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December 18, 2021 (corrected December 22, 2021)

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Party Intervenors (via email only)
New York State Public Service Commission
Case 18-T-0604

Re: 60-day Notice of Intent to Sue

Dear Secretary Haaland, Secretary Raimondo, Secretary Wormuth, Director Lefton, Administrator Spinrad, Acting Assistant Secretary Pinkham, State Attorneys General, Chief Morin, Mr. Hardy, and Ms. Wilson, U.S. Assistant Attorneys General, and Mr. Singer:

On November 24, 2021, the U.S. Department of the Interior (DOI) “decided to approve, with modifications, the COP [Construction and Operations Plan] for South Fork Wind[.]”¹

“The Secretary delegated to BOEM [Bureau of Ocean Energy Management] the authority to approve a COP. Final regulations implementing this authority were promulgated by BOEM’s predecessor agency, the Minerals Management Service (MMS), on April 29, 2009 (81 Fed. Reg. 19638). These regulations prescribe BOEM’s responsibility for determining whether to approve, approve with modifications, or disapprove South Fork Wind’s COP.”²

By granting South Fork Wind LLC (formerly Deepwater Wind South Fork LLC) (the “Applicant”) approval, BOEM acted prematurely in violation of statutory and regulatory requirements enacted to protect our nation’s environmental and natural resources, its people, and its industries. BOEM approved the Applicant’s Construction and Operations Plan (“COP”) based on errors in fact and law.

Please require the Applicant to correct the false information contained in its COP and rectify omissions of fact. When the Applicant has provided BOEM with more accurate information, please correct the violations of law committed by federal agencies.

The Sixty-day Notice of Intent to Sue focuses on –

1. An established pattern of the Applicant dodging and circumventing the issue of existing environmental contamination from (prior) releases of hazardous waste into soil and groundwater throughout the proposed onshore construction corridor through a residential neighborhood;
2. Violations of federal anti-trust provisions, including the Sherman Antitrust Act of 1890;
3. Violations of the Endangered Species Act by the United States of America, its departments, and agencies have endangered marine mammals such as the North Atlantic Right Whale that live in the same area where the Applicant proposes building an offshore wind farm.

Should these statutory and regulatory violations not be remedied within the next sixty (60) days, residents of eastern Long Island will file suit pursuant to the citizens’ suit provisions of the Outer Continental Shelf Lands Act, and Endangered Species Act (as well

¹ See Record of Decision, South Fork Wind Farm and South Fork Export Cable Project Construction and Operations Plan dated November 24, 2021, Section 5.1 (at p. 15)

² *Id.* (at p. 5-6)

as other relevant statutes) to require BOEM, its departments, and federal agencies comply with their legal obligations.

The South Fork Wind Project

The Applicant proposes building an offshore wind farm – the South Fork Wind Farm (“SFWF”) – comprising no more than twelve (12) wind turbine generators (“WTG”) on Cox’s Ledge in Renewable Energy Lease Number OCS-A 0517. Cox’s Ledge is in the Atlantic Ocean, approximately 35 miles east of Montauk Point off Long Island. The Applicant proposes to connect each WTG with a high-voltage alternative current (HVAC) submarine cable inter-array that will then link to an offshore substation (“OSS”).

The Project includes a sixty-mile-long new transmission system – the South Fork Export Cable (“SFEC”) – connecting the offshore wind farm and offshore substation to a new onshore substation (“Interconnection Facility”). The Applicant plans to use a one-hundred-and-thirty-eight (138) kilovolt HVAC single-circuit cable(s) as its SFEC.

The Interconnection Facility is designed to receive electrical energy over the SFEC from the SFWF and facilitate a connection to LIPA’s East Hampton Substation to deliver electrical energy to the mainland electric grid in East Hampton, New York.

The Project includes an onshore operation and maintenance facility.

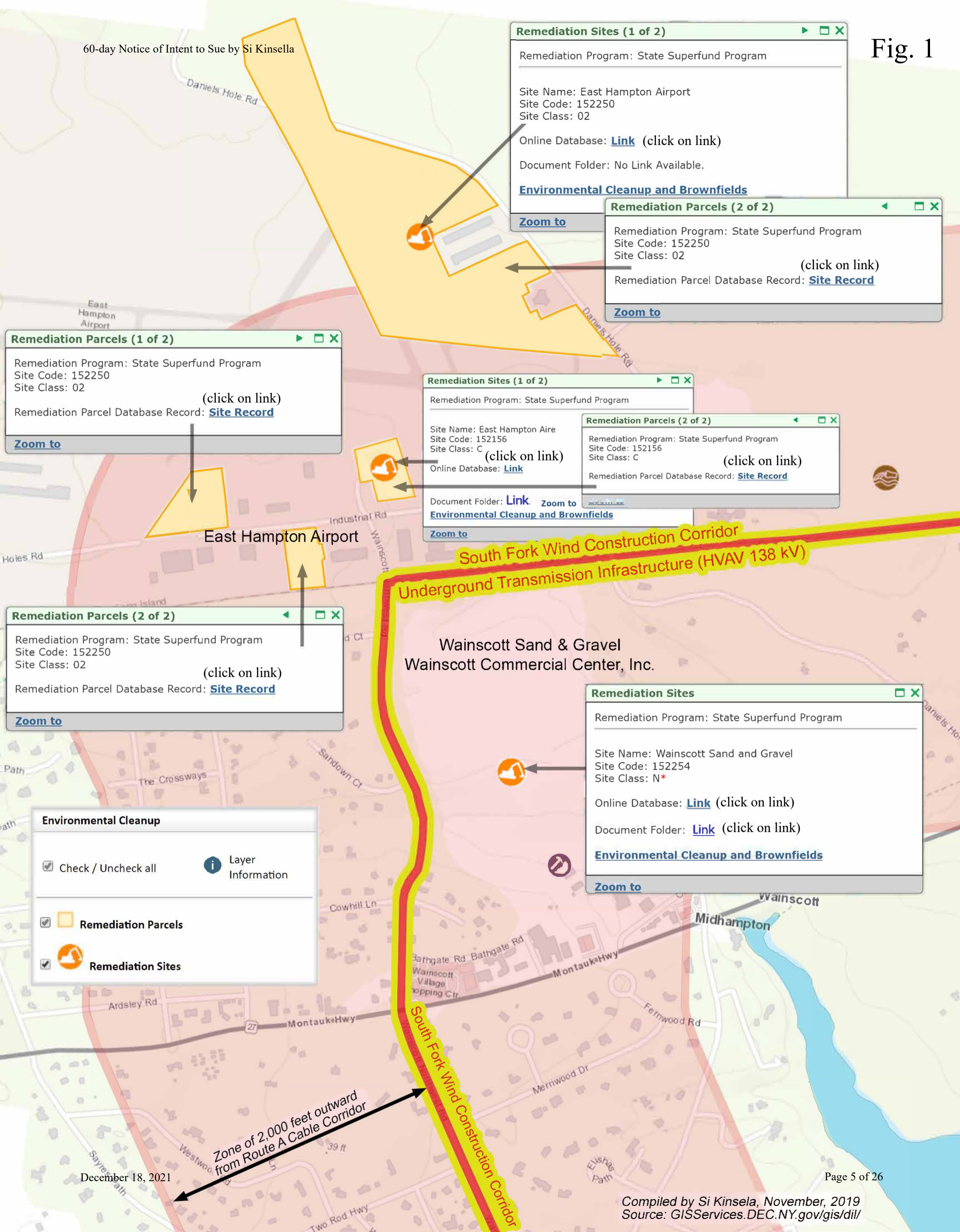
PFAS - “a significant threat to public health and the environment.”³

On October 11, 2017, Suffolk County Department of Health Services (“SCDHS”) issued a Water Quality Advisory for Private-Well Owners in Area of Wainscott. The advisory warned residents living in the vicinity of East Hampton Airport that “PFOS and PFOA have been detected in some of the private wells that have been tested so far [and that] One private well had PFOS and PFOA detected above the USEPA lifetime health advisory level of 0.07 ppb.” EPA’s health advisory levels are established to protect even the most sensitive populations, including fetuses during pregnancy and breastfed babies, against potential adverse health effects.” At the time, over ninety percent of residents relied on private wells for *all* their drinking-water and freshwater needs. It was reported on the front page of all the local newspapers. East Hampton Airport is upgradient and adjacent to South Fork Wind proposed construction corridor (see Fig 1 overleaf).

³ New York State Department of Environmental Conservation (“NYSDEC”) State Superfund Site Classification Notice, Inactive Hazardous Waste Disposal Site Program for East Hampton Airport, dated June 2019.

Fig. 1

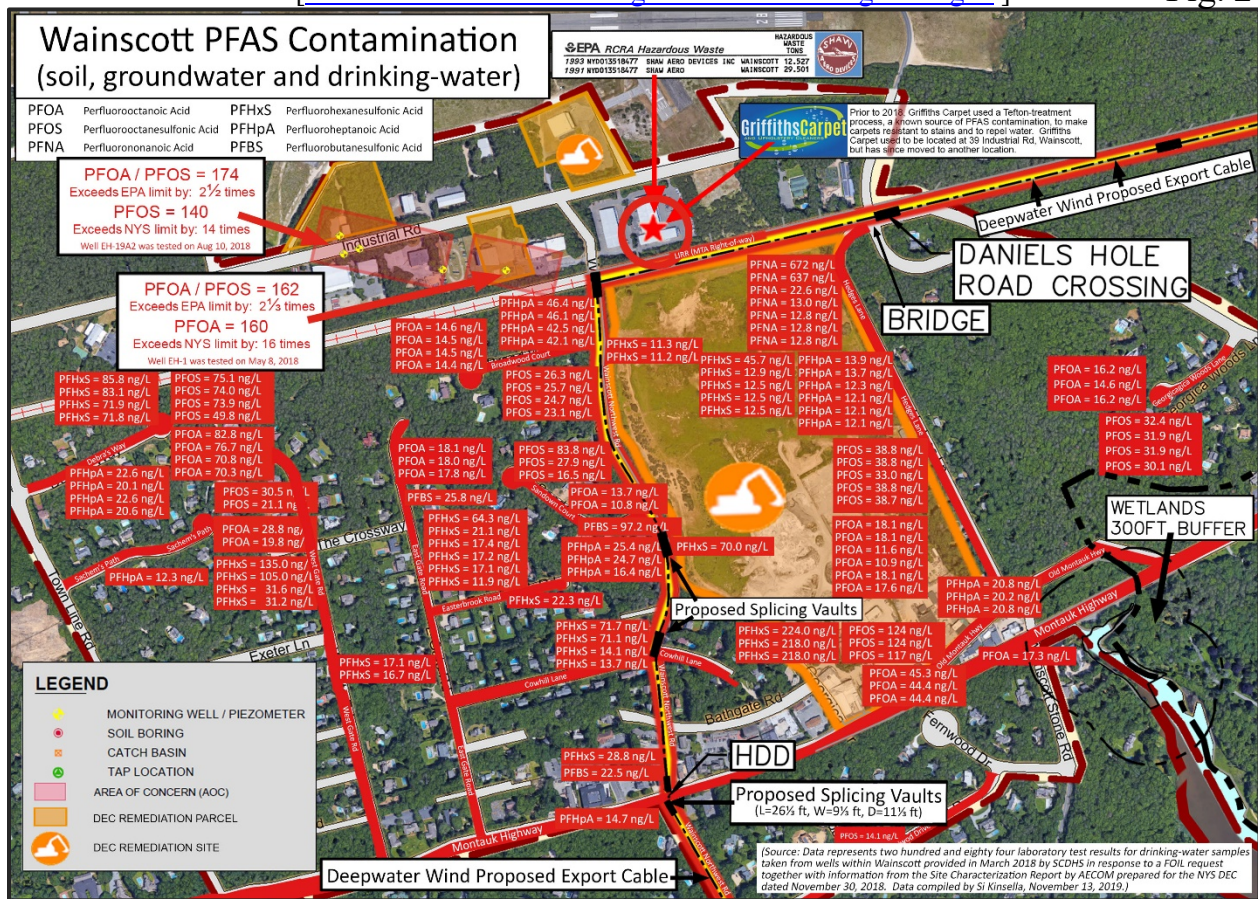
60-day Notice of Intent to Sue by Si Kinsella



By June 2018, SCDHS had tested two hundred and ninety-seven (297) private drinking-water wells surrounding South Fork Wind’s proposed construction corridor. Thirteen (13) wells (or 4%) exceeded the U.S. EPA Health Advisory Level, and forty-five (45) wells (15%) exceeded the New York State Maximum Contamination Level (see Fig 2 below).⁴ Around the same time (on June 26, 2018), two groundwater monitoring wells within one hundred and fifty (150 ft) downgradient adjacent to South Fork Wind’s proposed construction corridor contained PFOS contamination that was double the EPA Health Advisory Level.⁵ The source of contamination is upgradient on the opposite side of the Applicant’s construction site.⁶

[\[Click here to download a higher resolution image of Fig. 2.\]](#)

Fig. 2



To see more maps of PFAS contamination, visit <http://www.Wainscott.Life/maps.html>.

In 2018, the NYSDEC commissioned AECOM U.S., Inc. to investigate contamination at East Hampton Airport. AECOM released its Site Characterization Report

⁴ U.S. EPA Health Advisory Level (HAL) of 70 parts per trillion (“ppt”) for combined PFOA/PFOS, and the New York State Maximum Contamination Level (“MCL”) of 10 ppt for PFOA and 10 ppt for PFOS.

⁵ Wainscott Commerical Center, Draft Environmental Impact Statement, Figure 8, Well MW-3 (PFOA/PFOS of 144 ppt) and MW-4 (PFOA/PFOS of 124 ppt), dated June 26, 2018.

⁶ For more information on the Town of East Hampton’s attempt to conceal PFAS contamination on Town-owned property – East Hampton Airport – see www.Wainscott.Life.

of East Hampton Airport on November 30, 2018. Of the twenty-one (21) soil sample wells tested at varying depths, PFAS compounds were detected in nearly all soil samples collected. The maximum concentration level of contamination was 15 ng/g of PFOS at well EH-1 (duplicate) upgradient within 500 feet of South Fork Wind’s proposed construction corridor.

