Report No. 1
Deepwater Wind South Fork, LLC
January 16, 2018

at the

Wainscott Citizen's Advisory Committee's Request
by Si Kinsella

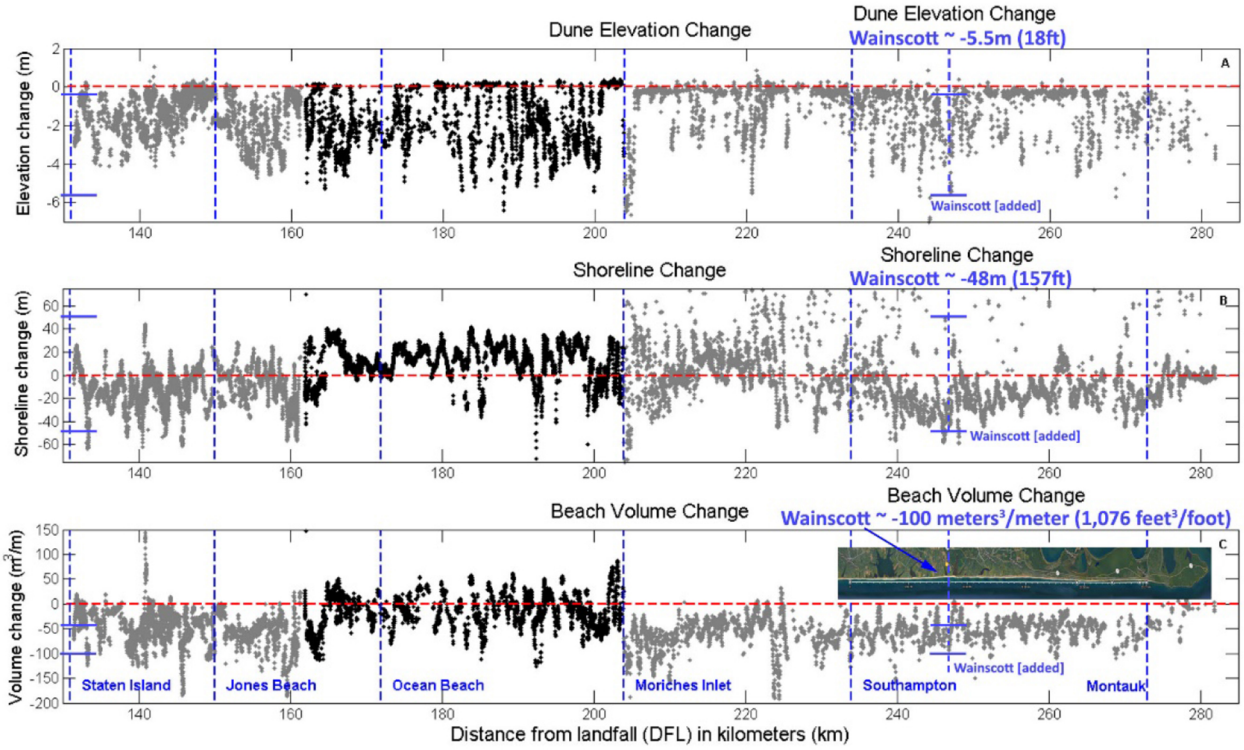

Figure 30. Hurricane Sandy (*A*) dune-elevation change, (*B*) shoreline change, and (*C*) beach-volume change between May 2012 and November 2012 for the Fire Island, New York, coast (black) and between August 2010 and November 2012 for the rest of Long Island, New York (gray). Vertical dashed lines indicate the location of Staten Island, the centers of Jones and Ocean Beaches, the locations of Moriches Inlet, Fire Island, Southampton, and Montauk. Measurements are in meters (m), cubic meters per meter (m^3/m), and kilometers (km).

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January 16, 2018

Supervisor Peter Van Scoyoc
Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937

Re: Deepwater Wind South Fork, LLC

Dear Supervisor Van Scoyoc

There is currently a proposal by Deepwater Wind South Fork, LLC ("Deepwater") to bring an offshore electricity supply cable onshore at Wainscott Beach and have it buried beneath the roadway for four miles along a route through Wainscott to the East Hampton Substation.

