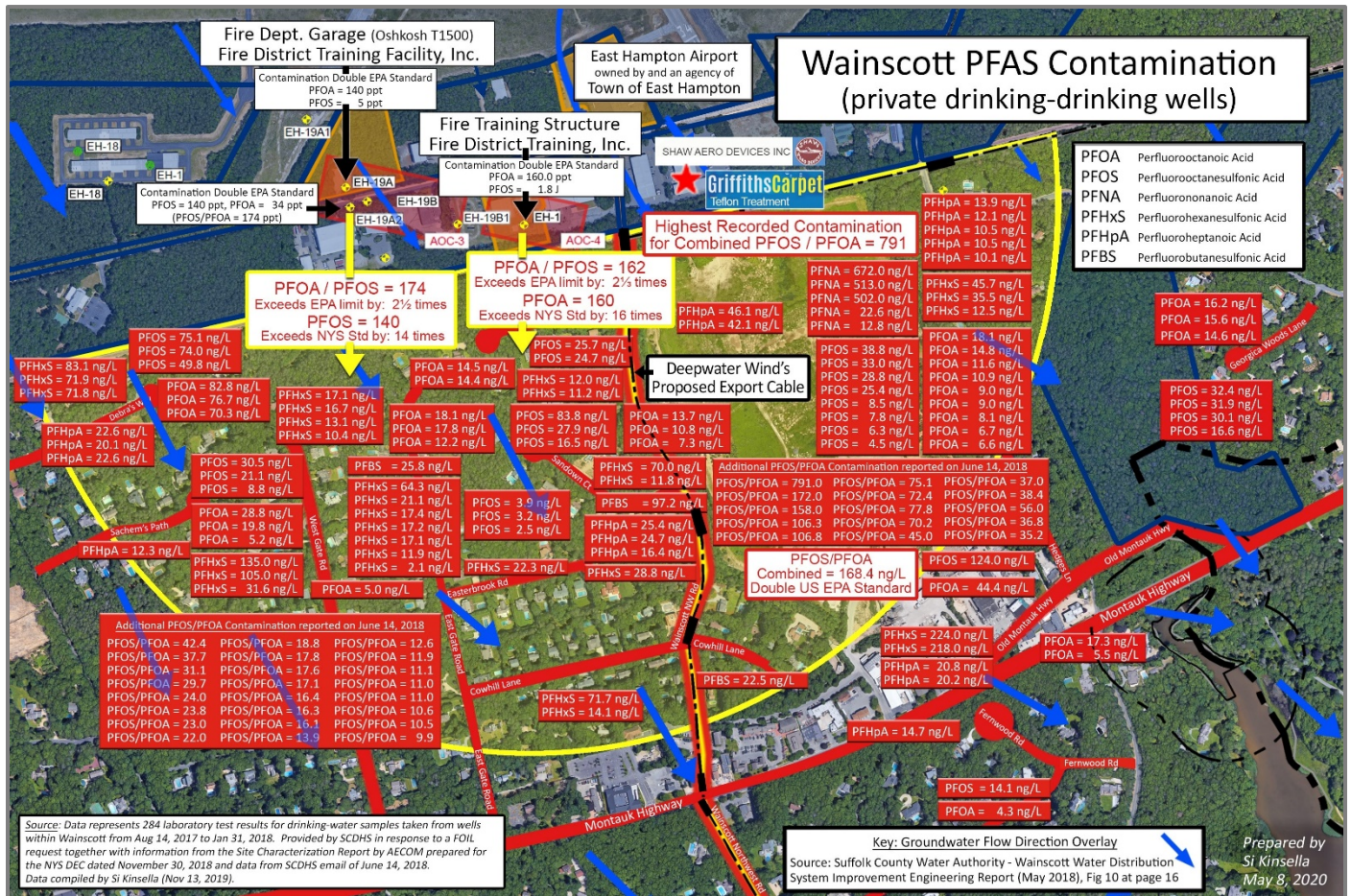


PFAS Contamination Wainscott, New York

Cover-up and Obstruction by Town of East Hampton

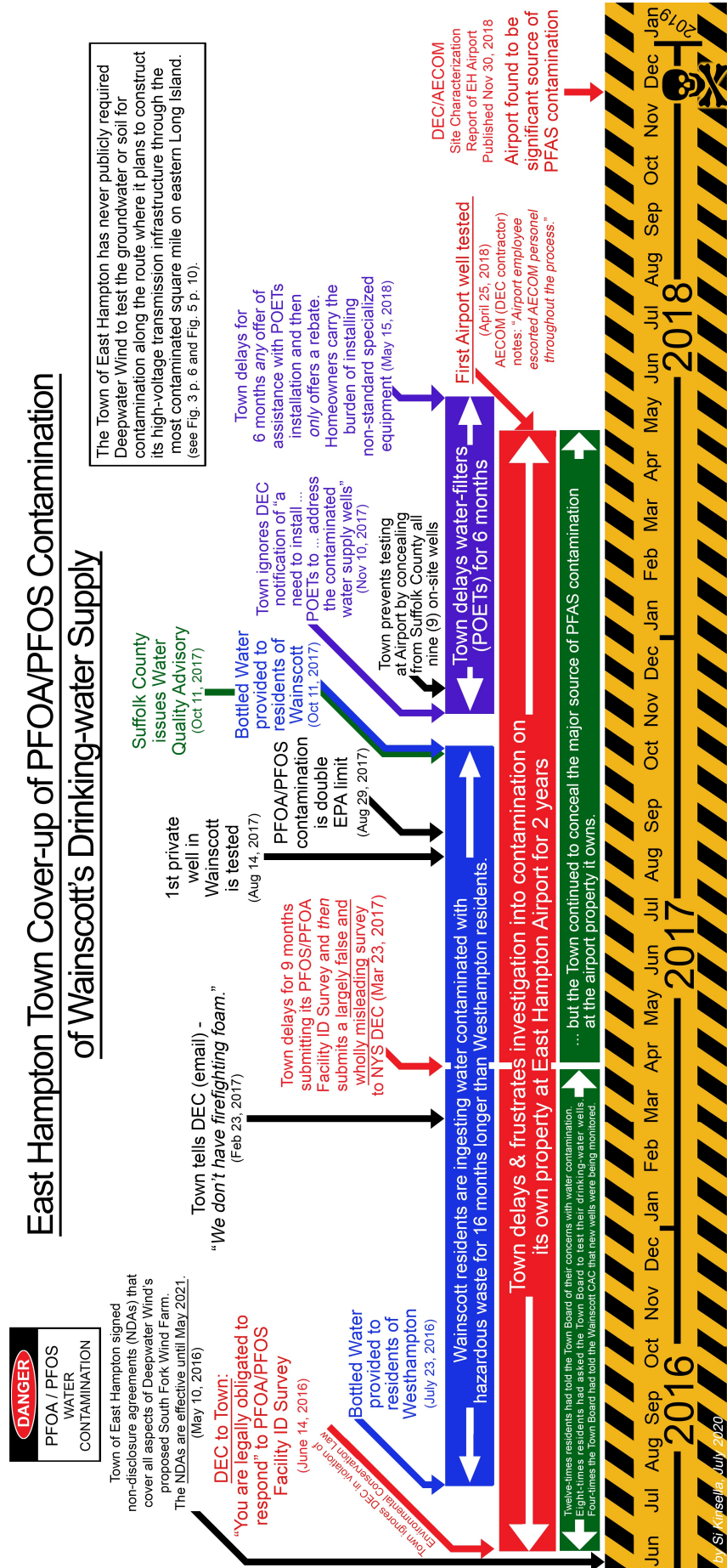
Report No. 3
Final
July 14, 2020



This reporting was initiated at the request of
Wainscott Citizens' Advisory Committee on November 5, 2016.

by Si Kinsella

Fig. 1
Timeline



Findings

The Town of East Hampton –

- Concealed from NYSDEC for two years information on discharges of hazardous waste on property it owned at East Hampton Airport;¹
- Took nine months to complete an eleven-question survey² pertaining to possible discharges of hazardous waste that it was legally obligated to return within 30 days;³
- Ignored concerns local residents had with regards to possible water contamination and misled the Wainscott Citizens' Advisory Committee;⁴
- Submitted incomplete, false and misleading information to NYSDEC;⁵
- Delayed for six month assistance with installing of Point of Entry Treatment Systems;⁶
- Continued to conceal discharges of hazardous waste on property it owned and frustrated the investigation into the source of contamination even *after* Suffolk County had detected and informed Town officials that the water residents living in the Hamlet of Wainscott were drinking was contaminated with discharges of hazardous waste;⁷
- Was indifferent to exposing hundreds of residents to adverse health effects the US EPA has linked to cancer, liver damage, antibody production, immunity and more;⁸
- Is moving ahead with construction plans that will likely exposed residents – for a second time – to the same harmful chemicals without conducting appropriate due diligence;⁹
- May burden taxpayers with costs of up to one hundred million dollars for remediating a contaminated site to which the Town and Deepwater Wind are turning a blind eye;¹⁰ and
- Concealed for four years non-disclosure agreements concerning the South Fork RFP and the South Fork Wind Farm that are still binding upon the Town (until May 2021).¹¹

¹ The Town was legally required by NYSDEC in June of 2016 to report the storage and/or use of Class B fire suppression foam on property it owned, but frustrated and delayed the investigation into contamination on its own property at East Hampton Airport until April 25, 2018 (when wells were first tested for possible contamination).

² See [Exhibit 04](#) - Jun 14, 2016 - NYSDEC Cover Letter, Request for Information – East Hampton Airport
See [Exhibit 12](#) – Jun 14, 2016 – First PFOS/PFOA Facility Identification Survey

³ See [Exhibit 11](#) – Mar 23, 2017 – Second PFOS/PFOA Facility Identification Survey certified by Airport Director Brundige on March 2, 2017, but not returned to NYSDEC until March 23, 2017

⁴ See Executive Summary (p. 4) and *Town Ignores Residents' Concerns – June 2016 to March 2017* (p. 59)

⁵ See Executive Summary (p. 7) and *PFOS/PFOA Survey – Town Misleads NYSDEC – March 23, 2017* (p. 25)

⁶ See *Town Delayed for Six Months Installing Drinking-Water Filters (POETs)* (p. 71)

⁷ See Executive Summary (p. 8) and *No Wells at Airport – Cantwell tell Capobianco – November 2017* (p. 50)

⁸ See Executive Summary (p. 8) and [Exhibit 10](#) – USEPA Fact Sheet on PFOA & PFOS (November 2016)

⁹ See Executive Summary (p. 9) and *Deepwater Wind South Fork, LLC* (p. 74)

¹⁰ See [Exhibit 54](#) – AFR - PFAS Contamination - West Gate Tunnel (Feb 5, 2020)

See [Exhibit 58](#) – AFR - West Gate Tunnel dispute veers towards 'full-flung fight' (Jun 19, 2020)

¹¹ See Executive Summary (p. 11) and *Town Agrees to Keep Deepwater Wind Secret (NDAs)* (p. 86)



Fig. 2

Executive Summary

In June of 2016, NYS Department of Environmental Conservation (“NYSDEC”) mandated that the Town of East Hampton as owners of East Hampton Airport report within thirty days any use and/or storage of a common class of firefighting foam by completing a simple three-page survey (of only eleven questions). The class of firefighting foam, Class B fire suppression foam, is known to contaminate soil and groundwater when used during training exercises, emergencies or as a result of leaks or spillage. The two contaminants associated with such foam are compounds known as PFOS and PFOA which are classified as hazardous waste. Although the Town was legally obligated to complete the PFOS/PFOA Facility Identification Survey, it was only after it had been contacted by NYSDEC five times, that the Town finally completed, certified and returned a *wholly misleading and inaccurate survey nine months later* (on March 23, 2017).

At the time, the Town of East Hampton knew that over ninety percent of residents living in Wainscott immediately downgradient from East Hampton Airport used private wells for their drinking-water.

Over the same nine-months (from June 2016 to March 2017) while the Town of East Hampton was withholding information on the use of toxic chemicals on property it owned at East Hampton Airport, residents living downgradient from the airport in Wainscott had told members of the East Hampton Town Board on twelve separate occasions of concerns they had with contamination of their drinking-water supply. The Town Board was asked on eight separate occasions to: “Please test our drinking-water.” The Wainscott CAC was told by the Town on four separate occasions that new monitoring wells had been installed “that will be routinely monitored” only to find out eight months later that this was *not* true. The Town of East Hampton was deaf to the concerns as expressed by local residents.

During the nine months that the Town of East Hampton was ignoring both local residents and NYSDEC, residents were drinking water contaminated with harmful discharges of hazardous waste of a public health concern. Over one hundred and fifty homes are within half a mile, downgradient, from East Hampton Airport. The water flowing beneath East Hampton Airport is the same water that residents drink (see Fig. 3 at p. 6 below).

On January 24, 2017, the Village of East Hampton Fire Department (“EHFD”) had completed and submitted to NYSDEC its own PFOS/PFOA Facility Identification Survey. The EHFD survey states that approximately 200 gallons of Class B fire suppression foam had been and continues to be stored on the airport site and that it had been used for training purposes between 1 and 10 times and for emergency response purposes from 2007 and 2017.¹²

¹² See [Appendix L](#) – COMPLAINT in Town of East Hampton vs. Incorporated Village of East Hampton, *et al* (case 2:20-cv-01787-SJF-AYS) US District Court for the Eastern District, April 13, 2020 (paragraph 116 at p. 14)

Fig. 3

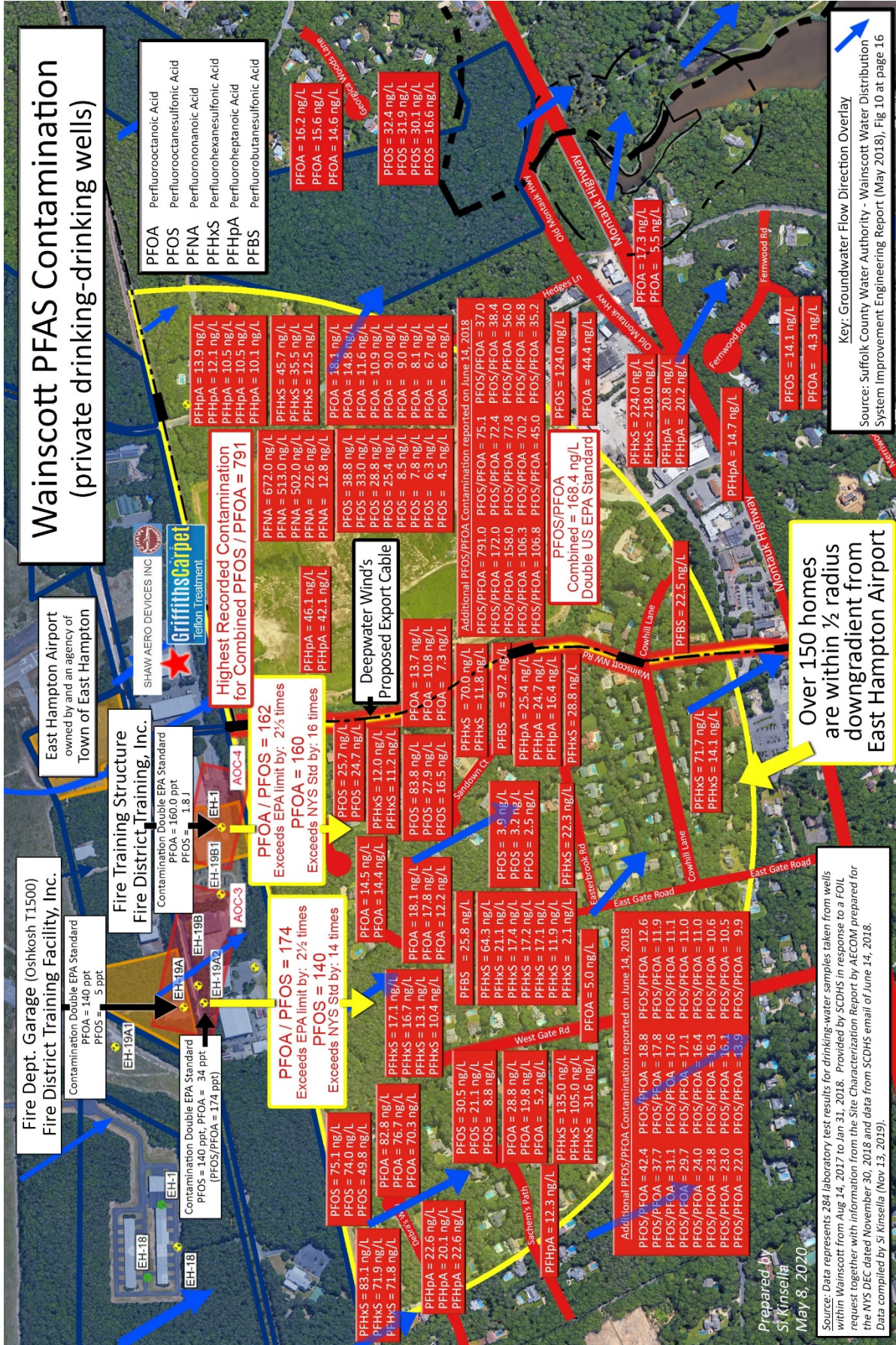


Fig. 3

Two months later (on March 23, 2017), when the Town of East Hampton finally submitted to NYSDEC its PFOS/PFOA Facility Identification Survey, it did *not* contain *any* information on the use of Class B fire suppression foam during training exercises, emergency response, through spillage or leaking storage drums (see Fig 2 at p. 5 above). According to the Town’s survey, Class B fire suppression foam had *never* been used for training at the airport site (see survey question 8 in Fig. 4 below). This is *not* true.

One of many examples where Class B fire suppression foam had been used at East Hampton Airport was during a mass casualty and fire training drill in June 2008 as reported in the East Hampton Press.¹³ Airport Director James Brundige who certified that the Town’s PFOS/PFOA Facility Identification Survey was true, accurate and complete was managing the airport at the time.

