

Case #1:22-cv-02147-JMC

Exhibit B

E-MAIL:

SI@WAINSCOTT.LIFE

SIMON V. KINSELLA

P.O. BOX 792

WAINSCOTT, N. Y. 11975

M (631) 903-9154

March 30, 2022

Police Officer Nicholas Kochanasz
East Hampton Town Police Department
PO Box 909
131 Wainscott Northwest Rd
Wainscott, New York 11975

Re: South Fork Wind Construction
(Event: EHT-EV-2746-22)

Dear Officer Kochanasz,

This letter is not a complaint about you or the East Hampton Town Police Department. You acted professionally and politely. Thank you.

This letter concerns South Fork Wind and the spurious allegations expressed in the (above-captioned) event report filed with the East Hampton Town Police Department on March 25, 2022. The purpose of this letter is to clarify a few points to avoid confusion and future misunderstanding.

1. The Site Manager for Burns McDonnell, Mr. Todd Akers, alleges that I was “interfering with underground utility work [...] on Beach Lane and Wainscott N.W. Rd [emphasis added].” Mr. Akers does not say *how* I allegedly interfered with “underground” work, cites no examples of alleged interference, or states the nature of the (so-called) interference. I deny the allegation.
2. On the contrary, I obeyed the construction workers’ instructions when driving on Beach Lane. After waiting patiently, I proceeded slowly ahead on the left-hand side of the laneway with the (passenger-side) window facing the construction site closed and did not exit the vehicle.
3. When on Beach Lane, one construction worker, whom I believe to be Mr. Akers, repeatedly claimed (falsely) that I was “in a work zone” and “that’s against the law.” Then, he shouted at me (through a closed window) - “Hey! Move! It’s against the law!” Mr. Akers was aggressive and angry. Please see the short video taken at the time (at <https://oswSouthFork.info/sfw-construction>).

Even if Mr. Akers’ allegations were true (they are *not* true), it raises the question of why Mr. Akers waved me through a “work zone” if he believed it was against the law.

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4. The event report reads: “PI [Mr. Kinsella] also stated that he did get in a verbal argument with one of the workers on Beach Lane today.” I understand that you are paraphrasing from your memory of our conversation. Still, for clarity, there was no “argument” because I did not say anything to Mr. Akers as my window was closed (please see video at <https://oswSouthFork.info/sfw-construction>). I deny any argument, discussion, or even a conversation with Mr. Akers. Mr. Ackers was shouting.
5. Mr. Akers (falsely) claimed that when I was on Wainscott Northwest Road, I was “observed” exiting my “vehicle and entering the construction zone to take pictures and speak to workers, which is creating an unsafe condition on the job site.” Mr. Akers does not say *how* I allegedly created “an unsafe condition,” cites no examples of such unsafe condition, or states the nature of the (so-called) unsafe condition. I deny these allegations.
6. Mr. Akers’ was not present on Wainscott Northwest Road (he was on Beach Lane) when the police department received Mr. Akers’ call at approximately 3:45 PM (according to the Event Report). I neither know how Mr. Akers could have made such accusations referred to in paragraph 5 (above) with any reasonable degree of accuracy nor understand how he knew what my intentions were at the time when he was not there.
7. Mr. Akers’ claim that I exited my vehicle to “speak with workers” contradicts photographs taken at the time. There are no workers present in the first four photographs (see IMG_7834.JPG to IMG_7837.JPG below). Only in the last photograph (see IMG_7838.JPG below) can the shadow of one construction worker be seen walking towards me (and the leg of another worker in the distance). Therefore, Mr. Akers’ characterization that I exited my vehicle to “speak to workers” is not supported by the facts, given that there were no workers there at the time.
8. Mr. Akers claims that I was seen “entering the construction zone” on Wainscott Northwest Road. Although, it appears that Mr. Akers is confused about what is meant by the term “construction zone.” Less than an hour before, Mr. Akers claimed that I was “in a work zone” on Beach Lane and “that’s against the law,” when, in fact, I was following *his* directions and driving on the opposite side of the Beach Lane to the construction work. In this instance, Mr. Akers defined the “work zone” to be the entire width of Beach Lane. Then, in reference to Wainscott Northwest Road, Mr. Akers contradicts himself when he says I was “observed getting out of [my] vehicle and entering the construction zone.” If I was entering the construction zone *after* getting out of my vehicle, my vehicle must have been outside the work zone. I don’t know whether Mr. Akers defines the construction/work zone as the entire width of the right-of-way as he did on Beach Lane or half the width of the road as he did on Wainscott Northwest Road. At different times, he has claimed both are true.
9. I exited my vehicle on Wainscott Northwest Road for less than one minute, where there was no construction activity and no construction workers (please see photograph “IMG_7835.JPG” on page 5). Mr. Akers does not say *how* I created “an unsafe condition on the job site.” I deny this allegation.