Wind-generated electricity is now accepted as a preferable option to electricity generated from the burning of fossil fuels. Although this is true, please do not be distracted by Deepwater's environmental credentials and be tempted to fast-track the granting of easements to Deepwater without first giving due consideration to the details of its proposal.

I submit to the Town that it not surrender the rights of Town residents to Deepwater without confirming in advance exactly what Deepwater is proposing and obtaining appropriate assurances from Deepwater before the Town grants it easements.

Deepwater is owned by D.E. Shaw Group ("D.E. Shaw"), a global investment firm with more than $43 billion in investment capital (as of July 1, 2017) and offices throughout the world. Neither D.E. Shaw nor Deepwater are registered charities charged with saving the environment, they are businesses. As such, D.E Shaw/Deepwater has an obligation to maximize profit for its investors. It is expected and necessary for D.E. Shaw/Deepwater to legally and ethically maximize profit, but it would be naive to expect it to be concerned principally with looking after the interest of local residents. The burden of looking after the interests of local residents, especially those in Wainscott where the majority of construction and disruption will occur, largely rests with the Town of East Hampton and its Town Board. I believe it would be a grave mistake for the Town Board to abdicate the obligation it has to local residents without requiring from Deepwater further details about what it is proposing.

The main issue of concern is that there is so much unknown and so few details confirmed in writing about the Deepwater proposal that it is impossible for the Town or anyone else to say whether it is in the interests of residents or not.

Deepwater wrote to the East Hampton Trustees on December 4, 2017, with regards to "Proposed Community Benefits and Real Estate Agreements" (see Appendix A). The letter reads: "We are interested in finalizing these agreements before we submit our permit applications in early 2018 so that we can ensure what we are proposing is aligned with the interests of the community." How is it possible to know whether Deepwater's proposal aligns with the interests of the community if we don't know many of the details of what is being proposed?

By way of comparison, if a Town resident wishes to install a new bathroom, they are required to submit an application for a building permit together with a detailed plan before they are granted a permit that allows the resident to commence construction. Why is Deepwater, therefore, to be granted far greater benefits in the form of easements without having to submit a detailed plan to the Town? One hopes the Town requires Deepwater to submit a detailed plan, as to do otherwise would be to maintain double standards – one for residents/voters and another for out-of-town hedge funds.

There is no doubt that wind-generated electricity has great potential and it should be the hope of all Long Islanders that Deepwater is successful, but success should not be limited to enriching a few bankers at the expense of local residents and the health of their environment. Success should be measured by the professional execution of a project that has long lasting benefits: financial, environmental, in improved services, and broad economic benefits for the people in the local community who support the project; as well as rewarding the project's investors.

What is the Price?

Unlike Deepwater's Block Island Wind Farm and its Maryland Wind Farm, the price being paid to Deepwater for the electricity generated by its South Fork Wind Farm is classified as a "trade secret". In response to a FOIL request seeking information pertaining to the contract price and conditions per the Purchase Power Agreement between LIPA and Deepwater, LIPA confirmed that the:

> *The information redacted pertains to certain pricing and cost formulas that are regarded as trade secrets … Deepwater Wind explicitly asked that the redacted information be treated as confidential, as defined by New York's FOIL law.*[1]

It would be acceptable not to disclose a price during the competitive bidding stages between LIPA and various power suppliers, but once the competition has been won and the LIPA contract awarded to the successful bidder, there is no reason to keep the price a secret from the residents who will ultimately be paying the bill. Why are Town residents being bound into a 20-year contract to pay for wind-generated electricity without being told what the price will be? Why are local voters and taxpayers being kept in the dark?