NEW YORK
STATE OF OPPORTUNITY

Department of
Environmental
Conservation

Class B Fire Suppression Foam Usage Survey Questions

8. Has Class B fire suppression foam ever been used for training purposes at the Facility?
 Yes No Unknown

If yes, please note:

a. Dates and frequency of training: [REDACTED]

i. If exact information is not available, please provide an estimate:

1. 1-10 times over 10 years

2. 11-50 times over 10 years

3. 50 or more times over 10 years

b. Manufacturer and type of Class B fire suppression foam used in training: [REDACTED]

c. Quantity of Class B fire suppression foam used in training: [REDACTED]

d. Other relevant information: [REDACTED]

Fig. 4

It was not until a year *after* the Town was first legally required to report the use of firefighting foam on the airport site, that some wells in Wainscott were tested for contamination (on August 14, 2017), but these wells were half a mile away from the airport near a multi-use industrial site known as Wainscott Sand & Gravel. It took nearly *two years* before *any* property owned by the Town of East Hampton would be tested for PFAS contamination.¹⁴

On October 11, 2017, Suffolk County issued a Water Quality Advisory for Private-Well Owners in Area of Wainscott notifying residents that “PFOS and PFOA have been detected in some of the private wells that have been tested so far.”¹⁵

¹³ [The East Hampton Press, “Emergency services practice for mass casualty events” by Aline Reynolds, June 2, 2008](#)

¹⁴ The first on-site wells at East Hampton Airport were tested for PFAS contamination on April 25, [2018](#).

¹⁵ See [Exhibit 31](#) – Oct 11, 2017, SCDHS - Water Quality Advisory - PFAS Contamination

A month later (on November 24, 2017), SCDHS Deputy Commissioner Capobianco wanted to “schedule an appointment to sample the wells” at East Hampton Airport and requested “contact information for facilities served with on-site wells.” In response, the Supervisor’s office for the Town of East Hampton did *not* provide SCDHS *any* information on the *nine (9)* on-site wells located on its property at East Hampton Airport. Instead, the Town of East Hampton provided a list of just three properties of which two are vacant lots (i.e. *no* on-site wells) and the other property the Town was in the process of selling.¹⁶

The East Hampton Town Supervisor’s office withheld from Suffolk County contact information regarding the number and location of on-site wells at the airport site in the same way it withheld from NYSDEC information pertaining to the use of firefighting foam at the airport site and ignored residents’ concerns and requests to have their private wells tested for contamination.

Had the Town complied with its legal obligations in June of 2016 and complete its PFOS/PFOA Facility Identification Survey, truthfully, Town residents living downgradient from East Hampton Airport could have been provided with bottled water around the same time residents living near Gabreski Airport were provided with bottled water on July 23, 2016.¹⁷

Residents living in Wainscott were neither provided with bottled water nor told the water they were drinking was contaminated with hazardous waste until October 11, 2017 – *more than a year after* residents living near Gabreski Airport had begun to receive bottled water.

By withholding for nine months information on the use and storage of Class B fire suppression foam, a known source of hazardous waste of a public health concern, in violation of Environmental Conservation Law and *then* submitting false and misleading information to NYSDEC, the Town of East Hampton exposed hundreds of its residents to the adverse health effects as described in USEPA *Fact Sheet: PFOA & PFOS Drinking Water Advisories* for much longer than they would have been exposed otherwise.

The US Environmental Protection Agency warns that exposure to PFOS and/or PFOA contaminants may cause “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).¹⁸ The US Agency for Toxic Substances and Disease Registry (“ATSDR”) cite epidemiology human studies that suggest links between PFHxS exposure and liver damage and decreased antibody responses to vaccines (NB: could be a concern for a coronavirus vaccine). PFHxS is reported to have a half-

¹⁶ See [Exhibit 32](#) – Nov 27, 2017, email chain between SCDHS Deputy Commissioner Capobianco and then Town Supervisor, Larry Cantwell.

¹⁷ See [Exhibit 9](#) - East End Beacon article titled: [Bottled Water, Testing Urged as “Emerging Contaminant” Leaches South of Gabreski Airport](#) – published July 22, 2016

¹⁸ See [Exhibit 10](#) – EPA *Fact Sheet: PFOA & PFOS Drinking Water Health Advisories*, Nov 2016 (at p. 1)

live in humans of 8.5 years. The ATSDR cite epidemiology studies that suggest links between PFNA exposure and increases in serum lipid levels, particularly total cholesterol and LDL cholesterol.¹⁹ PFHxS and PFNA concentration levels found in some drinking-water wells in Wainscott were higher than concentration levels of PFOS/PFOA contamination.

The evidence suggests that the Town was *not* cooperating with the investigation into drinking-water contamination, but rather obstructing it and doing so even *after* Suffolk County had issued its Water Quality Advisory notifying residents that they “may be exposed to PFOS and PFOA through air, water, or soil” citing *only* East Hampton Airport as a possible source.²⁰

The issue of contamination involves Deepwater Wind’s plans to construct infrastructure that is large enough to transmit power from *four* South Fork Wind Farms.²¹ Deepwater Wind proposes to construct its transmission infrastructure through the middle of the most contaminated square mile on the South Fork and plans to excavate approximately 14,000 cubic yards²² of potentially contaminated material from in the PFAS Contamination Zone immediately south of East Hampton Airport (see Fig. 5 at p. 10 overleaf) along residential roads. This soil contains PFAS contamination and can easily be carried on the wind into residents’ homes

In a report commissioned by NYSDEC,²³ soil samples at East Hampton Airport had detectible levels of PFOS/PFOA (combined) contamination of up to 15,800 parts per trillion. The average level of soil contamination over all twenty-one well locations at the airport site to a depth of up to one foot is 2,281 ppt and to a depth of 19 to 42 feet, is 392 ppt (see Table 5 at p. 82 and Table 6 at p. 83). For comparison, the USEPA Health Advisory Level for drinking-water contamination is *only* 70 ppt. The second highest reading of 10,180 ppt for soil contamination was recorded at a well located within 500 feet of where Deepwater Wind proposes to bury a transmission splicing vault similar in size to a forty-foot shipping container (see Fig. 17 at p. 78).

Deepwater Wind has not tested for PFAS contamination *any* part of the cable route along which it proposes to construct its high-voltage transmission infrastructure.

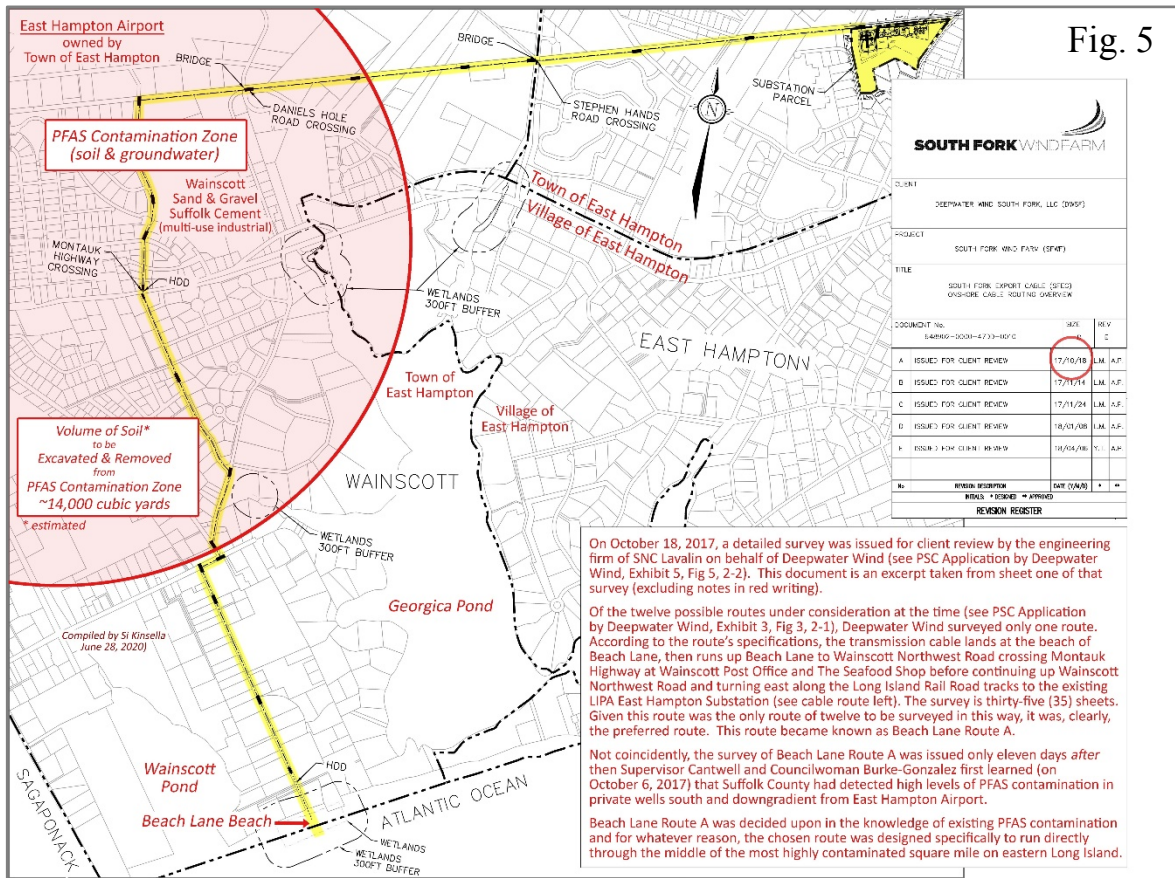
¹⁹ Agency for Toxic Substances and Disease Registry (ATSDR) - [Draft Toxicological Profile for Perfluoroalkyls](#) – June 2018 - 1.2 SUMMARY OF HEALTH EFFECTS (at pp. 4 and 25)

²⁰ See [Exhibit 31](#) - Suffolk County Department of Health Services: *Water Quality Advisory for Private-Well Owners in Area of Wainscott* issued October 11, 2017

²¹ See [Appendix R](#) (at p. 22) - NE Offshore Wind Regional Market Characterization – A Report for the Roadmap Project for Multi-State Cooperation on Offshore Wind (October 2017) which reads: “Deepwater Wind hopes to deliver up to 600 MW to the east end of Long Island, (Plummer, 2016), the first phase of which is the recently proposed 90 MW Deepwater One – South Fork project to be interconnected at East Hampton.” Deepwater Wind’s infrastructure specifications (submitted to NYSPSC on May 15, 2020) meet these requirements.

²² See Table 4 (at p. 81) of this report.

²³ See [Appendix D](#) - Characterization Report, East Hampton Airport, by AECOM for NYS DEC Division of Environmental Remediation, published November 30, 2018 (at p. 1 and Table 2). See Tables 5 (at p. 82) and Table 6 (at p. 83) of this report.



Like the Town, Deepwater Wind also submitted false information regarding PFAS contamination to the NYS Public Service Commission. In its Hazardous Materials Desktop Analysis, Deepwater Wind’s consultants conclude (erroneously) that “there were no hydraulically upgradient or adjacent properties along the study corridor [the LIRR south of East Hampton Airport] that would represent a significant environmental risk to subsurface conditions.”²⁴

Regretfully, the Town of East Hampton and its Town Board have *not* been open and honest with residents regarding the South Fork RFP 2015, Deepwater Wind South Fork, LLC and its proposed South Fork Wind Farm.

The Town entered into non-disclosure agreements (“NDAs”) that contractually prohibit it from disclosing or discussing openly with residents anything to do with the South Fork Wind Farm unless that information already has been made public by Deepwater Wind or unless PSEG Long Island has granted “prior written consent” for the Town to speak about given aspects of the South Fork Wind Farm (that had not already been made public by Deepwater Wind).

²⁴ See [Appendix Q](#) - Deepwater Wind NYSPSC Application – Appendix F Part 2, Phase I Environmental Assessment prepared by VHB Engineering, Surveying, and Landscape Architecture P.C. – Hazardous Materials Desktop Analysis, dated March 30, 2018 (at pp. 122-191)

The NDAs mean that PSEG Long Island/LIPA and Deepwater Wind between them control the information that the Town can discuss openly and freely with the residents it purports to represent. The Town willingly entered into these contracts knowing that the NDAs grant PSEG Long Island, LIPA and Deepwater Wind the legal right to prohibit the Town from disclosing and, therefore, speaking about aspects of the proposed South Fork Wind Farm that PSEG Long Island, LIPA and Deepwater Wind would rather keep secret to avoid public scrutiny and public criticism. Such information included the price residents will have to pay for electricity generated by Deepwater Wind's South Fork Wind Farm.

The NDAs are contractually binding upon the Town until May of 2021.

The Town entered into the NDAs in May of 2016, just weeks *before* the Town received notice of potential PFOS/PFOA contamination at East Hampton Airport. The Town concealed the NDAs for four years. When asked about the NDAs in August of 2017, Councilwoman Kathee Burke-Gonzalez informed the Wainscott CAC (via email) –

The Town of East Hampton is not bound by any Confidentiality or Non-Disclosure Agreements (NDA) that limits the Town from fully discussing the DeepWater [sic] Project. ... Nothing within the NDA legally binds the Town or serves as an NDA which prohibits the release of any information by the Town or any of its officials since the time the RFP was awarded by LIPA.

What Councilwoman wrote is *not* true. The NDAs are binding upon the Town of East Hampton until May of 2021 (see *Town Agrees to Keep Deepwater Wind Secret (NDAs)* at pages 83 to 87 and [Exhibit 48](#) and [Exhibit 49](#)).

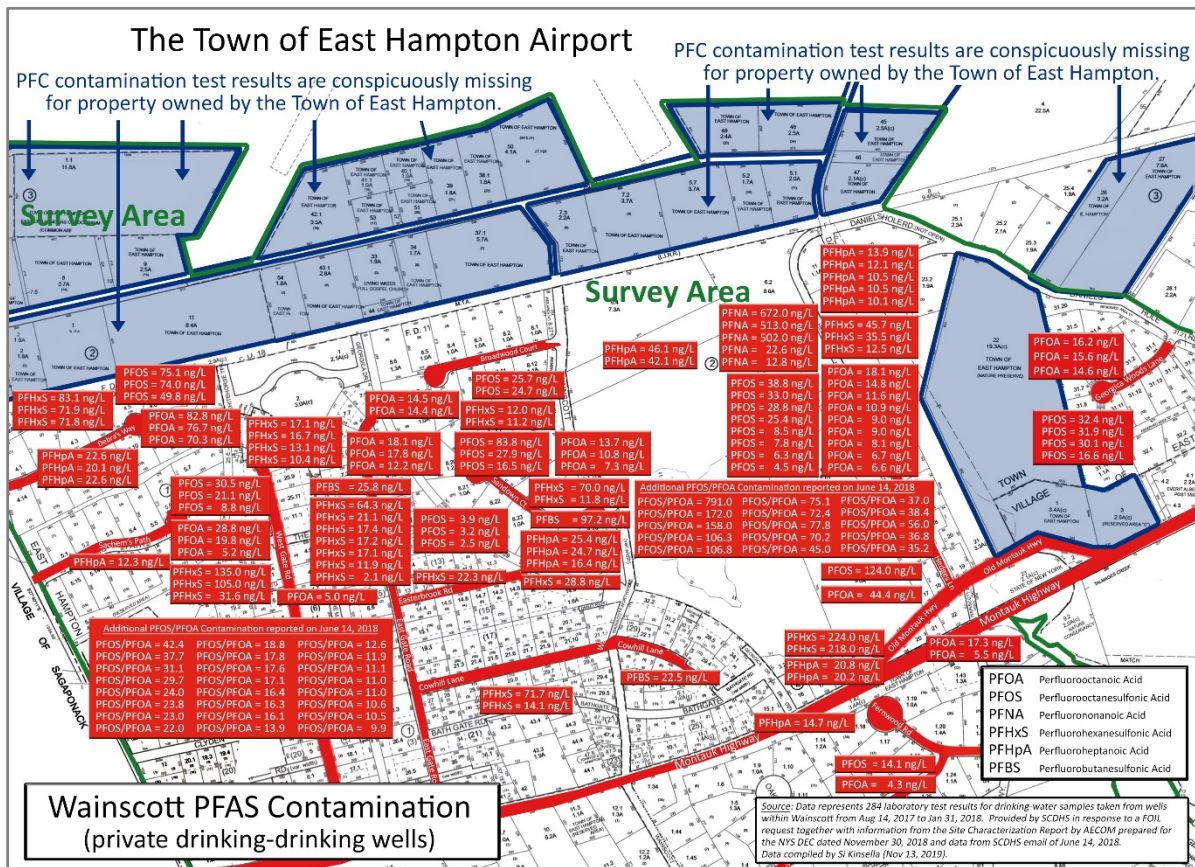
...END OF EXECUTIVE SUMMARY ...

Reports on Water Quality

First report – *Request for the Protection of the Hydrologic System within the Hamlet of Wainscott* – was written on behalf of the Wainscott CAC and its Environmental Subcommittee. The report was released January 31, 2017 (see [Appendix A](#)).

Second report – *Town Drinking Water Contamination: PFC Contamination in Wainscott* (“[PFC Report 2018](#)”) – focuses solely on PFAS contamination in Wainscott (see [Appendix B](#)). The report was released March 26, 2018. Within thirty days following the report’s release, wells located on Town-owned property were tested for the first time (on April 25, 2018).

Third report – *PFAS Contamination, Wainscott, New York: Cover-up and Obstruction by the Town of East Hampton* – this report investigates the extent to which the Town of East Hampton covered-up the existence of PFAS contamination and obstructed an investigation into such contamination. This report follows on from the earlier PFC Report 2018, but delves into the reasons why it took two years from when the Town of East Hampton first received notification of potential PFAS contamination at its airport in June of 2016 to when NYS Department of Environmental Conservation first tested East Hampton Airport for contamination on April 25, 2018.



Heat Maps of PFC Contamination in Wainscott (composite of six, originals dated March, 26, 2018).

