



## Lawsuit Aims to Sandbag Beach Project

*Opponents say Army Corps plan violates law*

By Joanne Pilgrim | March 26, 2015 - 1:33pm

The Army Corps of Engineers plan to build a sandbag-reinforced artificial dune along the downtown Montauk ocean beach hit conflicting milestones last week when Defend H2O, an environmental advocacy organization, and four individual petitioners filed a lawsuit in State Supreme Court challenging it and, the next day, the construction contract for the dune was formally awarded to H&L Contracting of Bay Shore. Federal money is to pay for the \$8.4 million project.

The lawsuit, which seeks to overturn approvals already granted, is against the East Hampton Town Board, Suffolk County, and the New York State Department of Environmental Conservation as well as the Corps. An initial court conference is scheduled for April 28. Should the work be scheduled to start before then, Carl Irace, an East Hampton attorney representing the plaintiffs, said yesterday, “we’re prepared to seek injunctive relief,” or a court-ordered halt.

Kevin McAllister, the founder of Defend H2O, charged in a press release announcing the suit that officials “made a conscious decision to sacrifice a public beach in favor of private property interests.” The release called the Corps’s assertion that the sandbag installation is not shoreline hardening, will have no adverse impacts to the beach, and can be seen as temporary, “ill-conceived” and “scientifically indefensible.”

On Monday, East Hampton Town Supervisor Larry Cantwell, noting that the town had not received formal notice of the litigation, said it would defend itself vigorously.

“The Corps of Engineers remains committed to continuing to work with our local and state partners to reduce coastal storm risks in the downtown Montauk area,” Chris Gardner, a public affairs specialist with the Army Corps’s New York District, wrote yesterday in a statement. It had not yet been served with notice of litigation, he said, “so we do not wish to speculate regarding impacts to future construction activities.”

The plan calls for a 3,100-foot-long and 50-foot-wide revetment along the beach from the Atlantic Terrace motel on the west to Emery Street on the east to be made of 14,560 geotextile sandbags. They are to be covered

with three feet of sand, some of which will be stockpiled from beach excavations and the rest trucked in from an off-site sand mine.

The project is to be removed when the Army Corps undertakes a more extensive project as part of its Fire Island to Montauk Point reformulation study. That study has been under way for decades, and observers have questioned when and whether it might occur.

According to the Defend H2O press release, the structure “will span the narrow beach creating an unnatural ‘bump-out,’ ” and will result in “the inevitable loss of a coveted recreational beach” by inducing scouring and erosion. Risks of flooding will be increased, the release says, because of the destruction of natural erosion-protective features.

The project, the court filing claims, will also “create a physical obstruction to public beach access, insufficiently contain and dispose of stormwater runoff,” and destroy recreational opportunities and the commerce related to them.

The plan, formally called the Downtown Montauk Stabilization Project, conflicts with numerous shoreline policies in the town’s state-approved Local Waterfront Revitalization Plan, the lawsuit says, including a ban on hard structures on the ocean beach.

“Sand-filled geotextile bags and tubes are hard structures,” the press release states. By authorizing permits and providing the federal funding, the county, Army Corps, and state D.E.C. are complicit in “not adhering to town coastal policy,” the release says.

Mr. Irace said yesterday that the federal Coastal Zone Management Act, state coastal management program, and local coastal regulations approved pursuant to them require shorefront actions to be consistent with the stated policies.

Outlined in the policies, Mr. Irace said, is a preference for maintaining natural shoreline contours and processes, a concern for lost recreational and economic opportunities should natural beaches be lost, and a need for a clear public benefit when taxpayer money is spent — all issues raised in the lawsuit.

The laws “recognize that there are so many competing interests” regarding shoreline protection and development, Mr. Irace said, “and we can’t favor one over another. So you have to be consistent with all the goals.”

The additional plaintiffs in the lawsuit are Rav Friedel, Jay Levine, and Thomas Muse, all of Montauk, and Michael Bottini, a Springs naturalist. Mr. Bottini, Mr. Muse, and Mr. Levine are affiliated with the Eastern Long Island Chapter of the Surfrider Foundation, which has spoken out vigorously against the project.

“If implemented, this project sets a terrible precedent for the Town of East Hampton, whose economy is largely driven by its natural beaches,” Mr. Bottini said.

“Let it be known that nobody, not the Town of East Hampton, the Army Corps, Suffolk County, or the D.E.C. are going to ruin the Montauk beaches! Not without a knock-down, drag-out fight” Mr. Freidel said.

Meanwhile, Jeremy Samuelson, the director of Concerned Citizens of Montauk, warned yesterday that a legal battle against the Army Corps may have an undesirable outcome. Although he and other members of the environmental organization have raised doubts about the seawall approach and its design, Mr. Samuelson said the group “is very concerned about unintended consequences” of the lawsuit. If it is successful, he said, “we see a real danger that the oceanfront property owners will file applications for private seawalls, which will eventually be awarded by a judge. The history of these applications in Suffolk County tells us that these would be awarded, and never come out.”

C.C.O.M., Mr. Samuelson said, supports long-range coastal planning, including retreat from naturally eroding shores. Referring to the structures to be protected by the artificial dune, he said, “The odds are, in 20 years, those hotels won’t be on the beach, either through planning or Mother Nature.”

The organization, the director said, “feels that the eventual goal of retreat is best accomplished by having a publicly owned erosion-control structure that could be removed when the community is ready, and we’ve designed a funding mechanism that would allow for the relocation of the hotels.”