Deepwater - The Great Unknown

It is safe to say that there is negligible opposition to reducing carbon dioxide emissions and the harm it causes to the atmospheric environment, but what do we know about the harm Deepwater may cause the aquatic and terrestrial environments? Has the Town considered the potential damage the project may cause by fluidizing the seabed to a depth of six feet for a jet plough to blast out a trench 50-miles long? What damage may be caused by horizontal directional drilling underneath Wainscott beach 24 hours a day for three months, or pulsing enough electricity to power 50,000 homes through a cable running between two extremely sensitive environments, namely the ecosystems of Wainscott Pond and Georgica Pond which are both already struggling? Do we know exactly how Deepwater will control and dispose of the potentially toxic Bentonite it plans to use as drilling mud. Do we know what

[1] Email from Special Counsel James Miskiewicz on behalf of LIPA to Si Kinsella dated August 31, 2017. Appendix B

additives will be included with the Bentonite clay and whether they are toxic to aquatic life? Will whatever method is employed to control the Bentonite sludge from seeping onto the single laneway that will remain open on Beach Lane be effective? If the Bentonite sludge seeps onto Beach Lane, the laneway may become so slippery that it would be impossible for a car to pass by the construction site to reach someone's home or Wainscott Beach.

It would be self-defeating if the project were to damage the aquatic or terrestrial environment in the name of reducing carbon dioxide in the atmospheric environment.

If we are going to move forward with wind-generated electricity because of its environmental credentials, then it would be prudent to measure and assess all its effects on the environment as a whole and not just the atmospheric environment.

There are many people on eastern Long Island who are genuinely concerned about the project. At the Trustees meeting on December 11, 2017, many fishermen expressed grave concerns largely stemming from what is unknown about the project and what little information has been forthcoming from Deepwater. At this meeting, neither the President of Deepwater, Chris Van Beek, nor the Vice President of Development for Deepwater, Clinton Plummer, knew the diameter or capacity of its own cable. They did not know the diameter of the conduit Deepwater plans to bury underneath Wainscott Beach and they appeared to be unsure of whether or where a single cable would be split into a number of other cables, and if so, how many other cables.

There is simply not enough known about the proposal and the damage it may or may not cause the local environment to ignore looking into the project more thoroughly at a local level. It would be remiss not to require a detailed proposal with commitments and penalties imposed for breaching those commitments prior to the granting of easements by the Town.

If the Town is to actively protect our environment, it should to require Deepwater to provide a detailed environmental impact statement similar to the New York State Department of Conservation's (DEC) State Environmental Quality Review (SEQR) regulations as a condition before it grants any easements to Deepwater.

It is important to keep in mind that Deepwater does not have to comply with New York State Part 617 SEQR regulations that are specifically design to protect the environment. The DEC may be a party to the Public Service Commission (PSC) process, but its submission is not legally binding.

Public Service Commission

Once the Town grants easements to Deepwater, the obligation to protect Town residents will move from local control to the New York State Public Service Commission (PSC) and its four politically appointed commissioners. The commissioners will most likely have no permanent connection to the Town of East Hampton and are likely to be unfamiliar with the east end of Long Island.

Making representations to the PSC will be more expensive due to excessive traveling time over longer distances, the necessity to employ lawyers, the learning curve involved with familiarising oneself with an unfamiliar process, and trying to communicate potential dangers and threats a project will pose to a unique environment like Georgica Pond or Wainscott Pond.

Once Deepwater's proposal leaves the local jurisdiction of the Town and falls under the remit of the PSC, the loss of local control and local input is more likely to result in a poorly negotiated project where details are overlooked and corners are cut to save money for investors who have no interest in Wainscott or the Town of East Hampton except to the extent of extracting from its residents a handsome profit.

The ultimate decision will rest with four commissioners who apparently have failed to show the same level of independence from executive interference as was the practice of past commissioners (see Appendix C). Once Deepwater's proposal is in the hands of the PSC, the process may be followed, but its conclusion is likely to be predetermined.