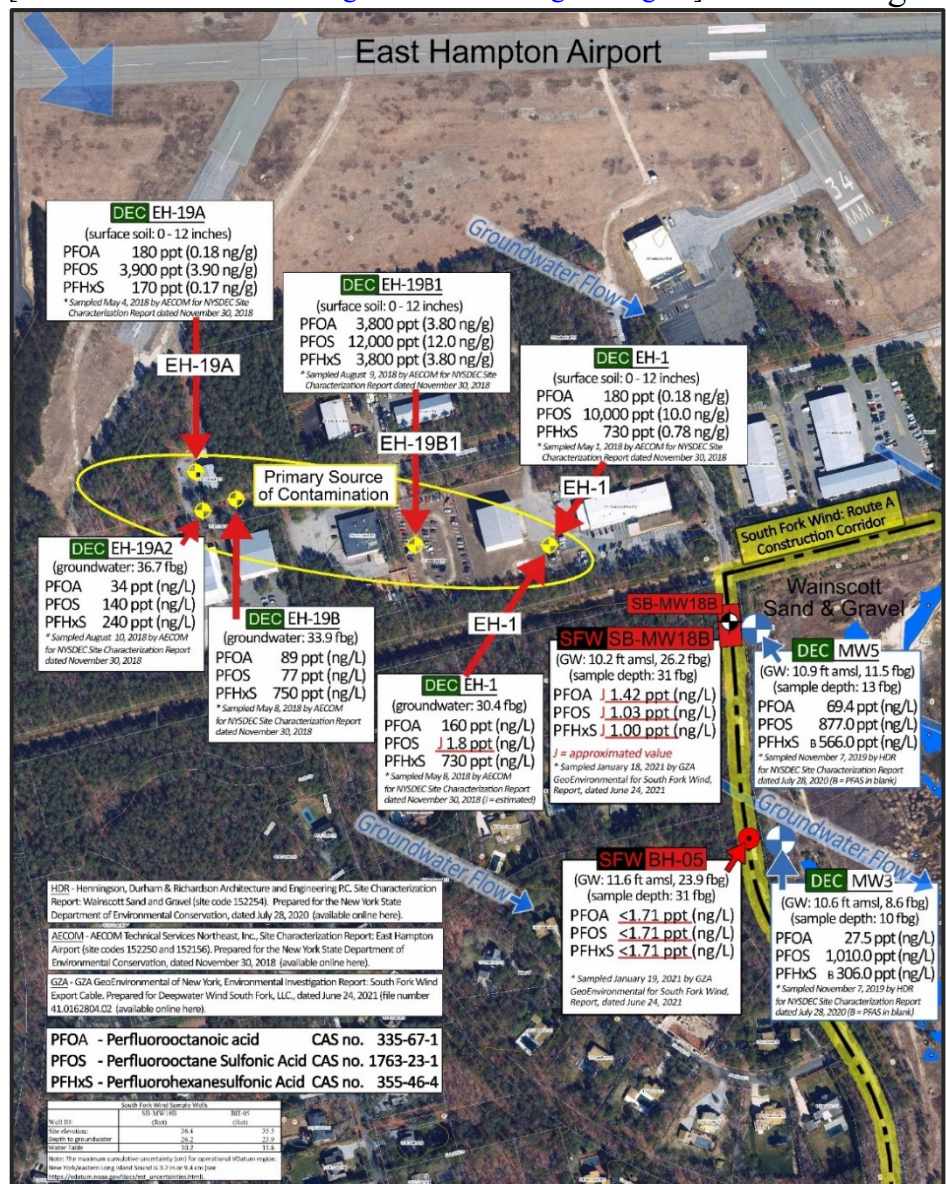
In June 2019, the New York State Department of Environmental Conservation (“NYSDEC”) registered East Hampton Airport as an Inactive Hazardous Waste Disposal Site. It classified it as “a Class 2 site that presents a significant threat to public health and the environment” (see Exhibit A).

In July 2020, at the NYSDEC’s request, Henningson, Durham & Richardsons (“HDR”) released Site Characterization Report for Wainscott Sand & Gravel, a site downgradient and adjacent to the construction corridor.

Two groundwater monitoring wells within one hundred (100 ft) downgradient and adjacent to the proposed construction corridor contained PFOS contamination. Well, MW5 exceeded the New York Standard for PFOS by eighty-eight (88) times(877 ppt). Well, MW3 exceeded the New York Standard for PFOS by one hundred (100) times (1,010 ppt). The source of the PFAS

[\[Click here to download a high-resolution image of Fig. 3.\]](#)

Fig. 3

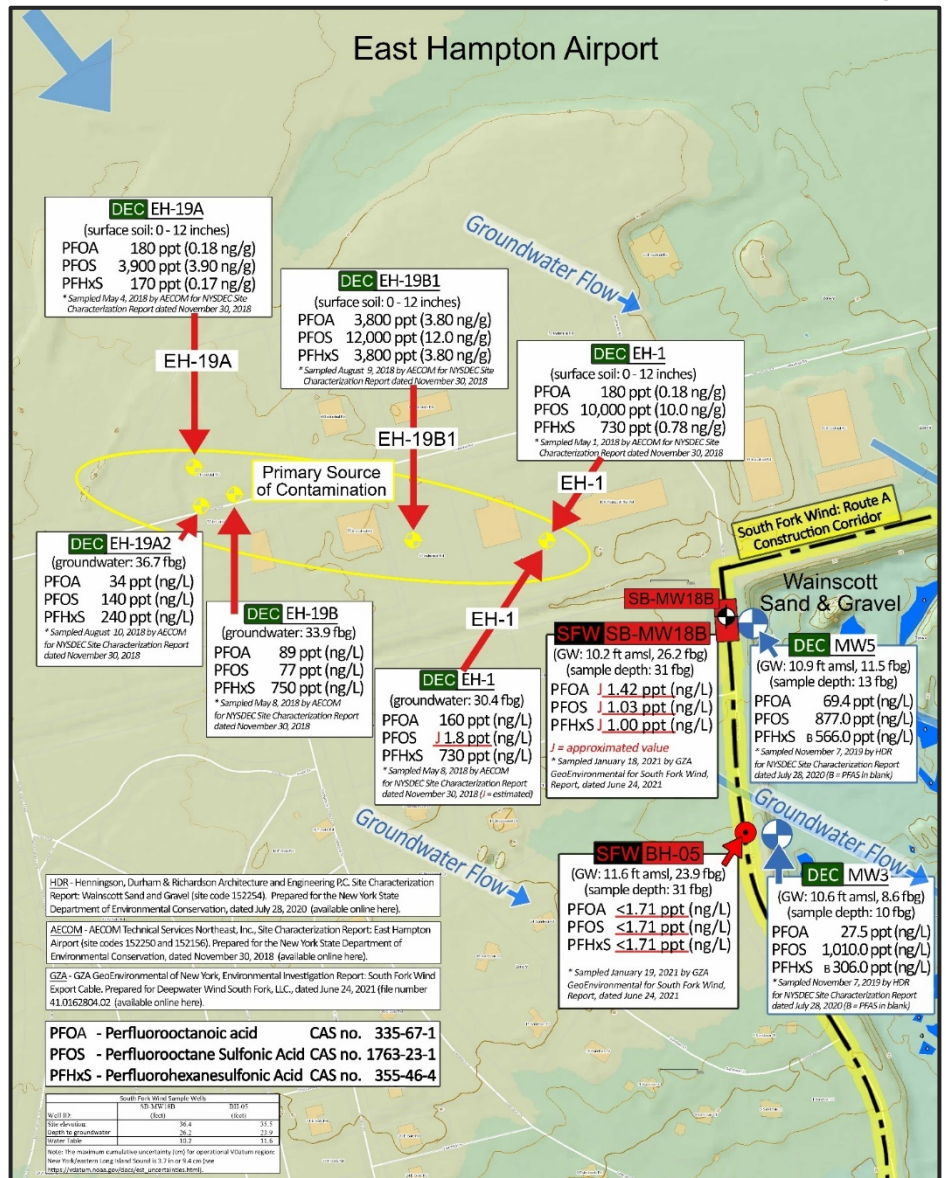


contamination is upgradient on the opposite side of the construction site at the East Hampton Airport.⁷

[\[Click here to download a high-resolution image of Fig. 4.\]](#)

Fig. 4

South Fork Wind tested a few wells along its construction corridor. The tests were conducted one week *after* the evidentiary records in the New York State Public Service Commissions hearing (18-T-0604) had closed. South Fork Wind’s sampling plan and results avoided scrutiny by *any* regulatory agency. No witnesses were cross-examined on the testing. South Fork Wind’s PFAS contamination results contradict results for PFAS contamination conducted by independent laboratories. For example, South Fork Wind’s results for wells SB-MW-18B (see Fig 3 and Fig 4) allegedly contain barely any detectible levels of PFAS contamination.



On the other hand, tests performed for the NYSDEC for Well MW5 just one hundred feet downgradient at a similar depth showed groundwater contamination by PFOS of 877 ppt and PFHxS of 566. South Fork Wind does not explain the difference in results. The stark variance is repeated for South Fork Wind’s results for wells BH-05 (see Fig. 3 and 4) that allegedly contain no detectible levels of PFAS contamination. On the other hand, tests performed for the NYSDEC for Well MW3 just one hundred feet downgradient at a similar depth showed

⁷ For more information on the Town of East Hampton’s attempt to conceal PFAS contamination on Town-owned property – East Hampton Airport – see www.Wainscott.Life.

groundwater contamination by PFOS of 1,010 ppt and PFHxS of 306. In both instances, the source of contamination is upgradient on the opposite side of the proposed construction corridor at East Hampton Airport.

PFAS – Per/ and Polyfluoroalkyl Substances

PFAS is a large group of artificial chemicals that do not occur naturally in the environment. PFAS contamination has been introduced to the environment via industrial processes and consumer products since the 1940s. There are thousands of PFAS compounds, some of which have been more widely used and studied (PFOA and PFOS) than others. Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) are two examples of the most commonly used and studied chemicals in the PFAS group. In New York State, PFOA and PFAS have a Maximum Contamination Level (MCL) each of 10 ppt (parts per trillion). The US EPA Health Advisory Level (HAL) for combined PFOA/PFOS is 70 ppt. (Note: One part per trillion (ppt) equals one drop in twenty Olympic swimming pools.)

PFAS chemical compounds break down slowly and build up (bioaccumulate) in people, animals, and the environment over time. According to the EPA, current peer-reviewed scientific studies have shown that exposure to certain levels of PFAS may lead to:

- Reproductive effects include decreased fertility or increased high blood pressure in pregnant women.
- Developmental effects or delays in children, including low birth weight, accelerated puberty, bone variations, or behavioral changes.
- Increased risk of some cancers, including prostate, kidney, and testicular cancers.
- Reduced ability of the body's immune system to fight infections, including reduced vaccine response.
- Interference with the body's natural hormones.
- Increased cholesterol levels and/or risk of obesity.

See www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas.

Statutory Regulations Require Environmental Analysis and Site Investigation

BOEM's Information Guidelines for a Renewable Energy, Construction and Operations Plan ("COP") reads – "Pursuant to 30 CFR 585.626, the COP must include a description of all planned facilities, including onshore and support facilities, as well as anticipated project easement needs for the project [emphasis added]. It must also describe

the activities related to the project, including construction, commercial operations, maintenance, decommissioning, and site clearance procedures. The COP will provide the basis for the analysis of the environmental and socioeconomic effects and operational integrity of your proposed construction, operation, and decommissioning activities.”⁸ BOEM’s guidelines continue: “You must prepare an overall site investigation report for your facility that integrates the findings of the shallow hazard, geological, and geotechnical surveys for a proposed project in accordance with 30 CFR 585.626(a)(6). BOEM recommends that the report include [...] Recommendations for mitigating geologic hazards.”⁹

Furthermore, BOEM explains that pursuant to 30 CFR 585.626(b), a “complete and detailed project description is the foundation for understanding the impacts your project will have and how it will interact with the environment.”¹⁰ The guide also instructs applicants to “[i]nclude the following topics in the desktop analysis: Anthropogenic Conditions and Hazards” and one of many examples provided is “cables/pipelines[.]”¹¹

BOEM’s requirements are not limited to offshore marine resources or activities on the Outer Continental Shelf (“OCS”) in federal jurisdiction. “A COP contains information describing all planned facilities [...] along with all proposed activities including your proposed construction activities, commercial operations, and conceptual decommissioning plans for all planned facilities, including onshore and support facilities.”¹²

South Fork Wind’s Non-compliance with Statutory Regulations Requiring Environmental Analysis and Site Investigation

Under the heading of Anthropogenic Activities, South Fork Wind’s COP (falsely) claims that there “are no direct [...] industrial point sources for pollution into or within the SFWF and SFEC.” Point source pollutants are defined to “enter waterways at well-defined locations, such as pipe or sewer outflows are the most common sources of water pollution” (at p. 4-58). South Fork Wind does not identify excessive PFAS contamination at East Hampton Airport.

South Fork Wind (falsely) claims that “[a]ll freshwater groundwater in New York State is Class GA, a source for potable water supply” and ignores overwhelming evidence of PFAS contamination throughout its proposed construction corridor.

⁸ US Department of the Interior, Bureau of Ocean Energy Management, Information Guidelines for a Renewable Energy, Construction and Operations Plan (COP), Version 4.0, dated May 27, 2020 (at p. 6).

⁹ *Id.* (at p. 11)

¹⁰ *Id.* (at p. 12)

¹¹ *Id.* (at p. 60)

¹² *Id.* (at p. 2)

In sharp contrast to the complete absence of *any* reference to known PFAS contamination, South Fork Wind goes into great detail about “median groundwater nitrogen levels in the Upper Glacial Aquifer [that] have risen 40 percent to 3.58 mg/L, and the Magothy Aquifer has seen a 93 percent increase in nitrogen levels to 1.76 mg/L since 1987. While nitrogen levels are generally below the drinking water standard, there are some areas that now exceed the 10 mg/L limit” (see COP at pp. 228-229).

On November 15, 2019, South Fork Wind was presented with much of the information (mentioned above) contained in the NYSDEC and SCDHS PFAS reports during discovery in New York State Public Service Commission (case 18-T-0604). The PFAS information was in the form of an Interrogatory/Document Request SK #01. South Fork Wind responded by saying that it “objects to the information asserted [...] on the grounds that the information is inaccurate and not based in fact.”

South Fork Wind was asked whether it “has considered the possibility of significant adverse impacts to public health given that the Beach Lane Route A Cable Corridor runs through a residential neighborhood and groundwater protection district?” Again, it responded: South Fork Wind “objects to this request on the grounds that it includes statements that have no basis in facts.”

South Fork Wind likely knew of the contamination soon after Suffolk County Department of Health Services issued its Water Quality Advisory for Private-Well Owners in Wainscott on October 11, 2017. Still, there is no doubt that South Fork Wind had detailed knowledge of the extent and nature of PFAS contamination in groundwater and soil at least as early as November 2019 when it was presented with Interrogatory/Document Request SK #01. Regardless, South Fork Wind repeatedly refused to include information on PFAS contamination along its proposed construction corridor from its revised COP submitted to BOEM on February 13, 2020, July 22, 2020, and, again, on May 7, 2021.

For three years, South Fork Wind has dodged, evaded, delayed, and circumvented addressing existing environmental contamination from releases of PFAS chemical compounds that in New York State are defined as hazardous waste.

South Fork Wind has failed to comply with 30 C.F.R. § 585.627, by not submitting information and certifications necessary for BOEM to comply with the National Environmental Policy Act of 1969 (NEPA)¹³ and other relevant laws.

