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Christie Administration Files Eminent Domain Action Against Margate To Secure Easements Needed For Coastal Protection Project

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Legal Actions Against Holdouts Who Are Delaying Projects

Trenton, NJ – The Christie Administration today filed an eminent domain action against the city of Margate to secure an easement encompassing 87 municipally-owned lots required by the U.S. Army Corps of Engineers (USACE) to construct engineered beach and dune projects to protect lives, homes, businesses and infrastructure from storm surges and flooding on Absecon Island, Department of Environmental Protection (DEP) Commissioner Bob Martin and Acting Attorney General John J. Hoffman announced today. The federally funded coastal protection project on Absecon Island that would protect Margate and neighboring Longport and a portion of Ventnor has not been able to start due to outstanding easements, most of which are needed from Margate.

This filing builds upon the ongoing work the Christie Administration has been undertaking to secure easements necessary to construct these vital coastal protection projects. The Administration has secured more than 90 percent of the 4,279 easements needed for these projects voluntarily from property owners. But 366 easements, held by 239 property owners still must be secured.

Work on coastal protection projects is under way along major portions of the shore, due in large part to the civic-mindedness of property owners who voluntarily provided easements to allow USACE to place sand on their properties. A federally funded storm damage reduction project on Absecon Island that would provide protection to Absecon and neighboring Longport and a portion of Ventnor has not been able to start due to outstanding easements, most of which are needed in Margate.

Longport and Margate, in particular, suffered significant overwash of its beaches and damage to its bulkhead in Superstorm Sandy's wake, which required Federal Emergency Management Agency funds for the cleanup.

"As evidenced in the damage from last week's nor'easter and from Superstorm Sandy, all of our beaches along the Jersey Shore require maximum protection from storm surges," Commissioner Martin said. "The refusal of remaining holdouts along the New Jersey coastline to provide easements has forced us to seek condemnation of portions of their properties so we don't further delay these critical Army Corps projects that will protect lives and property.

"Additionally, we are very disappointed that the elected officials in Margate are forcing the state to protect their own citizens through the courts, as well as the citizens of Longport and Ventnor. We will continue to be very aggressive in using eminent domain as a tool to obtain the easements we need from those who continue to delay our efforts to safeguard our coast."

The eminent domain actions were filed in Atlantic County Superior Court and involve easements over all city-owned properties east of the Margate bulkhead, south of Ventnor and north of Longport. There are still 10 easements outstanding from private owners in Margate. Eminent domain filings for those properties are going through the appraisal process.

"As the flooding and erosion caused by last week's nor'easter reminds us, the easements we seek are vital to coastal protection efforts that benefit all New Jersey residents," said Acting Attorney General Hoffman. "We appreciate that many property owners – mindful of the ravages of Superstorm Sandy – have unselfishly donated easements for the

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greater good, but some continue to hold out. Our message is that we remain committed to acquiring all of the easements we need as expeditiously as possible.”

In response to the destruction caused by Superstorm Sandy in October 2012, Governor Chris Christie issued Executive Order No. 140 directing the Attorney General’s Office and DEP to take any necessary actions to obtain property easements.

The bulk of the remaining easements needed for coastal protection projects are in northern Ocean County, one of the areas hardest hit by Sandy. Of the 283 outstanding easements needed there, 123 are in Bay Head and 68 are in Point Pleasant Beach.

“The beach damage caused by last week’s nor’easter in Northern Ocean County should serve as a wake-up call to those property owners who continue to not volunteer their easements,” Commissioner Martin added.

Helping significantly to clear the way for the obtainment of easements was a landmark decision by the New Jersey Supreme Court in July 2013, which resulted from strong advocacy by the State regarding how to determine compensation for easements needed for an already-completed shore protection project in the borough of Harvey Cedars on Long Beach Island. The borough sought an easement from the Karans to build a 22-foot-high protective dune on a portion of their lot. The municipality used its power of eminent domain to acquire the easement, but the parties could not agree on fair compensation. A trial jury placed the value of the Karans easement at \$375,000, and the Appellate Division upheld that verdict. However, on July 8, 2013, the state Supreme Court overturned the jury award and ordered a new trial. In reversing the jury award, the Supreme Court held that homeowners who are subject to a property-taking on behalf of public projects “are not entitled to a windfall” that disregards the protective benefits of those projects to their own properties. The Karans subsequently settled, accepting \$1 as compensation.

USACE, DEP, and local communities have been partnering to construct a comprehensive coastal protection system for New Jersey, largely funded by the federal Sandy Relief Act, signed into law in 2013.

Last year, USACE, in partnership with DEP, completed eight post-Sandy beach repair projects, returning roughly 45 miles of previously engineered and constructed beaches along the New Jersey coast to their original protective construction design at a cost of \$345 million.

USACE and DEP are currently undertaking a \$128 million beach and dune construction project on Long Beach Island; a \$57.6 million beach and dune project in southern Ocean City, the Strathmere section of Upper Township and Sea Isle City in Cape May County; and a \$38.2 million project to construct beaches and improve infrastructure in the area of Loch Arbour, Allenhurst and Deal in Monmouth County.

Work has yet to begin in Margate, Longport and parts of Ventnor on Atlantic County’s Absecon Island; in southern Long Branch and northern Deal in Monmouth County; and in the northern Ocean County municipalities of Point Pleasant Beach, Bay Head, Mantoloking, Brick, Toms River, Lavallette, Seaside Heights, Seaside Park and Berkeley.

A \$202 million project to protect Union Beach, Monmouth County, with flood walls, levees, beaches and pumps, is expected to be launched next year.

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