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March 11, 2022

**URGENT: Imminent Risk to Public Health**

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## Re: URGENT: South Fork Wind Imminent Risk to Public Health

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

South Fork Wind poses an imminent risk to public health and the environment.<sup>1</sup>

Up-to-date, neither the Town of East Hampton (“Town”), the New York State Department of Environmental Conservation (“NYSDEC”), the New York State Public Service Commission (“NYSPSC”), nor the Bureau of Ocean Energy Management (“BOEM”) has provided oversight sufficient to ensure South Fork Wind mitigates the risks that its construction will expose our community to contamination, including per- and polyfluoroalkyl substances (“PFAS”).

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<sup>1</sup> South Fork Wind LLC (formerly Deepwater Wind South Fork LLC).

In its “Weekly Status Report” for March 7, 2022, South Fork Wind writes: “Completed Activities[,] Week of February 28, 2022: [...] The contractor continued trenching and installing conduit on Wainscott NW Road between the LIRR intersection and Montauk Highway.” See Exhibit A and Figure 1 (right), and Figures 2 and 3 (at pp. 4-5, the area shaded yellow marks the location of construction).

South Fork Wind is proceeding with construction *without* testing its proposed construction corridor near the bottom of its planned excavation pits, where PFAS contaminated soil is likely to be detected. The Town of East Hampton promised Wainscott residents that South Fork Wind would conduct such tests and provide the laboratory test results. Instead, the Town has allowed South Fork Wind to dig up roads with incredible speed.

South Fork Wind is legally mandated to test soil for contaminants and mitigate the risks that its construction will exacerbate PFAS contamination, including PFOA and PFOS that is known to exceed the EPA Health Advisory Level and New York State’s Maximum Contamination Levels upgradient within five hundred feet (500 ft) of where it is currently conducting excavation work.

South Fork Wind proposes to construct its high-voltage transmission infrastructure immediately above and encroaching into the Upper Glacial Aquifer and through two Critical Environmental Areas designed to protect the safety of the aquifer: (a) the Special Groundwater Protection Area (South Fork); and (b) the Water Recharge Overlay District.<sup>2</sup>

There are six public supply wells<sup>3</sup> within one mile of at least one PFAS Contamination Area of Concern (“AOC”) at East Hampton Airport.<sup>4</sup> NYSDEC identified four AOCs at the airport site, two of which are upgradient within one thousand feet (1,000 ft) of South Fork Wind’s proposed high-voltage transmission route (see Fig. 2 and 3, overleaf).<sup>5</sup>

This document shows that South Fork Wind’s rush to construction is reckless.



Fig. 1

Photo of Wainscott Northwest Road looking north towards Sandown Court (taken on March 6, 2022)

<sup>2</sup> See Testimony Part 1-1 by Kinsella, Exhibit A (of 4 pages): Groundwater Protection CEA & Water Recharge CEA (at pp. 1-3) ([NYSPSC DMM: item 133, Exhibit A, p 1](#)).

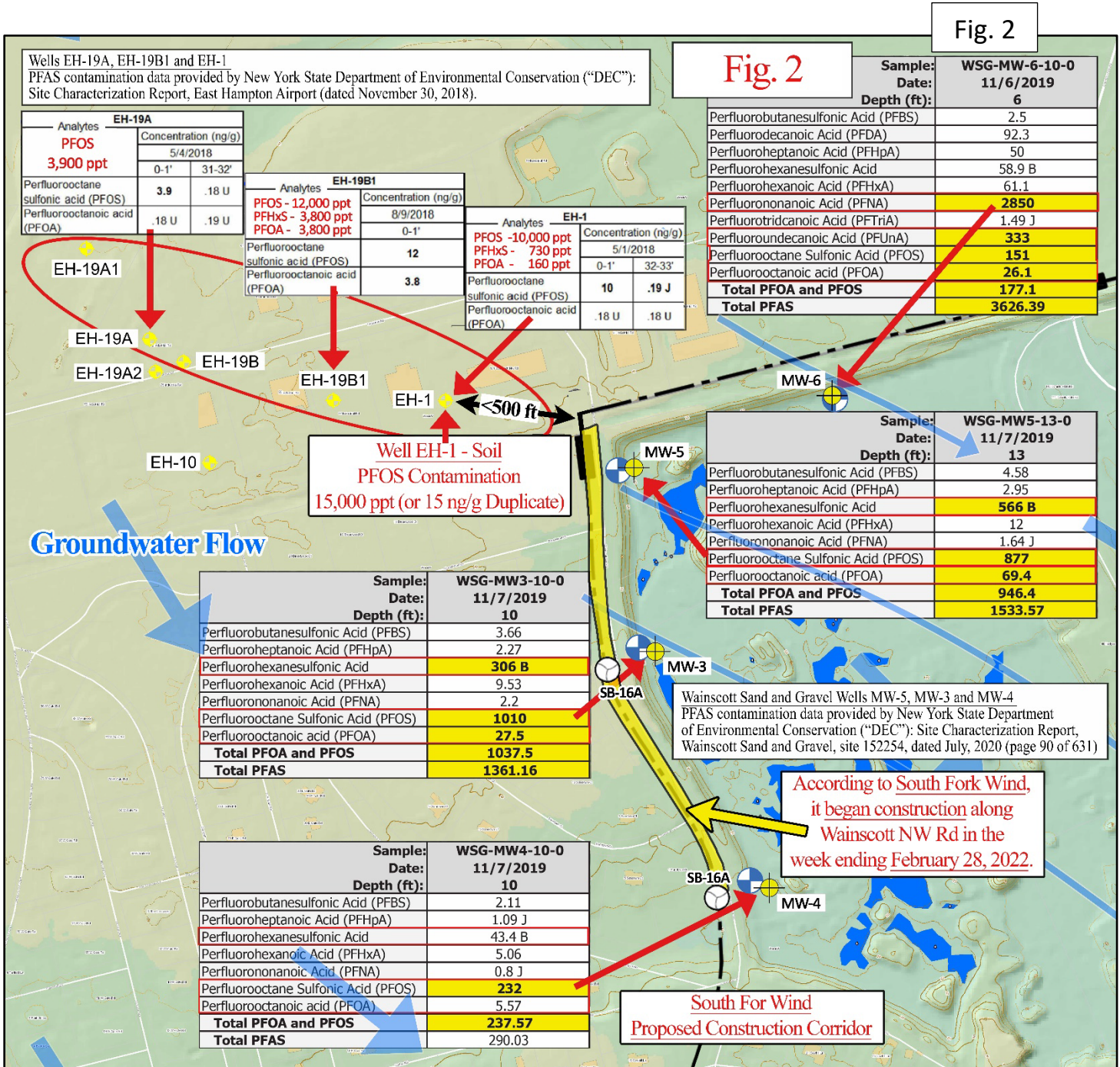
<sup>3</sup> Townline Road Well Field, NYSDEC Wells S-118737 (650 gmp, Magothy Aquifer, depth=435 ft) and S-120019 (650 gmp, Upper Glacial Aquifer, depth=178 ft). East Hampton-Sag Harbor Turnpike, NYSDEC Wells S-102721 (1300 gmp, Magothy Aquifer, depth=387 ft) and S-115545 (1300 gmp, Magothy Aquifer, depth=294 ft). Stephen Hands Path Well Field, Well-1 (650 gmp, Upper Glacial Aquifer, depth=145 ft) and Well-2 (650 gmp, Upper Glacial Aquifer, depth=145 ft).

<sup>4</sup> See [Report.HW.152250.2018-11-30.Airport Site Characterization Report Final.pdf](#) (at p. 27 of 268, Figure 8).

<sup>5</sup> See NYSPSC Testimony on PFAS Contamination: Part 1-1 ([available at NYSPSC DMM: item 133](#)) and Part 1-2 ([available at NYSPSC DMM: item 185](#)). Also, see PFAS maps at <http://www.wainscott.life/maps.html>



There is no alternative drinking water source on eastern Long Island that could physically, legally, and economically supply all those who depend upon the aquifer for their drinking water.<sup>6</sup>



<sup>6</sup> The US Environmental Protection Agency (“EPA”) designated the aquifer system underlying the South Fork on Eastern Long Island a Sole-Source Aquifer on June 21, 1978 (See US EPA Nassau-Suffolk Aquifer System, Federal Register Notice, Volume 43, No. 120, Page 26611, June 21, 1978 - Sole Source Aquifer Determination for Aquifers Underlying Nassau and Suffolk Counties).





**Prior Testing (in January 2021)**

South Fork Wind’s proposed onshore high-voltage transmission/construction route is approximately four miles long. Two miles of which runs through a residential neighborhood from the beach northward along Beach Lane to Wainscott NW Road (via Wainscott Main St, Sayers’ Path, and Wainscott Stone Rd), where it intersects with the Long Island Rail Road (“LIRR”) tracks.



South Fork Wind identifies approximately thirty wells and test pits, some it installed, and others existed from prior uses.

In January 2021 (two weeks *after* the NYSPSC administrative hearing had closed), South Fork Wind conducted limited testing that avoided areas and depths where PFAS contamination would likely be detected at levels exceeding regulatory limits. South Fork Wind avoided testing any soil samples taken towards the bottom of its planned excavation at depths ranging from eight to sixteen feet (8 - 16 ft).

### South Fork Wind - Monitoring Well Summary (February 2022)

On February 21, 2022, the Town Board for East Hampton (*not* South Fork Wind) provided a one-page spreadsheet titled South Fork Wind - Monitoring Well Summary (see Exhibit B).

The Monitoring Well Summary appears to be an attempt to determine whether South Fork Wind's construction plans will impact the Town's *only* drink-water supply, the aquifer.