It would be reckless of BOEM and other federal agencies to permit the Applicant to proceed with onshore construction, excavation, handling, and transporting contaminated

¹³ 42 U.S.C. § 4321 et seq.

material the NYSDEC classifies as “a significant threat to public health and the environment” through residential streets.¹⁴

South Fork Wind’s Flawed Testing and Site Investigation

South Fork Wind has not adequately tested soil and groundwater in its construction corridor for PFAS contamination as required. Furthermore, according to its own plans, South Fork Wind has no intention of testing for PFAS contamination during construction. Despite its multiple failures to protect human health and the environment, South Fork Wind plans to begin onshore construction in a month (in January 2022) regardless.

If South Fork Wind proceeds as planned, approximately thirty-two thousand (32,000) metric tonnes of excavated material, much of which is likely contaminated, will be mishandled and transported along local streets through a residential neighborhood without adequate precautions.¹⁵

South Fork Wind has not disclosed where it proposes dumping the excavated material containing hazardous waste. As far as we know, contaminated material may be dumped at the Wainscott Sand and Gravel site adjacent to South Fork Wind’s construction corridor.

South Fork Wind (falsely) claims to have adequately tested its construction site, but most soil samples were not tested for suspected PFAS contamination. Instead, South Fork Wind tested only a few soil samples and then only at the shallow surface that avoids detecting suspected PFAS contamination towards the bottom of the excavation pit. For example, South Fork Wind plans to bury one of its many vaults downgradient within 500 feet of well EH-1 where PFOS contamination of soil at a detectable level of 15 ng/g (duplicate) exceeds the NYSDEC Guidance Value for the protection of groundwater (3.7 ng/g). Still, South Fork Wind did not test the soil at this location (see [Fig. 5](#) overleaf). In total, four wells upgradient within proximity of South Fork Wind proposed construction corridor exceed NYSDEC’s Guidance Value for the protection of groundwater (see [Fig 3](#) and [Fig 4](#)). NYSDEC Sampling, Analysis and Assessment for PFAS (June 2021) reads: “Development of site-specific remedial objectives for protection of groundwater will require analysis of additional soil parameters relating to leachability. These additional analyses can include any or all the parameters listed above (soil pH, cation exchange capacity, etc.) and/or use of SPLP.” South Fork Wind failed to comply with any of these standards designed to protect the sole-source aquifer and public health.¹⁶

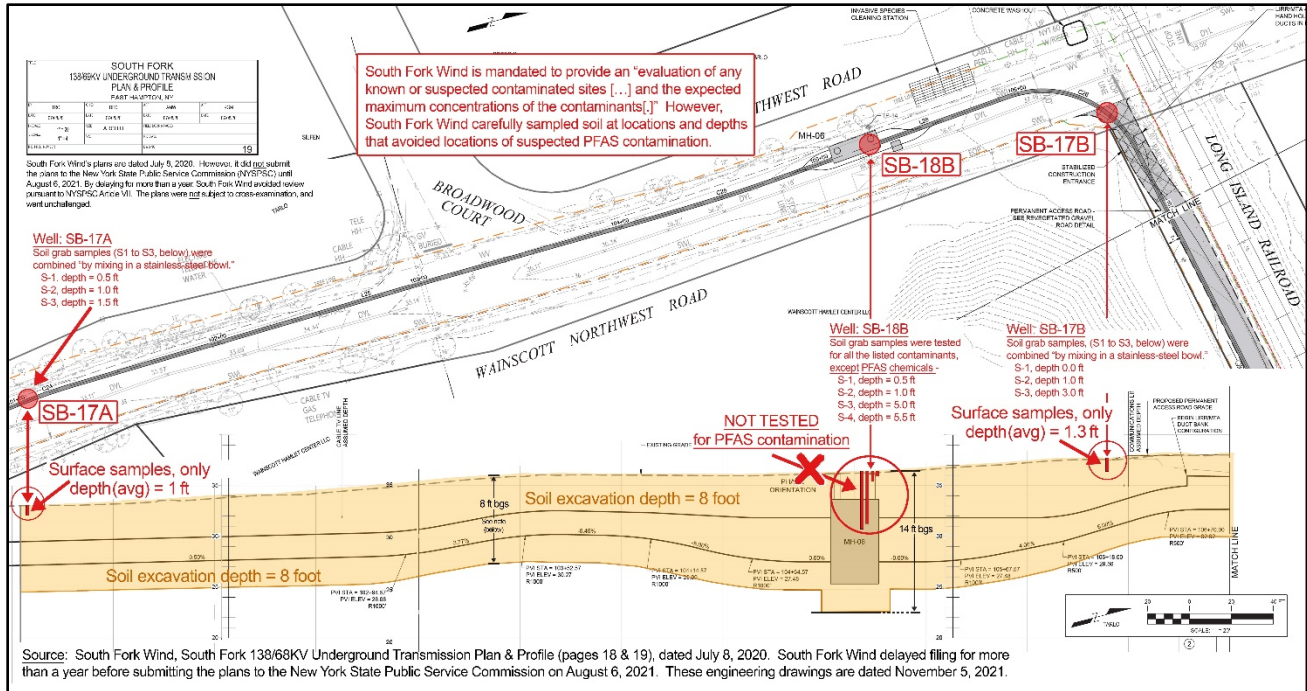
¹⁴ New York State Department of Environmental Conservation (“NYSDEC”) State Superfund Site Classification Notice, Inactive Hazardous Waste Disposal Site Program for East Hampton Airport, dated June 2019.

¹⁵ See Final Hazardous Waste and Petroleum Work Plan, Part 2, Attachment B (August 8, 2020).

¹⁶ New York State Department of Environmental Conservation (“NYSDEC”), Sampling, Analysis, and Assessment of Per- and Polyfluoroalkyl Substances (PFAS), Under NYSDEC’s Part 375 Remedial Programs (June 2021)

[\[Click here to download a high-resolution image of Fig. 5.\]](#)

Fig. 5



Furthermore, South Fork Wind’s Article VII certificate conditions mandate that “samples collected must be analyzed for PFAS in locations where fires have occurred since 1940 and where other PFAS contaminated sites were identified based upon due diligence and research of historical and public records [emphasis added].” Still, in violation of its certificate conditions, South Fork Wind tested neither soil nor groundwater within 1,000 feet downgradient from a fire at 75 Wainscott NW Road identified in its Hazardous Waste and Petroleum Work Plan. Well SB-11B is located adjacent to the site of the fire. However, South Fork Wind failed to test soil from the well for PFAS contamination ([Fig. 6](#) overleaf).

There has been no regulatory review of South Fork Wind’s test results. No regulatory agency at either the federal, state, or local level has reviewed South Fork Wind’s sampling plan or test results. For example, on November 24, 2021, BOEM approved South Fork Wind’s COP that reads – “existing groundwater quality in the analysis area appears to be good and meets NYSDEC (2018) groundwater quality standards.”¹⁷ This statement contradicts overwhelming evidence of existing PFAS contamination (as mentioned above), which was provided to BOEM in comments submitted on February 22, 2021 ([click here](#)).¹⁸ BOEM ignored groundwater contamination in Wainscott, and one hundred and fifty-three (153) exhibits (of more than 14,000 pages) attesting to other issues, such as Wind Wake Effect and the mismatch between electrical output (supply) and electrical demand. When energy is needed most during the summer, offshore wind generates the least amount of

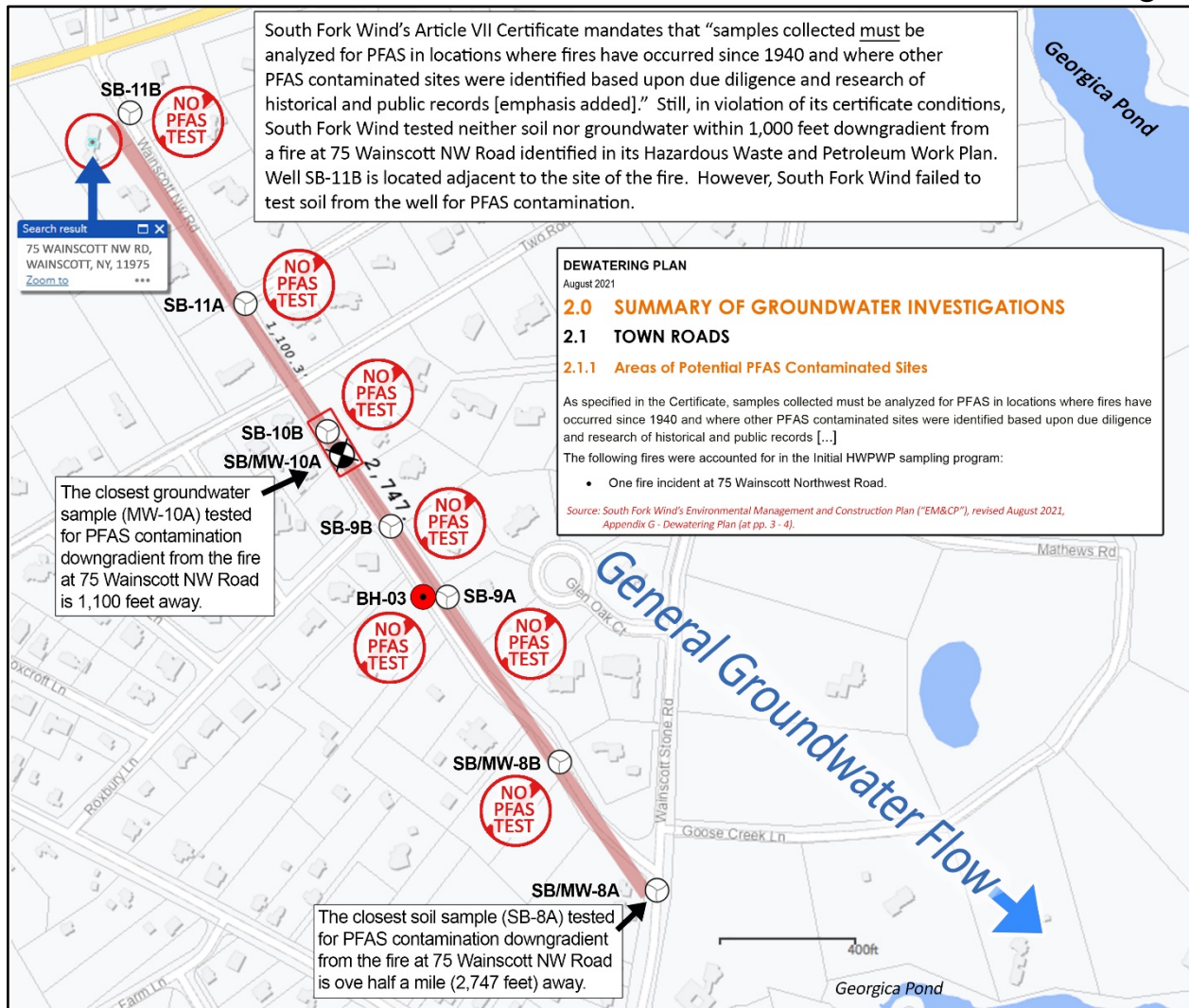
¹⁷ US Bureau of Ocean Energy Management (BOEM), South Fork Wind Farm, and South Fork Export Cable Project Final Environmental Impact Statement dated August 2021 (at p. 655, section 3.3.2.1.2, ¶ 2).

¹⁸ All submissions to BOEM by Kinsella are available at www.oswSouthFork.info/boem.

power, operating at only twenty-to-thirty percent (20-30%) of total capacity (see Block Island Wind Farm Power Output ([click here](#)) and www.oswsouthfork.info/osw-output).

[[Click here to download a high-resolution image of Fig. 6.](#)]

Fig. 6



BOEM ignores two sites of contamination – East Hampton Airport and Wainscott Sand and Gravel – adjacent to South Fork Wind’s proposed construction corridor. Both sites are the subject of two NYSDEC Site Characterization Reports, a Draft Environmental Impact State (for Wainscott Sand and Gravel), a Private Well Survey of nearly three hundred drinking-water wells by Suffolk County Department of Health Services laboratory reports. All these reports show degrees of soil and groundwater PFAS contamination, of which many exceed EPA and New York State standards (adopted August 2020).

Earlier this year (in April), South Fork Wind no longer claimed that it would test “all areas where contamination is likely to be encountered” as it is required to do according to its

New York State Public Service Commission issued certificate conditions.¹⁹ Instead, South Fork Wind now uses the phrase “in any areas with visibly contaminated materials.” South Fork Wind’s subsequent caveat excludes PFAS chemical compounds as they are neither visible nor have an odor that a construction worker can identify as either PFOA or PFOS contamination.

On November 22, the New York State Public Service Commission approved South Fork Wind’s final Environmental Management and Construction Plan (dated September 2021). In it, South Fork Wind commits only to “sampling [soil] if visibly contaminated material is encountered or if groundwater is encountered in areas that were not previously sampled [...]”²⁰

The New York State Public Service Commission issued Certification of Environmental Compatibility and Public Need to South Fork Wind LLC (case 18-T-0604) is the subject of two separate legal challenges pursuant to Article 78 and are herein incorporated by reference (please click on the link to download the petitions).

- [*Simon V. Kinsella et al v. NYS Public Service Commission et al.*](#), N.Y. Supreme Court, Appellate Div. - 2nd Dept., filed September 9, 2021 (index 006572/2021); and
- [*Citizens for the Preservation of Wainscott, Inc. et al v. NYS Public Service Commission et al.*](#), N.Y. Supreme Court, Appellate Div. - 2nd Dept., filed September 9, 2021 (index: 006582/2021)

National Environmental Policy Act (“NEPA”)

Although the Record of Decision states that permitting decisions pursuant to NEPA “will be made at a later time (e.g., USACE5),” BOEM is not relieved of its legal obligations under NEPA. “In accordance with CEQ NEPA regulations (40 CFR part 1501), BOEM served as the lead Federal agency for the preparation of the EIS” (ROD at p. 5-6).

“This ROD [at p. 14] adopts all practicable measures identified in Appendix G of the FEIS to avoid, minimize, and mitigate adverse environmental impacts that could result from the proposed activities.” Appendix G of the Final EIS is titled – Environmental Protection Measures, Mitigation, and Monitoring. BOEM has granted approval of a significant portion of South Fork Wind’s Final EIS through the back door. BOEM can approve of South Fork Wind’s Final EIS, or not. If “BOEM is still undergoing consultation with NMFS under the ESA related to the full suite of proposed actions” (FEIS, Appendix G at p. G-1), then it should not issue a record of decision saying that NEPA permitting decisions “will be made

¹⁹ See Final Hazardous Waste and Petroleum Work Plan, dated April 2021 (at p. 3, ¶ 1).

²⁰ See Final Environmental Management and Construction Plan, dated September 2021 (at p. 99, section 3.2.7).

at a later time” when in fact its “ROD adopts all practicable measures” of a large part of the Applicant’s Final EIS pursuant to NEPA.

The National Environmental Policy Act (“NEPA”), 42 U.S.C. §4321, et seq., requires that federal agencies take a “hard look” at environmental factors and take them into consideration in their decision-making processes. Under NEPA, an environmental impact statement (“EIS”) is required for “major federal actions significantly affecting the quality of the human environment.” NEPA §102, 42 U.S.C. §4332(c) requires “full disclosure” that includes a proposed onshore construction corridor.