Wainscott Beach Landing

In January 2017 it was reported[2] that an 80-foot section of cable which was installed by Deepwater just off Fred Benson Town Beach on Block Island had to be re-installed because the cable was only buried to a depth of 3 feet (see Appendix D). The report quoted Block Island Power Company (BIPCo) Transition Team member and Second Warden Norris Pike, who said that the problem may have been exacerbated by the movement of sand between "the winter beach and the summer beach" when sand washes in and out of the area. During the re-installation, Deepwater Wind had to "de-energized" the cable and two rented diesel generators were used to supply Block Island with sufficient power over the summer, and also to supply electricity to Deepwater's offshore wind turbines to keep them operational.

The Environmental Sub-Committee (ESC) of the Wainscott Citizens' Advisory Committee (CAC) held a meeting on November 13, 2017, to, *inter alia*, assess a beach landing and routing in Wainscott for an electricity supply cable proposed by Deepwater. During this meeting Deepwater presented a slide produced by First Coastal Consulting ("First Coastal") on behalf of Deepwater. The slide showed 18 lines of beach elevation at seemingly random and unexplained intervals (exact locations unknown) over a 78-year period. Although the graph was interesting, the data used neither made reference to maximum beach erosion caused by extreme storms, hurricanes, or winter nor'easters; nor did the data capture the rise and fall of seasonal changes in beach elevation, shoreline or sand volume. The data failed to provide evidence as to the maximum negative erosion that may occur on a yearly basis.

Tropical Storm Sandy which occurred in 2012 was conspicuously excluded from the data set. During Tropical Sandy, Wainscott Beach was substantially eroded.

[2] Block Island Times, January 13, 2017, Article by Renée Meyer (see Appendix D)

The ESC questioned the conclusions of First Coast and Deepwater and provided documents (listed below) which cast doubts as to the accuracy of its conclusions.

These graphs and documents from the US Geographic Survey show that as a result of Tropical Storm Sandy, Wainscott Beach had a negative change in dune elevation of approximately 18 feet, a negative change in shoreline of approximately 157 feet, and a negative change in beach volume of approximately 1,076 cubic feet per foot. This data contradicted the data provided by Deepwater's consultants and contradicted the conclusion that a cable depth of just 10 feet was sufficient. No explanation was given by Deepwater or its consultant at the time.

The documents (listed below) were subsequently provided to Aram Terchunian of First Coastal.

1. USGS - Hurricane Sandy, p.45 of report 2014–1088 (below) for Wainscott Fig 1 (page 10)
2. USGS - Hurricane Sandy, p.45 of report 2014–1088 (below) for Long Island Fig 2 (page 11)
3. Hurricane Sandy: Observations and Analysis of Coastal Change
   US Dept. of the Interior, US Geological Survey, Open-File Report 2014–1088
4. National Assessment of Nor'easter-Induced Coastal Erosion Hazards: Mid- and Northeast Atlantic Coast US Dept. of the Interior, US Geological Survey, Open-File Report 2015–1154

The photographs (listed below) were provided to Deepwater and its consultant at the meeting of November 13, 2017. These photographs were taken the day after Tropical Storm Sandy reached Long Island (on October 30, 2012). The strong winds combined with a full-moon high tide caused devastation along the coastline of New York, including Long Island.

I. Destroyed House at Wainscott Cut Fig 3 (page 11)
II. Surging Surf at Wainscott beach Fig 4 (page 12)
III. Georgica Pond Cut – Bent Pipes Fig 5 (page 13)
IV. Wainscott Pond Cut Fig 6 (page 13)
V. Beach Walkway at Sunset, Wainscott Beach Fig 7 (page 14)

At the ESC meeting of November 13, 2017, the ESC concluded that more substantial research was required by Deepwater to determine the accurate depth to which the electricity supply cable needs to be buried beneath the proposed Wainscott Beach landing site so as to avoid any possibility that the cable becomes exposed during a violent storm or hurricane.

In response to the ESC's request, First Coastal subsequently provided a Coastal Storm Impact Analysis dated December 4, 2017 (see Appendix E).

Although the Coastal Storm Impact Analysis is interesting, it, too, fails to substantially respond the issue of cable depth. Nowhere in the Coastal Storm Impact Analysis does it mention cable depth. It neither addresses the issue of beach erosion which is likely to occur after a violent storm or hurricane, nor does it provide any historical references to beach erosion. It fails establish a depth that guarantees the electricity supply cable will not become exposed.