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10. It should be noted that there were no “construction zone” or “work zone” signs. If the red cones were supposed to demarcate the boundary of the work/construction zones, then there should have been signs that said so. If signs had been placed on-site marking what was and was not a work/construction zone, then perhaps Mr. Akers would not have been so confused about whether the construction zone included the entire right-of-way width or just half the width.
11. If, as Mr. Akers claimed was true on Beach Lane, the entire width of the right-of-way was a “work zone,” then I do not know how residents can drive passed South Fork Wind’s construction site to access their homes.
12. Finally, the Event Report states that if my “actions create a condition in which the crew is forced to stop working [f]or a safety hazard, there could be possible criminal charges [emphasis added].” Given that Mr. Akers is the source of such a statement and many of his claims are demonstrably untrue, it is difficult to see the statement citing “possible criminal charges” as anything other than a thinly veiled threat founded on spurious allegations.

I expressly reserve all my rights, including the right to claims of harassment.

On its website, Burns & McDonnell says that it “is a 100% employee-owned company.” It reads: “Based in Kansas City, Missouri, Burns & McDonnell provides engineering, architecture, construction, environmental and consulting solutions from offices across the United States and worldwide.” However, none of those offices are locally based on Long Island. South Fork Wind may have violated paragraph 12.20 of its executed power purchase agreement (dated February 6, 2017). According to the agreement, South Fork Wind is required to “make a good faith effort given its commercial requirements to hire local workers (such as local unionized workforce and M/WBE/VETs) during construction/installation of the Project and [...] shall be responsible to manage relations among [...] its Affiliates, its contractors and subcontractors and local unionized workforce and other local workers.”

Again, this letter is not a criticism of the East Hampton Town Police Department. Thank you for your assistance.

Should you have any questions, please do not hesitate to contact me via on my mobile (631) 903-9154 or via email (Si@Wainscott.Life).

Sincerely yours,


Si Kinsella

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Attachments: Please see the following photograph taken at 3:50 PM on March 25, 2022 –

- IMG_7834.JPG at page 4
- IMG_7835.JPG at page 5
- IMG_7836.JPG at page 6
- IMG_7837.JPG at page 7
- IMG_7838.JPG at page 8



Photograph (“IMG_7834.JPG”) taken on March 25, 2022 at 3:50 PM

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Photograph (“IMG_7835.JPG”) taken on March 25, 2022 at 3:50 PM

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Photograph ("IMG_7836.JPG") taken on March 25, 2022 at 3:50 PM

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Photograph ("IMG_7837.JPG") taken on March 25, 2022 at 3:50 PM

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Photograph (“IMG_7838.JPG”) taken on March 25, 2022 at 3:50 PM

EAST HAMPTON TOWN POLICE
 Record Agency: **EAST HAMPTON TOWN POLICE**
 Event Report

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Event Info

Basic Info

Case Folder No.:		Event No.:	EHT-EV-2746-22
Event Date:	03/25/2022 03:45 PM	Event Disposition:	Closed Via CAD
Created By:	JACOB, ELIZABETH	Is Juvenile:	
Desk Officer:	MARTIN, GREGORY A	Desk Officer Rank:	SERGEANT
Desk Officer Serial No.:	20199	Desk Officer Shield No.:	434
Received Via:	TELEPHONE	Event Type:	ASSIST
Priority:		Received Date:	03/25/2022 03:45 PM
Dispatch Date:	03/25/2022 03:47 PM	Completed Date:	03/25/2022 04:11 PM
Start Time:	04:02 PM	End Time:	04:11 PM
		Total Time:	0:09

Location

Organization Name:			
Address:	BEACH LN WAINSCOTT, NY 11975		
City/Town/Village:		Nearest Cross Street:	WAINSCOTT MAIN ST
Map:		Grid:	
Latitude:		Longitude:	
ISF:		Sector:	5
Precinct:	CENTRAL - HEADQUARTERS	Post:	995
Location Code:		County:	
Premise:		Community:	
Coverage Area:		Jurisdiction:	
Common Place Name:		Between:	And:

Officer

Name:	NICHOLAS M. KOCHANASZ	Last Rank:	Police Officer
Serial No.:	12684	Shield No.:	246

Unit

Unit Name:	995	Primary	Description:	Patrol
Unit Type:	Sector Unit		Department/Agency:	EAST HAMPTON TOWN POLICE

Unit History

Unit Status:	Dispatch	Status Date/Time:	3/25/2022 15:47:36
Location:		Post:	995
Equipment:	997/ 97/ 11/ 97	Comment:	
Unit Status:	Arrive	Status Date/Time:	3/25/2022 16:02:07