Background

In 2016, the community of Wainscott, NY became increasingly concerned about the quality and safety of its drinking-water. At the time, over ninety percent (90%) of residents living in Wainscott used private wells for all their water needs.²⁵ Private wells tap into the Upper Glacial and Magothy Aquifers. To this day, these two aquifers remain the sole source of fresh water on the South Fork of eastern Long Island.²⁶

The US Environmental Protection Agency (“USEPA”) defines a sole source aquifer as an underground water source that supplies at least fifty percent (50%) of the drinking water consumed in the area overlying the aquifer. These areas have no alternative drinking water source that could physically, legally, and economically supply all those who depend upon the aquifer for their drinking water. USEPA designated the aquifer system underlying the South Fork on Eastern Long Island a *Sole-Source Aquifer* on June 21, 1978.²⁷

The community began to voice its concerns in September of 2016 with the publication of a news article titled – *Chromium-6 Detected in East Hampton Wells*.²⁸

Unbeknownst to those at the time, hundreds of residents living downgradient from East Hampton Airport were drinking water contaminated with chemical discharges at concentrations that presented a risk to public health and the environment. The broad chemical classification of contamination is referred to by its initials: “PFAS” (poly-/perfluoroalkyl substances), but at the time was referred to as: “PFC” (perfluorinated compound) contamination. For the purposes of this report, these acronyms are interchangeable.

Firefighters, First Responders and Police

While conducting research for this report, many examples of outstanding service and professionalism by volunteer firefighters, first responders and police officers came to light. Our emergency services personal deserve our gratitude for risking their lives and exposing themselves selflessly to the same dangerous chemical contaminants that are the subject of this report. Thank you.

²⁵ Community Profile Report (working draft), East Hampton Town CWMP by Lombardo Associates, Inc. Table 4-2: Parcels with Water Service and Average Daily Water Use by District, December 17, 2013 (at p. 83).

²⁶ On the South Fork of Long Island, the Lloyd aquifer is not considered a reliable source of fresh water: “*In all parts of the South Fork, saline water extends into the Magothy aquifer and, in many areas, into the upper glacial aquifer as well. Hence, it is improbable that the Lloyd aquifer contains freshwater, and it cannot be considered as a potential freshwater supply.*” Geohydrologic Appraisal of Water Resources of the South Fork, Long Island, New York By Bronius Nemickas and Edward J. Koszalka, 1982 - Geological Survey Water-Supply Paper 2073 (at p. 40)

²⁷US Environmental Protection Agency: “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

²⁸ See East Hampton Star article: [Chromium-6 Detected in East Hampton Wells](#) by Joanne Pilgrim published September 27, 2016

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Exhibit 03	NYSDEC Info Bulletin Foam Guidance, DHSES, OFPC	Jun 14, 2016
Exhibit 04	NYSDEC Cover Letter , Request for Information – East Hampton Airport	Jun 14, 2016
Exhibit 05	Newsday - East Hampton terminates airport manager	Oct 25, 2016
Exhibit 06	27east - Brundige To Return As East Hampton Airport Manager	Oct 21, 2016
Exhibit 08	Email Exchange with NYSDEC & TOEH RE- PFAS Survey	Mar 23, 2017
Exhibit 09	East End Beacon - Emerging Contaminant Leaches South of Gabreski Airport	Jul 22, 2016
Exhibit 10	USEPA Fact Sheet on PFOA & PFOS	Nov 01, 2016
Exhibit 11	NYSDEC PFAS Usage Survey HTO Certified by Brundige	Mar 23, 2017
Exhibit 12	NYSDEC PFAS Survey 2016 - Return July 15, 2016	Jun 14, 2016
Exhibit 13	NTSB - Mooney M20C N557M Accident Investigation Statement	Aug 26, 2012
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Exhibit 44	Si Kinsella #11 - Shaw Aero NYS DEC	Jan 13, 2020
Exhibit 45	Shaw Aero, USEPA RCRA Hazardous Waste Report 1991 & 1993	Jan 01, 1991
Exhibit 46	NYSDEC Letter to Supervisor Cantwell, POETs	Nov 10, 2017
Exhibit 47	TOEH - POETs Rebate Program	May 21, 2018
Exhibit 48	TOEH Supervisor Larry Cantwell	May 10, 2016
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
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	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]
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Exhibit 58	AFR - West Gate Tunnel dispute veers towards 'full-flung fight'	Jun 19, 2020
Exhibit 59	Town Attorney Sendlenski - Hydrologic Protection	Feb 03, 2017
Exhibit 60	Kinsella to Sendlenski - Hydrologic Protection	Feb 10, 2017

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Appendix A	Report One - Request for Hydrologic Protection	Jan 31, 2017
Appendix B	Report Two - PFC Report 2018, Full	Mar 26, 2018
Appendix C	Airport DRAFT Master Plan - Chapter 1(A) (1) & (2) Facilities	May 01, 2016
Appendix D	NYSDEC - Airport Site Characterization Report by AECOM	Nov 30, 2018
Appendix E	Si Kinsella #12 - Interrogatory - Griffiths Carpets	Jan 13, 2020
Appendix F	Si Kinsella #11 - Interrogatory - Shaw Aero	Jan 13, 2020
Appendix G	SCDHS FOIL Response - PFAS Lab Reports (346 pages)	Feb 01, 2018
Appendix H	Si Kinsella #12 - NYS DEC Re- PFAS (Griffiths Carpet)	Jan 13, 2020
Appendix I	Si Kinsella #12 - NYS DEC Response Re- PFAS (Griffiths Carpet)	Jan 13, 2020
Appendix J	Si Kinsella #11 - NYS DEC Re- PFAS, Shaw Aero	Jan 13, 2020
Appendix K	Si Kinsella #11 - NYS DEC Response Re- PFAS (Shaw Aero)	Jan 13, 2020
Appendix L	COMPLAINT - Town vs Village, NYSED #2-20-cv-01787	Apr 13, 2020
Appendix M	NYSPSC Application by DWSF, Exhibit 05 - Fig 5, 2-2 (Cable Routing)	Sep 14, 2018
Appendix N	SFEC Exhibit 4 Environmental Impact	May 15, 2020
Appendix O	South Fork RFP	Jun 24, 2015
Appendix P	Deepwater NYSPSC Application - Appendix F - Part 1	Sep 14, 2018
Appendix Q	Deepwater NYSPSC Application - Appendix F - Part 2	Sep 14, 2018
Appendix R	NE OSW Regional Market Characterization Report	October 2017

Chronology of Appendices and Exhibit

Document Date	Appendices /Exhibit	Name
Jan 01, 1991	Exhibit 45	Shaw Aero, USEPA RCRA Hazardous Waste Report 1991 & 1993
Oct 06, 1993	Exhibit 14	NTSB - Aviation Accident Report - Piper PA-23-250, N10GL
Oct 06, 1993	Exhibit 15	New York Times - Two Killed in Crash of Aircraft on LI
Aug 26, 2012	Exhibit 13	NTSB - Mooney M20C N557M Accident Investigation Statement
Jun 24, 2015	Appendix O	South Fork RFP
May 01, 2016	Appendix C	Airport DRAFT Master Plan - Chapter 1(A) (1) & (2) Facilities
May 10, 2016	Exhibit 48	TOEH Supervisor Larry Cantwell
Jun 06, 2016	Exhibit 33	Letter Wainscott CAC to Town, Moratorium
Jun 14, 2016	Exhibit 03	NYSDEC Info Bulletin Foam Guidance, DHSES, OFPC
Jun 14, 2016	Exhibit 04	NYSDEC Cover Letter , Request for Information – East Hampton Airport
Jun 14, 2016	Exhibit 12	NYSDEC PFAS Survey 2016 - Return July 15, 2016
Jul 22, 2016	Exhibit 09	East End Beacon - Emerging Contaminant Leaches South of Gabreski Airport
Oct 08, 2016	Exhibit 35	WCAC Meeting Minutes
Oct 13, 2016	Exhibit 34	Letter Town Attorney Sendlenski to Kinsella, Hexavalent Chromium
Oct 21, 2016	Exhibit 06	27east - Brundige To Return As East Hampton Airport Manager
Oct 24, 2016	Exhibit 36	Letter Kinsella to Town Attorney Sendlenski, Hexavalent Chromium
Oct 25, 2016	Exhibit 05	Newsday - East Hampton terminates airport manager
Nov 01, 2016	Exhibit 10	USEPA Fact Sheet on PFOA & PFOS
Nov 05, 2016	Exhibit 37	WCAC Meeting Minutes
Nov 18, 2016	Exhibit 01	ESC Meeting Minutes
Nov 18, 2016	Exhibit 21	ESC Meeting Minutes with Attachments
Dec 03, 2016	Exhibit 02	WCAC Meeting Minutes
Dec 03, 2016	Exhibit 22	WCAC Meeting Minutes
Jan 06, 2017	Exhibit 23	ESC Minutes with Attachments
Jan 06, 2017	Exhibit 38	ESC Minutes
Jan 15, 2017	Exhibit 39	Letter from Kinsella to Town Attorney, Re Hexavalent Chromium & UCMR
Jan 31, 2017	Appendix A	Report One - Request for Hydrologic Protection
Feb 03, 2017	Exhibit 59	Town Attorney Sendlenski - Hydrologic Protection
Feb 10, 2017	Exhibit 60	Kinsella to Sendlenski - Hydrologic Protection
Mar 23, 2017	Exhibit 08	Email Exchange with NYSDEC & TOEH RE- PFAS Survey
Mar 23, 2017	Exhibit 11	NYSDEC PFAS Usage Survey HTO Certified by Brundige
Mar 24, 2017	Exhibit 24	ESC Meeting Minutes with Attachments
Aug 14, 2017	Exhibit 25	SCDHS PFAS Lab Result 672 ppt - Hedges Lane
Aug 14, 2017	Exhibit 57	TOEH - Councilwoman Burke-Gonzalez - NDA Email to WCAC
Aug 23, 2017	Exhibit 16	SCDHS Survey Request - Jane Lappin, 3 Industrial Rd
Aug 23, 2017	Exhibit 17	SCDHS Survey Request - Aviation Resources, 50 Industrial Rd
Aug 23, 2017	Exhibit 18	SCDHS Survey Request - Town of East Hampton, 72 Industrial Rd
Aug 23, 2017	Exhibit 19	SCDHS Survey Request - Hanger One, 0 Industrial Rd
Aug 25, 2017	Exhibit 20	Email Exchange with Councilwoman Burke-Gonzales

Document Date	Appendices /Exhibit	Name
Aug 29, 2017	Exhibit 26	SCDHS PFAS Lab Result 168 ppt - Old Montauk Hwy
Oct 01, 2017	Appendix R	NE OSW Regional Market Characterization Report
Oct 07, 2017	Exhibit 28	WCAC Meeting Minutes
Oct 11, 2017	Exhibit 30	SCDHS - Water Quality Advisory - PFAS Contamination
Oct 16, 2017	Exhibit 41	Letter to Supervisor Cantwell from Wainscott CAC, Water Quality Advisory
Oct 25, 2017	Exhibit 40	Letter to Wainscott CAC from Supervisor Cantwell, Water Quality Advisory
Nov 04, 2017	Exhibit 29	WCAC Meeting Minutes
Nov 10, 2017	Exhibit 46	NYSDEC Letter to Supervisor Cantwell, POETs
Nov 21, 2017	Exhibit 27	TOEH Email from Councilwoman Burke-Gonzalez, PFC Well Survey
Nov 24, 2017	Exhibit 31	TOEH - Email from Cantwell to SCDHS Capobianco - on-site wells
Feb 01, 2018	Appendix G	SCDHS FOIL Response - PFAS Lab Reports (346 pages)
Mar 03, 2018	Exhibit 43	Interrogatory Ref Kinsella #12 - Griffiths Carpet website), Teflon Treatment
Mar 26, 2018	Appendix B	Report Two - PFC Report 2018, Full
May 21, 2018	Exhibit 47	TOEH - POETs Rebate Program
Jun 15, 2018	Exhibit 32	SCDHS - Wainscott PFC Weekly Update
Sep 14, 2018	Appendix M	NYSPSC Application by DWSF, Exhibit 05 - Fig 5, 2-2 (Cable Routing)
Sep 14, 2018	Appendix P	Deepwater NYSPSC Application - Appendix F - Part 1
Sep 14, 2018	Appendix Q	Deepwater NYSPSC Application - Appendix F - Part 2
Sep 14, 2018	Exhibit 53	NYSPSC Fig 3, 2-1 All Routes Overview
Nov 30, 2018	Appendix D	NYSDEC - Airport Site Characterization Report by AECOM
Jan 11, 2020	Exhibit 42	Si Kinsella #12 - Griffiths Carpet - Mapquest (2020) & Gmaps (Mar 2018)
Jan 13, 2020	Appendix E	Si Kinsella #12 - Interrogatory - Griffiths Carpets
Jan 13, 2020	Appendix F	Si Kinsella #11 - Interrogatory - Shaw Aero
Jan 13, 2020	Appendix H	Si Kinsella #12 - NYS DEC Re- PFAS (Griffiths Carpet)
Jan 13, 2020	Appendix I	Si Kinsella #12 - NYS DEC Response Re- PFAS (Griffiths Carpet)
Jan 13, 2020	Appendix J	Si Kinsella #11 - NYS DEC Re- PFAS, Shaw Aero
Jan 13, 2020	Appendix K	Si Kinsella #11 - NYS DEC Response Re- PFAS (Shaw Aero)
Jan 13, 2020	Exhibit 44	Si Kinsella #11 - Shaw Aero NYS DEC
Feb 05, 2020	Exhibit 54	AFR - PFAS Contamination - West Gate Tunnel
Apr 13, 2020	Appendix L	COMPLAINT - Town vs Village, NYSED #2-20-cv-01787
May 15, 2020	Appendix N	SFEC Exhibit 4 Environmental Impact
Jun 19, 2020	Exhibit 58	AFR - West Gate Tunnel dispute veers towards 'full-flung fight'

PFAS Contamination Cover-up & Obstruction by Town of East Hampton Report No. 3

Town Ignores NYSDEC in Violation of NYS Law – June 2016

East Hampton Airport is owned by the Town of East Hampton (“TOEH” or “Town”). The airport consists of 610 acres and includes the 56-acre East Hampton Industrial Park (please see [Appendix C](#)).²⁹

On June 14, 2016, New York State Department of Environmental Conservation (“NYSDEC”) sent to TOEH a letter informing it that NYSDEC had added chemicals known as PFOA and PFOS “to New York State’s list of hazardous substances.” Included with the letter was a survey designed to identify facilities such as East Hampton Airport where products, specifically firefighting foam, containing PFOA and/or PFOS chemicals may have been used (see [Exhibit 4](#)).³⁰

A class of firefighting foam commonly used at airports is known to release PFOS and PFOA chemical contaminants into the environment when used. Due to the risk to public health from the use of such firefighting foam – Class B fire suppression foam – NYSDEC mandated TOEH “complete the enclosed PFOS/PFOA Facility Identification Survey” and return it by July 15, 2016. NYSDEC was succinct in the letter it sent to TOEH on June 14, 2016. It reads –

*You are legally obligated to respond to this survey. Failure to complete the survey is a violation of the ECL [Environmental Conservation Law] and may be subject to enforcement action.”*³¹

Despite its clear language, TOEH ignored NYSDEC and did *not* comply with its legal obligation to complete, certify and return its PFOS/PFOA Facility Identification Survey (“[PFOS/PFOA Survey 2016](#)”) as mandated.

²⁹ See [Appendix C](#) – East Hampton Airport – DRAFT Masterplan (revised May 1, 2016), Chapter I - Existing Conditions and Facilities, (at p. I-1)

³⁰ See [Exhibit 4](#) – Letter from New York State Department of Environmental Conservation to East Hampton Airport of June 14, 2016, RE: Request for Information Pursuant to Article 27, Title 13 of New York State Environmental Conservation Law (ECL)/ PFOS/PFOA Facility Identification Survey.

³¹ *Ibid*

Despite NYSDEC warning TOEH of “potential environmental and public health concerns”³² from commonly used firefighting foam that contained PFOA/PFOS chemical contaminants, TOEH did *not* test private drinking-water supply wells for possible contamination. TOEH did *not* inform local residents or the local Wainscott Citizens’ Advisory Committee (“Wainscott CAC”) about any potential risk to public health from a potential release of hazardous chemicals that may have entered the drinking-water supply.

At this time, TOEH was aware that more than ninety percent (90%) of residents living immediately downgradient from East Hampton Airport relied on private wells for all their water needs and that the water from residents’ private wells was the same water that flowed underneath its airport.³³

Unusual Change in Airport Directors – October 2016

The letter and accompanying PFOS/PFOA Survey 2016 from NYSDEC (of June 14, 2016), was addressed to then Airport Director Jemille Charlton at “East Hampton Airport, 159 Pantigo Road, East Hampton, NY 11937.” At the time, Airport Director Charlton was an employee of the Town of East Hampton. East Hampton Airport is owned by TOEH and the letter is addressed to Town Hall on Pantigo Road in East Hampton (i.e. the letter is not addressed to the physical airport location at 200 Daniel Holes Road, Wainscott, NY 11975).

Four months passed and TOEH had still *not* completed its PFOS/PFOA Survey 2016 (that it should have returned within thirty days). Around this time, just before Airport Director Charlton was to report for training exercises out-of-state with the U.S. National Guard, the Town Attorney for TOEH notified him of its decision to “terminate his contract.”

Airport Director Charlton said that TOEH gave him no reason for his dismissal. “They didn’t say anything,” said Charlton. “I asked, and basically the attorneys told me that I’m a provisional employee and that they don’t have to give me a reason” (see [Exhibit 5](#))³⁴ Mr. Charlton was a capable and popular airport director. “The pilot community out here objects to his termination,” said pilot Catherine Sly on Thursday. “We believe he is a very qualified, very respected individual who has done a bang up job for this airport” (see [Exhibit 6](#))³⁵

³² See [Exhibit 3](#) – Information Bulletin issued by New York State Office of Fire Prevention and Control titled: *Guidance to Fire Departments Regarding Class B Firefighting Foam Concentrates Which May Contain Hazardous Substances* dated June 14, 2016.