The NEPA process is focused on agency decision-making (40 CFR 1500.1(c), 40 CFR 1508.18, 40 CFR 1508.23). Therefore, a non-Federal action such as the New York State Public Service Commission proceeding, even if “closely related” to a proposed action, will not be a connected action pursuant to the Council on Environmental Quality regulations because connected actions are limited to Federal actions. Rather, suppose the non-Federal action or its effects can be prevented or modified by BOEM decision-making. In that case, the effects of the non-Federal action are properly considered indirect effects of the BOEM action and must be analyzed as effects of the BOEM action (40 CFR 1508.7, 40 CFR 1508.25(c)).

DOI’s regulations implementing NEPA state that the term “reasonable alternatives” “includes alternatives that are technically and economically practical or feasible and meet the purpose and need of the proposed action.” 43 C.F.R. § 46.420(b) (see COP at p. 9). BOEM, as the lead agency, has failed to consider joining South Fork Wind with the adjacent offshore wind farm, Sunrise Wind that is owned and controlled by the same joint and equal partners, Ørsted and Eversource. By joining the two projects, more significant economies of scale would be achievable to reduce the cost burden to over one million ratepayers by more than half – South Fork Wind costs 22 cents per kilowatt-hour, whereas Sunrise Wind costs only 8 cents. The elimination of a separate sixty-mile-long transmission cable would undoubtedly have substantial environmental benefits and resolve issues related to onshore PFAS contamination.

Purpose and Need for the Proposed Action (ROD at p. 7)

According to BOEM’s ROD – “Cooperating *state* agencies included the Massachusetts Office of Coastal Zone Management (MA CZM), Rhode Island Coastal Resource Management Council (RI CRMC), and Rhode Island Department of Environmental Management [emphasis added]” (at p. 1). Conspicuously missing from the list of cooperating “state” agencies is *any* New York State agency.

The *only* agency responsible for ensuring the contract was awarded to a project that satisfied the stated purpose and need was the Long Island Power Authority (LIPA). During

the New York State Public Service Commission proceeding (docket 18-T-0604), the Administrative Law Judge ruled that the South Fork RFP procurement and its subsequent award of a power purchase agreement were irrelevant and out of the scope of the proceeding on four separate occasions. LIPA was the *only* federal, state, or local agency responsible for the purpose and need of the South Fork Wind Project.

Suppose LIPA was the only agency to have decision-making responsibility regarding the South Fork Wind Project's purpose and need statement. Since it was not a cooperating agency in BOEM's review, how could "[c]ooperating agencies with authorization decision responsibilities have reviewed BOEM's purpose and need statement [...] and [...] concurred that it meets their obligations" (see ROD at p. 7)? BOEM can't have reviewed South Fork Wind's purpose and need statement.

"South Fork Wind's goal is to fulfill its contractual commitments to Long Island Power Authority (LIPA) pursuant to a power purchase agreement executed in 2017 resulting from LIPA's technology-neutral competitive bidding process [emphasis added]" (see ROD at p. 7). LIPA internal documents show that the South Fork RFP procurement was not technology-neutral. At the eleventh hour, this phrase was dropped from the New York State Public Service Commission Order Adopting the Joint Proposal (proceeding 18-T-0604). Also, South Fork Wind was the *only* bidder offering offshore wind resources and was advanced in the procurement process based on that reason alone. In other words, the South Fork RFP procurement was not a competitive bidding process.

BOEM – Social and Economic Resources (30 CFR 585.627(a)(7))

According to BOEM's Information Guidelines for a Renewable Energy COP, *Supra*, South Fork Wind is required to "[d]escribe the onshore economic baseline of the coastal areas that may be affected by your project [and][...] the context of existing socioeconomic activities and resources and extant demographic and economic patterns for construction, operation" that includes "any economic modeling" (at p. 52).

Still, the Applicant has not complied with 30 CFR 585.627(a)(7) and has failed to assess the economic impact of charging 22 cents per kilowatt-hour for its electrical energy when the same renewable energy can be purchased from the adjacent offshore wind farm, Sunrise Wind, for just 8 cents. The Applicant puts the vast difference in price down to the timing of when Long Island Power Authority ("LIPA") awarded a Power Purchase Agreement ("PPA") to South Fork Wind in January 2017. At the time, LIPA agreed to the most expensive renewable energy option available.

Anti-trust violations

In 2016 the U.S. Energy Information Administration, in a simple average of regional values estimated the cost of energy from offshore wind plants coming online in 2022 to be almost two and a half times that of onshore wind and almost twice as much as solar photovoltaic.

The cost comparison between offshore wind and solar photovoltaic is also reflected in local prices on Long Island's South Fork. Around the same time that LIPA evaluated South Fork Wind's proposal for an offshore wind farm, it was also developing the Long Island Community Microgrid Project. The U.S. National Renewable Energy Laboratory ("NREL") estimated that the cost per megawatt of output from the Long Island Community Microgrid Project would have been half the energy price from South Fork Wind. Furthermore, the microgrid proposal would supply power most efficiently when needed on hot sunny summer days when air conditioning usage peaks demand– the problem the South Fork RFP sought to solve but does not.

South Fork Wind's proposal was selected in a procurement process despite failing to satisfy the minimum requirements and specifications of the request for proposals, the South Fork RFP. LIPA awarded South Fork Wind (formerly Deepwater Wind South Fork LLC) a PPA despite the following deficiencies –

- a) It is not a "local resource" that is "located on Long Island";
- b) It is not an alternative to adding new transmission lines;
- c) It does not defer the need for new transmission lines, but instead requires substantial transmission upgrades;
- d) It cannot reliably supply power to satisfy peak demand for electricity in response to air conditioner usage on the South Fork in the hotter months from June to September;
- e) The project cannot be a source of power until at least 2023 with a proposed commercial operating date of December 31, 2022;
- f) It cannot supply a dispatchable resource capable of functioning in Operating Modes that require power to be turned on in response to a "trigger signal" (because turbines that depend on the wind cannot be turned on as demand requires); and
- g) It is not a resource designed to meet "performance calculations" that are "no less severe than [...] [a] maximum steady wind velocity [of] 130 mph" (offshore wind turbines cease generating power at a wind speed closer to 55 mph).

LIPA's award of a power purchase agreement at inflated prices to a bidder whose proposal did not meet the minimum specifications or requirements as prescribed in the South Fork RFP constitutes procurement manipulation and bid-rigging where consumers, ratepayers, and taxpayers are ultimately cheated. In the case of South Fork Wind, Suffolk County ratepayers would be paying over one billion dollars extra than they would not have had to pay

if the award was subject to a truly competitive procurement process. Such manipulation is illegal and may be subject to prosecution by the Antitrust Division of the United States Department of Justice as it involves electricity generated in federal waters governed by a federal agency that is transmitted into New York State jurisdiction for sale to LIPA at the East Hampton Substation in the Town of East Hampton, New York State. LIPA's award of a PPA to South Fork Wind may contravene the Sherman Antitrust Act that prohibits activities that restrict competition in the marketplace.

The Sherman Act is broad in scope, § 1 of the Act states that “[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.”

See *Simon V. Kinsella et al. v. Long Island Power Authority, et al.* (Exhibit B) where plaintiffs seek to annul South Fork Wind's power purchase agreement with LIPA on the grounds that the award violated New York State Finance and Municipal Law. Plaintiffs allege LIPA awarded a \$1.6 billion contract for the supply of energy in an opaque non-competitive procurement process at inflated prices where the winning bidder, South Fork Wind LLC (formerly Deepwater Wind South Fork LLC), failed to meet the minimum requirements and specifications of the request for proposals, the South Fork RFP.

The following two documents are herein incorporated by reference (please click on the link to download the complaints).

- [Simon V. Kinsella et al. v. Long Island Power Authority, et al.](#) N.Y. Suffolk County Supreme Court, filed November 9, 2021 (index: 621109/2021); and
- [Simon V. Kinsella v. Office of the New York State Comptroller](#), Albany County Supreme Court, filed July 9, 2019 (index: 904100/2019)

BOEM Authority (M-Opinion 37067)

“The Secretary of the Interior must consider certain factors before acting under OCSLA subsection 8(p)(4) (43 U.S.C. § 1337(p)(4)). Specifically, “[t]he Secretary shall ensure that any activity under [subsection 8(p)] is carried out in a manner that provides for [emphasis added] —

- (A) safety;
- (B) protection of the environment;
- (C) prevention of waste;

(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection (see COP at p. 5).

By approving South Fork Wind’s COP, the Secretary of the Interior has failed to comply with OCSLA subsection 8(p)(4)(A) by placing residents who live near to the Applicant’s proposed construction corridor at substantial risk of exposure to hazardous waste in the form of PFAS chemical contamination; OCSLA subsection 8(p)(4)(B) by failing to protect the sole source aquifer on the South Fork of Long Island from further contamination as a result of disturbing existing PFAS contamination in soil and groundwater by the Applicant during construction; OCSLA subsection 8(p)(4)(C) by failing to prevent a huge waste of resources estimated to be in excess of one billion dollars due to the manipulation of the procurement process; and, OCSLA subsection 8(p)(4)(H) by failing to ensure ratepayers and taxpayers receive a fair return given the potential for environmental damage and the overpriced costs of electrical energy from the South Fork Wind project.

The Secretary of Interior’s and the Bureau’s violations of the Outer Continental Shelf Lands Act

The Outer Continental Shelf Lands Act declares that “the policy of the United States ... shall be construed in such a manner that the character of the waters above the Outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected.”²¹

In approving the Construction and Operations Plan and easement for the Project, the Secretary of Interior violated this provision and will seriously obstruct navigation and fishing within and around the Project area during its construction, operation, and decommissioning over the 20 to a 25-year term of the lease.²² Despite the requests to the contrary, the Secretary of Interior and the Bureau failed to require South Fork Wind to design, construct, and operate the Project to accommodate the needs of fishermen and others navigating the area, impairing the fishing industry and endangering navigation, particularly during poor weather conditions, at night, and in instances of equipment failure.²³

²¹ 43 u.s.c. § 1332(2).

²² See ROD (at p. 15): “The turbine layout must be arranged in a uniform east–west and north–south grid, with 1 × 1 nm spacing between WTGs, and diagonal transit lanes of at least 0.6 nm wide”

²³ See ROD (at p. 15-16): The Vessel Transit Lane Alternative (Transit Alternative) analyzed a 4-nm-wide vessel transit lane [...] [but the] DOI has not selected the Transit Alternative in this ROD.”

The United States, its departments, and agencies have violated the Endangered Species Act

The Supreme Court has described the endangered Species Act as –

the most comprehensive legislation for the preservation of endangered species ever enacted by any nation. Its stated purposes were “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved,” and “to provide a program for the conservation of such ... species “16 U.S.C. § 1531(b) (1976 ed.). In furtherance of these goals, Congress expressly stated in § 2(c) that “all Federal departments and agencies shall seek to conserve endangered species and threatened species “16 U.S.C. § 1531(c) (1976 ed.) Lest there be any ambiguity as to the meaning of this statutory directive, the Act specifically defined “conserve” as meaning “to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary.” § 1532(2).²⁴

The Supreme Court has concluded that: “The plain intent of Congress in enacting this statute was to halt and reverse the trend toward species extinction, whatever the cost.”²⁵ Specifically applicable here, Section 7(a) of the ESA requires:

Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such ... agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of habitat of such species²⁶

Following this consultation, “the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary’s opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat.”²⁷

The agencies have violated the ESA because the Construction and Operations Plan, or the permits issued, do not protect whales

²⁴ *Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 180 (1978)

²⁵ *Id.* (at p. 184)

²⁶ 16 U.S.C. § 1536(a)

²⁷ *Id.* § 1531

The North Atlantic Right Whale is one of the world's most endangered large whale species, with less than 400 individuals remaining, as the National Marine Fisheries Service states:

North Atlantic right whales primarily occur in Atlantic coastal waters on the continental shelf, although they also are known to travel far offshore, over deep water. Right whales migrate seasonally and may travel alone or in small groups. In the spring, summer, and into fall, many of these whales can be found in waters off New England and further north into Canadian waters, where they feed and mate. Each fall, some right whales travel more than 1,000 miles from these feeding grounds to the shallow, coastal waters of their calving grounds off of South Carolina, Georgia, and northeastern Florida, though migration patterns vary.²⁸

“North Atlantic Right Whales primarily occur in Atlantic coastal waters on the continental shelf.”²⁹ As discussed in Section 2.4, the United States has announced its policy to establish wind projects along the Atlantic shelf and has already granted leases for such projects, totaling almost 2 million acres. This policy will block much of the whales' migration route, but the agencies have not considered this.

Further, although these whales have stocky black bodies with no dorsal fins, the agencies have simply assumed that whale watchers on vessels will be an appropriate, effective way of protecting this endangered species.³⁰

Approval of the Construction and Operations Plan further endangered the North Atlantic Right Whale population because the construction of turbines and other Project infrastructure will limit the ability of the National Marine Fisheries Service to conduct critical population surveys. These surveys are conducted through aerial observations, and the airplanes will be unable to fly at the necessary heights in or around the turbine arrays. They are a necessary component to understanding North Atlantic Right Whale population status and measuring impacts or biological changes, and their disruption is likely to greatly increase scientific uncertainty regarding the whales. The National Marine Fisheries Service has determined that there is no way to calibrate to higher altitudes, and with no strategy in place to mitigate this loss, there will be a loss of continuity of this critical long-term data set.

Even though noise significantly impacts the North Atlantic Right Whales' ability to communicate, the Project was approved, putting the endangered species at risk. Right whales communicate using low-frequency moans, groans, and pulses, which may maintain contact between individuals, communicate threats, signal aggression, or be used for other social

²⁸ NOAA Fisheries, North Atlantic Right Whale (last visited Sept. 24, 2021), available at – <https://www.fisheries.noaa.gov/species/north-atlantic-right-whale>.

²⁹ *Id.*

³⁰ *Id.*

reasons.³¹ The Secretary of Commerce and the National Marine Fisheries Service have authorized the incidental take of 13 of these mammals,³² even though the species' "extinction is almost certain in the immediate future because of rapid population decline or habitat destruction, and conflicts with construction, development, or economic activity."³³ Since 2017, North Atlantic Right Whales have experienced an ongoing Unusual Mortality Event affecting 50 individual right whales.³⁴ Thirty-four whales have been documented dead and 16 seriously injured.³⁵ This represents more than 10% of the population, which significantly impacts such a critically endangered species where deaths are outpacing births.³⁶

The measures identified in the September 11, 2020, Biological Opinion fail to adequately protect the North Atlantic Right Whale

Approximately 100 North Atlantic Right Whales, comprising about 25% of the worldwide population, have been recently sighted in proximity to the South Fork Wind lease area. Still, the Secretary of Interior approved South Fork Wind's Construction and Operations Plan (on November 24, 2021) after the National Marine Fisheries Service released a study (on July 29, 2021), confirming that whales use the wind energy areas south of Martha's Vineyard and Nantucket in increasing numbers and more often.

