

# Court overturns sand mine ruling

BY VERA CHINESE

vera.chinese@newsday.com

The state Department of Environmental Conservation should not have issued a permit to a controversial Noyac sand mine in 2019, an appeals panel ruled Thursday.

Southampton Town and others took the DEC to court in 2019 over the issuance of a permit allowing Sand Land — which a 2018 Suffolk County report linked to groundwater contamination — to dig 40 feet deeper and operate for another eight years.

A state Supreme Court justice in September ruled the permit was valid, but the town appealed.

Thursday's ruling by a panel in the Appellate Division of the state Supreme Court, Third Judicial Department, overturns the September decision and states the DEC ignored that Southampton zoning law prohibits new mining when it issued the permit.

"Here, where it is unchallenged that the town's laws prohibit zoning, DEC cannot process the application, let alone issue the permit," reads the ruling written by Justice Molly Reynold Fitzgerald and signed by three of the four other members of the panel. "Therefore, the act of issuing



The controversial Noyac sand mine, known as Sand Land, as seen on March 9, 2020.

the permits here . . . was arbitrary and capricious."

A 2018 Suffolk County Department of Health Services report found that mulching and composting at Sand Land caused "significant adverse impacts on groundwater" and that manganese, a mineral that has been associated with neurological disorders, exceeded drinking water standards by almost 100 times and iron by more than 200 times.

Representatives from Sand Land, who have repeatedly denied those allegations, could not immediately be reached for comment.

The town's outside counsel has since asked the DEC to revoke Sand Land's sand mining permit, according to Southampton Town Attorney James Burke.

The DEC is reviewing the decision.

Assemb. Fred W. Thiele Jr. noted that the ruling recognizes that on Long Island, the state must defer to the municipality in determining whether mining is permitted under the local zoning code.

"In essence, the DEC broke the law and put the interests of the polluter ahead of the environment and the public," Thiele

(I-Sag Harbor) said in a statement. "Today, the Appellate Division of the State Supreme Court righted the wrong committed by the State DEC, by annulling the expansion permit granted by the DEC."

Adrienne Esposito, executive director of the Farmingdale-based Citizens Campaign for the Environment, called it a "precedent setting" decision.

"Laws established to protect our aquifer and public health cannot be cast aside by DEC in closed door deals made with sand mining operations," she said.

DOUG KUNZ