³³ Community Profile Report (working draft), East Hampton Town CWMP by Lombardo Associates, Inc. Table 4-2: Parcels with Water Service and Average Daily Water Use by District, December 17, 2013 (at p. 83)

³⁴ See [Exhibit 5](#) - Newsday article published Oct 25, 2016 - [East Hampton terminates airport manager, rehires predecessor](#) - by Jean-Paul Salamanca

³⁵ See [Exhibit 6](#) - East Hampton Press article published Oct 25, 2016 - [Brundige To Return As East Hampton Airport Manager](#) – by Michael Wright

Airport Director Charlton was replaced by former Airport Director James Brundige whose salary of \$92,000 exceeded that of Airport Director Charlton's salary by nearly \$28,000 (or 43%). It should be noted that Airport Director Brundige's salary was an increase of only \$4,000 (or 4.5%) from what he had been paid for doing the same job in 2014. Nevertheless, it was still an expensive exercise for TOEH to re-instate Airport Director Brundige at a salary that exceeded that of his predecessor by \$28,000.

To this day, the reason for Airport Director Charlton's dismissal remains a closely guarded secret to which neither the Airport Management Advisory Committee nor even Jemille Charlton himself has been privy.



Town Withholds PFOS/PFOA Survey – June 2016 to March 2017

When Town of East Hampton received its PFOS/PFOA Survey 2016 (in June of 2016), it did *not* complete the survey. It took the Town more than nine (9) months before it finally returned its survey on March 23, 2017. The survey contains only eleven questions.

During the nine-month delay and despite having knowledge of and access to information pertaining to the use of products containing PFOS/PFOA chemicals on its property, TOEH did *not* inform NYSDEC and did *not* warn local residents of the potential risk to public health. Unbeknownst to residents living in Wainscott at the time, they were drinking water contaminated with hazardous chemical discharges emanating from property owned by the Town of East Hampton.

Over the same nine-month period (from June 2016 to March 2018), residents living in Wainscott were expressing concerns with the quality of their drinking-water. The East Hampton Town Board had been informed in letters, emails and at local committee meetings at least twelve times and were specifically asked to test the drinking-water supply at least eight times (see *Town Ignores Residents' Concerns – June 2016 to March 2017* at page 59.)

The Town Board ignored residents' concerns and never arranged to have their drinking-water tested for possible contamination. The Town Board did nothing for nine months while hundreds of residents living downgradient from the Town-owned airport ingested contaminated water, daily.



On February 22, 2017, TOEH received a telephone call and follow-up email from Heather Cullen of NYSDEC's Division of Environmental Remediation chasing the Town's outstanding PFOS/PFOA Survey 2016 that it should have submitted by July 15, 2016. The following day, Airport Director Brundige replied to Ms. Cullen's email, writing –

We don't have fire fighting foam.

Ms. Cullen replied within seven minutes instructing the Town (for the fourth time) to complete the PFOS/PFOA Survey 2016 that it should have completed eight months earlier –

Patrick,

We do still need a survey filled out for East Hampton Airport. If the airport does not have foam and has never had foam, and foam has never been used at the airport, just mark "no" for everything. We have contacted fire departments separately.

Thanks,

Heather Cullen

Another month went by before Ms. Cullen contacted the Town and (for the fifth time) requested that it complete and return its PFOS/PFOA Survey 2016. On March 23, 2017, finally, Airport Director James Brundige completed, certified and returned the PFOS/PFOA Survey 2016 on behalf of TOEH (see [Exhibit 8](#)).³⁷

Nine valuable months had been lost during which time TOEH failed to disclose the storage and use of hazardous chemicals and the risk that those chemicals posed to public health. By its failure, TOEH denied NYSDEC the opportunity for it to act on information that, had it been provided nine months earlier, would have allowed NYSDEC the opportunity to test private wells for contamination much sooner that it would have otherwise. Had the Town complied with its legal obligation and completed its PFOS/PFOA Survey 2016 and cooperated with NYSDEC, Town residents living downgradient from East Hampton Airport could have been provided with bottled water around the same time that residents living near Gabreski Airport were provided with bottled water on July 23, 2016 (see [Exhibit 9](#)).³⁸

Residents living in Wainscott were neither provided with bottled water nor told their drinking-water was contaminated with discharges from hazardous waste until October 11, 2017 – over a year *after* residents living near Gabreski Airport had been provided with bottled water.

³⁷ See [Exhibit 8](#) - Email to Ms. Heather Cullen of New York State Department of Environmental Conservation's Division of Environmental Remediation from Patrick Manzo dated February 23, 2017, that quotes Airport Director James Brundige (from an earlier email). The latest email contains as an attachment the PFOS/PFOA Facility Identification Survey of Class B Fire Suppression Foam Usage, certified by Airport Director James Brundige on March 2, 2017, but *not* returned until March 23, 2017 (via emailed to Ms. Cullen of Department of Environmental Conservation's Division of Environmental Remediation copied to Brundige).

³⁸ See [Exhibit 9](#) - East End Beacon article titled: [Bottled Water, Testing Urged as "Emerging Contaminant" Leaches South of Gabreski Airport](#) – published July 22, 2016

USEPA warns that exposure to PFOS/PFOA chemical contaminants could cause “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) (see [Exhibit 10](#)).³⁹

The US Agency for Toxic Substances and Disease Registry (“[ATSDR](#)”) cite epidemiology human studies that suggest links between [PFHxS](#) exposure and liver damage and [decreased antibody responses to vaccines \(NB: could be a concern for a coronavirus vaccine\)](#). PFHxS is reported to have a half-life in humans of 8.5 years. The ATSDR cite epidemiology studies that suggest links between PFNA exposure and increases in serum lipid levels, particularly total cholesterol and LDL cholesterol.⁴⁰ PFHxS and PFNA concentration levels found in some drinking-water wells in Wainscott were higher than concentration levels of PFOS/PFOA contamination.

By withholding its PSOA/PFOS Survey in violation of Environmental Conservation Law, Town of East Hampton exposed, unnecessarily, hundreds of its residents to the adverse health effects as described in the aforementioned USEPA *Fact Sheet: PFOA & PFOS Drinking Water Advisories* for much longer than they would have been exposed otherwise.

PFOS/PFOA Survey – Town Misleads NYSDEC – March 23, 2017

When the Town of East Hampton submitted its PFOS/PFOA Survey 2016 to NYSDEC on March 23, 2017, many of the answers it provided were either false, inaccurate and/or incomplete. Taken as a whole, the PFOS/PFOA Survey 2016 submitted by Town of East Hampton was misleading (see [Exhibit 11](#)).⁴¹

It took the Town of East Hampton over nine (9) months to complete the eleven questions on the PFOS/PFOA Survey 2016. The first five are administrative-type questions such as name, address, ownership, etc., and only the remaining six questions pertain to the use and/or storage of Class B fire suppression foam, a product that the Town been informed contains PFOS and PFOA chemical compounds that are classified as hazardous waste in New York State.

³⁹ See [Exhibit 10](#) – Fact Sheet: *PFOA & PFOS Drinking Water Health Advisories* – issued by United States Environmental Protection Agency, dated November 2016.

⁴⁰ Agency for Toxic Substances and Disease Registry (ATSDR) - [Draft Toxicological Profile for Perfluoroalkyls](#) – June 2018 - 1.2 SUMMARY OF HEALTH EFFECTS (at pp. 4 and 25)

⁴¹ See [Exhibit 11](#) - PFOS/PFOA Facility Identification Survey of Class B Fire Suppression Foam Usage, certified by Airport Director James Brundige on March 2, 2017, but not returned to NYSDEC until March 23, 2017

Of the six survey questions pertaining to the use and/or storage of Class B fire suppression foam, the Town of East Hampton provided false answers to half. Those three questions are herein listed (below). The Town's answers to questions seven, eight and nine are either *not* true or *misleading* –

- Q7. Has any Class B fire suppression foam ever been stored and/or used at the Facility?
Town: “Yes” [Incomplete and misleading – TOEH answer pertains *only* to storage.]
- Q8. Has Class B fire suppression foam ever been used for training purposes at the Facility?
Town: “No” [False – Foam had been used many times at the airport site for training.]
- Q9. Has Class B fire suppression foam ever been used for firefighting or other emergency response purposes at the Facility? Town: “Unknown” [False – TOEH knew foam had been used for firefighting or other emergency response purposes at its airport.]

Survey Question 7

Has any Class B fire suppression foam ever been stored and/or used at the Facility?

The Town admits to storing three fifty-five-gallon drums of Class B fire suppression foam at its airport, but it does *not* admit to any use of such foam. Fire suppression foam had been used at the airport.

Where the answer to survey question seven is “Yes,” NYSDEC requires “Other relevant information.” Given the question expressly asks whether or not fire suppression foam has ever been used at the airport site, its use is relevant to the question. Despite the DEC's clear instruction, TOEH did *not* provide *any* information as to the use of fire suppression foam at the airport. TOEH left the space provided for “Other relevant information” blank. TOEH provided an answer that was incomplete.

The incomplete answer provided by TOEH could only serve to mislead NYSDEC insofar as NYSDEC could come to only one conclusion: that fire suppression foam had *not* been used at the facility otherwise such relevant information would have been written in the space provided (i.e. the wrong conclusion). NYSDEC could not insert information into the survey that it had not been given.

Photo 1

The photograph (right) is of the Oshkosh T1500 fire truck (at right-hand side in photo) that is kept at the Fire District Training Facility at the airport for emergency use. In the photograph, Class B fire suppression foam can be seen on the tarmac where the firemen are standing. The foam had been used to extinguish an engine fire that broke out on a fuel-tank truck (date unknown, but believed to be sometime after 1997).



Survey Question 8

Has Class B fire suppression foam ever been used for training purposes at the Facility?

The Town denied that fire suppression foam had “ever been used for training purposes” at the airport. This claim is *not* true. Fire suppression foam had been used on many occasions for training purposes at the airport.

On June 14, 2016, the Town was provided with the following information –

- NYSDEC letter (on official letterhead) with subject – *RE: Request for Information Pursuant to Article 27, Title 13 of New York State Environmental Conservation Law (ECL)/PFOS/PFOA Facility Identification Survey*. The letter explains why it is important and how TOEH should complete the survey (see [Exhibit 4](#));
- PFOS/PFOA Facility Identification Survey and instructions (see [Exhibit 12](#)); and
- Information Bulletin titled – *Guidance to Fire Departments Regarding Class B Firefighting Foam Concentrates Which May Contain Hazardous Substances* issued by New York State Office of Fire Prevention and Control (see [Exhibit 3](#)).

TOEH had knowledge of the aforementioned information it was sent in June of 2016, and, therefore, knew of the risks associated with the use of firefighting foam at its airport.

Photo 2



The photograph (above) is of a mass casualty exercise and fire training drill that took place at East Hampton Airport in 1997. In the photograph, Class B fire suppression foam can be seen on the ground like snow in a similar way to that seen in the photographs taken during a similar mass-casualty exercise and fire training drill in 2008 (see Photo 4 at p. 33) and in the photographs taken of a plane accident in 1993 (see Photos 5 & 6 at pp. 35 and 37).

Further, TOEH had been instructed by New York State Office of Fire Prevention and Control (see [Exhibit 3](#)) to –

Discontinue use of any Class B foam concentrate for training purposes due to potential environmental and public health concerns [emphasis added].⁴²

Evidently, New York State Office of Fire Prevention and Control (“NYSOFPC”) found it necessary to issue such a directive. Had NYSOFPC believed Class B foam concentrate was *not* used at airports for training purposes, it would not have issued such a directive. At the very least, TOEH would have known from reading the NYSOFPC Information Bulletin that Class B fire suppression foam *could* have been used for training purposes at its airport and, if so, that its use was a potential concern for public health.

In addition to the NYSOFPC Information Bulletin, TOEH would also have known, given that two fire training facilities were located on the airport site, that a discharge of such hazardous waste during fire training exercises was not just possible, but probable.

⁴² See [Exhibit 3](#) - Information Bulletin – *Guidance to Fire Departments Regarding Class B Firefighting Foam Concentrates Which May Contain Hazardous Substances* - issued by New York State Homeland Security and Emergency Services Office of Fire Prevention and Control (paragraph 1, page 1)

Q8: Fire Training Facilities at Airport

Around the same time TOEH was withholding its PFOS/PFOA Survey 2016, it was also reviewing tenants' leases at its airport.⁴³ These leases included two leases to fire training facilities: Facility No. 17 was leased to Fire District Training Facility, Inc. and Facility No. 36 to East Hampton Fire District Training, Inc.⁴⁴ In addition to reviewing these leases, the East Hampton Town Board was revising the East Hampton Airport Masterplan ("Airport Masterplan"). The Airport Masterplan, lists all facilities at the airport, including the two fire training facilities (see [Appendix C](#))⁴⁵

The Airport Masterplan has listed as tenant of Facility No. 17 "Fire District Training Facility, Inc." and notes that the "fire truck currently housed at this facility is a 1988 Oshkosh T1500 with capacity for 200 gallons of foam [emphasis added]."

The Airport Masterplan has listed as tenants of Facility No. 35 "East Hampton Police and East Hampton Fire Department" and as tenants of Facility No. 36 "East Hampton Fire District Training, Inc." and "East Hampton Police." Next to East Hampton Fire District Training, Inc., it reads: "The fire training facility is an 11,700 sq. ft. structure [emphasis added]."

On September 21, 2017, the name of the facility leased by tenant East Hampton Fire District, Inc. was changed from "Fire Training Center in Wainscott" to the "Lawrence Franzone Fire Training Center." The newly named fire training facility was described at the time in a local newspaper, The East Hampton Star, as follows –

The town owns the building, once home to Walt Disney Imagineering, and leases it to the association, made up of the six fire districts that serve residents from Montauk to Bridgehampton as well as Sag Harbor. Commissioners and chiefs from the districts oversee it.

A two-story residential structure built inside the facility is piped with a smoke machine and has movable walls to allow for constant floor-plan changes, a maze prop, and forcible entry simulators. Outside, there is a roof operations prop, a vehicle extrication training pad, and props simulating a propane or butane emergency.⁴⁶

[Note: The props for "simulating a propane or butane emergency" are believed to have been added in 2019, after the Town had returned its PFOS/PFOA Survey 2016 in March 2017.]

⁴³ See East Hampton Town Board Resolutions # 2016-707 (June 7, 2016), # 2016-269 (February 25, 2016) and East Hampton Town Board Meeting Minutes of May 3, 2016 – Part V. Executive Session, Airport Leases.

⁴⁴ Fire District Training Facility, Inc. is located at 65 Industrial Road and East Hampton Fire District Training, Inc. is located at 72 Industrial Road which are both located on Town-owned land at the East Hampton Airport site. For the avoidance of doubt, the East Hampton Airport site includes 56.166 acres of industrial park.

⁴⁵ See [Appendix C](#) – East Hampton Airport – DRAFT Masterplan (revised May 1, 2016), Chapter I - Existing Conditions and Facilities, Table I-3 East Hampton Airport Facility Inventory (at pp. I-7 to I-9)

⁴⁶ East Hampton Star article titled: [So You Want to be a Firefighter?](#) published February 26, 2020.

Given NYSDEC had informed TOEH that PFOS/PFOA had been classified as “hazardous waste” and NYSOFFPC had instructed it to discontinue the use of Class B foam concentrate (a common source of PFOS/PFOA contamination) for training purposes due to concerns of possible environmental contamination and risks to public health, and that two fire training facilities leased and operated out of properties located on the airport site; it would be reasonable to question whether or not Class B fire suppression foam had been used for training purposes at East Hampton Airport. Had there been any doubt as to whether or not Class B fire suppression foam had been used at its airport, TOEH could easily have checked the box marked “Unknown” – but by checking the box marked “No,” it confirmed without doubt that Class B fire suppression foam had *never* been used for training purposes at its airport.

On behalf of TOEH, Airport Director James Brundige completed and certified that the PFOS/PFOA Survey 2016 (see [Exhibit 11](#)) was –

... prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of ... those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete [emphasis added].

As it turned out, Airport Director Brundige could not possibly have assured that a qualified person properly gathered and evaluated the information in accordance with a system that would have led to true, accurate and complete information.

In May of 2018, a sample of groundwater taken from Facility No. 36 (East Hampton Fire District Training) was found to have detectible levels of PFOA contamination at a concentration level of 160 ng/L. This level exceeds USEPA standard (70 ng/L for combine PFOA/PFOS) by over two-times and exceeds the recommended NYS standard of 10 ng/L⁴⁷ by sixteen-times. Three months later, a groundwater sample taken from Facility No. 17 (Fire District Training Facility) was found to have detectible levels of PFOS/PFOA (combined) contamination at a concentration level of 174 ng/L. This level exceeds USEPA standard by two-and-half-times and exceeds the NYS recommended standard by fourteen-times (for PFOS 140 ng/L). With levels of PFOA and PFOS contamination many times the legal standards, there is no doubt that Class B fire suppression foam had been used at both training facilities and, therefore, no doubt that TOEH had misinformed NYSDEC.

The information provided by the Town could *not* have been properly gathered from the two training facilities where the high concentration levels of PFAS contamination were detected and could *not* have been carefully evaluated by a qualified person because the information was neither true nor accurate.

⁴⁷ In December of 2018, New York State Drinking Water Quality Council recommended at Maximum Contamination Level (MCL) for PFOA of 10 ng/L and an MCL of 10 ng/L for PFOS.

Q8: Airport Director James Brundige

The current Airport Director, James Brundige, commenced managing East Hampton Airport in 2005 and “retired” in 2014; but not long after the Town received the PFOS/PFOA Survey 2016 (in June of 2016), James Brundige was re-instated as Airport Director. The reasons for his re-instatement have been kept conspicuously secret from everyone, including from those serving on the Airport Management Advisory Committee and even the airport director Brundige replaced, Jamille Charlton.

Photo 3



The photograph (above) is of a mass casualty exercise and fire training drill that took place at East Hampton Airport in 1997. In the photograph, Class B fire suppression foam can be seen on the bus and on the ground in a similar way to that seen in the photographs taken during a similar mass-casualty exercise and fire training drill in 2008 (see Photo 4 at p. 33) and in the photographs taken of a plane accident in 1993 (see Photo 5 & 6 at pp. 35 and 37).

In October of 2016 when Brundige was re-instated as Airport Director, he would have had accumulated over nine years of prior experience managing East Hampton Airport. There is no doubt that Brundige would have possessed a detailed knowledge of events that took place during this time at the airport.⁴⁸ Over that nine-year period (from 2005 to 2016), for example, it would be safe to say that fire training exercises took place at the two fire training facilities at the airport. After all, fire training exercises is what they do at fire training facilities. Likewise, it would not be out of the ordinary for an airport to hold fire training exercises at other locations on the airport site. One such exercise that was widely publicized at the time was a mass casualty drill and fire training exercise that took place on and around East Hampton Airport in June of 2008, during Airport Director Brundige’s tenure.