We found that right whale use of the region increased during the last decade, and since 2017 whales have been sighted there nearly every month, with large aggregations occurring during the winter and spring," said Tim Cole, lead of the whale aerial survey team at the Northeast Fisheries Science Center and a co-author of the study." said Tim Cole, lead of the whale aerial survey team at the Northeast Fisheries Science Center and a co-author of the study.³⁷

The North Atlantic Right Whale is the most iconic marine animal on the eastern seaboard of the United States. It is also one of the most imperiled species in the entire world, with fewer than 400 individuals known to exist in the wild. The North Atlantic Right Whale is on the verge of extinction. However, one of its safe havens - where there is ample food and protective areas for birthing and rearing young - is the area immediately south-southwest of Nantucket Island. Unfortunately, this is the exact place that the Bureau has selected for purposes of constructing the South Fork Wind Farm along with some of the largest offshore wind energy arrays ever assembled.

³¹ *Id.*

³² South Fork Wind Proposed IHA, Table 1 (at 21) [South Fork Wind proposed IHA \(click here NOAA.gov\)](#)

³³ NOAA Fisheries, Species in the Spotlight: North Atlantic Right Whale | PRIORITY ACTIONS: 2021 - 2025 (https://media.fisheries.noaa.gov/2021-04/SIS%20Action%20Plan%202021_NARightWhale-FINAL%20508.pdf)

³⁴ NOAA Fisheries, North Atlantic Right Whale (last visited Sept. 24, 2021), available at – <https://www.fisheries.noaa.gov/species/north-atlantic-right-whale>

³⁵ *Id.*

³⁶ *Id.*

³⁷ NOAA Fisheries, Right Whale Use of Southern New England Wind Energy Areas Increasing (July 29, 2021), ([Right Whale Use of Southern New England Wind Energy Areas Increasing | NOAA Fisheries](#))

Associated increases in noise from pile driving, turbine operations, and vessels could contribute to the suite of ongoing stressors impacting the population. Noise has been found to interfere with North Atlantic Right Whale communication and increase their stress levels. In turn, “females that undergo energetic stress from reproduction may be more susceptible than males to dying from chronic injuries such as those from entanglement or vessel strikes.”³⁸ Noise from human activities, such as that which would occur with the wind energy installation and operation of the proposed project, will disrupt the normal behavior of right whales and further reduce their ability to identify physical surroundings, find food, navigate, and find mates.³⁹ Harm to endangered North Atlantic Right Whales, which is now sometimes inadvertently taken by ship strikes, would be substantially exacerbated by the increased activities attendant to the construction, operation, and decommissioning of the Project, especially pile driving for this Project and cumulatively with other offshore wind projects in the vicinity, which will create massive sound for years, thereby having major impacts on this endangered species likely leading to takes.

A substantial threat to the North Atlantic Right Whale is vessel strikes. Numerous vessels are expected to be involved in the construction of the Project, including but not limited to tugboats, barge cranes, and hopper scows, many of which would be substantially larger and faster than fishing vessels.

The loss of physical space available to the North Atlantic Right Whale, resulting from the construction and operations of the Project, has not been adequately analyzed. Nor has the cumulative effects of the Project and the larger plan to develop wind farms up and down the coast been evaluated.

Temperatures in the area of wind farms are raised around one degree Celsius by the projects themselves, meaning the ocean around the location of various offshore wind farms proposed for New York, Connecticut, Massachusetts, and Rhode Island would be warming at a greater rate than would otherwise occur.⁴⁰ Notwithstanding this readily available best scientific and commercial data, the agencies did not account for the additional stress on the North Atlantic Right Whale, fish, and their habitats caused by the localized increase in temperatures attributable to the Project, coupled with similar wind power projects in the area, including potential impacts on essential food supply for the North Atlantic Right Whale and fish.

³⁸ NOAA Fisheries, North Atlantic Right Whale (last visited Sept. 24, 2021), available at – <https://www.fisheries.noaa.gov/species/north-atlantic-right-whale>

³⁹ *Id.*

⁴⁰ Responsible Offshore Development Alliance, Comments on Vineyard Wind’s Draft Environmental Impact Statement, dated February 22, 2019 (at pp. 15-16)

Conclusion

I hope the BOEM and other federal agencies can rectify the many failures identified in this 60-day notice of Intent to Sue. Nevertheless, please be advised that I intend to bring suit seeking a judicial remedy unless these statutory violations are resolved.

Sincerely yours,



Si Kinsella

Please see New York State Department of Environmental Conservation (“NYSDEC”) reports on PFAS contamination (listed below) in the vicinity of South Fork Wind’s proposed construction corridor that are herein incorporated by reference.

[Fact Sheet.HW.152250.2018-01-05.Airport Well Sampling Press Release SCDHS.pdf](#)

[Fact Sheet.HW.152250.2019-06-19.East Hampton Airport Class 02 Listing.pdf](#)

[Report.HW.152250.2018-11-12.Alpha Geoscience Hydrogeology Rpt Waincott S&G.pdf](#)

[Report.HW.152250.2018-11-30.Airport Site Characterization Report Final.pdf](#)

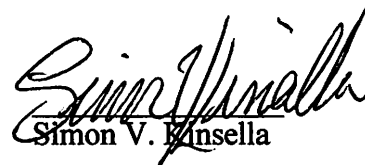
[Work Plan.HW.152250.2021-06-30.East Hampton Airport Site RIFS WP-FINAL.pdf](#)

[Report.HW.152254.2020-07-28.Final SC Report.pdf](#)

STATE OF NEW YORK
COUNTY OF SUFFOLK

Simon V. Kinsella, being duly sworn, says under penalty of perjury:

I am a resident of Wainscott, Town of East Hampton, State of New York. The contents of my letter of twenty-four pages on December 18, 2021, are true to the best of my knowledge, information, and belief.



Simon V. Kinsella

Sworn to before me this
18th day of December 2021



Notary Public

DAVID FINK
Notary Public, State of New York
No. 4526132
Qualified in New York County
Commission Expires February 28, 2023

PUBLIC NOTICE

State Superfund Program

Receive Site Information by Email. See next page to Learn How.

Site Name: East Hampton Airport

June 2019

Site No. 152250

Tax Map No. 180-1-8.13, 181-1-4.2, 181-2-1, 181-2-3, 181-2-4, 181-2-5, 181-2-6, 181-3-1.1,
181-3-2, 181-3-3, 192-3-37.1, 192-3-42.1

Site Location: 200 Daniels Hole Road, Wainscott, Suffolk County

State Superfund Site Classification Notice

The Inactive Hazardous Waste Disposal Site Program (the State Superfund Program) is the State's program for identifying, investigating, and cleaning up sites where the disposal of hazardous waste may present a threat to public health and/or the environment. The New York State Department of Environmental Conservation (DEC) maintains a list of these sites in the Registry of Inactive Hazardous Waste Disposal Sites (Registry). The site identified above, and located on a map on the reverse side of this page, has been added to the Registry as a Class 2 site that presents a significant threat to public health and/or the environment for the following reason(s):

Fire-fighting foam containing per- and polyfluoroalkyl substances (PFAS) was used and stored on the East Hampton Airport during crash response and training. PFAS's including perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA), have been detected in on-site soil and groundwater and off-site private drinking water wells. The concentrations of PFOS/PFOA in the drinking water supply wells exceed the United States Environmental Protection Agency's (USEPA's) drinking health advisory for PFOS/PFOA, 70 parts per trillion. Actions have been taken to mitigate the presence of PFAS in supplies, however, additional actions are needed to define the nature and extent of contamination in groundwater and other environmental media. DEC will keep you informed throughout the investigation and cleanup of the site.

If you own property adjacent to this site and are renting or leasing your property to someone else, please share this information with them. If you no longer wish to be on the contact list for this site or otherwise need to correct our records, please contact DEC's Project Manager listed below.

FOR MORE SITE INFORMATION

Additional information about this site can be found using DEC's "Environmental Site Remediation Database Search" engine which is located on the internet at: www.dec.ny.gov/cfm/x/xtapps/derexternal/index.cfm?pageid=3

Comments and questions are always welcome and should be directed as follows:

Project Related Questions

Steven Scharf, Project Manager
NYS Department of Environmental Conservation
625 Broadway, 12th Floor
Albany, NY 12233-7015
steven.scharf@dec.ny.gov
518-402-9620

Site Related Health Questions

Sarita Wagh, Project Manager
NYS Department of Health
Empire State Plaza, Corning Tower Rm 1787
Albany, NY 12237
BEEI@health.ny.gov
518-402-7860

DEC is sending you this notice in accordance with Environmental Conservation Law Article 27, Title 13 and its companion regulation (6 NYCRR 375-2.7(b)(6)(ii)) which requires DEC to notify all parties on the contact list for this site of this recent action.



 **NEW YORK**
STATE OF OPPORTUNITY

**Department of
Environmental
Conservation**

**East Hampton Airport
200 Daniels Hole Road
Wainscott, East Hampton
Suffolk County
NYSDEC Site No. 152250**



NYSDEC 04/2019

Receive Site Updates by Email

Have site information such as this public notice sent right to your email inbox. DEC invites you to sign up with one or more contaminated sites county email listservs available at the following web page:

www.dec.ny.gov/chemical/61092.html . It's *quick*, it's *free*, and it will help keep you *better informed*.



As a listserv member, you will periodically receive site-related information/announcements for all contaminated sites in the county(ies) you select.

Note: Please disregard if you received this notice by way of a county email listserv.

BOEM 60-day Notice of Intent to Sue (Kinsella)

Exhibit B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

SIMON V. KINSELLA, PAMELA I. MAHONEY AND MICHAEL P. MAHONEY,

Index No.

Plaintiffs,

-against-

COMPLAINT

LONG ISLAND POWER AUTHORITY and
SOUTH FORK WIND LLC fka DEEP-
WATER WIND SOUTH FORK LLC,

Defendants.

Plaintiffs Simon V. Kinsella, Pamela I. Mahoney, and Michael P. Mahoney for their complaint against Long Island Power Authority (“LIPA”) and South Fork Wind LLC fka Deepwater Wind South Fork LLC (“Deepwater Wind”), allege as follows:

Introduction

1. Long Island’s South Fork presents a unique challenge to Long Island’s power grid. Its peak demand takes places on summer weekend and weekday late afternoons and evenings when an increase in residential air conditioning use drives a corresponding increase in electricity use.

2. In 2015 the Long Island Power Authority asked for “proposals from experienced and qualified entities to acquire sufficient local resources to meet expected peak load requirements until at least 2022 in the South Fork of

BOEM 60-day Notice of Intent to Sue (Kinsella)

Exhibit B

Long Island, and 2030 for certain areas east of Buell,” as an alternative to adding new transmission lines.

3. The RFP requested proposals for local power production resources located on Long Island that would be dispatchable to meet peak load (or peak electrical demand) and operational by May 1, 2019.

4. LIPA, however, ignored its own criteria for power production resources and entered into a \$1.625 billion power purchase agreement with bidder Deepwater Wind for an offshore wind project.

5. Contrary to the RFP criteria, offshore wind-generated power is unreliable and non-dispatchable because it depends on an intermittent resource to generate electricity.

6. Offshore wind turbines cannot be switched “on” if the wind is not blowing.

7. Wind is least likely to be blowing during hot summer months—the precise time when LIPA required a power resource to meet peak loads from air conditioning use.

8. Internal LIPA documents show a correlation between peak summertime temperatures (when demand for electricity peaks in response to an increase in air conditioner use) and low wind conditions when offshore wind turbines cannot reliably supply power to meet peak demand.

9. The Deepwater Wind offshore wind project is not a local power generation resource, is not dispatchable, would not be operational until the end of 2022, and requires a new 60-mile offshore transmission line plus an onshore interconnection facility and substantial local transmission upgrades.

BOEM 60-day Notice of Intent to Sue (Kinsella)

Exhibit B

10. The contract award to a non-responsive bidder violated the state's procurement laws and should be declared void.

Facts

1. South Fork Peak Electricity Demand

11. On June 24, 2015, LIPA, through its agent, PSEG Long Island, issued a Notice to Proposers soliciting proposals from experienced and qualified entities to acquire sufficient local resources to meet expected peak load requirements until at least 2022 in the South Fork of Long Island, and 2030 for certain areas east of Buell in the Town of East Hampton.

12. LIPA described electrical load growth on the South Fork of Long Island as increasing faster than the rest of Long Island.

13. The South Fork has a unique load profile where summer, weekend, and holiday activity in the Hamptons and surrounding towns cause electricity demand to peak at a different time than the rest of Long Island.

14. According to LIPA, residential customers drive peak electricity demand on the South Fork, with 60 percent of that demand coming from air conditioning.

15. Many of those residential homes are seasonally occupied in the summer months concentrating a demand for power in those summer months when temperatures rise.

16. South Fork peak demand often occurs on Saturdays—compared to the entire LIPA system which never peaks on a Saturday due to weekday commercial load demand.

BOEM 60-day Notice of Intent to Sue (Kinsella)**Exhibit B**

17. LIPA described the South Fork of Long Island as a peninsular, semi-isolated electricity load pocket with highly constrained connectivity to LIPA's remaining transmission and distribution system.

18. LIPA projected peak load on the South Fork to be 314 MW in 2019, growing to 341 MW in 2022 (a nine percent increase).

19. LIPA projected peak load for the subarea east of Buell to be 41 MW in 2019, growing to 54 MW in 2030 (a 32 percent increase).

2. LIPA's Request for Proposals

20. The RFP requested proposals for "local resources" "located on Long Island" to meet "peak load" or peak electrical demand as an alternative to adding new transmission lines.

21. Local resources could be load reduction or power production or a combination of the two.

22. Load reduction typically includes behind-the-meter resources, meaning products or services that help the customer reduce power usage, especially during times of peak demand.

23. The RFP required load reduction products or services to be available every day of the week, covering a part of an eight-hour period between 1:00 p.m. and 9:00 p.m. during months that must include the warmer months, from May through to September.

24. The RFP mandated that power production resources comply with "Operating Modes" consistent with dispatchable resources that are capable of being turned on, or ramped-up, remotely in response to a "trigger signal."

BOEM 60-day Notice of Intent to Sue (Kinsella)

Exhibit B

25. The RFP required a commercial operating date no later than May 1, 2019, with an alternative date and pricing option for a one-year delay, no later than May 1, 2020.

26. The RFP required that each proposal “stand alone” in satisfying the RFP’s requirements.

3. Deepwater Wind’s Bids

27. According to LIPA, Deepwater Wind submitted three separate proposals in the South Fork RFP procurement process:

- DWW100 - a ninety-megawatt offshore wind farm (90 MW)
- DWW200 - a battery storage facility at Wainscott (4.9 MW)
- DWW300 - a battery storage facility at Montauk (5.1 MW)

(Neither of the two battery storage facilities were selected to continue past Phase II in the procurement process.)

28. At the time, Deepwater Wind proposed installing 15 six-megawatt wind turbines, with an aggregate nameplate capacity of 90 MW, approximately 30 miles off Montauk Point on eastern Long Island.

29. The project requires a new 60-mile-long transmission line to connect the offshore wind turbines and offshore substation to a new onshore interconnection facility (substation).