The summary provided by the Town Board raises more questions than it answers, such as –

1. Why was the Monitoring Well Summary provided by the Town Board and *not* South Fork Wind?
2. Who wrote the Monitoring Well Summary; the Town or South Fork Wind?
3. Why has neither the Town Board nor South Fork Wind provided the supporting laboratory test results that Town Councilwomen Overby and Rogers promised at the Wainscott Citizen's Advisory Committee meeting on February 5, 2022?
4. Why are there *no* PFAS test results for soil (only groundwater)?
5. Why has the Monitoring Well Summary *not* been filed with the New York State Public Service Commission and posted on its website?<sup>7</sup>
6. Why have *no* laboratory test results been filed with the New York State Public Service Commission and posted on its website?<sup>8</sup>

In addition to the questionable Monitoring Well Summary provided by the Town, the one-page document is missing the following –

- *All* laboratory reports (signed by a professionally qualified scientist or laboratory);
- *All* test results for the complete list of standard PFAS analytes;<sup>9</sup>

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<sup>7</sup> See New York State Public Service Commission, Case 18-T-060 ([online at dps.ny.gov](https://www.dps.ny.gov), [click here](#)).

<sup>8</sup> *Ibid.*

<sup>9</sup> Perfluorobutanesulfonic Acid (PFBS), Perfluorodecanoic Acid (PFDA), Perfluorododecanoic Acid (PFDoA), Perfluoroheptanoic Acid (PFHpA), Perfluorohexanesulfonic Acid (PFHxS), Perfluorohexanoic Acid (PFHxA), Perfluorononanoic Acid (PFNA), Perfluorooctane Sulfonic Acid (PFOS), Perfluorooctanoic acid (PFOA), Perfluorotetradecanoic Acid (PFTeA), Perfluorotridecanoic Acid (PFTriA), Perfluoroundecanoic Acid (PFUnA), and 2-(N-methyl perfluorooctanesulfonamido) acetic acid, N-Ethyl-N-((heptadecafluorooctyl) glycine.

- *All* PFAS soil contamination test results;
- Dates when samples were taken for testing where “No Exceedances to DEC criteria” have been noted for respective wells (we are left guessing whether tests were performed in 2021, 2022, or at some other time);
- *Any* location information for what appears to be twelve new monitoring wells (signed by a qualified engineer);
- *Any* sampling plan approved by either NYSDEC or BOEM;
- *Any* sampling or boring test logs (signed by a qualified engineer); and
- The extent of seasonal and long-term fluctuations in groundwater height. The Monitoring Well Summary provides only a snapshot of the depth to groundwater on a given date and fails to account for the change in water table elevation over time.

Of the thirty-two (32) monitoring wells listed –

- Twelve (12) appear to be wells with a new reference number (i.e., the wells do not appear on any prior NYS Public Service Commission filing). Conspicuously, *every* well with a new number is missing a test result for PFAS contamination (whether detectable, undetectable, or below the reporting limit). Each well reads “no sample required.”<sup>10</sup>
- Seventeen (17) wells read: “No Exceedances to DEC criteria,” nine of which do not specify whether the result relates to a sample taken in a prior year or 2022. The remaining four wells (i.e., MW-6B, MW-7A, and MW-8A) read: “No sample-well dmgd [damaged].” No explanation is given as to why the wells were not repaired or re-bored.
- PFAS test results were provided for three (3) wells and then only for the specific PFAS chemical compound.<sup>11</sup> The results for standard PFAS analytes have not been forthcoming.<sup>9</sup>

The scant information provided in February 2022 goes nowhere near to qualifying and quantifying the extent of PFAS contamination necessary to mitigate the risks South Fork Wind’s construction poses to human health and the environment. The Monitoring Well Summary appears to be unprofessional by contrivance.

### Limited Scope of Previous Soil Samples

According to South Fork Wind’s Environmental Sampling Scope of Work, the “purpose [...] is to provide an environmental sampling scope of work [...] which includes testing of soils and groundwater to discover if contamination is present” and sampled in accordance with DER-

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<sup>10</sup> Eleven of the twelve new wells read “no sample required” in the same row for that well, and the other well (MW-8A REP) reads: “replacement well for MW-8A” where well MW-8A reads “no sample required.”

<sup>11</sup> Well-4A (PFOA at 82 ppt), Well-4B (PFOA at 15 ppt; PFOS at 13 ppt), and Well-15A (PFOS at 12 ppt).



10.<sup>12</sup> The sampling scope includes “36 borings along the Town Roads (SB-1A through SB-18B), 28 borings along the LIRR (SB-19A through SB-32B), and five borings at the substation/69 kV line (SB-33A through SB-34C).”<sup>13</sup> In total, South Fork Wind tested soil from fifty-nine (59) wells for a broad range of contaminants. However, it tested only twenty-one (21) wells for PFAS contamination, or thirty-five percent (35%) of the total number of wells.

Of the limited number of soil samples tested for PFAS contamination by South Fork Wind, samples were taken *only* from the shallow surface. For example, one soil sample was taken from the surface, literally, at 0.0 feet (S-1 at Well SB-17B). Of the three wells South Fork Wind tested that are closest to the source of PFAS contamination (at East Hampton Airport), one well was *not* tested for PFAS contamination (Well SB-18B), one well was tested to an average depth of just one foot (1.0 ft) (Well SB-17A), and the other well was tested to an average depth of one foot, four inches (1.3 ft) (Well SB-17B).<sup>14</sup> South Fork Wind’s planned excavation should have been tested to a depth ranging from eight feet to at least sixteen feet (8 – 16 ft), and probably deeper.

Up-to-date, South Fork Wind has *never* provided PFAS contamination test results for soil samples taken from a depth that corresponds to the bottom of its planned excavation where PFAS contamination is more likely to be.

## Fluctuation in Groundwater Levels

South Fork Wind has *not* taken into account fluctuations in groundwater height.

Over time, the aquifer (groundwater) rises and falls. There is typically a drop in groundwater levels on eastern Long Island towards the end of summer, resulting from farm irrigation withdrawals and families vacationing in the “Hamptons.” There are also year-on-year changes caused by changes in climate (e.g., droughts, floods, etc.).

The changes in groundwater levels can be seen in the following two monitoring wells that are located at each end of South Fork Wind’s proposed onshore construction corridor –

1. Suffolk County Monitoring Well (S62395.1) at the corner of Wainscott Main Street and Five Rod Highway north of Wainscott Pond. The Wainscott Pond well fluctuates as much as 5 feet (see Fig. 4 at p. 10); and
2. Suffolk County Monitoring Well (S46525.1) at East Hampton Airport. The airport well fluctuates as 8.1 feet (see Fig. 5 at p. 11).<sup>15</sup>

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<sup>12</sup> See Hazardous Waste and Petroleum Work Plan (“HWPWP”) – Environmental Sampling Scope of Work, Version 2 (“Sampling Scope of Work”), dated January 2021 (at p. 1.1, third paragraph)

<sup>13</sup> *Id.* (at p. 3.7, section 3.3, first paragraph)

<sup>14</sup> To download a detailed map of Wells SB-17A, SB-17B, and SB-18A, see [www.oswSouthFork.info](http://www.oswSouthFork.info), 60-day Notice of Intent to Sue, Fig. 5 (at p. 13), or [Click Here to download a high-resolution image of Fig. 5.](#)

<sup>15</sup> On April 1, 2010, Suffolk County Monitoring Well (S62395.1) recorded a high of 1.71 feet below ground surface (ft bgs) and on August 19, 2002, recorded a low of 6.71 ft bgs. On April 22, 2010, Suffolk County Monitoring Well (S46525.1) recorded a high of 24.18 ft bgs and on December 16, 2013, recorded a low of 32.13 ft bgs.

Changes in groundwater height are essential insofar as PFOA and PFOS are “relatively mobile in groundwater, but tends to associate with the organic carbon fraction of soil[.]”<sup>16</sup> As groundwater rises and falls, PFAS contamination impacts the saturated zone and capillary fringe to varying degrees depending on variables unique to each site. For this reason, thorough *in-situ* testing must be performed.

To measure the depth to groundwater at a given time is to take a snapshot at that instant, but it ignores changes in groundwater level over time. Over the past two decades, groundwater height has been fluctuating, and over the same period, PFAS contamination has been leeching and percolating into groundwater from East Hampton Airport. One moves with the other.

### PFAS Characteristics – (specifically PFOA and PFOS)

By design, PFAS contamination “preferentially form films at the air-water interface [...]. This behavior [...] suggests that PFAS accumulates at water surfaces [...] [and] may also influence vadose zone transport, where unsaturated conditions provide significant air-water interfacial area.”<sup>17</sup> “This includes the potential for enhanced retention in the vadose zone and the capillary fringe [emphasis added][...] For example, [...] adsorption of PFOS and PFOA at the air-water interface can increase the retardation factor for aqueous-phase transport, accounting for approximately 50% of the total retention in a model system (well-sorted sand) with 20% air saturation. As a result, air-water partitioning may contribute to retardation of PFAS in unsaturated soils.”<sup>18</sup> Moreover, PFOA and PFOS will tend to adsorb “to interfaces of environmental media such as soil/water [...] [and] associate with the organic carbon fraction that may be present in soil[.]”<sup>19</sup> In other words, PFOA and PFOS contamination are likely to attach and accumulate where the soil and groundwater interact. Such interaction occurs at the water table, which changes height depending on where the groundwater meets the vadose zone.

South Fork Wind has ignored the nature of PFAS contamination, specifically PFOA and PFOS, and how changes in groundwater height impact contamination concentration levels along its proposed cable route, especially towards the bottom of its planned excavation trench.

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<sup>16</sup> See Interstate Technology & Regulatory Council (“ITRC”) Environmental Fate and Transport for Per- and Polyfluoroalkyl Substances, submitted by South Fork Wind in New York State Public Service Commission, Case 18-T-0604 (DMM 198), on October 30, 2020 ([available online at dps.ny.gov, click here](#)) (at p. 5, blue shaded dialog box).

<sup>17</sup> See Interstate Technology & Regulatory Council (“ITRC”) Environmental Fate and Transport for Per- and Polyfluoroalkyl Substances, submitted by South Fork Wind in New York State Public Service Commission, Case 18-T-0604 (DMM 198), on October 30, 2020 ([available online at dps.ny.gov, click here](#)) (at p. 7, final paragraphs).

<sup>18</sup> See ITRC 2020 PFAS Technical and Regulatory Guidance Document and Fact Sheets PFAS-1, Updated August 2021, Section 5.2.4.1 - Partitioning to Air/Water Interfaces (available at <https://pfas-1.itrcweb.org/>) (at p. 8, second paragraph).