⁴⁸ Airport Director Jim Brundige managed the East Hampton Town Airport from 2005-14 and from 2016 to present.

It would be difficult not to remember such an event. One newspaper article published in The East Hampton Press reporting at the time on the fire training exercise and mass casualty drill wrote –

Responding to the simulated emergency were the East Hampton, Bridgehampton, Sag Harbor and Amagansett fire departments and heavy rescue team; Emergency Medical Units from East Hampton, Bridgehampton, and Sag Harbor; East Hampton village and town police squad members; and East Hampton village dispatchers.

Barbara Borsack, deputy mayor of East Hampton, reported that it was the largest-scale drill she had ever witnessed. “The scope was much bigger than past ones,” she said ...

A decaying recreational vehicle that officials lit on fire using kerosene and wood pellets simulated flammable plane fragments that had crashed into the field near East Hampton Airport. With flames and smoke billowing in the vicinity, that site looked like the real thing [see photo overleaf].

Chief Zay [East Hampton fire chief Gary Zay] reported that, due to the success of this large-scale drill, there will certainly be another scheduled for within the next five years.⁴⁹

This particular town-wide mass casualty drill and fire training exercise involved four fire departments, a heavy rescue team, three medical units, two separate police squads, service volunteers, high school students standing in for casualties, a blazing vehicle fire with “flames and smoke billowing” that was described “as the largest-scale drill ... ever witnessed.” It would be unusual, to say the least, for anyone, especially the manager of the airport where the mass casualty event took place, not to remember such an indelible day.

Airport Director Brundige, however, could not recall any such training exercise when completing the PFOS/PFOA Survey 2016 on behalf of TOEH. In answer to question eight, Brundige denied that such a training exercise ever took place at the airport on that day or at any other time.

The question specifically asks whether fire suppression foam had “ever been used for training purposes” at East Hampton Airport, to which Brundige responded: “No.” Photographs taken at the time, nevertheless, tell a very different story. For example, a photograph taken of the mass-casualty exercise and fire training drill in 2008 during Brundige’s tenure (see Photo 4 overleaf), shows Class B fire suppression foam accumulating on the ground like snow. Airport Director Brundige certified that the answers he provided on the PFOS/PFOA Survey 2016 were “true, accurate, and complete.” Evidently, they were *not*.

⁴⁹ The East Hampton Press, [Emergency services practice for mass casualty events](#) by Aline Reynolds, June 2, 2008

Photo 4



The photograph (above) is of the recreational vehicle that officials set alight to simulate a plane crash (referred to in The East Hampton Press article, above at p. 32) during a mass-casualty drill at East Hampton Airport in 2008. A jet of Class B fire suppression foam from the airport's Oshkosh T1500 is extinguishing the mock plane crash. The Oshkosh fire truck is kept at the airport for emergencies at the Fire District Training Facility.

Even in the unlikely event that Brundige suffered from a rare form of selective amnesia and *really* could not recall a mass casualty drill and fire training exercise involving hundreds of people and a mock-burning aircraft that took place at the airport he was managing – if the Town even suspected that firefighting foam had ever been used, why didn't it check its own records? Why didn't Brundige make enquires at the training facilities? Had the Town invested only ten minutes on the Internet using Google, it would have been presented with hyperlinks to news articles with reports of fire training exercises at East Hampton Airport.

Had TOEH shared the same concerns for public health as that expressed in USEPA *Fact Sheet on PFOA & PFOS Drinking Water Health Advisories* (for further details, see page 8 and page 25), it would have spent at least some time looking into whether or not firefighting foam had ever been used for training purposes at its airport – but it didn't.

We are left guessing as to why TOEH denied out-right that fire suppression foam was used at its airport for training purposes when documents under review around the same time indicated that such foam was used at the two firefighting training facilities at the airport. The documents included leases to the fire training facilities and the Airport Master Plan that mentions a firetruck with a capacity for "200 gallons of foam" and an "11,700 sq. ft. structure" used for fire training exercises. Further, NYSOFPC had warned TOEH of the potential risk to public health and requested that it discontinues use of Class B fire suppression foam. Finally, Airport Direct Brundige, who certified the PFOS/PFOA Survey 2016, was managing the airport during at least one mass-casualty training exercise and fire training drill where Class B fire suppression foam was used and is clearly visible in photographs taken at the time.

Survey Question 9

Has Class B fire suppression foam ever been used for firefighting or other emergency response purposes at the Facility?

The Town claims *not* to have known whether or not fire suppression foam had been used “for firefighting or other emergency response purposes” at its airport. This claim is *not* true.

It would be reasonable to think an airport administration would keep a logbook or other such record of accidents that took place at its airport. Such records may include information such as the date, time, make of aircraft, number of fatalities, whether or not an aircraft accident involved an engine fire, if the police attended the scene or whether or not an emergency fire crew attended the scene to extinguish an aircraft engine fire, in which case, the fire crew would typically have used Class B fire suppression foam: but even *if* East Hampton Airport did *not* keep records of accidents that took place at its airport, there are many alternative sources of information to which TOEH had access at the time. Such alternatives would have assisted TOEH in making a determination as to whether or not Class B fire suppression foam had “*ever*” been used for firefighting or other emergencies at its airport.

Q9: Town Police Records

The East Hampton Town Police Department (“EHTPD”), for example, is one such alternative source of information. EHTPD maintains detailed police reports whenever one of its officers is required to attend the scene of an accident, and like the airport, it also is located on the airport site. EHTPD is an agency of TOEH. When completing its PFOS/PFOA Survey 2016, therefore, Airport Director Brundige could easily have requested information from EHTPD which would have indicated whether or not fire suppression foam had been used for an emergency.

Such information would likely have included records when a police officer attended the scene of an aircraft accident and whether or not East Hampton Fire Department was called to the scene. If so, this would indicate the use of Class B fire suppression foam and require further investigation.

In August of 2012, for example, Police Detective Ryan D. Hogan of the East Hampton Town Police Department first responded to an emergency call at East Hampton Airport. The Accident Investigation Statement reads (see [Exhibit 13](#))⁵⁰ –

First response police detective Mr. Ryan Hogan stated that the plane carrying two people landed in the wooded area next to the airport and started burning. The fire was extinguished by East Hampton Fire Department

⁵⁰ See [Exhibit 13](#) – National Transport Safety Board Case # ERA12LA532 , Accident Investigation: Mooney M20C, Registration: N557M, SIN 3175 (at p. 1)

Photo 5

The photograph (right) is of a Piper PA-23-250 that crashed during landing at East Hampton Airport on October 6, 1993. The instructor and student flying the plane at the time both died. Class B fire suppression foam can be seen accumulating on both the ground and the aircraft.



East Hampton Town Police Department attended another incident on October 6, 1993 where two people were killed in a plane crash. Detective Richard Faulhaber attended the scene where “the airplane was engulfed in flames. The fire completely destroyed the airplane forward of the tail” (see [Exhibit 14](#)).⁵¹

A quick search on the Internet would have produced an article in the New York Times titled: *Two Killed in Crash Of Aircraft on L.I.* published October 7, 1993. The article reads as follows (see [Exhibit 15](#))⁵² –

East Hampton police had not released the name of the victims by early this evening. Detective Richard Faulhaber said firefighters were called to extinguish the flames. "It kind of missed the runway, really," he said.

In both this instances, TOEH could have looked up its own police records and made enquires as to whether the use of fire suppression foam had been documented, whether fire suppression foam could be seen in photographs taken of the accident scene or made an assessment as to the likelihood that fire suppression foam was used and, if so, made further enquires.

⁵¹ See [Exhibit 14](#) - National Transportation Safety Board, Aviation Accident Final Report, Accident No. NYC94FA004 (at p. 4)

⁵² See [Exhibit 15](#) - New York Times article titled: *Two Killed in Crash Of Aircraft on L.I.* published October 7, 1993

Q9: Online Data Base of Aircraft Accidents

Yet another alternative source of information available to TOEH and only fingertips away, includes publicly available online databases (no online registration required).

Such databases include the –

- i. U.S. National Transport Safety Board (URL: <https://www.nts.gov>) database that provides instant access to a list of accidents at East Hampton Airport (HTO); and
- ii. Bureau of Aircraft Accidents Archives (URL: <https://baaa-acro.com/crash-archives>) that could be cross-reference with the NTSB online database.

Table 1

Aircraft Accidents - East Hampton Airport (HTO)								
US National Transport Safety Board & Bureau of Aircraft Accidents								
Date:	2012 Aug 26	2011 Apr 30	2005 Oct 23	2005 Jul 02	2002 Nov 08	1995 Dec 23	1993 Oct 06	1978 Aug 07
Airport Mgr:	<i>Brundige</i>	<i>Brundige</i>	<i>Brundige</i>	<i>Brundige</i>				
Make:	MOONEY	CESSNA	CESSNA	Beech	Westland	CESSNA	PIPER	PIPER
Model:	M20C	182T	411	BE-35-C33A	Gazelle	150G	PA-23-250	PA-31-310
Registration:	N557M	N428LB	N7345U	N3YP	N911XW	N2970J	N10GL	N9093Y
Injury:	Non-Fatal	Non-Fatal	Fatal(1)	Non-Fatal	Fatal(1)	Non-Fatal	Fatal(2)	Non-Fatal
Damage:	Destroyed	Substantial	Destroyed	Substantial	Destroyed	Substantial	Destroyed	Destroyed
Aircraft Fire:	Fire		Fire				Fire	
No. of Engines:	1	1	2	1	1	1	2	
Source #1	NTSB	NTSB	NTSB	NTSB	NTSB	NTSB	NTSB	
	ERA12LA532	ERA11CA270	NYC06FA015	IAD05LA109	IAD03LA012	NYC96LA042	NYC94FA004	
Source #2			B3A: N7345U					B3A: N9093Y

Source: National Transport Safety Board (NTSB)
<https://www.nts.gov/layouts/nts.gov/aviation/index.aspx>

Bureau of Aircraft Accidents Archives (B3A)
<https://baaa-acro.com/crash-archives>

The National Transportation Safety Board (NTSB) is an independent federal agency mandated by Congress through the Independent Safety Board Act of 1974 to investigate transportation accidents, determine the probable causes of the accidents, issue safety recommendations, study transportation safety issues, and evaluate the safety effectiveness of government agencies involved in transportation. The NTSB makes public its actions and decisions through accident reports, safety studies, special investigation reports, safety recommendations, and statistical reviews. Even if the administration office at the East Hampton Town Airport did *not* have access to the Internet (it does), it could still have contacted the NTSB and requested records pertaining to aircraft accidents at East Hampton Airport.

Had the Town made such enquires, it would have been presented with information similar to that in the Table 1 (see page 36 above). The information includes details pertaining to four aircraft accidents at or near East Hampton Airport that occurred during Airport Director Brundige's tenure and details of at least eight aircraft accidents in total since 1978.

Of the four aircraft accidents that occurred during Brundige's tenure, fire destroyed the aircraft in two and in both cases, police and fire crews were called to extinguish the fires. Fire also destroyed the aircraft that crashed at East Hampton Airport on October 6, 1993.

In contemporaneous photographs, Class B fire suppression foam can be seen accumulating like snow on the ground (see Photo 1 at p. 27, Photo 2 at p. 28, Photo 3 at p. 31, Photo 4 at p. 33, Photo 5 at p. 35 and Photo 6 below).

Photo 6

The photograph (left) is of a Piper PA-23-250 that crashed during landing at East Hampton Airport on October 6, 1993. The instructor and student flying the plane at the time both died. Class B fire suppression foam can be seen accumulating on the ground like snow.



Photo 7

The photograph (right) is of an accident at East Hampton Airport on August 26, 2012. A Mooney light-aircraft crashed and burned in a wooded area on the airport site approximately 100 yards east of Daniel's Hole Road. According to a complaint filed by the Town of East Hampton against the Village of East Hampton, the East Hampton Fire Department's use of aqueous film-forming foam resulted in PFOS/PFOA contamination (see [Appendix L](#)).



Q9: Internet Searches

The Internet is another alternative source of information available to TOEH. A quick Internet search would have provided hyperlinks to newspaper articles or other reports and photographs of past accidents and mass-casualty exercises and fire training drills at East Hampton Airport.

A search via Google, for example, would have revealed two newspaper articles about an aircraft accident at East Hampton Airport on August 26, 2012 where a “burning wreckage became a fireball”⁵³ that was extinguished by “volunteers from the East Hampton, Bridgehampton and Sag Harbor fire departments and police.”⁵⁴

Another article published in Patch, East Hampton titled: *Firefighters Douse Plane Wreckage in Crash Aftermath* provides detailed photographs (see Photo 7 at p. 37 above) and describes the scene as follows –

The single-engine, low-wing Mooney aircraft had erupted into a ball flames [sic], with thick black smoke billowing high above the tree tops.

Meanwhile, firefighters pushed down a deer fence with the front-end of their brush truck in order to get to the wreckage, about 100 yards from Daniel's Hole Road.

Chief Thomas Bono told East Hampton Patch on Friday that "practicially [sic] every truck" in the department's fleet was brought to the scene.⁵⁵

Q9: Complaint (Town vs. East Hampton Fire Department)

In a recent lawsuit against the Incorporated Village of East Hampton d/b/a East Hampton Fire Department (“EHFD”),⁵⁶ the Town of East Hampton claims the Village, “through EHFD used of AFFF [aqueous film-forming foam] at and around the airport ... on or around August 28, 2012 ... to extinguish fire caused by a plane crash” that caused PFOS/PFOA contamination. The fire was the result of a Mooney aircraft that crashed and burned on August 26, 2012. By claiming the Village caused such PFOS/PFOA contamination, TOEH admits to having knowledge of such contamination.

The plane accident in 2012 and related contamination caused by extinguishing the fire is *not* identified in the NYSDEC’s Site Characterization Report of East Hampton Airport (“Airport Site Characterization Report”) published November 30, 2018 (see [Appendix D](#)).⁵⁷

⁵³ See East Hampton Star article published August 30, 2012 titled: [Heroes Come To Rescue In Plane Crash](#)

⁵⁴ See Newsday article published August 27, 2012 titled: [Rescuers recall East Hampton plane crash](#)

⁵⁵ See Patch, East Hampton article published August 28, 2012 titled: [Firefighters Douse Plane Wreckage in Crash Aftermath](#) by Michael Heller

⁵⁶ See [Appendix L](#) – COMPLAINT in Town of East Hampton vs. Incorporated Village of East Hampton, *et al* (case 2:20-cv-01787-SJF-AYS) filed in the US District Court for the Eastern District on April 13, 2020

⁵⁷ See [Appendix D](#) – Site Characterization Report of East Hampton Airport by AECOM USA, Inc. on behalf of NYSDEC, published November 30, 2018

Conclusion – PFOS/PFOA Survey Written to Mislead

On March 23, 2017, the Town of East Hampton returned its PFOS/PFOA Survey 2016 to NYSDEC. The survey confirms only that the Town –

- Has in storage three fifty-five gallon drums of Class B fire suppression foam;
- Had *never* used Class B suppression foam for training purposes;
- Did *not* know whether or not such foam had been used for emergency response;
- Did *not* know whether or not a spill or leak of such foam had occurred; and
- Did not know whether or not it had been responsible for the use of fire suppression foam at a location other than East Hampton Airport.

The PFOS/PFOA Survey 2016 is only three-pages long and contained only the aforementioned information – *nothing* more. The survey did not include any information related to fire training exercises, either of the two fire training facilities located at the airport, mass causality exercises and fire training drills or any of the eight aircraft accidents (see pp. 25-39).

There are two conflicting scenarios both allegedly taking place at the same time at the same place, East Hampton Airport –

1. The first scenario is shaped by events as represented in the East Hampton Fire Department’s PFOS/PFOA Facilities Identification Survey it submitted to NYSDEC on January 24, 2017.⁵⁸ This scenario is reflected in photographs taken at the time and in news articles, police reports, reports registered with the US National Transportation Safety Board, Pilot Accident Reports, Accident Inspector’s Statements, posts with photographs on fire department websites and social media such as Facebook, Instagram, etc.
2. The second scenario is that presented by the Town of East Hampton whereby the *only* known evidence of Class B fire suppression foam to have *ever* been used and/or stored at East Hampton Airport is that which is stored, contained and sealed in three fifty-five gallon drums. The Town’s sanitized information provides no evidence of *any* release of hazardous PFAS chemicals. This is false.

Airport wells would *not* be tested for another year.

⁵⁸ See [Appendix L](#) – COMPLAINT in Town of East Hampton vs. Incorporated Village of East Hampton, *et al* (case 2:20-cv-01787-SJF-AYS) US District Court for the Eastern District, April 13, 2020 (paragraph 116 at p. 14)

Initial Testing near Industrial Site (not near airport) – August 2017

When NYSDEC/SCDHS first began to test wells in Wainscott for possible PFAS contamination in August of 2017, the wells it tested were located neither *on* the airport site nor immediately downgradient from the airport site. In fact, initial testing was focused at the southeastern corner of a multi-use industrial site approximately half mile away from the closest fire training facility at the airport (see Fig 7 at p. 42).

Suffolk County Department of Health Services (“SCDHS”) at the request of NYSDEC began testing private drinking-water wells in August of 2017. The first drinking-water samples⁵⁹ taken that month were centered on the southeastern corner of a multi-use industrial site and cement plant called Wainscott Sand & Gravel (“Industrial Site”).⁶⁰ These samples were taken from wells largely located over half a mile away from the closest source⁶¹ of PFAS contamination at East Hampton Airport (see Fig 7 at p. 42) and *over a mile away* from where many of the aircraft related incidences occurred at the airport involving firefighting foam (see Fig. 6 at p. 39 above).

Within a half-mile radius downgradient (south) of the two fire training facilities at East Hampton Airport are more than one hundred and fifty homes (see Fig 7 at p. 42). At this time (prior to 2017), over ninety percent (90%) of local residents living in these homes used private wells every day for drinking-water, cooking, bathing and brushing of teeth.