In 1938, for example, a category three hurricane hit Long Island and caused widespread devastation. The surging water during this hurricane carved out a section of barrier island separating Shinnecock Bay from the Atlantic and created what is now know as the Shinnecock Inlet. If a hurricane has the power to create the Shinnecock Inlet, it has the power to move 10 feet of sand or 10 feet of lightly-compressed soil to expose a buried cable.

It is exactly at the time when a hurricane hits Long Island that its residents need power more than at any other time. To bury a cable to just 10 feet would be a substantial design flaw which would put in jeopardy access to power when it was most needed.

Without wanting to speculate as to the motives behind Deepwater's apparent difficulties in establishing and committing to a verifiable cable depth beneath Wainscott Beach, I believe the drilling operation becomes substantially more expensive once the horizontal bore hole exceeds a specific angle. One hopes the safety of Wainscott residents and the security of the Town's electricity supply would not be compromised by a company wishing to cut corners to save a few dollars.

It should be noted for the record, that the set photographs taken immediately following Tropical Storm Sandy (provided to First Coastal by the ESC on November 13, 2017) and First Coast's own photographs, both contradict the conclusion in the Coastal Storm Impact Analysis. First Coastal's conclusion that "in the area immediately adjacent to Beach Lane, Superstorm Sandy resulted in dune collision with minor impacts to the dune structure" is difficult to reconcile to photographs showing dunes either completely washed away or half destroyed leaving only bent metal pipes where dunes used to be.

Acoustic Disturbance

An In-Air Acoustic report (see Appendix N) produced by Tetra Tech for Deepwater Wind's Block Island Wind Farm (BIWF) describes a similar drilling process to the one that Deepwater proposes for Beach Lane (immediately outside numbers 104 and 112 Beach Lane). It is likely that the drilling process will be more intrusive at Wainscott Beach than it was for BIFW because the cable will be substantially larger and the drilling distance longer.

The In-Air Acoustic report for Deepwater's BIWF states that the Horizontal Directional Drilling (HDD) drill-rig will create the greatest noise during construction and will likely measure ~ 92 dBA[3]. This is 16-times[4] greater than the noise on a quiet street with light traffic (~ 50 dBA); or more than twice the noise of a garbage disposal unit or food blender (at 2 feet away) or a pneumatic drill (at 50 feet away); or slightly more than that of a heavy truck or motorcycle (at 25 feet away), but the drill-rig will create slightly less noise than that of a jet taking off (at 2,000 feet away). Needless-to-say, sound mitigation would have to be used, but to what extent it would reduce noise levels, no one knows.

[3] A-Weighted Decibel (dBA): Environmental sound is typically composed of acoustic energy across all frequencies (Hz). To compensate for the auditory frequency response of the human ear, an A-weighting filter is commonly used for describing environmental sound levels. Sound levels that are A-weighted are presented as dBA in this report.

[4] NB: Decibels are measured on a logarithmic scale (not a linear scale).

This extract (immediately below) is drawn from the In-Air Acoustic report for the Block Island Wind Farm (Appendix N, page 11).

4.1.1 HDD Sound Source Levels

Each HDD is expected to take 3 to 12 weeks. Deepwater Wind anticipates completing the HDD during the winter, or possibly spring or fall, to avoid disturbance during the peak summer recreational season. Construction activities will occur 12 hours per day during typical daytime hours unless a situation arises where ceasing the HDD activity would compromise safety (both human health and environmental) and/or the integrity of the Project. The equipment would consist of a HDD drilling rig and auxiliary support equipment including electric mud pumps, portable generators, mud mixing and cleaning equipment, forklifts, loaders, trucks, and portable light sets. Of these, the HDD drill rig is expected to be the dominant sound source. The total sound pressure level for the long-distance HDD equipment is 92 dBA at 50 feet (based on maximum estimate provided by the contractor). Table 6 presents typical sound pressure level data for equipment required for HDD operations.

