comments from visitors to the park.

"It's neat out here, come on to East Park and have lots of fun and ride your bike, it's awesome, and the view rocks! It's going to be the best summer ever."

– June 20 visitor to East Park

"This is really a magnificent park and beautiful setting down here on the bay. It is a great place to bring your family and a wonderful place to have an outing. It's beautiful scenery along the bay and just a great spot to have a time out."

– June 20 visitor to East Park

"It's always a great day on the trail. You can actually ride from Charlevoix to Harbor Springs on the Little Traverse Wheelway. East Park is a wonderful park, open now, and we are so blessed here in northern Michigan to have this trail available to everyone who wants to walk, run, ride their bikes and just enjoy the scenery."

– Top of Michigan Trails Council Executive Director Anne McDevitt

"The winners today are the people of Michigan and the visitors to East Park. We think today also demonstrates that reasonable people can come up with a workable solution to the rest of the environmental challenges at Bay Harbor."

– State Sen. Jason Allen

"Everything did turn out very nice. The water is cleaner and the park is larger. We worked together and it was not always an easy process, but we survived and the results are great."

– Resort Township Supervisor Bob Wheaton

"This park is absolutely spectacular. I believe East Park is now one of the finest public parks in Michigan and even the country."

– CMS Land President David Mengebier

"East Park well worth a visit."

– July 6, 2009 Petoskey News-Review editorial

"CMS and Resort Township partnered together to produce an amazing park. Residents and visitors to Northwest Michigan now have one more great attraction to enjoy this summer."

– Petoskey Area Visitors Bureau Executive Director Peter Fitzsimons



## Finding Solutions for Water Disposal

### Water Disposal

■ In addition to pursuing an Antrim County disposal well approved by regulators, CMS Land Company continues to investigate local water disposal options.

As reported in the last *Update* newsletter, a local disposal well again is being researched although a number of concerns — such as the proximity to Lake Michigan and Walloon Lake and the lack of any historical well information — make securing a permit more difficult.

While many sites around the state rely on dilution to reach water discharge requirements, CMS Land aggressively has researched methods to treat the collected water to actually reduce its mercury content.

"While the mercury in the water collected at the project is more than 10 times lower than drinking water standards, we want to apply technology where it is feasible to treat and actually reduce the amount of mercury reaching the lake," says Gary Kelterborn, director of environmental services for CMS Land. "We believe we have identified proven methods and technology that would allow the regulators to approve permits to discharge the water locally."

### Antrim County Well

■ After a lengthy review, the U.S. Environmental Protection Agency and Michigan Department of Environmental Quality found that a proposed Antrim County disposal well could operate safely and issued permits for the well.

Despite the extensive review process, opponents were granted a preliminary injunction in January preventing initial on-site development of the well.

A trial on a lawsuit challenging the construction and operation of the proposed Alba-area injection well is scheduled to begin in November in Antrim County Circuit Court. Both parties currently are engaged in discovery that is expected to continue through September.

Ironically, the injunction prohibits test drilling to determine if

the site is suitable for a disposal well. Drilling and testing of the geologic suitability of the proposed site must be done before regulators would issue an operating permit.

The injunction was granted despite the fact that the plaintiffs have lost numerous appeals. First, the plaintiffs were denied two agency appeals, one by a federal Environmental Appeals Board as well as a decision by a state Administrative Law Judge (ALJ).

In February the plaintiffs' appeal of the ALJ decision was rejected by the Ingham County Circuit Court. The plaintiffs subsequently applied to the Michigan Court of Appeals to further appeal the ALJ decision. This appeal remains pending.

The plaintiffs also sought permission to challenge the MDEQ's

issuance of the permit. The Ingham County Circuit Court dismissed this action in April and the plaintiffs then applied to the Michigan Court of Appeals in an effort to appeal the court's decision. This appeal also remains pending.

Currently, 10 to 16 water tanker trucks leave the site each day. Some of the collected water is shipped to the Grand Traverse Water Treatment facility and after being treated with other waste streams, is discharged safely into the bay.

The rest of the water is shipped to a disposal well — very similar to the one that is proposed in Antrim County — near Johannesburg. The proposed Antrim County well would increase safety by reducing transportation miles by approximately 50 percent.