<sup>19</sup> *Id.* (at p. 6, first two paragraphs).

Fig. 4

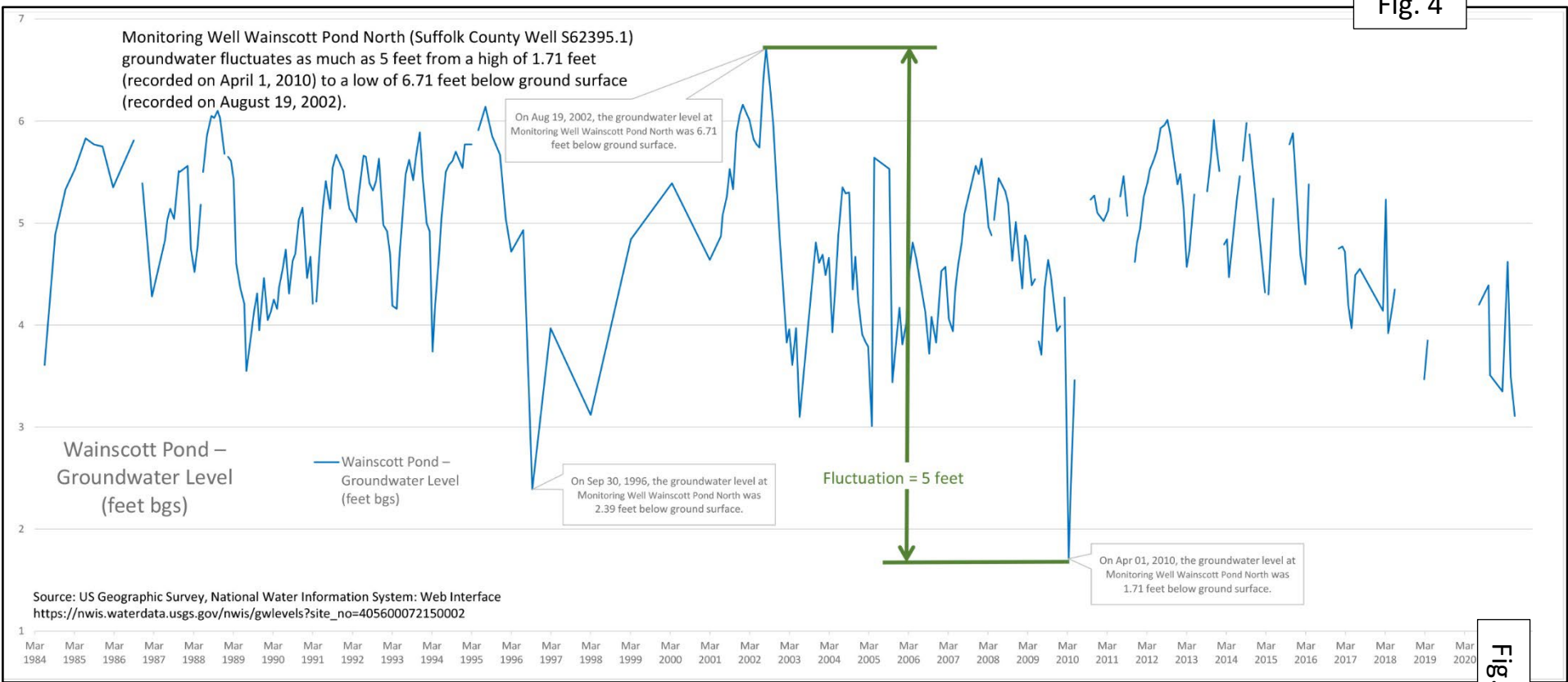


Fig. 4



Fig. 5

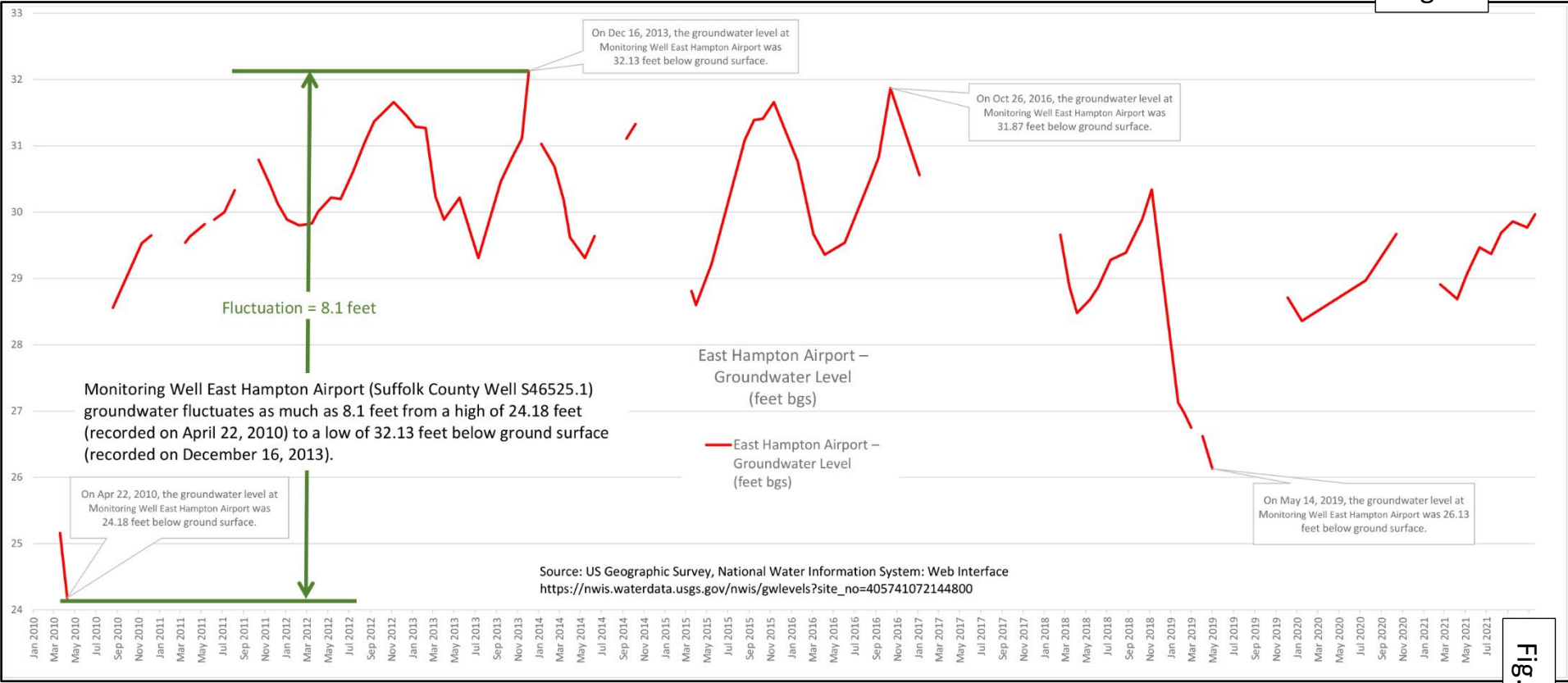


Fig. 5

### Three Examples - Wells SB/MW-7A and 8A, and Well SB-16A

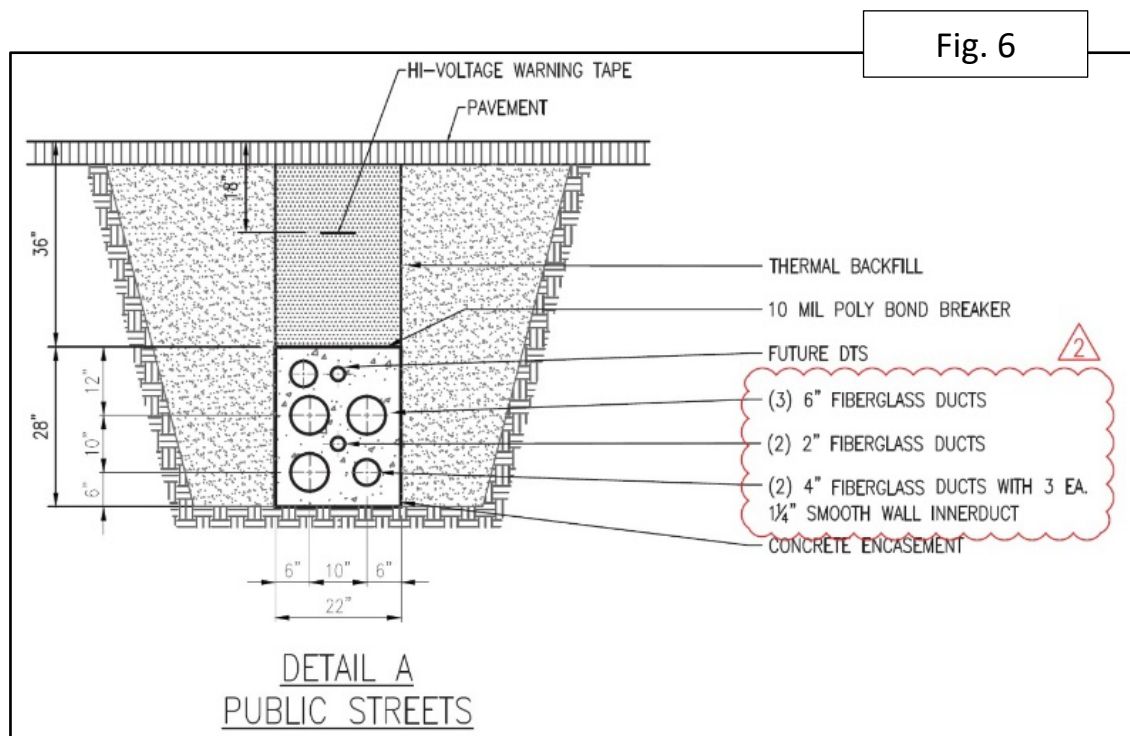
Just three of approximately thirty wells are discussed here by way of example. Two wells on Wainscott Stone Road, Wells SB/MW-7A and 8A, are near a hollow that drains into a tributary of Georgia Pond, Goose Creek (see Fig. 7 at p. 15). The third, Well SB-16A, is located on Wainscott NW Road near a depression that runs into a multi-use industrial site, Wainscott Sand and Gravel (see Fig. 8 at p. 16).