It was not until August 14, 2017, that the first six private wells immediately to the east and adjacent to the Industrial Site were tested. Of these, two had extremely high concentration levels of perfluorononanoic acid (PFNA) with readings of 672 ppt and 637 ppt. Although there is no US or NYS standard for PFNA, such extremely high levels of contamination gives cause for concern. As a point of reference, these readings are more than fifty-times the New Jersey Ground Water Quality Criterion of 13 ppt for PFNA⁶² and more than ten-times the Connecticut Drinking Water Action Level⁶³. Available epidemiology studies suggest links between PFNA exposure and increases in serum lipid levels, particularly total cholesterol and LDL cholesterol.⁶⁴

⁵⁹ Fernwood Road (1 sample on August 16), Old Montauk Hwy (1 sample on August 29) and the southern end of Hedges Lane (6 samples over August 14, 16 & 23), Georgica Woods Lane (2 samples on August 30) and West Gate Road (1 sample on August 30).

⁶⁰ The drink-water samples were taken from wells centered at the corner of Old Montauk Hwy and Hedges Lane, Wainscott, NY 11975 (except one sample taken on West Gate Road).

⁶¹ The fire training structure located behind the East Hampton Town Police Department.

⁶² New Jersey Ground Water Quality Criterion for perfluorononanoic acid (PFNA) (375-95-1) 0.013 µg/L

⁶³ Connecticut DPH Drinking Water Action Level states that the sum of five PFAS chemicals (PFOA, PFOS, PFNA, PFHxS and PFHpA) should not exceed 70 ppt.

⁶⁴ Agency for Toxic Substances and Disease Registry (ATSDR) - [Draft Toxicological Profile for Perfluoroalkyls](#) – June 2018 - 1.2 SUMMARY OF HEALTH EFFECTS (at p. 25)

On August 29, 2017, one sample taken from private drinking-water wells immediately south of and adjacent to the Industrial Site showed an extremely high level of PFOS/PFOA contamination with readings of 168.4 ng/L (for combined PFOS/PFOA). This reading is more than double the EPA Drinking Water Health Advisory (of 70 ppt for combined PFOS/PFOA) and more than twelve-time NYS's proposed drinking-water standard (10 ppt) for PFOS and four-times that standard for PFOA.

For further details on PFAS testing that took place in Wainscott from August 14, 2017 to January 10, 2018, please see [Appendix B](#) – the report into water quality titled: *Town Drinking Water Contamination: PFC Contamination in Wainscott*, dated March 26, 2018.

Missing test results for monitoring wells? – August/September 2017

On August 25, 2017, East Hampton Town Councilwoman Burke-Gonzalez was sent an email (see [Exhibit 20](#)) that reads as follows –

At the Environmental Sub-Committee (ESC) meeting held on January 6th this year [2017], you informed us that either the Town or Suffolk County were monitoring test wells immediately south of the old sand and gravel pit in Wainscott. This matter was again raised at our subsequent ESC meeting held on March 31 [ESC meeting was actually held on March 24], with Bridget Fleming and other representatives from Suffolk County.

Question 1:

Can you email me the full test results for each of these locations whenever they were tested, please?

Question 2:

In light of State Supreme Court Justice Joseph Santorelli ruling, is either the Town or Suffolk County going to install groundwater test wells within the old sand and gravel pit in Wainscott?

Having not heard back for two weeks, Councilwoman Burke-Gonzalez was sent a reminder on September 7, 2017. The email reads –

*Dear Kathee,
I haven't heard back from you in reply to my email of Aug 25 [above].
My email is with regard to the test wells immediately south of the old sand and gravel pit in Wainscott.
We need to know that the water we're drinking is safe [emphasis added].
Can you get back to me, please?
Thank you, Si Kinsella*

The following day (September 8 @ 15:38), Councilwoman Burke-Gonzalez replied –

In response to your email...

From Kim Shaw

*Just spoke to the county they do not have the data for the wells yet [emphasis added].
The well was installed apparently but not sampled according to Jason Hime. They
are 14 weeks behind in sampling [emphasis added].*

From Town Attorney

*The Santorelli decision was after six years of litigation and violations found by the
DEC. We have had DEC to the Wainscott location on numerous occasions and they
have not found any violations.*

One hour later the reply to Councilwoman Burke-Gonzalez’s email reads –

*Today – eight months later – you’re telling us that only one well was “apparently”
installed, and that even if it was installed, it hasn’t been monitored (sampled).*

*Even if Suffolk County is running 14 weeks behind in sampling, that doesn’t account
for the missing 21 weeks? (From Jan 6 until today, there are 35 weeks.)*

*With regards to the Town Attorney’s dismissive remark, you may want to remind the
Town Attorney that it’s been 6 years & 2 months since legal proceedings commenced
against the Wainscott Hamlet Center, LLC (docket number 11070720).*

When pushed for an answer, again, in an email later that same day (September 8 @ 18:42),
Councilwoman Burke-Gonzalez *never* replied. The email reads –

Kathee,

*We were told that 16 wells are being monitored, so why were no wells monitored
[emphasis added]? It’s a simple question. If you’re serious, please answer it.*

Si

Town of East Hampton had told Wainscott CAC and its Environmental Sub-Committee
(ESC) that monitoring wells had been installed and were being routinely monitored during the
following four meeting (as recorded in the meeting minutes) –

November 18, 2016 - Environmental Sub-Committee meeting (see [Exhibit 21](#))
December 3, 2016 - Wainscott CAC meeting (see [Exhibit 22](#))
January 6, 2017 - Environmental Sub-Committee meeting (see [Exhibit 23](#))
March 24, 2017 - Environmental Sub-Committee meeting (see [Exhibit 24](#))

Wainscott CAC was told the earliest well-water samples were “taken in August [of
2016] from routine monitoring wells,”⁶⁵ A year *after* those samples allegedly had been taken,
Wainscott CAC, now, was being told exactly the opposite: “Just spoke with the county ... do

⁶⁵ See [Exhibit 22](#) - Minutes of Wainscott CAC meeting of December 3, 2016 (at p. 3)

not have the data for the wells yet. The well was installed, apparently but not sampled.”⁶⁶ The Town had turned completely around and was now *denying* that wells had been monitored, at all.

Actually, Suffolk County *had* taken samples from wells when Councilwoman Burke-Gonzalez wrote on September 8, 2017 “well was installed apparently but not sampled” – in fact seventeen (17) wells *had* been sampled.

SCDHS first took its first sample from wells south of the multi-use industrial site in Wainscott on August 14, 2017.⁶⁷

Of the seventeen wells sampled prior to Councilwoman Burke-Gonzalez’s email of September 8, 2017 – five exceeded regulatory standards as follows (see Table 2 at p. 46 overleaf and [Appendix G](#) for the SCDHS FOIL response laboratory test results of 346 pages) –

- One well on Old Montauk Highway⁶⁸ had a detectible level of PFOS contamination at a concentration level of 124 ppt and a detectible level of PFOA contamination at a concentration level of 44.4 ppt. The combined PFOS/PFOA contamination concentration level of 168.4 ppt exceeds the USEPA Health Advisory Level of 70 ppt by more than double; and
- Five wells, exceeded the recommended NYS drinking-water standard for PFOS of 10 ppt and for PFOA of 10 ppt. Three of the five wells are on Hedges Lane (SCDHS # 004929170814, 158929170814 & 172929170823), one well is on Old Montauk Highway (SCDHS #184929170829) and the other well is on West Gate Road (SCDHS # 193929170907).

Councilwoman Burke-Gonzalez denied that wells were being monitored (per her email on September 8, 2017) a month *after* SCDHS had begun to sample wells (on August 14, 2017). Councilwoman Burke-Gonzalez was either misleading the Wainscott CAC and its Environmental Subcommittee (at the meetings listed above) into believing that wells were being monitored when they were *not*, or Burke-Gonzalez learnt that wells were being monitored sometime in August 2017, but denied the fact to conceal test results that showed extremely high levels of contamination. In either case, Councilwoman Burke-Gonzalez was deliberately misleading both Wainscott CAC and its Environmental Subcommittee by *not* telling either committee the truth.

⁶⁶ See [Exhibit 21](#) – Email correspondence between Wainscott CAC Member, Si Kinsella, and Councilwoman Burke-Gonzalez – from August 25 to September 8, 2017 (at p. 2)

⁶⁷ See [Exhibit 25](#) - SCDHS PFAS Laboratory Report – PFNA 672 ppt - Hedges Lane (Aug 14, 2017)

⁶⁸ See [Exhibit 26](#) - SCDHS PFAS Laboratory Report (SCDHS #184929170829), PFOS/PFOA 168 ppt – Old Montauk Highway (Aug 29, 2017)

Table 2

WAINSCOTT PFC WELL SAMPLE RESULTS (Aug 14 - Sep 7, 2017)										
Date	Street	PFBS (ppt)	PFHpA (ppt)	PFHxs (ppt)	PFNA (ppt)	PFOA (ppt)	PFOS (ppt)	PFOS/PFOA (ppt)	Well Exceeds	
									USEPA HAL	NYS Recom'd Standard
8/14/2017	Hedges Lane	<1.77	<2.00	<1.89	<2.00	<2.00	<1.91	0.00		
8/14/2017	Hedges Lane	6.88	8.14	45.70	2.88	8.10	33.00	41.10		10 ppt
8/14/2017	Hedges Lane	<1.89	13.90	4.92	672.00	11.60	6.30	17.90		10 ppt
8/14/2017	Hedges Lane	3.55	3.96	4.08	5.44	6.68	7.75	14.43		
8/16/2017	Fernwood Road	<1.77	<2.00	2.68	<2.00	<2.00	7.11	7.11		
8/16/2017	Hedges Lane	<1.77	2.15	<1.89	3.14	2.71	1.93	4.64		
8/23/2017	Hedges Lane	3.51	12.10	12.50	12.80	18.10	38.80	56.90		10 ppt
8/29/2017	Old Montauk Hwy	9.45	20.80	218.00	3.00	44.40	124.00	168.40	70 ppt	10 ppt
8/30/2017	Georgica Woods Ln	<1.77	<2.00	3.96	<2.00	3.53	2.35	5.88		
8/30/2017	Georgica Woods Ln	<1.77	<2.00	2.91	<2.00	<2.00	<1.91	0.00		
8/30/2017	West Gate Rd	<1.77	<2.00	2.84	<2.00	2.44	7.45	9.89		
9/5/2017	Broadwood Court	<1.77	<2.00	<1.89	<2.00	<2.00	<1.91	0.00		
9/5/2017	Debra's Way	<1.77	<2.00	<1.89	<2.00	2.74	<1.91	2.74		
9/5/2017	Debra's Way	<1.77	<2.00	<1.89	<2.00	<2.00	<1.91	0.00		
9/7/2017	East Gate Road	5.93	<2.00	21.10	<2.00	<2.00	3.56	3.56		
9/7/2017	West Gate Road	<1.77	<2.00	16.70	<2.00	2.86	<1.91	2.86		
9/7/2017	West Gate Road	<1.77	2.05	13.10	<2.00	4.96	10.40	15.36		10 ppt
		5.86	9.01	29.04	116.54	9.83	22.06	20.63	168.40	35.53
		5	7	12	6	11	11	17	1	5

PFBS	Perfluorobutanesulfonic Acid
PFHpA	Perfluoroheptanoic Acid
PFHxs	Perfluorohexanesulfonic Acid
PFNA	Perfluorononanoic Acid
PFOA	Perfluorooctanoic Acid
PFOS	Perfluorooctanesulfonic Acid

SCDHS Issues Water Quality Advisory – October 11, 2017

On October 11, 2017, SCDHS released a *Water Quality Advisory for Private-Well Owners in Area of Wainscott* (“Water Quality Advisory”). It advises residents that some drinking-water wells within Wainscott were found to contain high levels of PFOS/PFOA contamination and that contamination in one well exceeds USEPA Drinking Water Health Advisory Level of 70 ppt for combined PFOS/PFOA [the well on Old Montauk Highway had a reading of 168.4 ng/L that exceeds USEPA standard by more than double and exceeds NYS recommended drinking-water standard by twelve-times for PFOS of 124 ng/L].⁶⁹

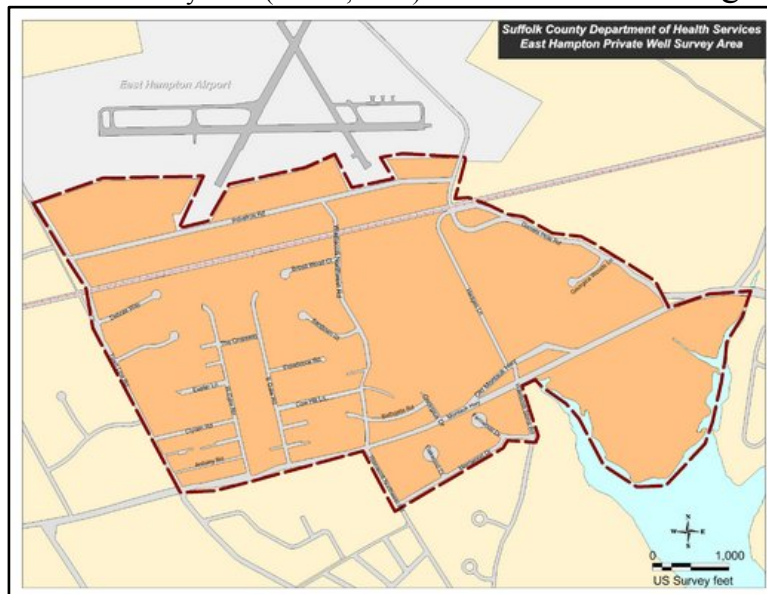
⁶⁹ NB: Detectible levels of PFHxS contamination were found at concentrations of 218 ng/L and 224 ng/L.

The Water Quality Advisory reads (see [Exhibit 30](#))⁷⁰ –

Since the East Hampton Airport indicated that it had used or stored products that may have contained PFOS and PFOA, the state requested that the Suffolk County Department of Health Services (SCDHS) sample drinking water supplies near the airport [emphasis added]. To assess the drinking water quality of properties served with private wells, SCDHS has begun a private well survey in the vicinity of the airport property [emphasis added].

Wainscott Survey Area (Oct 11, 2017)

Fig. 8



In its Water Quality Advisory, SCDHS cited only one potential source of PFOS/PFOA contamination – East Hampton Airport, but for whatever reason, “the state requested” SCDHS to sample drinking-water supplies only “near the airport” and to survey private wells only “in the vicinity of the airport property” and not *on* the airport site (see [Exhibit 30](#)).

The Water Quality Advisory defines the Survey Area (see Fig. 8 above) to *exclude* East Hampton Airport (610 acres) *except* for the industrial park (56 acres) that is located on airport property towards the southern end. Throughout 2017 and early 2018, *no* property owned by Town of East Hampton within the Survey Area was tested for the presence of PFAS contamination, *including* the industrial park.

On October 11, 2017, then Supervisor for Town of East Hampton, Larry Cantwell, was quoted in *Newsday* –

Town Supervisor Larry Cantwell said the contamination may have come from firefighting foam and that all fire departments within East Hampton will be contacted to determine when and where the foam may have been used.

“We’re going to work closely with the health department and cooperate so the full extent of the problem can be determined, and then we’ll work on a permanent solution,” Cantwell said.

⁷⁰ See [Exhibit 30](#) - Suffolk County Department of Health Services: *Water Quality Advisory for Private-Well Owners in Area of Wainscott* issued October 11, 2017 via email from SCDHS Public Relations Director, Grace Kelly-McGovern to SCDHS Deputy Commissioner, Christina Capobianco.

Why did Supervisor Cantwell wait sixteen months when the Town of East Hampton should have contacted fire departments “to determine when and where the foam may have been used” in June of 2016 when it was legally obligated to report such use of Class B fire suppression foam on its PFOA/PFOS Facility Identification Survey.⁷¹

More revealing is Airport Director Brundige’s quote in the same article claiming: “no chemicals with PFOS or PFOA are stored there”⁷² when six months earlier he had certified a document stating that three fifty-five-gallon drums had been stored there. Brundige “doth protest too much, methinks.”⁷³

On October 18, 2017, Supervisor Cantwell, again, was quoted in Newsday –

Cantwell previously said the contamination from perfluorooctanoic acid and/or perfluorooctanesulfonic acid, known respectively as PFOA and PFOS, may have come from firefighting foam used at the airport. He encouraged residents to allow the health department to test their private wells for free.

*“We need to know the test results in order to better understand the breadth of the potential problem as well as what the potential solution might be,” Cantwell said Wednesday [emphasis added].*⁷⁴

Supervisor Cantwell clearly understood the importance of knowing “the test results” to “understand the breadth” of contamination and, therefore, is encouraging residents “to test their private wells” – so why is it that no wells are tested on property owned by the Town, especially given that on its property is located the suspected source of the PFOS/PFOA contamination?

It will take another six months before wells at East Hampton Airport are tested.

At the following Wainscott CAC meeting (on November 4, 2017), Councilwoman Burke-Gonzalez addresses issues surrounding the PFC contamination with specific reference to the airport site. The minutes read (see [Exhibit 29](#))⁷⁵ –

Councilwomen Burke-Gonzalez acknowledges that since water shifts, the test results could look very different in just 6 months. It is still very early in the process and there are currently more unknowns than knowns.

⁷¹ Pursuant to Article 27, Title 13 of New York State Environmental Conservation Law Town of East Hampton was legally obligated to complete NYSDEC PFOA/PFOS Facility Identification Survey dated June 14, 2016 and return it to NYSDEC by July 15, 2016.

⁷² See Newsday article titled: [Chemicals spur effort to test more private wells in Wainscott](#) by Rachele Blidner published October 11, 2017.

⁷³ *Hamlet* by William Shakespeare, Act III, Scene II – “*The Lady doth protest too much, methinks.*”

⁷⁴ See Newsday article titled: [More than 250 Wainscott wells could be tested for contamination](#) by Rachele Blidner published October 18, 2017.

⁷⁵ See [Exhibit 29](#) – Wainscott CAC meeting minutes of November 4, 2017 (at p. 4)

When Councilwomen Burke-Gonzalez was asked –

What testing is being carried out at the airport?