30. Deepwater Wind’s proposed new transmission line includes substantial onshore infrastructure to accommodate high-voltage cables, such as duct-banks and splicing vaults.

BOEM 60-day Notice of Intent to Sue (Kinsella)

Exhibit B

31. Deepwater Wind proposed a commercial operating date of December 31, 2022 (later negotiated to December 1, 2022).

4. Deepwater Wind's Wind Power Bid Deficiencies

32. The South Fork RFP was not designed for an offshore wind project developer to submit a bid.

33. Regardless, LIPA selected Deepwater Wind's proposal despite many deficiencies:

- It is not a "local resource" that is "located on Long Island";
- It is not an alternative to adding new transmission lines;
- It does not defer the need for new transmission lines, but instead requires substantial transmission upgrades;
- It cannot reliably supply power to satisfy peak demand for electricity in response to air conditioner usage on the South Fork in the hotter months from June to September;
- The project cannot be a source of power until at least 2023 with a proposed commercial operating date of December 31, 2022;
- It cannot supply a dispatchable resource capable of functioning in Operating Modes that require power to be turned on in response to a "trigger signal" (because turbines that depend on the wind cannot be turned on as demand requires); and
- It is not a resource designed to meet "performance calculations" that are "no less severe than [...] [a] maximum steady wind velocity [of] 130

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Exhibit B

mph” (offshore wind turbines cease generating power at a wind speed closer to 55 mph).

34. Contrary to state procurement law, LIPA awarded a power purchase agreement to a bidder whose proposal did *not* meet the minimum specifications or requirements as prescribed in the South Fork RFP and its Evaluation Guide.

35. Moreover, LIPA should have disqualified Deepwater Wind’s proposal at the outset.

36. According to the South Fork RFP’s Evaluation Guide, “Mandatory Criteria” is used to measure a “Proposals’ compliance to the RFP and [...] to determine whether the Proposal can be accepted. If this information is not provided at the Proposal Submittal Deadline, the Proposal will be eliminated from consideration.”

37. LIPA, however, overlooked four instances where Deepwater Wind did not meet mandatory criteria while disqualifying two of the 21 bids for not meeting mandatory criteria.

38. The Evaluation Guide listed as a mandatory criterion a May 1, 2019, commercial operating date required under the RFP.

39. Deepwater Wind proposed a December 31, 2022, commercial operating date—three and a half years later than the required date—that should have led to immediate disqualification in the first phase of the procurement process

40. The RFP required proposals to have a pricing mechanism for delay.

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Exhibit B

41. That mechanism, however, only allowed for a one-year delay—May 1, 2020, which makes Deepwater Wind’s proposed commercial operating date two and half years later than any delay that could still meet the RFP’s requirements.

42. Mandatory criteria included the RFP requirement that any “[p]roposal must contain the location of any proposed facility requiring construction and/or permitting” by the submittal deadline (of December 2, 2015).

43. Upon information and belief, Deepwater Wind did not have locations for proposed facilities until one and a half years *after* the submittal deadline.

44. As a stand-alone solution, a proposal could not be conditioned on some other act or omission under LIPA’s mandatory criteria.

45. LIPA, however, joined Deepwater Wind’s offshore wind project to separate battery storage proposals to make it potentially workable.

46. In other words, LIPA itself salvaged Deepwater Wind’s proposal by adding two other conditional acts—agreements for installing two battery storage projects.

47. Deepwater Wind’s proposed offshore wind project and 60-mile-long transmission system did not comply with either the mandatory criteria or the material specifications according to the RFP and Evaluation Guide.

5. The LIPA/Deepwater Wind Power Purchase Agreement

48. On January 25, 2017, LIPA awarded Deepwater Wind a twenty-year power purchase agreement (“PPA”) that the New York Office of the State Comptroller (“OSC”) approved on March 29, 2017.

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49. LIPA agreed to purchase electricity from Deepwater Wind at an average price of *22 cents* per kilowatt-hour over the twenty-year life of the contract.

50. In 2019 the New York State Energy Research and Development Agency finalized a contract for an adjacent offshore wind project, Sunrise Wind, only two miles away from Deepwater Wind's project, and Sunrise Wind's cost of electricity is *just 8 cents* per kilowatt-hour.

51. OSC valued Deepwater Wind's PPA at \$1.625 billion, yet the cost for the same amount of renewable energy from Sunrise Wind will be only \$595 million.

52. LIPA agreed to the most expensive renewable energy option available at the time.

53. In 2016 the U.S. Energy Information Administration, in a simple average of regional values estimated the cost of energy from offshore wind plants coming online in 2022 to be almost two and a half that of onshore wind and almost twice as much as solar photovoltaic.

54. The cost comparison between offshore wind and solar photovoltaic holds up locally on Long Island's South Fork.

55. Around the same time that LIPA was evaluating the South Fork RFP responses, it was also developing the Long Island Community Microgrid Project (the "LI Solar Microgrid").

56. The LI Solar Microgrid was planned for the Town of East Hampton and included 15 megawatts (MW) of new solar photovoltaic generation.

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Exhibit B

57. The US National Renewable Energy Laboratory (“NREL”) estimated the cost of constructing and installing the 15 MW solar facility to be \$38.5 million.

58. NREL estimated that it would cost \$4.4 million in total operational expenses over twenty years to run the 15 MW solar facility.

59. NREL also provided an estimate of the amount of energy the facility would generate per month.

60. Based on NREL’s independent analysis, the cost of power from LI Solar Microgrid’s 15 MW solar facility would be half the price of power from South Fork Wind.

61. NREL’s analysis factors in periods of no generation at night and low generation on cloudy days.

62. The LI Solar Microgrid proposal would supply power most efficiently as needed on hot sunny summer days when air conditioning usage peaks demand—the problem the South Fork RFP sought to solve.

63. During the summer peak demand period, the cost of energy from LI Solar Microgrid’s 15 MW solar facility would have been one-third the price of power from South Fork Wind.

64. Rather than find a way to make a sensible renewable energy project work, LIPA went forward with a project located 30 miles offshore, using technology that is least likely to provide power to meet peak demand as specified in the RFP.

65. The contrived RFP process and the exorbitant price LIPA agreed to pay may have resulted from political pressure for New York to be the first in

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the country to build and install a large offshore wind project of fifteen turbines.

66. In his 2017 State of the State, former Governor Andrew Cuomo publicly called on LIPA to approve the Deepwater Wind project.

67. Cuomo got his wish just two weeks later when the LIPA Board approved the Deepwater Wind PPA.

6. Public Authorities Control Board Approval

68. LIPA did not follow statutory provisions mandating that it seek the approval of the New York Public Authorities Control Board (“PACB”) before entering the PPA with Deepwater Wind.

69. Under New York law, LIPA cannot undertake any project without approval from the PACB.

70. “Project” is defined as a LIPA undertaking that commits LIPA to a contract with total consideration greater than \$1 million and does not involve LIPA’s day to day operations.

71. The total consideration of the PPA is \$1.625 billion that LIPA must pass on to ratepayers.

72. At the time, the project involved constructing 15 offshore wind turbines, a 60-mile-long undersea cable, a new onshore interconnection facility (substation), and substantial onshore infrastructure, including duct-banks and splicing vaults designed for high-voltage cables to connect the wind turbines to LIPA’s transmission and distribution system.

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73. LIPA is committed to reimbursing Deepwater Wind for capital costs for the interconnection infrastructure.

74. Upon information and belief, the reimbursable capital costs for the interconnection infrastructure will be greater than \$1 million.

75. The \$1.625 billion PPA is not a contract for a day-to-day operations matter like a coffee service agreement, office equipment lease, or janitorial services contract.

76. The South Fork wind project is the precise type of project the Legislature intended the PACB to evaluate and decide whether the action (1) is financially feasible; (2) does not materially adversely affect overall real property taxes; (3) will result in lower utility costs to customers in the service area; and (4) will not materially adversely affect real property taxes and utility rates outside the service area.

77. The South Fork wind project is not financially feasible and will increase utility costs to customers in LIPA's service area.

PARTIES

78. Plaintiff, Simon V. Kinsella, resides in Suffolk County and is a taxpayer and ratepayer in the affected service area.

79. Plaintiffs, Pamela I. Mahoney, and Michael P. Mahoney, reside in Suffolk County and are taxpayers and ratepayers in the affected service area.

80. Defendant Long Island Power Authority is a New York corporate municipal instrumentality created under the LIPA Act that, among other things, supplies electric service to Nassau, Suffolk and part of Queens County has

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the right under the Public Authorities Law to sue and be sued in its own name.

81. Defendant South Fork Wind LLC (formerly Deepwater Wind South Fork LLC) is a Delaware limited liability company that does business in the State of New York.

VENUE

82. The venue in Suffolk County is proper because it is the county where the Plaintiffs reside and LIPA has facilities involved in this action.

**FIRST CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001 for violations of General Municipal Law § 103 and State Finance Law § 163)**

83. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through to 82 as if set forth fully here.

84. Defendant LIPA awarded a contract for the supply of electrical energy to an offeror, Deepwater Wind, whose bid did not comply with bidding requirements and was not responsive, in violation of State Finance Law § 163 and General Municipal Law § 103.

85. Defendant LIPA manipulated bidding specifications in the South Fork RFP procurement process to preclude true competitive bidding in violation of State Finance Law § 163 and General Municipal Law § 103.

**SECOND CAUSE OF ACTION
(For Declaratory Judgment Pursuant to CPLR § 3001 for violation of the LIPA Act § 1020-f (aa) and § 1020-b 12-a (iii))**

86. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through to 82 as if set forth fully here.

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87. Defendant LIPA violated Public Authorities Law § 1020-f (aa) and did not have authority to execute the power purchase agreement without obtaining the approval of the Public Authorities Control Board for a contract or agreement with a total consideration of greater than one million dollars that does not involve the day-to-day operations of LIPA.

REQUEST FOR RELIEF

Plaintiffs respectfully request that the Court enter judgment against defendants as follows:

- A. Declaring that the Power Purchase Agreement between LIPA and Deepwater Wind executed on or about February 6, 2017, exists in violation of State Finance Law § 163 and General Municipal Law § 103, and is void;
- B. Declaring that LIPA violated Public Authorities Law § 1020-f (aa) by not receiving Public Authorities Control Board approval of the project and that LIPA did not have authority to enter the PPA;
- C. Annuling the Power Purchase Agreement in its entirety;
- D. Granting Plaintiffs the costs and disbursements of this action; and

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Exhibit B

E. Granting such other and further relief as the Court believes just and proper.

Dated: Albany, New York
November 9, 2021

Respectfully submitted,

/s/ Cameron J. Macdonald
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February 22, 2021

Chief Michelle Morin
Environment Branch for Renewable Energy
BOEM Office of Renewable Energy Programs
45600 Woodland Road
Sterling, Virginia 20166
Tel: (703) 787-1722
Michelle.Morin@boem.gov

Via USPS registered mail

BOEM online Comment Tracking
Number: klh-929i-jwxs

Re: BOEM-2020-0066 - South Fork Wind, LLC
(formerly Deepwater Wind South Fork, LLC)

US Army Corps of Engineers
Public Notice Number: NAN-2020-01079-EME

Dear Chief Morin:

Pursuant to the National Environmental Policy Act (“NEPA”) regulations, please find enclosed comments by me on the Draft Environmental Impact Statement (“DEIS”) prepared for the construction and operations plan (“COP”) submitted by (formerly) Deepwater Wind South Fork, LLC.

The South Fork Wind Farm is the first offshore wind farm to be proposed in New York State and, perhaps, maybe the first of a substantial size to move forward in the United States. Although, in its current form, this is very unlikely. It is a shame that such an opportunity largely has been squandered.

South Fork Wind LLC, formerly Deepwater Wind South Fork LLC (the “Applicant” or “South Fork Wind”) proposes to construct and operate fifteen (15) offshore wind turbine generators (“WTG”), a connected cable-inter-array, an offshore substation, a single-circuit offshore transmission cable (of 138 kV), and industrial-scale permanent electrical transmission infrastructure with capacity enough for two (2) submarine cables/two circuits that the Applicant plans to install beneath narrow laneways and streets throughout the quiet residential neighborhood of Waincott. The electrical transmission infrastructure comprises substantial underground transmission facilities designed to accommodate high-voltage alternating-current (HVAC) cables for the delivery of energy generated from the offshore wind farm with an *initial*

capacity of up to one-hundred-and-eighty megawatts (180 MW) and transmit that energy to a yet-to-be-built substation/interconnection facility before making its connection to the grid at an existing LIPA-owned onshore substation located in the Town of East Hampton on eastern Long Island (collectively, the “Project”).

I understand that BOEM is the lead agency. Many of the documents submitted herein relate to the South Fork Wind Farm (SFWF) that the Applicant proposes to construct and operate on Cox’s Ledge and the South Fork Export Cable (SFEC), the majority of which is planned for federal waters.

On the other hand, many of the documents submitted herein relate to the onshore portion of South Fork Wind’s SFEC. Regretfully, it is necessary to include these documents, otherwise substantial parts of the proposed Project will *not* be subject to *any* environmental review whatsoever.

Since South Fork Wind began pursuing its Project in earnest in 2017, review largely has been left to the Town of East Hampton and the New York State Public Service Commission (“NYSPSC”). Over the last four years (see Legal Issues below), there has been little if any review of the Project’s environmental impact, economic impact, alternatives, public interest need and purpose.

For these reasons, I respectfully request that the documents herein listed (see Documents List below) be incorporated by reference and form part of my comments submitted to the Bureau of Ocean Energy Management (“BOEM”) and that BOEM, as lead agency, conduct a broad review of the whole Project including in all respects the onshore and offshore components and “use all practicable means and measures... to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.”¹

In the absence of substantial review by the NYSPSC and the Town of East Hampton, and should BOEM likewise *not* require a thorough examination of the onshore part of the Project inasmuch as the offshore part, there will be *no* review, and *no* protections will be afforded the residents of Suffolk County, and specifically, the residents of the Town of East Hampton.

Residents living on eastern Long Island require protection from the developers (Ørsted and Eversource) and, astonishingly, from our own local and state governments. We need protection from excessive rates (see Price of Power below); the threat of *further* drinking-water contamination by hazardous waste (see PFAS Contamination Wainscott, NY, Report No. 3, enclosed); dangerous construction, and over-building practices (see Substation – Danger below); destabilizing horizontal directional drilling beneath Wainscott Beach; surreptitious expansion

¹ National Environmental Policy Act (“NEPA”), Section 101(a); 42 U.S.C. § 4331(a)

plans that will increase the size of the wind farm by six-times (to 600 MW) over what residents initially had been told; and the destruction of the character of our local seaside semi-rural neighborhood.