The areas shaded dark blue at the bottom of Figures 7 and 8 represent the level of groundwater when South Fork Wind measured wells in January 2021. The areas immediately above the groundwater level shaded light blue represent the degree to which the water table may have risen and fallen. In low-lying areas near the southern shoreline, the water table fluctuates as much as five feet (5 ft) based on the change in water level observed at NYSDEC Well S-62395.1 located just north of Wainscott Pond (see Fig. 4 at p. 10). In the area north of Montauk Highway approaching East Hampton Airport, the water table fluctuates as much as eight feet (8.1 ft) based on the change in water level observed at NYSDEC Well S-46525.1 located at East Hampton Airport (see Fig. 5 at p. 11).

### Excavation Depth for Soil and Groundwater Testing Purposes

The depth of South Fork Wind’s excavation for its duct banks has been taken from its recent revision to its Environmental Management and Construction Plan (“EM&CP”) submitted to the NYSpsc on February 15, 2022 (see Fig. 6, Drawing #40A, below). The depth from the paved surface of the right-of-way to the base of the concrete encasement is 64 inches or 5⅓ feet.

In Figures 7 and 8, duct bank depth to the bottom of the concrete encasement is marked as a dashed green line (e.g. ----- 5⅓ feet -----).



According to South Fork Wind’s Hazardous Waste and Petroleum Work Plan (“HWPWP”), Part 2, Attachment C – Soil Volume Calculations (revised October 8, 2020) Excavation Volumes for Permitting, only the allowance of 10% or seven inches (7”) for “Bulk Volume” has been added below the concrete encasement.

According to the P&P Drawing Notes (see Existing Underground Utilities, No. 8): “ALL TEST EXCAVATIONS SHALL EXTEND TO NOT LESS THAN 2 FEET BELOW THE PLANNED CONSTRUCTION EXCAVATION DEPTH.” Although the stipulation applies to utility lines “(IE WATER, SEWER, TELEPHONE, ELECTRIC COMMUNICAIONTS [*sic*]/CABLE ETC),” it is clear that South Fork Wind expects to encounter the utilities, especially given that it identifies sixteen (16) locations where it expects to find such utilities. South Fork Wind requires test excavations to a depth of two feet (2 ft) below the planned excavation depth and, therefore, should also test soil and ground to that depth.

Therefore, the total excavation depth for testing soil and groundwater PFAS contamination is 7.9 feet or 95 inches.<sup>20</sup> In Figures 7 and 8, the total duct bank excavation depth is marked as a dashed red line (e.g. ----- 8 feet -----).

An excavation depth of around 8 feet for soil and groundwater testing purposes is consistent with South Fork Wind’s Article VII Application that says its high voltage power cables “will be installed within a new underground duct bank in the public road right-of-way (ROW) [...] within a four foot wide by eight foot deep trench.”<sup>21</sup> Acting counsel for the Town, John Wagner, informed the Town Board (on September 8, 2020) that splicing vaults could even go as deep as “sixteen to twenty feet” below ground surface. Furthermore, the Construction and Operation Plan South Fork Wind filed with BOEM in May 2021 reads: “The SFEC - Onshore will be installed within the ROW of the existing roadways or the ROW of the LIRR. Existing pavement, gravel, or dirt will be removed and a trench of up to 4 feet (1.2 m) wide and 8 feet (2.4 m) deep will be excavated [emphasis added].”<sup>22</sup> Moreover, South Fork Wind confirms that “ground disturbance associated with cable burial will be limited primarily to [...] the Paved Road [...] Adequate workspace to accommodate an open trench of up to 4 ft wide by 8 ft deep [...] exists within the paved roads and the adjacent road shoulders.”<sup>23</sup>

### Analysis of Wells SB/MW-7A and 8A, and Well SB-16A –

See Figure 7 (at p. 14) for engineering drawings and notes on Wells SB/MW-7A and 8A. For Well SB-16A, see Figure 8 (at p. 15).

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<sup>20</sup> Duct bank depth to the bottom of the concrete encasement (64 inches or 5½ feet), in addition to a “Bulk Volume” allowance of 10% or seven inches (7”), and two feet (2 ft) for Test Excavations.

<sup>21</sup> See South Fork Wind’s Article VII Application, Section E-3.2.2 Land Cable (at p. E-3-4)

<sup>22</sup> See South Fork Wind’s Construction and Operation Plan (“COP”), Revised May 7, 2021, Section 3.2.3.5 South Fork Export Cable – Onshore (at p. 3-51 or 167 of 630).

<sup>23</sup> See South Fork Wind EM&CP, South Fork Export Cable, Section 4.5.1 - Summary of Existing Conditions and Impacts, issued September 2021 (at p. 115, 4th paragraph).



- (a) The Splicing vault, MH-03 (in Fig. 7), indicates a depth of ten feet, nine inches (10<sup>3</sup>/<sub>4</sub> ft), which appears to be a minor variation of seven inches (7 in) from the construction drawings that shows a depth of eleven feet, four inches (11<sup>1</sup>/<sub>3</sub> ft).<sup>24</sup>
- (b) To the bottom right-hand side (of Fig. 7) is a Water Main (16 inches) that intersects with the duct bank. It appears that South Fork Wind will have to lower its duct bank by four feet farther into the groundwater to avoid the large water main. Also, the water main is identified as Test Pit # 6, which further highlights the need for testing soil and groundwater at least two feet underneath the lowest point of planned excavation.
- (c) South Fork Wind does *not* quantify groundwater depth (below grade) in Well SB-16A. Therefore, Well MW4, which is approximately one and fifty feet (150 ft) downgradient from Well SB-16A, has been used to calculate the depth to groundwater level. Well MW4 has an absolute groundwater elevation of 9.9 feet, but the elevation is *not* relative to the ground surface: “groundwater elevations are shown in ft AMSL [Above Mean Sea Level].”<sup>25</sup> On the other hand, South Fork Wind uses feet NAVD88 to measure groundwater levels below grade. NOAA’s Online Vertical Datum Transformer converted 9.9 ft AMSL to 9.6 ft NAV88. Therefore, the depth to groundwater for Well SB-16A is 14.9 ft NAVD88 (i.e., surface elevation of 24.52 ft NAVD88 less absolute groundwater level of 9.6 ft NAVD88).
- (d) CONCLUSION: Duct Bank Testing Depth for Well SB/MW-8A (see Fig. 7) – South Fork Wind’s planned excavation encroaches into the existing water-table near Well SB/MW-8A by more than two feet (2ft), and by more than seven feet (7 ft) into soil that at some time over the last twenty years constituted part of the water-table. When taking into account unsaturated soil at the “capillary fringe” (of the water-table), the depth of soil likely to be affected by PFAS contamination is around eight feet (8 ft), in which case soil should be tested to a minimum depth of eight feet (8 ft) below grade.<sup>26</sup> Moreover, it appears as though the duct bank at Well SB/MW-8A will have to be sunk deeper than that specified in South Fork Wind’s P&P Drawing to avoid a 16-inch Water Main Line. Therefore, excavation will encroach more than eleven feet (11 ft) into soil likely affected by PFAS contamination, in which case the soil should be tested to a minimum depth of thirteen feet (13 ft) below grade.
- (e) CONCLUSION: Duct Bank Testing Depth for Well SB-16A (see Fig. 8) – South Fork Wind’s planned excavation encroaches into the soil by at least one and a half feet (1<sup>1</sup>/<sub>2</sub> ft) that at some time over the last twenty years constituted part of the water-table. When taking into account unsaturated soil at the capillary fringe, the depth of soil likely to be affected by PFAS contamination is more than two feet (2 ft). Therefore, the soil should be tested to a minimum depth of eight feet (8 ft) below grade.

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<sup>24</sup> See South Fork Wind NYSPSC Article VII Application, Exhibit 5, Fig 5, 2-1.

<sup>25</sup> See Wainscott Sand & Gravel Site Characterization Report by HDR, NYSDEC Code 152254, published July 2020 (at p. 91 of 631).

<sup>26</sup> See ITRC 2020 PFAS Technical and Regulatory Guidance Document and Fact Sheets PFAS-1, Updated August 2021, Section 5.2.4.1 - Partitioning to Air/Water Interfaces (available at <https://pfas-1.itrcweb.org/>) (at p. 8, second paragraph).