Burke-Gonzalez replies –

The Town must get more samples and data back before testing is carried out at the Airport.

Letters to Airport Tenants – Airport Not Tested – August 2017

Around the same time Suffolk County Department of Health Services had begun to test private wells in Wainscott for PFAS contamination (on August 14, 2017), SCDHS also sent letters to tenants at East Hampton Airport (on August 23, 2017).

Four such letter are herein listed (see Exhibits [16](#), [17](#), [18](#) and [19](#)) –

Jane E. Lappin	3 Industrial Road	Wainscott	NY 11975
Aviation Resources Inc	50 Industrial Road	Wainscott	NY 11975
Town of East Hampton	72 Industrial Road	Wainscott	NY 11975
Hanger One Aviation LLC	200 Daniel Holes Rd #1	Wainscott	NY 11975

The letters inform recipients (including the Town of East Hampton) as follows –

The Suffolk County Department of Health Services (SCDHS) is conducting a survey of well water quality in your neighborhood. The testing is being performed to determine impacts from possible contamination and is free of charge.

If you are served with a private well and you would like to have your water tested, please contact this office.

Included with each letter was a *Request for Private Water Analysis Form*, USEPA *Fact Sheet: PFOA & PFOS Drinking Water Health Advisories* and Suffolk County *Frequently Asked Questions: PFOS and PFOA in Groundwater*. The documents provide its recipients with a comprehensive summary of PFAS contamination and potential negative health effects as a result of exposure to PFAS chemicals compounds.

The USEPA *Fact Sheet: PFOA & PFOS Drinking Water Health Advisories* states that PFAS chemicals “have been used to make carpets . . . resistant to water, grease or stains. They are also used for firefighting at airfields and in a number of industrial processes.” The EPA fact sheet continues to say that “drinking water can be an additional source [of exposure] . . . where these chemicals have contaminated water supplies. Such contamination is typically localized and associated with a specific facility, for example, an industrial facility where these chemicals were produced or used to manufacture other products or an airfield at which they were used for firefighting.”⁷⁶

⁷⁶ See [Exhibit 10](#) – EPA Fact Sheet: *PFOA & PFOS Drinking Water Health Advisories*, Nov 2016 (at p. 1)

The similarities between the EPA's description (above) and East Hampton Airport are unmistakable. The circumstances as described in USEPA *Fact Sheet: PFOA & PFOS Drinking Water Health Advisories* read as if it were written specifically for East Hampton Airport. A carpet cleaning company – Griffiths Carpet (see p. 71) – leased property at the airport from the Town of East Hampton up until 2018. From the mid-1950's to 1993, Shaw Aero Devices, Inc leased property at the airport to manufacture parts for commercial, military, construction, mining vehicles and aircraft (see p. 71). Two fire training facilities lease property at the airport site (see p. 29). There have been many instances where firefighting foam had been use at the airport for mass-casualty exercises, fire training drills and during emergencies to extinguish fires from aircraft accidents. These activities all took place immediately upgradient from a residential neighbourhood where hundreds of people relied on private wells for their drinking-water.

The information provided by USEPA and Suffolk County about PFOS and PFOA contamination was distributed and circulated to tenants at East Hampton Airport in August of 2017 – but throughout 2017 until April 25, 2018, *not one well* was tested for contamination.

No Wells at Airport – Cantwell tell Capobianco – November 2017

On November 24, 2017, SCDHS Deputy Commissioner Capobianco emailed then Supervisor of TOEH, Larry Cantwell. The email reads (see [Exhibit 31](#))–

We understand there may be properties that are located at the Town of East Hampton Airport that may be served with private wells. If so, SCDHS would like to contact these property owners to schedule an appointment to sample the wells as needed.

*Would it be possible for the Town to provide us with the owner contact information and the number and location of any on-site wells at the East Hampton Airport?
[Emphasis added]*

Three days later (on November 27), Ann Bell, Assistant to the Supervisor, replied to Deputy Commissioner Capobianco's email (copied to Supervisor Cantwell) with the following list of properties –

- 4 Industrial Road, Wainscott (vacant lot)
- 57 Industrial Road, Wainscott (vacant lot)
- 3 Industrial Road, Wainscott (Town lease being sold to Wainscott Farms/Ms. Lappin)

Of the three properties (listed above), the property at 4 Industrial Road is a vacant lot subject to easement, the property at 57 Industrial Road is a vacant lot used for storing impounded cars and the Town of East Hampton was selling the property at 3 Industrial Road (Note: SCDHS already knew of this property as it had sent a Request for Private Water Analysis form to Jane Lappin on August 23, 2017 (see Fig. 9 page 51 overleaf).⁷⁷

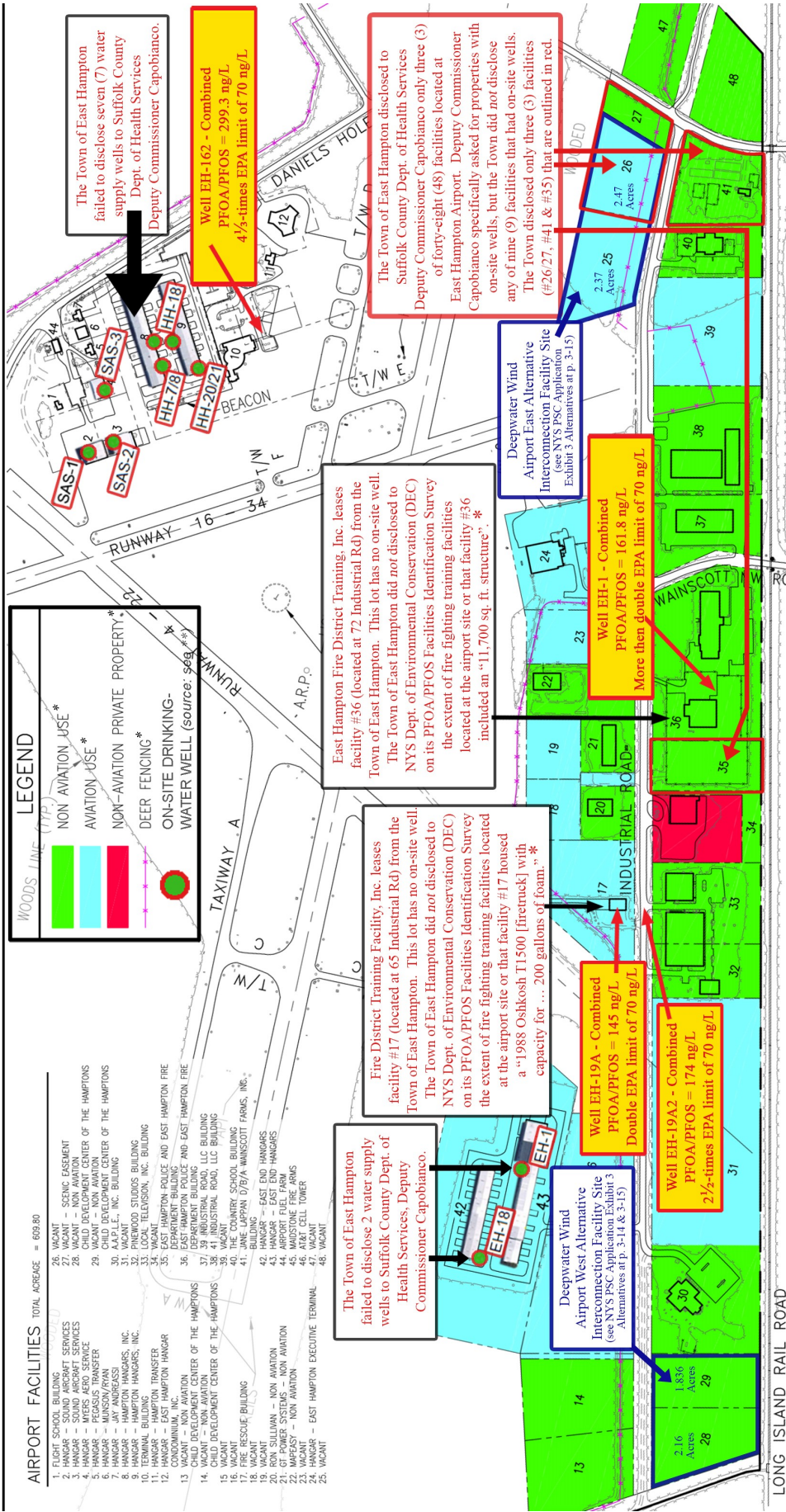
⁷⁷ The name and location of the property at 3 Industrial Road had been provided by SCDHS to Supervisor Cantwell in an earlier email with subject: *Wainscott Private Well Survey Property Owner List* (dated October 16, 2017)

Fig. 9

Non-disclosure of On-site Wells at East Hampton Town Airport

Fig. 9

July 14, 2020



Sources: * Base Map - East Hampton Airport - DRAFT Master Plan: Chapter I, Existing Conditions and Facilities published May 2016. ** East Hampton Airport Site Characterization Report by AECOM for NYS Dept of Environmental Conservation's Division of Environmental Remediation published November 30, 2018.

Prepared by Si Kinsella November 2, 2019

Although Deputy Commissioner Capobianco specifically asked for information related to properties with on-site wells, at least two and possibly none of the three properties had on-site wells.

What Supervisor Cantwell did *not* provide was a list of the other thirty-nine (39) properties located on the airport site, including nine (9) properties *with* on-site wells (see [Appendix D](#)).⁷⁸ Supervisor Cantwell withheld this information from Suffolk County.

In May of 2016, the Town of East Hampton reviewed a report titled: *East Hampton Airport – DRAFT Master Plan* (“Airport Master Plan”).⁷⁹ The Airport Master Plan lists forty-eight facilities located on the East Hampton Airport site. Of these facilities, a little over half were leased out by the Town to companies in the aviation industry (see [Appendix C](#)) of which seven facilities were leased to five companies that between them had *nine (9)* on-site wells (see Fig. 9 at p. 51).

By deliberately withholding information from Suffolk County Deputy Commissioner Capobianco, information that was necessary for SCDHS to test wells located on the airport site, Supervisor Cantwell prevented SCDHS from investigating the suspected source of PFAS contamination. The Supervisor of the Town of East Hampton obstructed the investigation and delayed testing on the airport site for a further five (5) months.⁸⁰

Airport Site Characterization Report – April 25 to November 30, 2018

On November 30, 2018, NYSDEC released its report into PFAS contamination at East Hampton Airport, titled – *Site Characterization Report, East Hampton Airport* (“Airport Site Characterization Report”).

The report notes of East Hampton Airport: “The Site has not previously been investigated for the presence of PFAS” and Table 2 of the report states that the first sample was taken for testing on April 25, 2018 (see [Appendix D](#)).⁸¹ Therefore, the first time East Hampton Airport was tested for PFAS contamination was on April 25, 2018, *nearly two years* since NYSDEC first required the Town of East Hampton in June of 2016 to report the storage or usage of Class B fire suppression foam at its airport. During this time, the Town delayed and obstructed NYSDEC and SCDHS investigation into the source of contamination on the airport property it owned.

⁷⁸ See [Appendix D - Characterization Report, East Hampton Airport](#), by AECOM for NYS DEC Division of Environmental Remediation, published November 30, 2018.

⁷⁹ See [Appendix C – East Hampton Airport – DRAFT Master Plan](#), Chapter I - Existing Conditions and Facilities.

⁸⁰ The first samples were taken from wells located on East Hampton Airport property owned by Town of East Hampton on April 25, 2018.

⁸¹ See [Appendix D - Characterization Report, East Hampton Airport](#), by AECOM for NYS DEC Division of Environmental Remediation, published November 30, 2018 (at p. 1 and Table 2).

In its Airport Site Characterization Report, AECOM USA on behalf of NYSDEC identified the following Areas of Concern (see Fig 11 below and Fig. 6 at p. 39) –

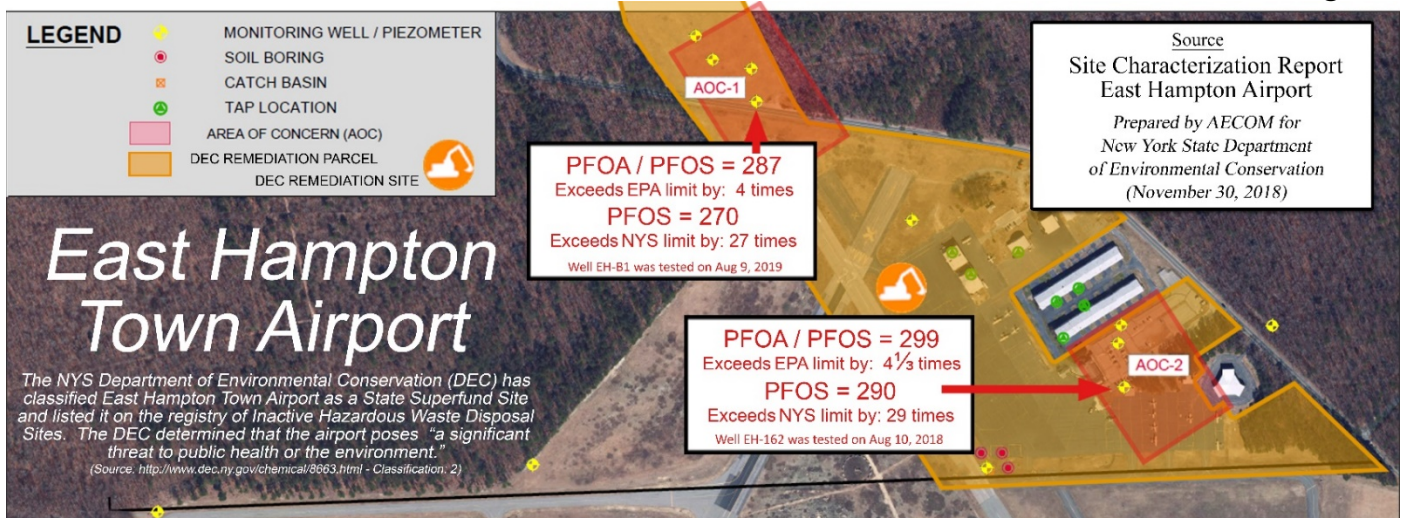
AOC-1: Groundwater beneath Areas B and E located north of the airfield, where firefighting foam was historically used for crash response and training. PFOS (270 ng/L) and PFOA (17 ng/L) are present in temporary well EH-B1.

AOC-2: Groundwater beneath Area 16, where AFFF was deployed during a mass casualty training exercise, is impacted by PFOS above the HAL. PFOS was reported at 290 ng/L in the groundwater sample from downgradient temporary well EH-162, with lower levels of PFOA (9.3 ng/L).

AOC-3: Groundwater beneath Parcel 19, where the ARFF station is located, has been impacted both PFOS and PFOA above the HAL. Although no documented discharge of AFFF could be confirmed, AFFF is stored in the station. Analytical results for three temporary wells (EH-19A, EH-19A2, and EH-19B) exhibited one or more exceedances of the HAL, with a maximum reported concentration of 174 ng/L for combined PFOS/PFOA.

AOC-4: Groundwater beneath Parcel 1, occupied by the East Hampton Police Department, has been impacted with PFOA above the HAL. Temporary well EH-1, located adjacent to the burn training structure, exhibited PFOA at 160 ng/L. Groundwater quality in upgradient well EH-19B1 indicates that the contamination originated on the parcel.

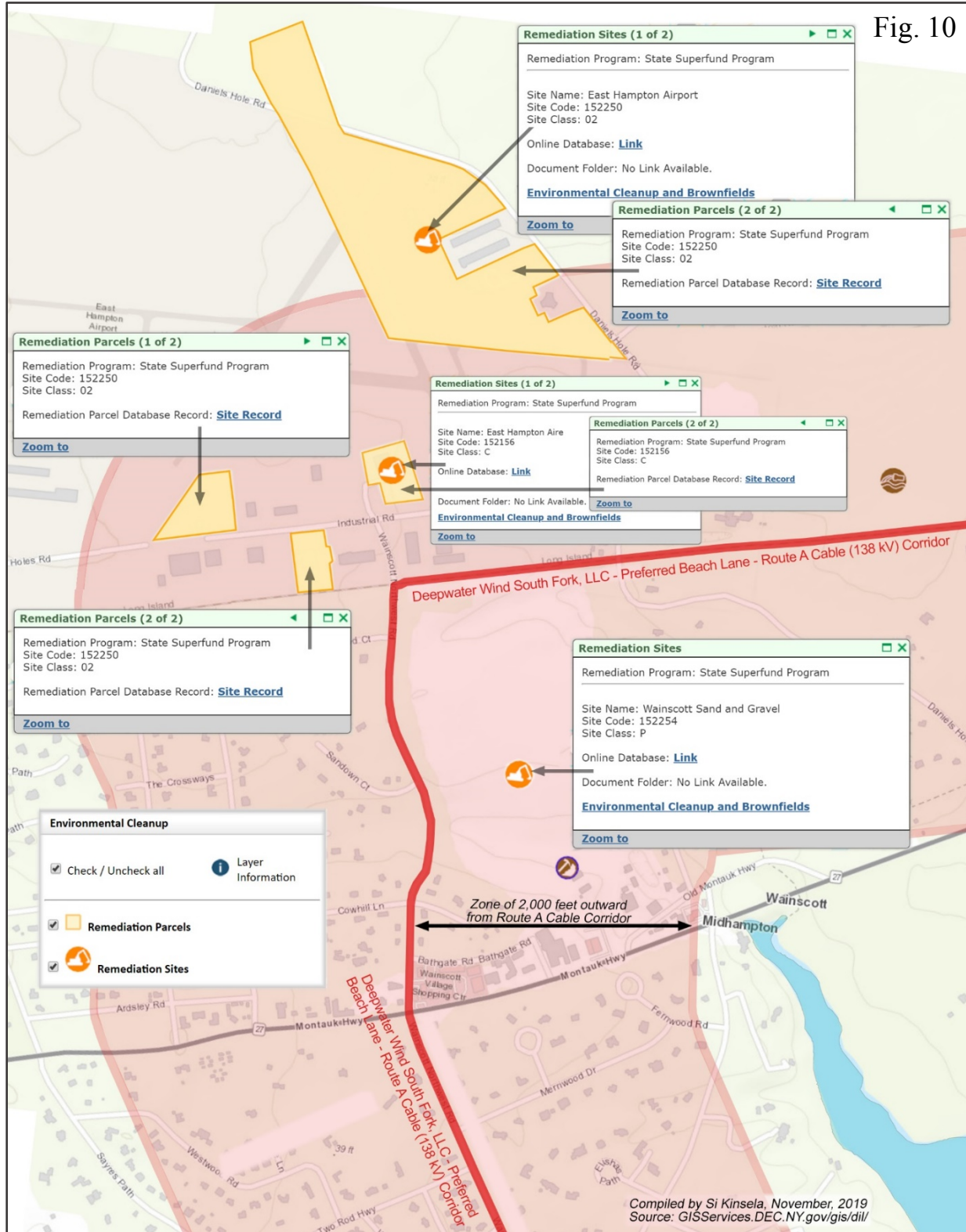
Fig. 11



The Town of East Hampton knowingly submitted false and deliberately misleading information to the DEC in its efforts to frustrate the testing of wells for PFOA/PFOS contamination which the Town delayed for two years. PFOA and PFOS contamination has been linked to – cancer (PFOA); thyroid hormone disruption (PFOS); low infant birth weights; increased cholesterol levels; and, effects on the immune system.
(Source: www.epa.gov/pfas/basic-information-pfas)



Since releasing its Airport Site Characterization Report, NYSDEC has declared four parcels of land all located on property owned by Town of East Hampton at East Hampton Airport a “State Superfund” hazardous waste disposal site (codes: 152250 and 152156) and registered an adjacent former sand mine now multi-use industrial site (code: 152254) as a “Potential” hazardous waste disposal site (see Fig. 10 below).