Table 6 Estimated HDD Operation Equipment Sound Pressure Level Data

HDD Equipment/ Machinery	Maximum Sound Pressure Levels at 50 feet (dBA)
HDD Drill Rig	92
Crane	85
Boom Truck	84
Generator	82
Mud Pump	81
Backhoe	80
Loader	80
Slurry Plant	77
Desilter	60
Pickup Truck	55

Vice President of Development for Deepwater, Clint Plummer, confirmed that Deepwater "plan to prepare a comparable report for the upland portions of the South Fork Export Cable … [and] … an underwater acoustic assessment." Although it would be prudent for these reports to be provided to the Town before it grants any easements, Deepwater Wind said that they are "awaiting confirmation of the timing of those reports and will follow-up with you once I have such confirmation." I have not heard anything further from Deepwater.

Timing

Residents live all seasons of the year on Beach Lane, so no matter what time of year Deepwater decides to drill underneath Wainscott Beach and to dig up local roads to bury cables underneath, it will substantially disrupt residents' lives. To talk of "off-season" construction, is to talk of construction that will substantially disrupt the lives only of year-round residents.

Deepwater plans to begin construction on Beach Lane and drill underneath Wainscott Beach sometime soon after November 1 and continue until Mach 31. This will include Thanksgiving and the year-end holiday season. To my knowledge, no financial penalties have been proposed to discourage Deepwater from breaching its commitments with regard to timing and I have not seen any specific conditions proposed by the Town which would prohibit Deepwater from operating outside its own time commitments.

Deepwater has proposed a 12-hour day for construction and drilling activities during November and December, and a 24-hour day during January, February and March (it has proposed that the Town may restrict the construction day to 12 hours should it receive a complaint).

It is troubling that Deepwater is dependant upon drilling for 24 hours a day to meet its deadline of March 31. With such a high-risk dependency, project timetable slippage is almost inevitable. During the harsh winter months when icy-cold winds whistle up Beach Lane from the Atlantic Ocean and temperatures often drop below 10°F and sometimes below 0°F, I find it difficult to imagine workers operating a drilling-rig in the dark hours about 4am. In this often-occurring winter scenario, it would be nearly impossible to concentrate and work productively, even if in a metal shed.

Conclusion

I submit to the Town that Deepwater should have to comply with similar standards of planning and transparency with regards to its building and construction activities as those with which residents of the Town have to comply. When considering Deepwater's history of prevarication, the inconsistency with which it answers questions when asked, and its refusal to write a proposal in any great detail, one would have to be deaf not to hear alarm bells ringing with regards the professionalism with which Deepwater will execute the South Fork Wind Farm project.

I can see no reason why the Town should grant easements to Deepwater without first requiring in advance complete and accurate information in a detailed written proposal (not a slide-show with bullet points), greater transparency and closer scrutiny. It would be an abdication of responsibility for the Town not require this of Deepwater.

Please do not sell short the rights of Town residents, especially those of Wainscott who will bear the brunt of the construction and disruption.

If I can be of any assistance to the Town in any way, please do not hesitate to contact me on the telephone number and email address above.

Yours faithfully,

Si Kinsella

c/c: Sylvia Overby, Deputy Supervisor
Jeffrey L. Bragman, Councilman
Kathee Burke-Gonzalez, Councilwoman
East Hampton Town Board
159 Pantigo Road
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Wainscott Citizens' Advisory Committee (WCAC)

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List of Appendices

Appendix A - Deepwater_2017-12-04_Benefits to Trustees
https://www.dropbox.com/s/d6ttdmh5k89u6ow/Append%20A%20-%20Deepwater_2017-12-04_Benefits%20to%20Trustees.pdf?dl=0

Appendix B - LIPA_2017-08-31_Email to Kinsella RE-Deepwater Wind FOIL Request
https://www.dropbox.com/s/x6jkrc88y34ikfk/Append%20B%20-%20LIPA_2017-08-31_Email%20to%20Kinsella%20RE-Deepwater%20Wind%20FOIL%20Request.pdf?dl=0