Fig. 7

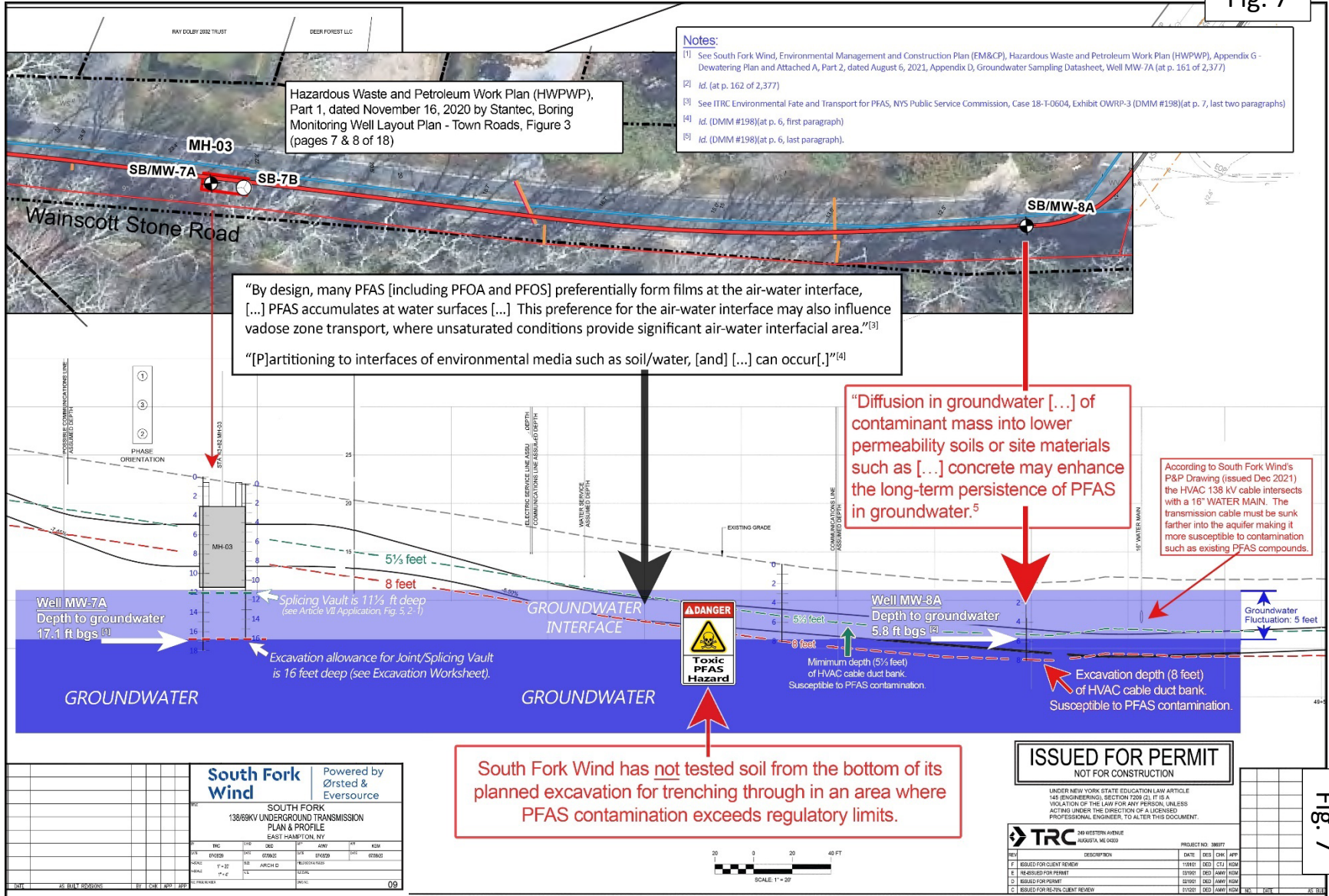
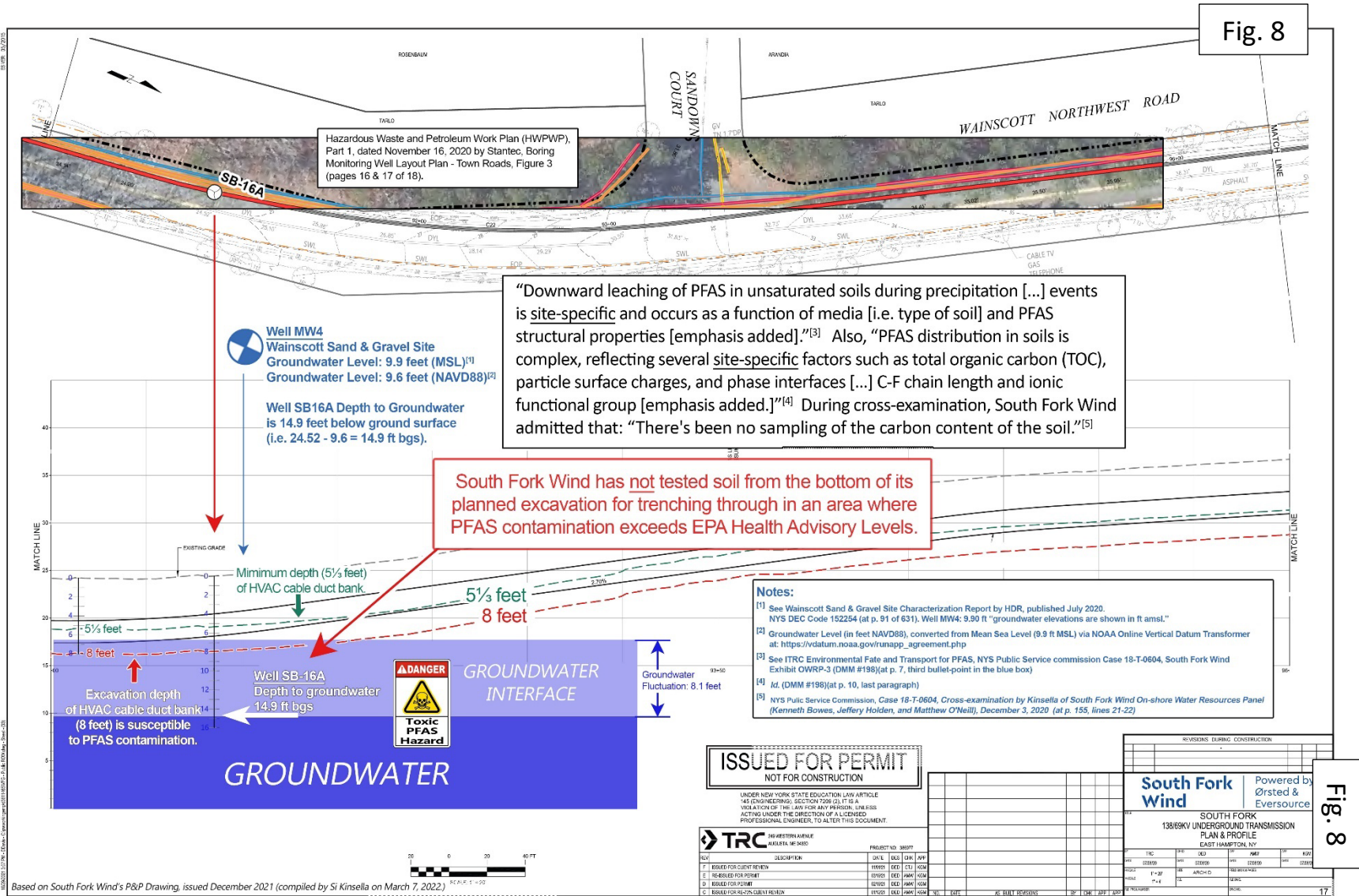


Fig. 7





- (f) Splicing Vault Testing Depth: Well SB/MW-7A and SB-7B (see Fig 7) – South Fork Wind’s planned excavation pit for Splicing Vault MH-03 corresponds to Wells SB/MW-7A and SB-7B. Vault MH-03 will be installed beneath Wainscott Stone Road on a gradient higher towards the western end of the vault at Well SB/MW-7A and lower at the eastern end at Well SB-7B.

Splicing Vault MH-03 is eleven feet, four inches deep (11½ ft), with a total planned excavation depth of sixteen feet (16 ft).

The eastern end of the vault (at Well SB-7B) will encroach into the existing unsaturated soil at the capillary fringe and, therefore, be affected by current groundwater levels. In addition, the Vault will advance by around five feet (5 ft) into soil that, at some time over the past twenty years constituted part of the water table. The soil at the eastern end of the Vault MH-03 should be tested for PFAS to a minimum depth of sixteen feet (16 ft) below grade level.

The soil at the western end of the Vault MH-03 corresponding to Well SB/MW-7A should be tested for PFAS contamination to a minimum depth of seventeen feet (17 ft) below grade level.

## Diffusion of PFAS Contamination

“Diffusion is the movement of molecules in response to a concentration gradient [...] contaminant mass in groundwater can diffuse into the pore space of lower permeability soils [...] Back-diffusion out of these low permeability materials may result in the long term persistence of PFAS in groundwater even after source removal and remediation.”<sup>27</sup>

The process of “diffusion can strongly influence the migration of PFAS within and between media.” “Diffusion in groundwater [...] of contaminant mass into lower permeability soils or site materials such as [...] concrete may enhance the long-term persistence of PFAS in groundwater [emphasis added]. For instance, at one site, PFAS penetrated 12 cm into a concrete pad at a fire training area, and diffusion was a contributing process [...]”<sup>28</sup>

In Figure 7 (at p. 14 above), South Fork Wind’s proposed duct bank is a concrete barrier that will interrupt the natural flow of groundwater into Goose Creek (Georgica Pond). The concrete duct bank has a lower permeability than the surrounding soil/sand particles and groundwater. Over time, PFAS contaminant mass may diffuse and accumulate in the concrete duct bank and enhance the long-term persistence of PFAS contamination. Then, through a

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<sup>27</sup> See ITRC 2020 PFAS Technical and Regulatory Guidance Document and Fact Sheets PFAS-1, Updated August 2021, Section 5.3.1 Diffusion In and Out of Lower Permeability Materials (available at <https://pfas-1.itrcweb.org/>) (at p. 9 of 23, first paragraph).

<sup>28</sup> See ITRC Environmental Fate and Transport for Per- and Polyfluoroalkyl Substances, submitted by South Fork Wind in NYSPSC Case 18-T-0604 (DMM 198) on October 30, 2020, Section 3.2 - Transport ([available online at https://dps.ny.gov, click here](https://dps.ny.gov)) (at p. 6).

process of back-diffusion, where “PFAS dissolved in groundwater that accumulated in lower permeability silt/clay layers [or concrete as discussed above] below the water table may diffuse into the higher permeability zones due to changing relative concentrations[.]”<sup>29</sup>

South Fork Wind has failed to take into account the characteristics of PFAS contamination and the effects its construction will probably have in enhancing and pro-longing further environmental damage.

## Existing PFAS Contamination

### *PFAS contamination exceeding regulatory limits*

Beach Lane Well MW-4A had detectible levels of PFOA groundwater contamination at a level of 50 ng/L (sampled January 14, 2021) and 82 ng/L (sampled February 2022). Both levels exceed the NYS Maximum Contamination Level of 10 ng/L for PFOA contamination – by five times (5x) and eight times (8x), respectively.

Well, MW-4B, which is nearby MW-4A, had a detectible level of PFOA and PFOS groundwater contamination of 15 ng/L and 13 ng/L, respectively (both sampled February 2022). The levels exceed the NYS MCL of 10 ng/L.

Wainscott NW Road Well SB/MW-15A had detectible levels of PFOS groundwater contamination of 14.7 ng/L (sampled January 18, 2021) and 12 ng/l (sampled February 2022).

