

Date of Request: January 20, 2020

Case 18-T-0604

Application of Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of Approximately 3.5 Miles of Submarine Export Cable from the New York State Territorial Waters Boundary to the South Shore of the Town of East Hampton in Suffolk County and Approximately 4.1 Miles of Terrestrial Export Cable from the South Shore of the Town of East Hampton to an Interconnection Facility with an Interconnection Cable Connecting to the Existing East Hampton Substation in the Town of East Hampton, Suffolk County.

TOWN OF EAST HAMPTON’S OBJECTIONS AND RESPONSES TO REQUESTS #13 AND #14 FOR INFORMATION FROM SI KINSELLA

The Town of East Hampton (“Town”) as and for its objections and responses to Requests #13 and #14 for Information from Si Kinsella states as follows:

GENERAL OBJECTIONS

1. The Town objects to the requests to the extent they imply that the Town had an obligation to act.
2. The Town objects to the requests to the extent that they purport to impose obligations upon the Town in excess of those required by applicable law and/or rules.
3. The Town objects to the requests to the extent that they seek the disclosure of attorney-client privileged communications, attorney or party work product, trial preparation material or any other material or information encompassed within any applicable privilege provided by law or otherwise protected from disclosure. Any disclosure of privileged information or release of privileged documents is unintentional and inadvertent and thus shall not constitute a waiver of any applicable privilege.
4. The Town objects to the requests to the extent that they are irrelevant to the instant proceeding. The Town objects to the requests to the extent they imply that the alleged contamination at the East Hampton Airport is relevant to the instant matter.

5. The Town objects to the requests to the extent that they are ambiguous or vague.

6. All responses are made on an express reservation of objections as set forth above and in some instances below, and no response shall be deemed, and specifically is stated not to be, a waiver of such objection(s).

In addition to the foregoing objections, the Town makes the following specific responses to the requests:

Responses to Si Kinsella Request for Information #13

Request No. 1: Did the Town provide the Deepwater Wind South Fork, LLC (the Applicant) with a copy of the *Water Quality Advisory for Private-Well Owners in Area of Wainscott* at any time prior to November 15, 2019? If the Town's claim [*sic*] that it provided the Applicant with a copy of the Water Quality Advisory, please provide documentary evidence supporting this claim, or in the absence of supporting documentary evidence, please confirm the date and under what circumstances the Town provided the Applicant with a copy of the Water Quality Advisory.

Response No. 1: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply-District>. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.*

First Request No. 2: Did the Town inform the Applicant, at any time prior to November 15, 2019, that many of the proposed routes for its export cable would run through the Private Well Survey Area located in Wainscott where PFOS and PFOA chemical contamination had been

detected? If the Town informed the Applicant of such chemical contamination, please provide supporting documentary evidence.

Response to First Request No. 2: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply-District>. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.*

Second Request No. 2: On May 23/24, 2018, the Private Well Survey Area was expanded southward to the Atlantic Ocean to include Beach Lane (“Expanded Private Well Survey Area”) where the Applicant proposes to land is [sic] 138 kilovolt export cable (see Appendix B). Did the Town inform the Applicant at any time prior to November 15, 2019, that many of the proposed routes for its export cable would run through the Expanded Private Well Survey Area where PFOS and PFOA chemical contamination had been detected? If the Town had informed the Applicant of the Expanded Private Well Survey Area prior to November 15, 2019, please provide supporting documentary evidence?

Response to Second Request No. 2: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply-District>. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.*

Request No. 3: Please provide a copy of the survey the Town completed in response to the New York State Department of Environmental Conservation survey of facilities (“DEC PFAS Survey of Facilities”) referred to in the Water Quality Advisory where “the East Hampton Airport indicated that it had used or stored products that may have contained PFOS and PFOA” (see *Appendix A*).

Response No. 3: *Subject to and without waiving the above objections, the Town produces a copy of that document contemporaneously herewith.*

Request No. 4: Did the Town also inform the Applicant of possible PFOS and/or PFOA contamination at the East Hampton Airport around the same time it completed and returned its DEC PFAS Survey of Facilities? If the Town informed the Applicant of such contamination at East Hampton Airport, please provide supporting documentary evidence, or in the absence of supporting documentary evidence, please confirm the date and under what circumstances the Town informed the Applicant of such contamination at East Hampton Airport.

Response No. 4: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply-District>. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.*

Request No. 5: Did the Town inform the Applicant of the possible adverse health effects from exposure to PFOS and/or PFOA as described in the document: *Drinking Water Health Advisories PFOA/PFOS* published by the Environmental Protection Agency (EPA) that is

referred to in the Water Quality Advisory (see excerpt below)? The EPA *Drinking Water Health Advisories PFOA/PFOS* reads as follows – *EPA’s health advisories are based on the best available peer-reviewed studies of the effects of PFOA and PFOS on laboratory animals (rats and mice) and were also informed by epidemiological studies of human populations that have been exposed to PFASs. These studies indicate that exposure to PFOA and PFOS over certain levels may result in adverse health effects, including developmental effects to fetuses during pregnancy or to breastfed infants (e.g., low birth weight, accelerated puberty, skeletal variations), cancer (e.g., testicular, kidney), liver effects (e.g., tissue damage), immune effects (e.g., antibody production and immunity), thyroid effects and other effects (e.g., cholesterol changes).*

Please see Appendix C.

Response No. 5: *Subject to and without waiving the above objections, the Town objects to this request as the referenced document appears to be a publicly-available document created by a federal agency; the Town has no independent knowledge of the health effects of PFOA/PFOS.*

Responses to Si Kinsella Request for Information #14

Request No. 1: Did Supervisor Van Scoyoc inform Deepwater Wind South Fork, LLC (the Applicant) of the PFOS/PFOA contamination in Wainscott at any time within 30 days following receipt of the SCDHS Wainscott PFC Update from Deputy Commissioner Capobianco? If yes, please provide supporting documentary evidence.

Response No. 1: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply->*

District. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.

Request No. 2: Did Supervisor Van Scoyoc inform the Applicant of the PFOS/PFOA contamination in Wainscott at any time prior to November 15, 2019? If yes, please provide supporting documentary evidence.

Response No. 2: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply->*

District. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.

Request No. 3: Did any employee or officeholder other than Town Supervisor of the Town of East Hampton (Town) inform Deepwater Wind South Fork, LLC (the Applicant) of the PFOS/PFOA contamination in Wainscott at any time within 30 days following receipt of the SCDHS Wainscott PFC Update from Deputy Commissioner Capobianco? If yes, please provide supporting documentary evidence.

Response No. 3: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply->*

District. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.

Request No. 4: Did any employee or officeholder other than Town Supervisor of the Town inform Deepwater Wind South Fork, LLC (the Applicant) of the PFOS/PFOA contamination in Wainscott at any time prior to November 15, 2019? If yes, please provide supporting documentary evidence.

Response No. 4: *Subject to and without waiving the above objections, pertinent information has been publicly available. The Town respectfully refers to, among other things, the following website administered by the Town: <https://ehamptonny.gov/602/Wainscott-Water-Supply-District>. The materials on this website have been available to Applicant and the general public for months before November 2019 through the present.*

Name of Person(s)

Preparing Response: Counsel to the Town **Date:** 1/30/2020