If we cannot look to NEPA, then I fear that *no* one will take a “hard look” at issues of need, probable environmental impact, public interest and necessity; and by such neglect would permit the developers and elected officials who are working in furtherance of the developers’ interests to circumvent the purpose of NEPA, NYSPSC Article VII review, circumvent judicial process, and circumvent US constitutional provisions requiring “due process of law.”²

Legal Issues

The Town Board of the Town of East Hampton has failed to conduct any meaningful oversight of the South Fork Wind Project. The Town Board has been accused, rightly, of acting precipitously and on an ill-informed basis by pre-approving parts of the onshore Project and granting to South Fork an easement (the “Easement”) subject to conditions over which the Town subsequently will have no control. The Board has bound itself, and its citizens before material facts are known and long before a grant of the Easement would be needed for the project to proceed. In doing so, the Board has acted illegally, arbitrarily, and capriciously, exposing the community it serves to unnecessary risks and limiting its ability to protect the Town’s interests during the ongoing regulatory proceedings.

For example, the East Hampton Town Board did not retain any of its own environmental or transmission experts (which it could have sought to induce South Fork to pay for), and instead relied on information it received from South Fork Wind without questioning such information. The Town Board has abdicated any role in environmental review and continues to ignore the extensive PFAS contamination of soil and groundwater throughout the proposed construction corridor; it turns a blind eye to the high price of energy from the Applicant’s proposed Project that will be passed onto local ratepayers; and, has taken a passive role in its failure to represent the interests of residents of the Town of East Hampton. Accordingly, a group of over one thousand citizens has supported the commencement of legal proceeding against the Town of East Hampton (see enclosed, *Citizens’ for the Preservation of Wainscott, Inc., et al., v Town Board of the Town of East Hampton and Supervisor Peter van Scoyoc, et al.*, Index 601847/2021 [Sup Ct, Suffolk County 2021]).

The New York State Public Service Commission (“NYSPSC”) has proceeded in such a manner as to prohibit from inclusion into the evidentiary record any evidence, examination or

² U.S. Const. Amend. XIV; N.Y. Const. Art. I, § 6.

cross-examination of witnesses' testimony as to the need of the South Fork Wind Farm (please see Motion to Reopen the Evidentiary Record (filed: January 13, 2021), subsequent Motion to Reopen Evidentiary Record – Supplemental Information (filed: January 29, 2021), and Motion by South Fork Wind to Strike Kinsella Testimony (filed: November 5, 2020) that was granted to the extent that the entirety of Testimony Part 2 was permanently struck from the record. This meant that all discussion of the variability of offshore wind and the reliability of the Applicant's offshore wind farm to provide electrical power to meet summer-time peak load on the South Fork of Long Island was erased entirely from the record together with a discussion of the exorbitant price of electricity from the proposed wind farm (see Price of Power below).

Furthermore, pursuant to the Long Island Power Authority Act ("LIPA Act"), Section 1020-f, the Long Island Power Authority ("LIPA") "shall not undertake any project without the approval of the public authorities control board [PACB.]" Nevertheless, in July 2020, LIPA admitted that it "has never submitted a Power Agreement to the PACB for approval" which is a clear violation of New York's Public Authorities Law. LIPA's failure to obtain PACB approval is likely to render the South Fork PPA and any amendment thereto null.

Price of Power

On March 29, 2017, the New York Office of the State Comptroller ("NYOSC") valued the South Fork PPA at \$1,624,738,893. This valuation is based on total projected energy deliveries throughout the contract term (20 years) of 7,432,080 MWh (see Motion to Reopen Evidentiary Record – Supplemental Information (filed: January 29, 2021), Exhibit K - NYS Comptroller \$1,625 Billion valuation). The price for energy from the Applicant's proposed facility, therefore, is \$218.61/MWh or 21.9 cents per kilowatt-hour (c/kWh). This is 34% greater than what ratepayers have been told (LIPA has publicly advertised a price of 16.3 c/kWh (for its 90 MW facility). The price of 21.9 c/kWh is also nearly three times the price of energy (8.1 c/kWh) from Sunrise Wind. This extremely high price for the Applicant's energy has been concealed from ratepayers who, in the end, will pay the price, in more ways than one.

By comparison (on October 23, 2019), Ørsted A/S announced a power purchase agreement for Sunrise Wind with a price of only \$80.64/MWh. If the same amount of energy (i.e. 7,432,080 MWh) was purchased from Sunrise Wind instead of South Fork Wind, it would cost only \$599,322,931, which is \$1,025,415,958 less expensive.

Furthermore, the NYSPSC refused to address how the Applicant came by securing its power purchase agreement ("PPA"). Astonishingly, the New York Office of the State Comptroller ("NYOSC") approved the PPA pursuant to a non-competitive opaque procurement process where the company administering the procurement, PSEG Long Island, awarded the PPA to its (undisclosed) New-Jersey-based business partner (indirectly through wholly-owned

subsidiaries of its parent company), Deepwater Wind. It just happens that the contract award is more than two-and-a-half-times more expensive (\$1.025 billion) than the same amount of renewable energy from an offshore lease area (Sunrise Wind lease area OSC-A 0487) only three miles away from the South Fork Wind lease (OSC-A 0517). This situation is offensive to all ratepayers, taxpayers, and law-abiding residents.

Substation – Danger

Finally, of great concern is the cumulative effects on a residential neighborhood just one-hundred feet away from the East Hampton Substation. At this substation, there are three (3) diesel peaker-plants (of 2 MW each) that were installed nearly sixty years ago (in December 1962) and another jet-powered diesel peaker-plant (of 21.3 MW) that was installed fifty years ago (in December 1970). The age of this equipment at the East Hampton Substation is indicative of the general age of the other equipment and wires in and around the facility (i.e. old and fragile much like myself who was born a month before that jet-diesel peaker-plant was installed).

In the same compound are two large storage tanks: one containing Kerosene No. 2 Fuel Oil (of 135,000 gallons); and the other containing Diesel (of 55,000 gallons). These tanks are in proximity to a new five-megawatt battery facility that recently has been built to support the additional power from the proposed new South Fork Wind Farm of 132 to 180 megawatts (the final size of the proposed wind farm has not been disclosed).

In addition to this mix is a frail and aging local transmission system. There have been two recent electrical fires: one in January 2020 in the neighboring Bridgehampton Substation (see enclosed article in the East Hampton Star); and a transmission fire on Mill Lane in East Hampton in 2016 (see photos enclosed).

Into this dangerous environment, the Applicant plans to connect its proposed 132-to-180-megawatt wind farm and to deliver more than double the power that the system was designed to handle. The gross lack of oversight demonstrated elsewhere gives cause for concern over residents' safety that live only one hundred feet away from the East Hampton Substation.

Please see the list of documents enclosed (overleaf).

Document Title	Author	Date	Reference	Pages
Wind Wake Effect				
Journal of Geophysical Research Atmospheres	Cristina L. Archer, <i>et al.</i>	2016	Research Paper	17
A Numerical Study of Wind-Turbine Wakes	Cristina L. Archer, <i>et al.</i>	2017	Research Paper	26
<i>In situ</i> evidence of far-field wakes OSW Farms	Platis & Siedersleben, <i>et al.</i>	2018	Research Paper	14
Offshore Wind Farm in German Bight	Windenergie Agentur	May 2017	Table	1
Offshore Wind Farms in German Bight (close)			Graphic	1
Offshore Wind Farms in German Bight (pan)			Graphic	1
Micrometeorological Impacts of OSW farms	Siedersleben (13_124012)	2018	Environ._Res._Letter	14
OSW Farm Wakes - WEA off NE US Atlantic Coast	Cristina L. Archer	2019	Study Proposal	10
Wind Data (Excel Spreadsheet, Charts, Tables, Spec's, etc.)				
Avg Max Temp - BH & Montauk (NOAA Weather Data)		2000-2020	Chart & Table	
Block Island Wind Farm (BIWF) Capacity	www.EIA.gov (compiled by Kinsella)	2017-2020	Chart & Table	3
Climate – Temperatures, East Hampton	Weather Atlas	Aug 16, 19	Chart	1
Offshore Wind Speed per Month per Hour (NOAA 44008 & 44017)		2015-2016	Charts	2
OSW Power Supply vs South Fork Demand (data)	NOAA/PSEGLI (compiled by Kinsella)	2016	Excel Sp/Sh	
Power Curves - Haliade-X, Vestas V164 & V174, Siemens-Gamesa SG8 & SG10			Chart	1
POWER OFF Frequency - NOAA 44017, 44008	NOAA (compiled by Kinsella)	2015/16 & 18	Chart	3
POWER OFF Frequency - NOAA Station 44017	NOAA (compiled by Kinsella)	2016	Chart, Stack	1
POWER OFF Frequency - NOAA Station 44017	NOAA (compiled by Kinsella)	2018	Excel Sp/Sh	3
Hourly Electrical Demand on South Fork	PSEG Long Is. (Excel spreadsheet)	2016-2018	Excel Sp/Sh	4
South Fork Demand vs OSW Supply (132 MW)	NOAA/PSEGLI (compiled by Kinsella)	May-Aug '16	Chart	1
SF Electrical Demand vs OSW Output (132 MW)		2016	Charts	5
SF Avg. Temp. & OSW Speed (NOAA 44008 & 44017)	NOAA (compiled by Kinsella)	2000-2020	Charts	2
SG 8 Power Curve Output 132 MW (NOAA 44017)	NOAA (compiled by Kinsella)	2016	Excel Sp/Sh	
Siemens Gamesa (SG 8.0-167 DD) - Specs	theWindPower.net	Oct 03, 20	Spec's	1
South Fork - Demand vs Supply (data)	NOAA/PSEGLI (compiled by Kinsella)	Jan-Dec '16	Report	8
South Fork - Demand vs Supply (data)	NOAA/PSEGLI (compiled by Kinsella)	May-Aug '16	Report	3
South Fork Electrical Load & Avg Temp. (2000-2020)	NOAA/PSEGLI (compiled by Kinsella)	2016-2018	Charts	2
Wind Data Summary (44008, 44017, BUZM3)	NOAA (compiled by Kinsella)	2015-2019	Charts	13
Initial Brief				
	Filed: Jan 20, 2021	Jan 2021	Brief	34
Motion to Reopen Record	S Kinsella	Jan 2021	Exhibit A	16
<i>Kinsella vs NYS Comptroller</i> (index 904100-19)	NYS Sup. Ct., Albany Court	Jul 2020	Exhibit A(a)	53
LIPA Amendment No 1 (40 MW)	LIPA Board of Trustees	Nov 2018	Exhibit A(b)	50
IR SK#01 SFW Resp Re PFAS	Deepwater Wind	Nov 2019	Exhibit A(c)	12
SFW Environmental Survey	South Fork Wind	Jan 2021	Exhibit A(d)	2
PFAS Contamination (map)	NYSDEC (compiled by Kinsella)		Exhibit A(e)	2
Survey Well Locations (gmaps)	S Kinsella	Jan 2021	Exhibit A(f)	1
Joint Proposal Signatories	(Compiled by Kinsella)	Sep 2020	Exhibit B	2
Reply Brief				
	Filed: Feb 3, 2021	Feb 2021	Brief	12
WESC, DWW, EF Outage Rate	Provided by LIPA (WESC Report)	2016	Exhibit 1	3
WESC, SF RFP Load Cycle Analysis	Provided by LIPA (WESC Report)	2016	Exhibit 2	8
DWW EF Outage Rate Analysis	Provided by LIPA (WESC Report)	2016	Exhibit 3	6
Motion to Reopen Record				
	Filed: Jan 13, 2021	Jan 2021	Motion	16
<i>Kinsella vs NYS Comptroller</i> (index 904100-19)	NYS Sup. Ct., Albany Court	Jul 2020	Exhibit A	53
LIPA Amendment No 1 (40 MW)	LIPA Board of Trustees	Nov 2018	Exhibit B	50
IR SK#01 SFW Resp Re PFAS	Deepwater Wind	Nov 2019	Exhibit C	12
SFW Environmental Survey	South Fork Wind	Jan 2021	Exhibit D	2
PFAS Contamination (map)	NYSDEC (compiled by Kinsella)		Exhibit F	2
Survey Well Locations (gmaps)	S Kinsella	Jan 2021	Exhibit G	1
Motion to Reopen Record - Supplemental				
	Filed: Jan 29, 2021	Jan 2021	Supp'l Info	22
LIPA Memo Re South Fork RFP	LIPA to NY State Comptroller	Jan 2017	Exhibit A	34

Document Title	Author	Date	Reference	Pages
South Fork RFP Webex	LIPA FOIL Resp, PSEG Long Is	Jul 2015	Exhibit B	26
South Fork RFP Exec. Committee	LIPA FOIL Resp, PSEG Long Is	Apr 2016	Exhibit C	26
Report on Load Shifting Effect	LIPA FOIL Resp, WESC Report	2016	Exhibit D	5
Report on Load Cycle Analysis	LIPA FOIL Resp, WESC Report	2016	Exhibit E	8
Report on Wind Outage Rate	LIPA FOIL Resp, WESC Report	2016	Exhibit F	3
Wind Outage Analysis	PSEG Long Island	2016	Exhibit G	6
Report on Potential Interferences	PSEG Long Island	2016	Exhibit H	2
Load Reduction Final Selection	PSEG Long Island	2016	Exhibit I	4
South Fork RFP, Clarifying Questions	PSEG Long Island	2015	Exhibit J	38
NYS Comptroller \$1,625 Billion Valuation	LIPA	Jan 2017	Exhibit K	5
LIPA Resp to FOIL Appeal	LIPA	Nov 2020	Exhibit L	2
LIPA Cover Ltr to FOIL Resp	LIPA	Jan 2021	Exhibit M	3
PSEG Long Is, Evaluation Guide	PSEG Long Island	Dec 2015	Exhibit N	42
South Fork RFP Proposal Receipt Log (corrupted)	PSEG Long Island	Dec 2015	Exhibit O	1
South Fork RFP, PPA Matrix - Final	PSEG Long Island	2016	Exhibit P	.XLS
Avoided Transmission Cost (Ph II Rev7)	PSEG Long Island	2016	Exhibit Q	.XLS
Avoided Transmission Cost (Ph III Rev10)	PSEG Long Island	2016	Exhibit R	.XLS
LIPA, South Fork Wind Fact Sheet	LIPA	Oct 2019	Exhibit S	4