Although some levels of PFAS contamination were detected, South Fork Wind’s test results for PFOA and PFOS were inconclusive because the soil samples avoided areas of probable PFAS contamination.

Concerningly, South Fork Wind’s P&P Construction Drawings mislead contractors into believing that “NO CONTAMINATED SOILS HAVE BEEN FOUND ALONG THE PROJECT ROUTE.” In fact, South Fork Wind does not know whether PFAS contamination exists towards the bottom of its trench because it has *not* tested the soil.

Furthermore, contractors have been issued the following instruction: “QUESTIONABLE MATERIAL SHALL BE SEGREGATED AND STOCKPILED ON AN IMPERVIOUS SURFACE UNTIL TESTED.”<sup>30</sup> If contractors encounter contaminated material on a windy day, soil, dust, and debris may spread on the wind and degrade adjoining properties.

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<sup>29</sup> See ITRC 2020 PFAS Technical and Regulatory Guidance Document and Fact Sheets PFAS-1, Updated August 2021, Section 10.3.2 Nature of PFAS Sources (available at <https://pfas-1.itreweb.org/>) (at p. 8, 2nd bullet point).

<sup>30</sup> See Notes to South Fork Wind’s Revised P&P Drawing, issued Feb 14, 2022, GENERAL NOTES (#2)

Wainscott Stone Road (Well SB/MW-8A)

On January 13, 2022, GZA GeoEnvironmental, Inc. (“GZA”) sampled soil from the Wainscott Stone Road Well SB/MW-8A. PFOA was detected in soil at a 0.063 ug/kg concentration level. The result was flagged with a “J,” that “indicates the result is less than the RL [reporting limit] but greater than or equal to the MDL [method detection limit] and the concentration is an approximate value.” Although the detectible concentration was below the reporting limit (of 0.20 ug/kg for PFOA), the result was in bold typeface, indicating that the “constituent was detected *above* the laboratory reporting limit.” Irrespective of PFOA’s contradictory result, it is identified as “an approximate value.”<sup>31</sup> PFOS soil contamination was not recorded as it was less than the reporting limit of 0.23 ng/L. The results are inconclusive.

GZA also sampled groundwater from Well SB/MW-8A on January 13, 2022. PFOA contamination was detected in groundwater at a concentration level of 3.30 ng/L, and PFOS contamination was 2.64 ng/L. The contamination levels are below New York State’s Maximum Contamination Level (“MCL”) of 10 ng/L.

In February 2022, the Town of East Hampton provided the Monitoring Well Summary stating that Well SB/MW-8A was damaged and that it had been replaced with Well MW-8A REP. No PFAS results have been provided for either groundwater or soil.

Note: The level of PFOS contamination detected in groundwater at Well SB/MW-8A (of 2.64 ng/L) would have exceeded NYSDEC’s proposed new groundwater Guidance Value (of 2.6 ng/L). The level of PFOA detected in groundwater (of 3.30 ng/L) is below the proposed new groundwater Guidance Value (of 6.7 ng/L).

Suppose South Fork Wind installed its duct bank as proposed and impede the natural groundwater flow into Georgica Pond. In that case, PFOA and PFOS would probably diffuse and accumulate at the duct bank and enhance the long-term persistence of PFAS entering Georgica pond. Furthermore, in time the underground duct bank will likely become a secondary source of contamination through the process of back-diffusion.

Wainscott Stone Road (Well SB/MW-7A)

In January 2021, GZA did *not* test soil from Well SB/MW-7A or Well SB -7B for *any* PFAS contamination.

GZA sampled groundwater from Well SB/MW-7A on January 13, 2022. The level of PFOA (8.58 ng/L) and PFOS (2.20 ng/L) were both below NYS’s MCL of 10 ng/L. However, the level of PFOA contamination (of 8.58 ng/L) would have exceeded NYSDEC’s proposed new groundwater Guidance Value (of 6.7 ng/L).

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<sup>31</sup> See New York State Public Service Commission, Case 18-T-060 ([online at dps.ny.gov, click here](https://www.dps.ny.gov)), Appendix G – Dewatering Plan Part 2 (at p. 1,306 of 2,377)

In February 2022, the Monitoring Well Summary provided by the Town stated that Well SB/MW-7A had been damaged and was replaced with Well MW-7A REP and that no sample was required on the basis that groundwater was *not* “anticipated.” *No* PFAS results have been provided for soil. Well SB -7B was *not* tested for PFAS contamination.

### Wainscott Northwest Road (Well SB -16A)

On January 11, 2021, GZA tested soil from the shallow surface of Well SB-16A. Despite a planned excavation depth of eight feet (8 ft), South For Wind’s contractors took three samples at an average depth of only twenty inches (20 inches). Soil towards the bottom of the trench has *not* been tested. PFAS concentration levels were undetectable. Groundwater was *not* tested for PFAS contamination.

*No* PFAS results were provided for Well SB-16A in February 2022.

## PFAS Contamination Testing Requirements

On March 18, 2021, the New York State Public Service Commission (“NYSPSC”) granted a Certificate to South Fork Wind with conditions.<sup>32</sup> At least three of those conditions mandate that South Fork Wind must comply with NYSDEC’s Division of Environmental Remediation (“DER”) Technical Guidance for Site Investigation and Remediation (“DER-10”).<sup>33</sup> To download [NYSDEC DER-10 \(click here\)](#).

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<sup>32</sup> The legality of the Commission’s Order Adopting Joint Proposal of March 18, 2021, granting South Fork Wind LLC a Certificate pursuant to Article VII of New York State Public Service Law is subject to three legal challenges. Two legal proceedings have been filed in the Supreme Court of New York State, Appellate Division, Second Department, [Simon V. Kinsella v. NYS Pub. Serv. Commission, et al.](#) (index no. 06572/2021), and [Citizens for the Preservation of Wainscott, Inc. v. NYS Pub. Serv. Commission, et al.](#) The third is a complaint filed in the New York State Supreme Court, [Simon V. Kinsella v. Long Island Power Authority, et al.](#) (index no. 000613/2021). The lower court judges have not ruled on any motions in any of the pending cases for many months. South Fork Wind is proceeding in violation of New York State Law.

<sup>33</sup> Condition No. 52 requires that South Fork Wind provide “a Final Hazardous Waste and Petroleum Work Plan for the entire SFEC-Onshore route for testing and treatment and/or disposal of soil and groundwater [emphasis added][...] consistent with NYSDEC guidance as set forth in [...] DER-10 [...] and must include [...] [a] report of the Initial Hazardous Waste and Petroleum Work Plan consistent with reporting requirements of DER-10[.]” See Order Adopting Joint Proposal (at p. 235-236 of 353), Proposed Certificate Conditions (at p. 22-23). Condition No. 101 requires that South Fork Wind “conform to practices and procedures described in the DER-10 [...]” See Order Adopting Joint Proposal (at p. 229 of 353), Proposed Certificate Conditions (at p. 44). Initial Hazardous Waste and Petroleum Work Plan incorporated as Appendix H to Order Adopting Joint Proposal (of March 18, 2021) reads (at p. 335 of 353): “[a]ll sampling activities must be performed in a manner consistent with NYSDEC guidance including, but not limited to, NYSDEC’s Guidelines for Sampling and Analysis of [...] Per- and Polyfluoroalkyl Substances (“PFAS”) and Technical Guidance for Site Investigation and Remediation (“DER-10”) in effect at the time of sampling.” See Order Adopting Joint Proposal (at p. 335 of 353), Initial Hazardous Waste and Petroleum Work Plan (at p. 1)



DER-10 “sets forth guidance for characterization of a site[,]”<sup>34</sup> the purpose of which “is to identify potentially contaminated areas at a site.”<sup>35</sup> Further, DER-10 “is designed to determine whether a site poses little or no threat to public health and the environment or if it poses a threat and whether the threat requires further investigation.”<sup>36</sup> Under DER-10, South Fork Wind is legally obligated to determine the breadth and depth of probable contamination, including PFAS contamination of soil and groundwater along its “entire”<sup>2</sup> proposed Cable Route A construction corridor.

DER-10 requires that South Fork Wind determine subsurface site characteristics, including soil carbon content,<sup>37</sup> hydrogeology (depth to groundwater, groundwater flow), and identify the sources of contamination and migration pathways. Moreover, Certificate condition number forty-four (44) requires that South Fork Wind provide an “evaluation of any known or suspected contaminated sites [...] and the expected maximum concentrations of the contaminants[.]”<sup>38</sup>

Furthermore, “PFAS samples shall be collected from visibly impacted soil or directly above the groundwater table.”<sup>39</sup>

South Fork Wind’s strict adherence to NYSDEC’s protocols is of particular importance given its plans for extensive underground construction and excavation work along a two-mile-long corridor, one mile of which runs in between and adjacent to two State Superfund Sites – East Hampton Airport and Wainscott Sand & Gravel (see Exhibit C).

Instead of complying with its legal obligations, South Fork Wind delayed testing soil and groundwater until *after* the Public Service Commission evidentiary hearing had closed, thereby avoiding examination, cross-examination of witnesses, administrative review, and public scrutiny of its standards of testing and test results.

South Fork Wind is legally required to sample and test soil and groundwater for probable contaminants such as PFOA and PFOS and delineate its nature and full extent.

Instead of sampling soil where suspected contamination would likely be, South Fork Wind sampled soil at locations and depths that avoided probable PFAS contamination.

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<sup>34</sup> NYSDEC Technical Guidance for Site Investigation and Remediation (“DER-10”) of May 2010, Section 3.1 (a) (at p. 55)

<sup>35</sup> *Id.* Section 3.1 (a) (2)

<sup>36</sup> *Id.* Section 3.1 (a) (1)

<sup>37</sup> Unless otherwise provided in a DER-approved work plan, the Lloyd Kahn method must be used for the determination of total organic carbon in soil and sediment. (See DER-10 Technical Guidance for Site Investigation and Remediation, May 2010 (at p. 44, paragraph 4).

<sup>38</sup> See Order Adopting Joint Proposal (at p. 229 of 353), Proposed Certificate Conditions, Certificate Conditions No. 44 (at p. 16).

