



# TOWN OF EAST HAMPTON

159 Pantigo Road  
East Hampton, New York 11937

**PETER VAN SCOYOC**  
Supervisor

(631) 324-4140  
pvanscoyoc@eamptonny.gov

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## **TOWN OF EAST HAMPTON COMMENCES LAWSUIT CHALLENGING EXPANSION OF MIDDLE HIGHWAY SAND MINE AND SEEKS INJUNCTION PROHIBITING EXPANSION**

**The** Town of East Hampton has commenced a lawsuit challenging a state mining permit recently issued by the New York State Department of Environmental Conservation (“NYSDEC”) to Sand Highway, LLC for a mining facility in the Town, with court papers to be filed today.

The permit allows Sand Highway to dramatically expand its mining operations by digging 110 feet into the groundwater regime and creating a 6.05-acre lake on property in the middle of a residential neighborhood. The Town’s lawsuit seeks an injunction to prevent Sand Highway from expanding its mining operations under the permit.

The mine is located in a residential zoning district and is in a designated Special Groundwater Protection Area and Critical Environmental Area.

“We are disappointed that the New York D.E.C. would allow the expansion of this mine in a residential zone and we need to act in order to protect the community’s drinking water supply” said East Hampton Town Supervisor Peter Van Scoyoc.

The dramatic expansion of the mine is particularly troublesome given its proximity to Suffolk County’s sole-source aquifer, the community’s critical drinking water supply. It is also upgradient of wellfields for two public water supply wells for the Suffolk County Water Authority.

NYSDEC reviewed Sand Highway’s application for the mine expansion for over a year. The Town, Town Board, members of the public, environmental conservation groups and the Suffolk County Water Authority all voiced strong opposition to the proposed expansion, citing fears over groundwater pollution and serious safety concerns regarding the project’s proposed creation of a deep lake within a residential neighborhood. The nearest home is approximately 130 feet from the sand mine facility.

In one of its many letters advocating against issuance of Sand Highway’s permit, the Town advised NYSDEC that the expansion “would not only be an environmental cataclysmic intrusion into the water table that serves as a sole source aquifer for the entire South Fork, but it is patently prohibited by the zoning code of the Town of East Hampton.”

The Town's zoning code has long barred physical expansion or changes to prior nonconforming industrial mining operations in residential zones—that is, mines in existence before local laws were enacted prohibiting them. The Town repeatedly implored NYSDEC to respect the Town's zoning law, which has as one of its fundamental principles the protection of the Town's environment and drinking water supply.

NYSDEC nonetheless issued Sand Highway's mining permit in March 2020—in the midst of the ongoing COVID-19 pandemic—over the Town's objections.

The Town's proceeding, which seeks to both annul the mining permit and prevent Sand Highway's expansion, is now pending in Suffolk County Supreme Court. The Town is represented by the law firm of Whiteman Osterman & Hanna LLP in the lawsuit.