Appendix C - Politico_2017-06-05_PSC Power Play
https://www.dropbox.com/s/w6cwpx2el3jqe0d/Append%20C%20-%20Politico_2017-06-05_PSC%20Power%20Play.pdf?dl=0

Appendix D - Block Island Times_2017-01-13_Cable Reburied
https://www.dropbox.com/s/ccgzxy8qz3ddw2b/Append%20D%20-%20Block%20Island%20Times_2017-01-13_Cable%20Reburied.pdf?dl=0

Appendix E - First Coastal_2017-12-04_Storm Impact Analysis
https://www.dropbox.com/s/keesone5zfdp1f0/Append%20E%20-%20First%20Coastal_2017-12-04_Storm%20Impact%20Analysis.pdf?dl=0

Appendix N - Deepwater BIWF_2012_09_27_Append N-1 In Air Acoustic Report
https://www.dropbox.com/s/jy2nkv6i51rxeka/Append%20N%20-%20Deepwater%20BIWF_2012_09_27_Append%20N-1%20In%20Air%20Acoustic%20Report.pdf?dl=0

Fig 1

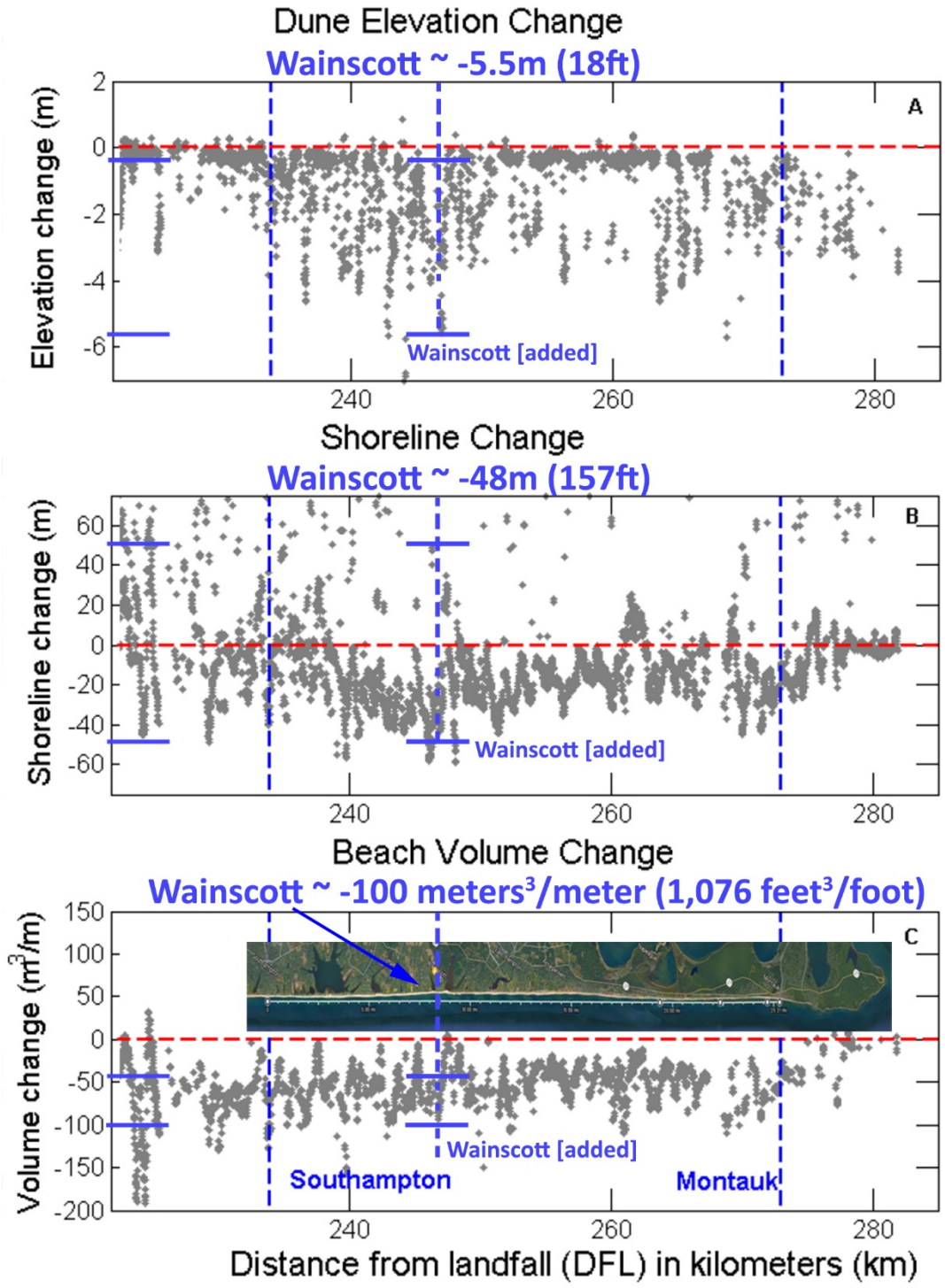