<sup>39</sup> Initial Hazardous Waste and Petroleum Work Plan – South Fork Export Cable, Environmental Sampling Scope of Work, dated January, 2021 (at p. 3.9, section 3.4.2, first paragraph)

South Fork Wind has no plan for handling, storing, treating, or transporting hazardous waste through a residential neighborhood and along Montauk Highway to a registered hazardous waste disposal site off Long Island. How can it have such a plan when it does *not* know what or how much contamination is there? For example, South Fork Wind would *not* know the quantity of contaminated groundwater that may have to be removed from Beach Lane (where PFOA groundwater contamination exceeds regulatory limits by eight times in Well-MW-4A). The soil has *not* been tested, so South Fork Wind would *not* know whether it has to be removed or whether construction workers are exposing themselves to contamination.

Residents were promised a “full environmental review will be undertaken as part of the Public Service Commission” proceeding that includes an “in-depth environmental and economic analysis[.]”<sup>40</sup> However, the (so-called) in-depth environmental review did *not* include testing soil or groundwater from South Fork Wind’s planned construction corridor for any contaminants, including PFAS contamination. For three years, South Fork Wind refused to conduct such tests, preferring to wait until the Public Service Commission evidentiary record had closed.<sup>41</sup>

Notably, neither the Town nor the NYS Public Service Commission has ever hired an independent expert in environmental chemistry, organic chemistry, geology, geochemistry, hydrology, etc., to advise it on the migration and mitigation or remediation of known PFAS contamination. Without expert advice, the town and state cannot effectively provide oversight. Without oversight, South Fork Wind is permitted to make decisions concerning the health of residents where it has neither the obligation nor incentive to act in the interests of anyone other than its shareholders.

Disturbingly, the Environmental Investigation Report for South Fork Wind’s proposed onshore construction corridor (revised April 2021) compares groundwater laboratory results to EPA Drinking Water Health Advisory Level for combined PFOA and PFOS;<sup>42</sup> and New York State’s Drinking Water Maximum Contaminant Level, but for only 1,4 dioxane, not PFOA or PFOS. It suggests that South Fork Wind is *not* complying with New York State Law regarding state limits for PFOA and PFOS. South Fork Wind gives no reason to exclude New York State’s Drinking Water Standards from its comparative analysis of PFOA and PFOS contamination concentration levels but includes other contaminants.<sup>43</sup>

### The Source of PFAS Contamination

The principal source of PFAS contamination is the Town-owned East Hampton Airport (located in Wainscott, New York State). In June 2019, NYSDEC registered East Hampton

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<sup>40</sup> Town of East Hampton, Town Board Resolution 2018-888, dated July 19, 2018.

<sup>41</sup> South Fork Wind commenced testing its four-mile-long construction site on December 22, 2020, two weeks after the evidentiary record had closed on December 8, 2020.

<sup>42</sup> PFOA or perfluorooctanoic acid, and PFOS or perfluorooctane sulfonate.

<sup>43</sup> See ENVIRONMENTAL INVESTIGATION REPORT, South Fork Wind Export Cable, Revised April 2021, prepared for Deepwater Wind South Fork LLC by GZA GeoEnvironmental of New York, section 4.0 (at p. 6).

Airport as an Inactive Hazardous Waste Disposal Site and classified it as a “site that presents a significant threat to public health and the environment.”

The East Hampton Airport site (NYSDEC codes [152250 \(link\)](#) and [152156 \(link\)](#)) includes two fire training facilities. The airport is upgradient and adjacent to South Fork Wind’s proposed onshore construction corridor. Downgradient on the opposite side of the corridor is a multi-use industrial site, Wainscott Sand and Gravel (NYSDEC code [152254 \(link\)](#)), which has also been subject to New York State Superfund Program review.

## Background

A year *before* South Fork Wind filed an Application for a Certificate of Environmental Compatibility and Public Need (“Certificate”) under Article VII of New York State Public Service Law, Suffolk County Department of Health Services (“SCDHS”) issued a Water Quality Advisory warning 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.”<sup>44</sup> Three months *before* South Fork Wind submitted its application, SCDHS had tested nearly three hundred private drinking-water wells around the transmission cable route and found that thirteen wells exceeded the US EPA Health Advisory Level and forty-five exceeded New York State’s Maximum Contamination Level.<sup>45</sup> Around the same time, two groundwater monitoring wells within one hundred and fifty feet downgradient from the proposed transmission corridor were found to have double the EPA Health Advisory Level for PFOS contamination. The source of contamination is upgradient on the *opposite* side of South Fork Wind’s proposed cable corridor at East Hampton Airport.<sup>46</sup> The Airport was declared a site that “presents a significant threat to public health and the environment” in June 2018, three months *before* South Fork Wind filed its Article VII application.

Regardless, in the knowledge of such contamination, South Fork Wind filed its application (on September 14, 2018) and chose to run its high-voltage transmission cables for two miles through the middle of the most contaminated soil and groundwater on the South Fork of Long Island, and between two sites registered with the New York State Superfund Program.<sup>47</sup>

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<sup>44</sup> See Water Quality Advisory for Private-Well Owners in Area of Wainscott, issued by Suffolk County Department of Health Services on October 11, 2017 (at p. 1, third paragraph).

<sup>45</sup> See US EPA Health Advisory Level of 70 parts per trillion (“ppt”) for combined PFOA/PFOS. The New York State Maximum Contamination Level is 10 ppt for PFOA and 10 ppt for PFOS.

<sup>46</sup> See Wainscott Commercial 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.

<sup>47</sup> In addition to PFAS contamination, a recent New York State Energy Research and Development Authority (“NYSERDA”) Offshore Wind Integration Study, recommends the “[a]voidance of residential neighborhoods” when selecting potential onshore high-voltage cable routes. See Offshore Wind Integration Study: Final Report. Prepared for NYSERDA and the New York State Department of Public Service (“NYSDPS”), Appendix D to Initial Report on Power Grid Study, dated December 2020 (at p. D-66).

Also, NYSPSC Administrative Law Judges “recommend that we not encourage the use of the right-of-way for recreational purposes” in reference to the health and safety of high-voltage transmission lines. See Opinion No. 78-13, Opinion and Order Determining Health and Safety Issues, Imposing Operating Conditions, and Authorizing, in Case 26529, Operation Pursuant to those Conditions (at p. 4, first paragraph).

Up until at least November 2019, South Fork Wind objected to information on PFAS contamination “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.”<sup>48</sup>

On September 9 and October 9, 2020, detailed testimony on PFAS contamination was submitted as evidence in the NYSPSC Article VII administrative hearing. In response, South Fork Wind filed a Motion to Strike Testimony (on November 5, 2020) on the basis that the testimony on PFAS contamination is “irrelevant to this proceeding.” The Motion was denied.

When South Fork Wind selected the transmission cable route, it did not take into account existing PFAS contamination. There are many routes that South Fork Wind could have chosen, but only one of those routes runs between two New York State Superfund sites.

PFOS soil contamination exceeds the DEC Guidance Value by seventeen times upgradient within 500 feet from South Fork Wind’s construction of underground vaults and transmission facilities.<sup>49</sup> The NYSDEC also detected high levels of PFOA soil contamination (in the same vicinity) that exceeded its Guidance Values by six times.<sup>50</sup> Notably, the NYSDEC detected the *same* contamination from the airport site in groundwater *and* soil downgradient on the *opposite* side of South Fork Wind’s proposed construction corridor. For example, PFOS contamination detected in DEC Well-MW3 exceeds New York State’s drinking-water standard by 100 times and in DEC Well-5 by 88 times (see Figures 2 and 3 at pp. 4-5).<sup>51</sup>

Up to date, there has been no formal regulatory review of South Fork Wind’s PFAS sampling plan or test results.

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<sup>48</sup> See New York State Public Service Commission, Docket 18-T-0604, Response by South Fork Wind to Interrogatory/Document Request SK #01, dated November 19, 2019.

<sup>49</sup> PFOS (perfluorooctane sulfonate) contamination of 15 parts per billion (ppb) in soil. Well EH-1 exceeds NYSDEC’s Guidance Value for Unrestricted Use (0.88 ppb) by seventeen (17) times, and Guidance Value for the Protection of Groundwater (3.7 ppb) by four (4) times. See NYSDEC Sampling, Analysis, and Assessment of Per- and Polyfluoroalkyl Substances (PFAS), June 2021 (at p. 9). Also, see Remedial Investigation/Feasibility Study Work Plan, East Hampton Airport Site (“[Airport Remedial Investigation Plan](#)”), by FPM Group for New York State Department of Environmental Conservation (NYSDEC), dated June 30, 2021 (at p. 21 of 271, FPM 2-4) “[...] the maximum PFOS detection (15 ng/g) noted in the duplicate [...] at the EH-1 location on the Fire Training Facility portion of the [East Hampton Airport] Site.”

<sup>50</sup> PFOA (perfluorooctanoic acid) contamination of 3.8 parts per billion (ppb) in soil. See Airport Remedial Investigation Plan: “The maximum PFOA detection (3.8 ng/g) was noted in the 0 to 1-foot sample from the EH-19B1 location in the parking lot immediately to the west of the Fire Training Facility portion of the Site.” The PFOA contamination exceeds NYSDEC’s Guidance Values for Unrestricted Use (0.66 ppb) by six (6) times and for Protection of Groundwater (1.1 ppb) by over three (3) times.

<sup>51</sup> See NYSDEC Site Characterization Report for Wainscott Sand and Gravel (July 28, 2020)



## Prior Testing by South Fork Wind

South Fork Wind's own test results for wells along its proposed route contradict the independent analysis performed for NYSDEC. Please see the [60-day Notice of Intent to Sue \(click here\)](#).

Moreover, South Fork Wind's Construction and Operations Plan (COP) filed with the Bureau of Ocean Energy Management (BOEM) claims that there "are no direct [...] industrial point sources for pollution into or within" its proposed construction corridor. Point source pollutants are defined to "enter waterways at well-defined locations," such as sites of soil contamination found at East Hampton Airport.<sup>52</sup> In documents filed with federal regulators, South Fork Wind fails to identify *any* PFAS contamination in violation of the National Environmental Policy Act (NEPA).