Location: **BEACH LN** Post: **995**

Equipment: **997/ 97/ 11/ 97** Comment:

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Unit Status: **Cleared** Status Date/Time: **3/25/2022 16:11:51**

Location: Post: **995**

Equipment: **997/ 97/ 11/ 97** Comment:

Event Caller

Basic Info

Name: **AKERS, TODD** Restrict Print:

Gender: Date of Birth:

SSN:

Features

Height: Eye Color:

Address

Address Type: Description:

Address:

Current:

Phone

Phone Type: **HOME** Description:

Phone Number: **[REDACTED]**

Current:

Licenses

1. Person

Basic Info

Name: **KINSELLA, SIMON V** Role: **PERSON INTERVIEWED**

Gender: **M MALE** Date of Birth: **10/31/1970**

SSN: Restrict Print:

Features

Height: **6 ft. 1 in.** Eye Color: **BLU**

Address

Address Type: **HOME** Description:

Address: **100 WAINSCOTT MAIN ST
WAINSCOTT, NY 11975**

Current:

Address Type: Description:

Address: **PO BOX 792
WAINSCOTT, NY 11975**

Current:



Phone

Phone Type: **Cell** Description: **Exhibit B**
 Phone Number: **[REDACTED]**
 Current:

Licenses

License No.: **492193323** License State: **NY**
 Effective From Date: **9/26/2017** Expiration Date: **10/31/2025**
 License Class: **D - OPERATOR** **No Expiration** **Expiration Unknown**

2. Person

Basic Info

Name: **AKERS, TODD** Role: **CALLER**
 Gender: **M MALE** Date of Birth: **11/1/1967**
 SSN: **[REDACTED]** Restrict Print: **[REDACTED]**

Features

Height: **[REDACTED]** Eye Color: **[REDACTED]**

Address

Address Type: **BUSINESS** Description: **[REDACTED]**
 Address: **108 LEIGUS RD SUITE 100
 WALLINGFORD, CT 06492**

Current:

Phone

Phone Type: **Cell** Description: **[REDACTED]**
 Phone Number: **[REDACTED]**
 Current:

Licenses

Vehicle Information

Year: **2014** Style: **[REDACTED]** Color: **GL GOLD** Make: **LNDR LAND ROVER - LNDR**
 Plate No.: **GKD9003** Date Expires: **10/2/2023** Type: **[REDACTED]** State: **NY**
 VIN: **SALGS2WF0EA136008** Model: **RRV**
 Insurance Company: **[REDACTED]** Policy No.: **[REDACTED]**
 Registered To: **DAVID FINK**

Narrative

Police Officer KOCHANASZ, NICHOLAS, M. - KOCHANASZ#246 03/25/2022 17:58

Undersigned officer responded to the south end of Beach Lane for an assist. Upon arrival, U/O met with C/C AKERS, Todd who is the Site Manager for Burns McDonnell. C/C stated there has been a subject interfering with the underground utility work they are performing on Beach Lane and Wainscott N.W. Rd. AKERS stated the subject has been observed getting out of his vehicle and entering the construction zone to take pictures and speak to workers, which is creating an unsafe condition on the job site. C/C stated he believed the subject to be KINSELLA, Simon who operates a gold colored Land Rover with NY REG GKD9003. An in-house search of that name produced a subject address at 100 Wainscott Main St. U/O reported to that address and made contact with KINSELLA,



Simon (P1).

P1 stated he has been driving past the construction area and taking photos of the work from inside his vehicle. P1 also stated that he did get in a verbal argument with one of the workers on Beach Lane today. U/O advised P1 that it is not against the law to take photos and videos from a safe distance, but if his actions create a condition in which the crew is forced to stop working or a safety hazard, there could be possible criminal charges. P1 stated he does not agree with the project, however he understands it is not the workers' decision. P1 agreed to not impede the construction work in the future. No further police action at this time.

Approved By: SERGEANT MARTIN, GREGORY A Shield/Serial No.: 434 / 20199

Date: 3/25/2022 20:39:32



RECEIPT No. **382050**

DATE 3/29/22

RECEIVED FROM \$ 1.00

Duron Kudela

One

DOLLARS

FOR RENT EV#2746-22

- CASH
- CHECK
- MONEY ORDER
- CREDIT CARD

ACCOUNT	
PAYMENT	
BAL. DUE	

FROM _____ TO _____

BY B. Churni

3-11

Exhibit B:22-cv-0214

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EAST HAMPTON TOWN POLICE
131 Wainscott Northwest Road
P.O. Box 909
Wainscott, NY 11975-0909