Figure 30. Hurricane Sandy (A) dune-elevation change, (B) shoreline change, and (C) beach-volume change between August 2010 and November 2012 for Long Island.

Vertical dashed lines indicate the location of Southampton and Montauk. Measurements are in meters (m), cubic meters per meter (m3/m), and kilometres (km).

Wainscott Beach (the proposed Deepwater Wind beach landing) has been identified with reference to the included satellite map for the purpose of analysis on Nov 13, 2017.

Fig 2

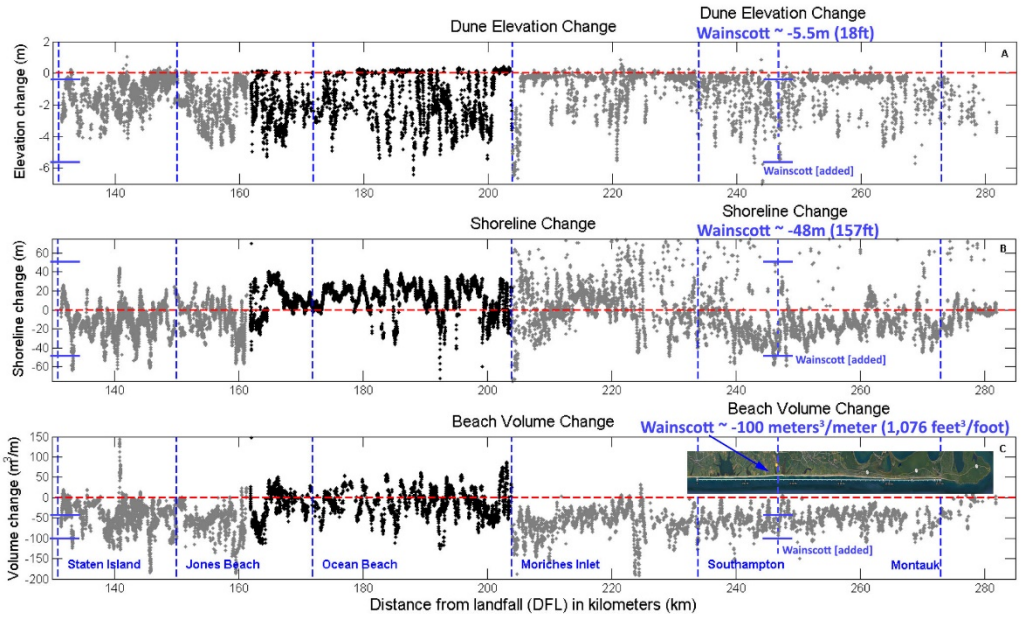

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Fig 3


Fig 4


Georgica Pond Cut – Bent Pipes
Hurricane Sandy Aftermath (October 30, 2012)
Fig 5


David overlooking Wainscott Pond Cut
Hurricane Sandy Aftermath (October 29-30, 2012)
Fig 6

Fig 7

Beach Walkway at Sunset, Wainscott Beach
Hurricane Sandy Aftermath (October 30, 2012)