The [60-day Notice of Intent to Sue \(click here\)](#) was filed with BOEM on December 18, 2021. The notice provides details on South Fork Wind's failure to comply with its statutory obligations pursuant to NEPA (also the Endangered Species Act regarding the endangered North Atlantic Right Whale, federal anti-trust provisions, and other violations of federal law).

South Fork Wind claims that its offshore wind project is necessary for environmental reasons. If this is true, then South Fork Wind would welcome a thorough environmental review. On the contrary, it has an established pattern of dodging and circumventing such environmental reviews.

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Please order South Fork Wind to cease construction until we see complete laboratory test results of soil at a depth of two feet below the lowest point of its planned excavation. Thank you for your consideration.

Sincerely yours,



Simon Kinsella

c/c: Peter Van Scoyoc  
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<sup>52</sup> See Deepwater Wind South Fork LLC, Construction and Operations Plan (at p. 4-62).

March 11, 2022

Cate Rogers  
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Party Intervenors (via email only)  
New York State Public Service Commission  
Article VII, Docket 18-T-0604

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Please see New York State Department of Environmental Conservation reports on PFAS contamination (below) in the vicinity of South Fork Wind's proposed construction corridor.

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[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 Wainscott 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](#)

# Weekly Status Report

## Week of March 7<sup>th</sup>, 2022

# Exhibit A

(page 1 of 2)

**Please note that the Town of East Hampton Trustees have ongoing dredging activities on Wainscott Beach.**

### Completed Activities

#### Week of February 28, 2022:

- The contractor continued saw-cutting (shallow cuts in the roadway to outline the trench area that will be opened) along Wainscott NW Road, Sayre's Path, Wainscott Main Street and Beach Lane, to prepare for the start of excavation.
- The contractor continued trenching and installing conduit on Wainscott NW Road between the LIRR intersection and Montauk Highway.

### Upcoming Activities

#### Week of March 7, 2022:

- The contractor intends to continue trenching and installing conduit on Wainscott NW Road between the LIRR intersection and Montauk Highway.
  - Traffic pattern will be one-way alternating lanes, be prepared for delays.
- The contractor intends to begin trenching and installing conduit on Beach Lane.
  - Traffic pattern will be one-way alternating lanes, be prepared for delays.
- The contractor intends to remove vegetation at temporary work areas adjacent to the LIRR corridor.

## **Week of March 14, 2022:**

- The contractor intends to continue trenching and installing conduit on Wainscott NW Road between the LIRR intersection and Montauk Highway.
  - Traffic pattern will be one-way alternating lanes, be prepared for delays.
- The contractor intends to continue trenching and installing conduit on Beach Lane.
  - Traffic pattern will be one-way alternating lanes, be prepared for delays.
- The contractor intends to remove vegetation at temporary work areas adjacent to the LIRR corridor.

If you have any questions about any information contained in this notice or any other Project-related matter, please call our hotline at 631-887-5470 or email us at [info@southforkwind.com](mailto:info@southforkwind.com).

**Best Regards,**

**The South Fork Wind Team**

**Website:** [www.SouthForkWind.com](http://www.SouthForkWind.com)

**Follow us on Facebook & Twitter:** @SouthForkWind

**[Click here to view the construction progress map.](#)** Purple areas indicate active construction area and green areas are completed construction.



Exhibit B

Boring ID	Location	Construction	Confirmed GW Depth (ft)	Duct bank depth (ft)	GW depth below duct bank (ft)	Sampling Results
HDD-02	Beach Lane	HDD entry	7.3	9.0	-1.7	No Exceedances to DEC criteria
MW-2A	Beach Lane	TJB	7.7	9.2	-1.5	No Exceedances to DEC criteria
MW-1B	Beach Lane	ductbank	9.0	5.9	3.1	No Exceedances to DEC criteria
MW-3A	Beach Lane	ductbank	10.6	7.9	2.7	No Exceedances to DEC criteria
MW-101	Beach Lane	ductbank	12.5	7.3	5.2	No GW anticipated - no sample required
BH-01	Beach Lane	ductbank	12.5	5.8	6.7	No Exceedances to DEC criteria
MW-4A	Beach Lane	ductbank	14.3	8.1	6.2	PFOA at 82 ppt
MW-102	Beach Lane	ductbank	15.5	7.2	8.3	No GW anticipated - no sample required
MW-4B	Beach Lane	ductbank	15.6	8.3	7.3	PFOA at 15 ppt; PFOS at 13 ppt
MW-5B	Beach Lane	VAULT 2	16.7	10.4	6.3	No Exceedances to DEC criteria
MW-6A	WainScott Main St.	ductbank	17.1	8.8	8.3	No Exceedances to DEC criteria
BH-02	WainScott Stone Rd.	ductbank	21.9	5.6	16.3	No Exceedances to DEC criteria
MW-6B REP	WainScott Stone Rd.	ductbank	23.0	6.2	16.8	No GW anticipated - no sample required
MW-6B	WainScott Stone Rd.	ductbank	21.7	6.0	15.7	2021 - No exceedances 2022 - No sample-well dmgd
MW-7A REP	WainScott Stone Rd.	VAULT 3	17.5	11.2	6.3	No GW anticipated - no sample required
MW-7A	WainScott Stone Rd.	VAULT 3	17.1	11.2	5.9	2021 - No exceedances 2022 - No sample-well dmgd
MW-8A REP	WainScott Stone Rd.	ductbank	7.2	7.1	0.1	sample collect 2/19 (replacement well for MW8A)
MW-8A	WainScott Stone Rd.	ductbank	5.8	7.1	-1.3	2021 - No exceedances 2022 - No sample-well dmgd
MW-8B	WainScott NW Road	ductbank	8.1	6.0	2.1	No Exceedances to DEC criteria
MW 104	WainScott NW Road	ductbank	12.6	6.6	6.0	No GW anticipated - no sample required
BH-03	WainScott NW Road	ductbank	14.6	5.8	8.8	Chloroform at 19 ppb
MW-10A	WainScott NW Road	VAULT 4	19.0	10.8	8.2	No Exceedances to DEC criteria
MW 105	WainScott NW Road	ductbank	20.6	7.5	13.1	No GW anticipated - no sample required
MW 106	WainScott NW Road	ductbank	24.1	8.0	16.1	No GW anticipated - no sample required
BH-04	WainScott NW Road	ductbank	29.4	7.1	22.3	No Exceedances to DEC criteria
MW-12A	WainScott NW Road	MONTAUK	28.6	9.6	19.0	No Exceedances to DEC criteria
MW-15A	WainScott NW Road	VAULT 5	29.6	10.6	19.0	PFOS at 12 ppt
MW 107	WainScott NW Road	ductbank	28.0	6.6	21.4	No GW anticipated - no sample required
MW 108	WainScott NW Road	ductbank	15.0	6.9	8.1	No GW anticipated - no sample required
MW 109	WainScott NW Road	ductbank	25.5	6.0	19.5	No GW anticipated - no sample required
BH-05	WainScott NW Road	ductbank	25.2	6.3	18.9	No Exceedances to DEC criteria
MW 110	WainScott NW Road	ductbank	25.2	6.3	18.9	No GW anticipated - no sample required
MW-18B	WainScott NW Road	VAULT 6	27.3	10.9	16.4	No Exceedances to DEC criteria

DEC Limits

PFOA at 10 ppt; PFOS at 10 ppt

Chloroform at 7 ppb

Exhibit B

# Exhibit C

**Remediation Sites (1 of 2)**

Remediation Program: State Superfund Program

Site Name: East Hampton Airport  
Site Code: 152250  
Site Class: 02

Online Database: [Link](#) (click on link)

Document Folder: No Link Available.

[Environmental Cleanup and Brownfields](#)

**Remediation Parcels (2 of 2)**

Remediation Program: State Superfund Program  
Site Code: 152250  
Site Class: 02

(click on link)

Remediation Parcel Database Record: [Site Record](#)

[Zoom to](#)

**Remediation Parcels (1 of 2)**

Remediation Program: State Superfund Program  
Site Code: 152250  
Site Class: 02

(click on link)

Remediation Parcel Database Record: [Site Record](#)

[Zoom to](#)

**Remediation Sites (1 of 2)**

Remediation Program: State Superfund Program

Site Name: East Hampton Aire  
Site Code: 152156  
Site Class: C

(click on link)

Online Database: [Link](#)

Document Folder: [Link](#) [Zoom to](#)

[Environmental Cleanup and Brownfields](#)

[Zoom to](#)

**Remediation Parcels (2 of 2)**

Remediation Program: State Superfund Program  
Site Code: 152156  
Site Class: C

(click on link)

Remediation Parcel Database Record: [Site Record](#)

**Remediation Parcels (2 of 2)**

Remediation Program: State Superfund Program  
Site Code: 152250  
Site Class: 02

(click on link)

Remediation Parcel Database Record: [Site Record](#)

[Zoom to](#)

**Remediation Sites**

Remediation Program: State Superfund Program

Site Name: Wainscott Sand and Gravel  
Site Code: 152254  
Site Class: N\*

Online Database: [Link](#) (click on link)


Document Folder: [Link](#) (click on link)


[Environmental Cleanup and Brownfields](#)

[Zoom to](#)

**Environmental Cleanup**

Check / Uncheck all [Layer Information](#)

 Remediation Parcels

 Remediation Sites

South Fork Wind Construction Corridor  
Underground Transmission Infrastructure (HVAV 138 kV)

Wainscott Sand & Gravel  
Wainscott Commercial Center, Inc.

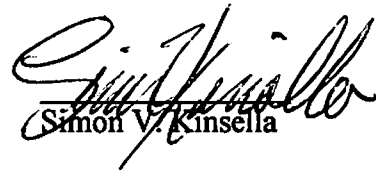
Zone of 2,000 feet outward  
from Route A Cable Corridor

March 13, 2022

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 thirty pages dated March 11, 2022, are true to the best of my knowledge, information, and belief.



Simon V. Kinsella

Sworn to before me this  
13th day of March 2022



Notary Public

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