Testimony Part 1-1 - PFAS Contamination	Filed: Sep 9, 2020 (by S. Kinsella)	Sep 2020	Testimony	37
DECinfo Locator - Critical Enviro Areas	NYS DEC	Sep 2020	Exhibit A (p. 01)	1
Groundwater Protect Area (CEA Map #6)	NYS DEC	Feb 1988	Exhibit A (p. 02)	1
Water Recharge Overlay District (CEA)	NYS DEC	Feb 1988	Exhibit A (p. 03)	1
E Hampton Scenic Res Protect Plan	NYS Dept of State (sponsored)	Apr 2004	Exhibit A (p. 04)	1
Summary PFAS Results - Heat Map	Si Kinsella (NYSDEC & SCDHS)	Jul 2020	Exhibit B	1
Report No. 3 - PFAS Contam'n, Wainscott	Si Kinsella	Jul 2020	Exhibit C	91
SC Report of East Hampton Airport	NYS DEC	Nov 2018	Exhibit D (1-9)	269
SC Report - Wainscott S&G	NYS DEC	Jul 2020	Exhibit E	631
Town vs Village , (NYSDEC Case #20-1787)	Town of East Hampton	Apr 2020	Exhibit F	30
Draft EIS - Wainscott S&G ('Pit')	Wainscott Commercial Center	Jul 2020	Exhibit G	895
PFOA/PFOS Drinking Water Advisory	US EPA	Nov 2016	Exhibit H (p. 01-05)	5
FAQ PFAS	US ATSDR	Mar 2017	Exhibit H (p. 06-09)	4
Release on Drinking Water Standard	NYS Governor Cuomo	Jul 2020	Exhibit H (p. 10-13)	4
Request for Inform'n PFOA/PFOS Survey	NYS DEC	Jun 2016	Exhibit H (p. 14-20)	7
Art VII Case 10-T-0154 Submission	NYS DEC	Aug 2010	Exhibit I-1	10
Staff Proposal "Outline of Issues"	NYS DPS	*	Exhibit I-2	1
PFAS Action Plan	US EPA	Feb 2020	Exhibit J	20
Art VII App, Fig 5, 2-2 w/ PFAS Notes	Applicant (notes by Si Kinsella)	Oct 2018	Exhibit K	1
Superfund Designation - Wainscott S&G	NYS DEC	Sep 2020	Exhibit L	2
PFAS Contamin'n - Wells EH-1 (Airport) to S1	Si Kinsella	Sep 2020	Exhibit M	1
IRs - Si Kinsella #03-#10 to Applicant	Si Kinsella	Jan 2020	Exhibit N	144
Article - West Gate Tunnel, PFAS Remed'n	Australian Financial Review	Feb 2020	Exhibit O	8
PFAS Contam'n - Interim Recomm's	US EPA	Dec 2019	Exhibit P	7
ASTSWMO PFC (PFAS Remediation)	Assoc of Solid Waste Mgt Officials	Aug 2015	Exhibit Q	68
PFAS Standards	MA Dept of Environ'l Protect.	Jun 2018	Exhibit R	12
Shaw Aero - FRS Facility Detail Report	US EPA	Jun 2018	Shaw Aero	1
Shaw Aero - RCRA Hazard Waste (1991/93)	US EPA	Jun 2018	Shaw Aero	10
Griffiths Carpet - "Teflon Treatment"	Griffiths Carpet	Jun 2018	Griffiths Carpet	1
Griffiths Carpet - Online Mapping Svc	Google Maps	Mar 2018	Griffiths Carpet	1
Griffiths Carpet - Online Mapping Svc	Mapquest	Jan 2020	Griffiths Carpet	1

Testimony Part 1-2 - PFAS Contamination	Filed: Oct 9, 2020 (by S. Kinsella)	Oct 2020	Testimony	11
Guidelines - Sampling & Analysis of PFAS	NYS DEC	Jan 2020	Exhibit 1-1A	29
Sand Pit' PFAS Results (SC Rpt Site 152254)	NYS DEC	May 2020	Exhibit 1-1B	2
Summary PFAS Results - Heat Map	Si Kinsella (NYS DEC & SCDHS)	Oct 2020	Exhibit 1-1C	1
Testimony Part 1 - PFAS Contamination	Si Kinsella	Sep 2020	Exhibit 1-1D	37

Document Title	Author	Date	Reference	Pages
Testimony Part 2 - Public Interest, Need & Price	Filed: Oct 9, 2020 (by S. Kinsella)	Oct 2020	Testimony	52
<i>Kinsella vs NYS OSC</i> - (index 904100-19)	Hon. Richard J. Rivera, A.S.C.J.	Jan 2020	Exhibit 01	3
2015 South Fork RFP - June 24, 2015 (full)	LIPA/PSEGLI	Jun 2015	Exhibit 02	94
Power Purchase Agreement (PPA)	LIPA/PSEGLI/Applicant	Feb 2017	Exhibit 03	139
PPA Amendment No. 1 (add'l capacity)	LIPA/PSEGLI	Nov 2018	Exhibit 04	50
Resp to IR SK #29 - PPA Amendment No. 1	LIPA/PSEGLI	Aug 2020	Exhibit 05	1
PPA Contract Price Table	Office of Attorney General	Nov 2019	Exhibit 06	9
IR - Si Kinsella #32 PSEGLI/LIPA Resp	Si Kinsella	Aug 2020	Exhibit 07	7
IR - Si Kinsella #32 - Emails	Si Kinsella	Sep 2020	Exhibit 08	2
IR - Si Kinsella #32 - Motion to Compel	Filed: Sep 30, 2020 (by S. Kinsella)	Sep 2020	Exhibit 09	29
2015 South Fork RFP - June 24, 2015 (full)	LIPA/PSEGLI	Jun 2015	Exhibit A	94
IR - Si Kinsella #32 to PSEGLI/LIPA	Si Kinsella	Aug 2020	Exhibit B	3
IR - Si Kinsella #32 to PSEGLI/LIPA - Resp	LIPA/PSEGLI	Sep 2020	Exhibit C	4
IR - Si Kinsella #32 - Emails	Si Kinsella	Sep 2020	Exhibit D	2
<i>Kinsella vs NYS OSC</i> (index 904100-19)	Hon. Richard J. Rivera, A.S.C.J.	Jan 2020	Exhibit E	3
NY OSW Ind: Phase 1 Rpt - Sunrise & Equinor	NYSERDA	Oct 2019	Exhibit F	378
South Fork Wind PR - Price 16.3¢	LIPA/PSEGLI	Oct 2019	Exhibit G	4
Power Purchase Agreement (PPA)	LIPA/PSEGLI/Applicant	Feb 2017	Exhibit H	139
NREL Compar OSW Energy Procurement	US Department of Energy	Jun 2020	Exhibit I	66
IR Si Kinsella #29 - PSEGLI Response	LIPA/PSEGLI	Aug 2020	Exhibit J	1
OSW Tech Market Report (2018)	US Department of Energy	Aug 2019	Exhibit K	92
OSW Tech Market Report Adj Strike Prices	US Department of Energy	Aug 2019	Exhibit L	1
LIPA Trustee Board Approval of PPA	LIPA/PSEGLI	Jan 2017	Exhibit M	7
Ørsted A/S - 2018 Annual Report	Ørsted A/S	Dec 2018	Exhibit N	193
Ørsted A/S - 2019 Annual Report	Ørsted A/S	Dec 2019	Exhibit O	183
N.J. Awards Grant for First OSW Project	Wall Street Journal	Oct 2008	Exhibit P	3
Eval'n & Comparison - US Wind & Skipjack	Maryland Public Service Comm'n	Mar 2017	Exhibit Q	210
Eval'n Committee Award Recomm'n	NJ Board of Public Utilities	Oct 2008	Exhibit R	16
IR Si Kinsella #19 - PSEGLI Conflicts of Int	Si Kinsella	Mar 2020	Exhibit S	104
IR Si Kinsella #19 - PSEGLI Response	Si Kinsella	Mar 2020	Exhibit T	8
IR - Si Kinsella #32 - Supplemental Info	Filed: Oct 5, 2020 (by S. Kinsella)	Oct 2020	Exhibit 10	18
Email Response to FOIL Request 2020-0444	Office of the State Comptroller	Oct 2020	Exhibit I	1
Letter Response to FOIL Request 2020-0444	Office of the State Comptroller	Oct 2020	Exhibit II	2
OSC - Vendor Resp Questionn's (C000883)	Deepwater Wind South Fork	Jan 2017	Exhibit III	12
OSC - Vendor Resp Questionn's (C000884)	E Hampton Energy Storage Center	May 2017	Exhibit IV	10
OSC - Vendor Resp Questionn's (C000885)	E Hampton Energy Storage Center	Jul 2017	Exhibit V	12
OSC - Vendor Resp Questionn's (C000885)	E Hampton Energy Storage Center	May 2017	Exhibit VI	10
OSC - Vendor Resp Questionn's (C000883)	DWW, Halmar, Convergent, <i>et al</i>	Feb 2017	Exhibit VII	136
OSC - Vendor Resp Questionn's (C000884)	E Hampton Energy Storage Center	Aug 2017	Exhibit VIII	23
OSC - Vendor Resp Questionn's (C000885)	Montauk Energy Storage Center	Aug 2017	Exhibit IX	54
OSC FOIL Request #2020-0444 VRQ	Si Kinsella	Aug 2020	Exhibit X	3
Siemens-Gamesa (SG 8.0-167 DD) Spec's	Wind Energy Mkt Intelligence	Oct 2020	Exhibit XI	1
OSW Power VOID - Deepwater Wind Slide	Si Kinsella	Aug 2019	Exhibit XII	1
PSEG LI - Bridgehampton Substation Fire	The East Hampton Star	Jan 2020	Exhibit XIII	2
LIPA Trustee Board Approval of PPA	LIPA/PSEGLI	Jan 2017	Exhibit M	7
Siemens-Gamesa (SG 8.0-167 DD) Spec's	Wind Energy Market Intelligence	Oct 2020	Exhibit 11	1
Award of Largest US order by Ørsted	Siemens Gamesa	Jul 2019	Exhibit 11	4
Ørsted Selects Siemens Gamesa	Ørsted A/S	Jul 2019	Exhibit 11	4
Wind Power VOID - South Fork Wind Pres.	Si Kinsella	Aug 2019	Exhibit 12 (p. 01-02)	2
Avg Monthly Temperature, E Hampton, NY	Weather Atlas, Weather-US.com	Aug 2019	Exhibit 12 (p. 03)	1
Wind Data: Nantucket, Montauk & Buzz Bay	NOAA - National Data Buoy Center	Aug 2019	Exhibit 12 (p. 04-20)	17
Block Island Wind Farm - Gen & Capacity	US Energy Information Agency	Sep 2020	Exhibit 12 (p. 21-22)	2
Wind Sd (SSW Montauk) 2003-07, 2013/16	Filed: Sep 30, 2020 (by S. Kinsella)	Aug 2019	Exhibit 12 (p. 23-38)	16

BOEM 60-day Notice of Intent to Sue (Kinsella)

Exhibit C

Document Title	Author	Date	Reference	Pages
NOAA 44008 - Wind Data (10-min int) 2015	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (a)	841
NOAA 44008 - Wind Data (10-min int) 2016	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (b)	655
NOAA 44008 - Wind Data (10-min int) 2017	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (c)	519
NOAA 44017 - Wind Data (10-min int) 2015	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (d)	596
NOAA 44017 - Wind Data (10-min int) 2016	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (e)	1,184
NOAA 44017 - Wind Data (10-min int) 2017	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (f)	141
NOAA 44017 - Wind Data (10-min int) 2018	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (g)	716
NOAA 44017 - Wind Data (10-min int) 2019	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (h)	304
NOAA BUZM3 - Wind Data (10-min int) 2016	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (i)	877
NOAA BUZM3 - Wind Data (10-min int) 2017	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (j)	873
NOAA BUZM3 - Wind Data (10-min int) 2018	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (k)	870
NOAA BUZM3 - Wind Data (10-min int) 2019	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (l)	549
Weather Data - South Fork (2000 - 2020)	NOAA - Nat Data Buoy Center	Oct 2020	Exhibit 12 (m)	668
Utility Pole Electrical Fire (East Hampton)	Michael Heller	Feb 2016	Exhibit 13	2

Testimony Part 3 - Rebuttal	Filed: Oct 30, 2020	Oct 2020	Testimony	13
IR SK #29 - PSEGLI Supplemental Response	LIPA/PSEGLI	Oct 2020	Exhibit 3-1	1
PFAS Heat Map & SC Report of Wainscott S&G	Si Kinsella (NYS DEC & SCDHS)	Oct 2020	Exhibit 3-2	3
PFAS Lab Rpts - Private Wells in Wainscott	Suffolk County Dept. Health Svc	2017/2018	Exhibit 3-3	416
Email from Deputy Comm'r to Town	Suffolk County Dept. Health Svc	Jun 2018	Exhibit 3-4	11
Rigano Presentation on DEC SC Report	Nicholas C. Rigano, Esq.	Oct 2020	Exhibit 3-5	10
NYSERDA OSW RFI 2018, Bay State Comments	Bat State Wind, LLC	Aug 2018	Exhibit 3-6	15
NYSERDA OSW Policy Options Paper	NYSERDA	Jan 2018	Exhibit 3-7	117
Newsday - LIPA Spend \$109M Energy Storage	Newsday	May 2017	Exhibit 3-8	2

Motion by South Fork Wind to Strike Kinsella Testimony	Filed: Nov 5, 2020	Nov 05, 20	Motion	17
Opp to Motion of South Fork Wind to Strike Testimony - Resp Kinsella		Nov 16, 20	Motion	40
Opp to Motion of South Fork Wind to Strike Testimony - Resp Bjurlof		Nov 16, 20	Motion	1
Opp to Motion of South Fork Wind to Strike Testimony - Resp Cirlin		Nov 16, 20	Motion	3
Opp to Motion of South Fork Wind to Strike Testimony - Resp Cohen		Nov 16, 20	Motion	4
Opp to Motion of South Fork Wind to Strike Testimony - Resp CPW		Nov 16, 20	Motion	7
Opp to Motion of South Fork Wind to Strike Testimony - Resp Gruber		Nov 16, 20	Motion	7
Opp to Motion of South Fork Wind to Strike Testimony - Resp LICFA		Nov 16, 20	Motion	2
Opp to Motion of South Fork Wind to Strike Testimony - Resp Mohoney, Michael		Nov 16, 20	Motion	3
Opp to Motion of South Fork Wind to Strike Testimony - Resp Mohoney, Pamela		Nov 16, 20	Motion	3
Opp to Motion of South Fork Wind to Strike Testimony - Resp Faber		Nov 16, 20	Motion	2
Ruling - Motion to Strike Kinsella Testimony by ALJ Belsito		Nov 24, 20	Motion	7

Demand Letter Re PACB Approval to LIPA	Filed: Feb 19, 2021	Feb 2021	Letter	9
NYS Comptroller FOIL Request & Appeal	S Kinsella	Feb 2021	FOIL Request Appeal	10
Supp'l Resp to IR SK #29 - PPA Amend	PSEG Long Island	Oct 2020	Info'n Request	1
South Fork RFP - Update Re PPA Amendment	PSEG Long Island	Sep 2020	Update	1

Number of Exhibits:	165	Total Pages:	14,650
No. of Duplicate Exhibits:	12	Total Duplicate Pages:	501
Total Number of Exhibits:	153	Total Pages (less duplicates):	14,149

Notes:

- 1 All the documents herein listed (above) are available at the following URL:

For these reasons and more (as explained in the enclosed documents), I respectfully request extensive federal oversight of this Project. If I can be of any further assistance, please contact me via email (Si@oswSouthFork.info) or on my mobile (1-631-903-9154).

Thank you for your assistance.

Sincerely yours,



Si Kinsella

C/c: US Army Corps of Engineers - New York District
ATTN: Chief Stephan A. Ryba
Regulatory Branch
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090

Included: Please see USB storage device with a copy of all exhibits referred to the enclosed documents.