Alarming Levels of Other PFAS Contaminants at Airport

PFOA and PFOS are the only two compounds within the class of PFAS compounds to be regulated by USEPA. This does *not* mean other PFAS compounds are innocuous, but rather that less is known about them and there are fewer studies from which to draw conclusions.

Within the same class of PFAS compounds are some with a similar profile to PFOS and PFOA and, like them, show extremely high concentrations of contamination at the two fire training facilities (wells EH-1 and wells EH-19A, 19A2 & 19B). These levels are so high that they are cause for concern (see Table 3, overleaf).

In addition to PFOS and PFOA, USEPA Third Unregulated Contaminant Monitoring Rule (“UCMR-3”) from 2013 to 2015 monitored, *inter alia*, PFHxS (perfluorohexane sulfonate) and PFHpA (perfluoroheptanoic acid). The frequency of detection of PFHxS and PFHpA in UCMR-3 testing was similar to that of PFOS and PFOA. PFHxS and PFHpA are relatively long chain carboxylic acids (PFHpA – 7 fluorines) and sulfonate (PFHxS – 6 fluorines) PFAS compounds. PFHxS is reported to have a half-life in humans of 8.5 years (no data for PFHpA in humans is known).⁸²

Available epidemiology human studies suggest links between PFHxS exposure and liver damage and **decreased antibody responses to vaccines**. **Any decrease in antibody responses should be of concern in the world where we live with an omnipresent Coronavirus pandemic.** Results of animal studies indicates that the liver is a sensitive target of PFHxS and PFHpA toxicity. Effects include increases in liver weight, hepatocellular hypertrophy, and decreases in serum lipid levels. Result of animal indicates that developmental endpoints are targets PFHxS toxicity. Developmental effects include decreases in pup body weight, decreases in pup survival, and alterations in locomotor activity.⁸³

The spectacularly high levels of contamination at the two fire training facilities in addition to the exceedingly high levels of PFOA and PFOS contamination come into sharp contrast when compared to the average level detected in the thirty-one other wells located at the airport for the same PFAS compound (see Table 3 overleaf).

In many instances, contamination concentration levels are hundreds-of-times greater than the average of the thirty-one other wells. For example, a sample taken from the well located at Facility Number 17 (Fire District Training Facility, well EH-19A), had PFHpA (perfluoroheptanoic acid) contamination at a concentration level of 1,500 ng/L that is 634-times greater than the average level of PFHpA found in the thirty-one other wells located at the airport site. At the same fire training facility (well EH-19A) PFPeA (perfluoropentanoic acid)

⁸² Agency for Toxic Substances and Disease Registry (ATSDR) - [Draft Toxicological Profile for Perfluoroalkyls](#) – June 2018 - 1.2 SUMMARY OF HEALTH EFFECTS (at p. 4)

⁸³ *Ibid* - Health Effect (at pp. 25-26)

contamination was detected at a concentration level of 2,800 ng/L that is 347-times greater than that average level of PFPeA found in the thirty-one other wells at the airport.

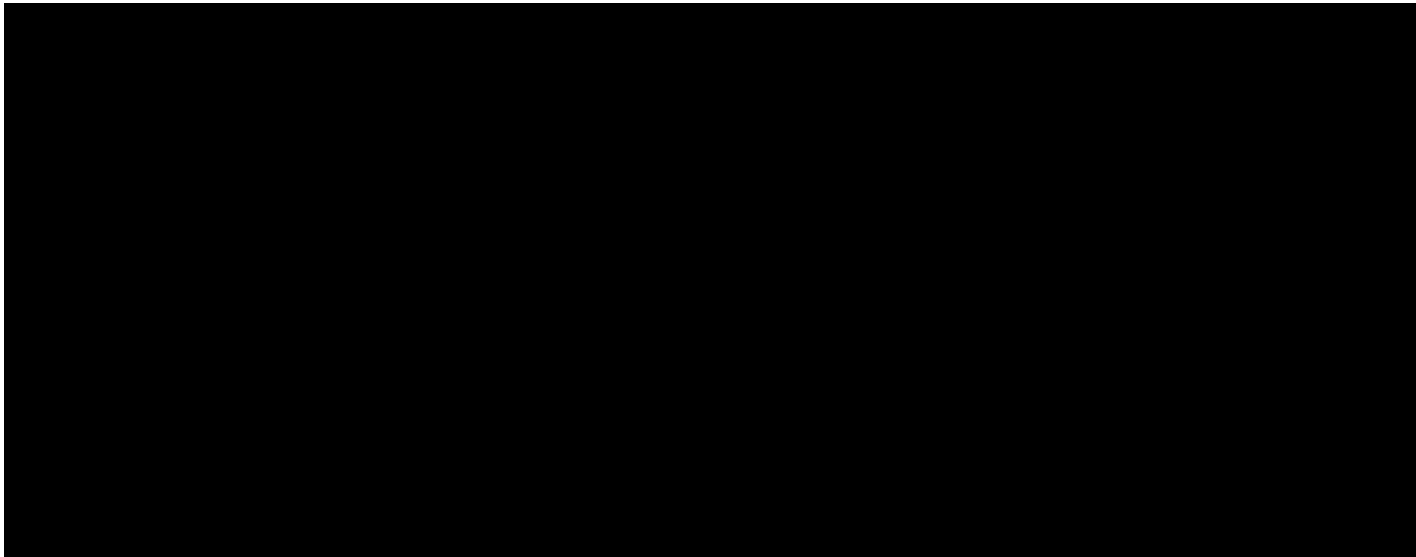
These alarming levels of contamination should *not* be ignored.

Table 3

PFAS at East Hampton Airport *			East Hampton Fire District Training, Inc.	Fire District Training Facility, Inc. (ng/L)				Average of all Airport Water Samples (excluding EH-1, 19A, 19A2 & 19B)
Name	Initials	Chain	EH-1 May 08	EH-19A May 08	EH-19A2 Aug 10	EH-19B May 08		
Perfluorooctane sulfonic acid	PFOS	C08	1.8	5.0	140	77		24.5
Perfluorooctanoic acid	PFOA	C08	160 49 x	140 42 x	34	89 27 x		3.3
Perfluoroheptanoic acid	PFHpA	C07	40 17 x	1,500 634 x	99	180 76 x		2.4
Perfluorohexane sulfonic acid	PFHxS	C06	730 34 x	240 11 x	85	750 35 x		21.7
Perfluorohexanoic acid	PFHxA	C06	65 6 x	2,800 276 x	150	200 20 x		10.1
Perfluoropentanoic acid	PFPeA	C05	76 10 x	2,600 347 x	140	170 23 x		7.5
Perfluorobutane sulfonic acid	PFBS	C04	8	360 71 x	9	29 6 x		5.1
Perfluorobutanoic acid	PFBA	C04	37	710 150 x	82	61 13 x		4.7
Combined PFOS/PFOA:			162 6 x	145 5 x	174	166 6 x		27.8

* Source: Site Characterization Report on PFAS Contamination at East Hampton Airport prepared by AECOM on behalf of the New York State Department of Environmental Conservation (published November 30, 2018)

NB: There are few studies and less is known about the health effects that may result from long-term exposure to many long-chain perfluorinated compounds in the same classification of those chemical compounds that regulated by the USEPA.



Residential Neighborhood near Airport Contaminated – June 14, 2018

On or around June 15, 2018, SCDHS Deputy Commissioner Christina Capobianco emailed TOEH a “Wainscott PFC Weekly Update – 6/15/18” (see [Exhibit 32](#)). The update from Deputy Commission Capobianco informs TOEH that within the Wainscott Private Well Survey Area “thirteen (13) wells are above the USEPA Health Advisory Level (HAL) of 70 parts per trillion” for combine PFOS/PFOA contamination. The highest level of combined PFOS/PFOA contamination is 791 ppt which exceeds USEPA HAL by eleven-times and exceeds the recommended NYS drinking-water standard for PFOS (10 ppt) by seventy-four-times (74 ppt) and for PFOA (10 ppt) by five-times (51 ppt). The average level of combined PFOS/PFOA contamination where such contamination exceeds the USEPA HAL is more than double (166 ppt) that standard. The average level of PFOA contamination where such contamination exceeds the recommended NYS standard (10 ppt) is more than double (23.5 ppt) that standard and for PFOS is more than seven-times (75.7 ppt) the NYS standard of 10 ppt.

The Town of East Hampton recently commenced a lawsuit seeking damages related to PFAS contamination from the Incorporated Village of East Hampton d/b/a East Hampton Fire Department (“EHFD”).⁸⁴

In the complaint, TOEH admits the following–

- *The geographic bounds of the area of concern was defined by Suffolk County Department of Health Services as follows: a northern boundary of the Airport, an eastern boundary of Daniels Hole Road and Georgica Pond, a southern boundary of the Atlantic Ocean and the western boundary by the area immediately west of Wainscott Harbor Road, Town Line Road and Wainscott Hollow Road.*
- *Over 230 private wells within the area of concern were found to contain PFOA and/or PFOS.*
- *Over seventy-five (75) private wells within the area of concern were found to contain PFOA and/or PFOS at levels in excess of the Recommended MCLs.*
- *Over ten (10) wells within the area of concern were found to contain PFO and/or PFOS at levels in excess of the EPA’s seventy (70) parts per trillion health advisory level.*
- *As the impacted private wells do not have treatment for PFOA or PFOS, Wainscott residents were drinking contaminated water potentially for decades.*
- *All private wells within the area of concern required remediation because PFOA or PFOS may latently enter private wells at unacceptable levels at any time as other contaminated wells in the area reveal that the groundwater contamination is area-wide and flowing.*

Given admission by Town (see HL left), residents who live downgradient from East Hampton Airport should be permitted to have their private well tested for PFOS/PFOA annually free of charge. Only recently, the Town has cancelled this option.

To gauge the extent of contamination immediately downgradient from East Hampton Airport and its industrial park as at June 14, 2018, see Figure 12 overleaf).

⁸⁴ Complaint filed in US District Court, Eastern District of New York on April 13, 2020 (case 2:20-cv-01787-SJF-AYS) by Town of East Hampton against Incorporated Village of East Hampton’s Fire Department.

Town Ignores Residents' Concerns – June 2016 to March 2017

On June 6, 2016, the local Wainscott Citizens' Advisory Committee (“Wainscott CAC”) wrote to then Supervisor for the Town of East Hampton, Larry Cantwell. The letter is the first known occasion (in 2016) when the Wainscott CAC had informed the Town Board, in writing, that the community is concerned about the quality of its water.

In its letter, the Wainscott CAC had cause to remind Town of East Hampton (“TOEH”) of its Vision Statement: “Take forceful measures to protect and restore the environment particularly groundwater [emphasis added].” Further, residents' concerns of “poor water quality” rose to the level of being a “threat” to Wainscott. Excerpts from Wainscott CAC letter of June 6, 2016 to Supervisor Cantwell read as follows (see [Exhibit 33](#)) –

The Vision Statement as published in A Comprehensive Plan for the Town of East Hampton by the Town of East Hampton lists its first two goals as –

*...
Goal Two. Take forceful measures to protect and restore the environment, particularly groundwater [emphasis added].*

We commend and concur with the current Town Board for this vision ...

Wainscott is under threat today – now – from creeping urban sprawl, poor water quality, choking traffic and dangerous conditions for those who walk or bicycle [emphasis added].

On October 8, 2016, Councilwoman Burke-Gonzalez (who was then Town Board liaison to Wainscott CAC), was informed during the Wainscott CAC meeting that hexavalent chromium contamination at a concentration level of 590 µg/L had been detected at a local cement plant in the heart of Wainscott. Supporting laboratory reports attesting the excessive levels of hexavalent chromium were handed to Councilwoman Burke-Gonzalez who was at the time asked what could be done to test wells. The Wainscott CAC meeting minutes read as follows –

Samples [of surface water] taken near Wainscott Properties were found to contain 50-times the CA state groundwater level allowed [for hexavalent chromium]. Councilwoman Burke-Gonzalez will contact Kim Shaw, Environmental Protection Director to discuss what needs to be done going forward in terms of testing the water in and around Wainscott Properties [see [Exhibit 35](#)].⁸⁵

On October 13, 2016, the supporting laboratory reports attesting the extremely high levels of hexavalent chromium contamination and the location data was returned by the then Town Attorney for TOEH, Michael Sendlenski (see [Exhibit 34](#)).⁸⁶

⁸⁵ See [Exhibit 35](#) - Minutes of Wainscott Citizens' Advisory Committee meeting of October 8, 2016 (at p. 3)

⁸⁶ See [Exhibit 34](#) - Letter from Town Attorney Sendlenski to Wainscott resident dated October 13, 2016

On October 24, 2016, in reply to Town Attorney Sendlenski's letter regarding hexavalent chromium contamination, the resident of Wainscott who first raised the issue closed the letter with a plea: "Please test our drinking water."

An excerpt from that letter reads (see [Exhibit 36](#))⁸⁷ –

I admit that there may be academic discourse as to the exact levels of hexavalent chromium required to cause gastrointestinal effects such as abdominal pain, vomiting, and haemorrhaging; respiratory tract effects such as perforations and ulcerations of the septum, bronchitis, decreased pulmonary function, pneumonia, asthma, and nasal itching and soreness; or cause a significantly increased risk of lung cancer. But regardless as to the exact levels hexavalent chromium required to cause these array of ailments, it is indisputable that the presence of hexavalent chromium at elevated levels in our drinking water is dangerous and a potential health hazardous for Wainscott residents.

The exchange between Town Attorney Sendlenski and the resident of resident Wainscott was reported in The East Hampton Star in an article published November 3, 2016, titled: *Danger in Private Wells? Wainscott resident calls for chromium-6 testing.*⁸⁸

On November 5, 2016, after a lively discussion on water quality at a Wainscott CAC meeting, the committee voted to "form an environmental sub-committee" specifically to address issues of water quality and the environment. As one member phrased it: "no one is looking after Wainscott's water aquifer."⁸⁹ Half the Wainscott CAC members joined the new Environmental Subcommittee (see [Exhibit 37](#)).

On November 18, 2016, the inaugural meeting of Wainscott CAC's Environmental Subcommittee ("ESC") focused on hexavalent chromium contamination and how to go about organizing a survey of private wells to test for hexavalent chromium and "other drinking water contaminants lists [*sic*] within the EPA's Unregulated Contaminant Monitoring Rule (UCMR) program." During the meeting "Kim [Natural Resources Director Kim Shaw] informed ESC that the Health Department recently installed monitoring wells near the site of the contaminated well in Wainscott" (see [Exhibit 21](#)).⁹⁰

USEPA Unregulated Contaminant Monitoring Rule (UCMR) is a reference to UCMR 3 (2013-2015). UCMR 3 includes monitoring for 28 chemicals (and two viruses). The chemicals of specific interest to the Wainscott CAC included: 1,4-dioxane (diethylene dioxane), total chromium, chromium-6 (hexavalent chromium), perfluorooctanesulfonic acid (PFOS), perfluorooctanoic acid (PFOA) perfluorobutanesulfonic acid (PFBS), perfluorohexanesulfonic acid (PFHxS), perfluoroheptanoic acid (PFHpA), and perfluorononanoic acid (PFNA).

⁸⁷ See [Exhibit 36](#) - Letter from Kinsella to Town Attorney Sendlenski dated October 24, 2016 (at p. 3)

⁸⁸ See East Hampton Star article titled: [Danger in Private Wells?](#) Published November 3, 2016, by Joanne Pilgrim.

⁸⁹ See [Exhibit 37](#) - Minutes of Wainscott CAC meeting of November 5, 2016 (at p. 3)

⁹⁰ See [Exhibit 21](#) - Minutes of Wainscott CAC's ESC meeting of November 18, 2016 (at p. 2)

Then Town Board liaison to Wainscott CAC, Councilwoman Burke-Gonzalez, and Town Natural Resources Director, Kim Shaw, attended the inaugural meeting of the Wainscott CAC's Environmental Subcommittee (ESC) and all subsequent ESC meetings.

On December 3, 2016, at a Wainscott CAC meeting, the committee had been provided the following update on its new subcommittee, the ESC –

The [Environmental] Subcommittee was formed during the November WCAC meeting to look into Nitrogen Oxide contamination and possible other contamination into Wainscott's watershed and air quality.

At the same meeting, Councilwoman Burke-Gonzalez informed the committee that –

Samples were taken in August [2016] from routine monitoring wells installed south of the watershed in Wainscott. Results have not yet been received [emphasis added].

On January 6, 2017, the ESC held its second meeting. The meeting minutes read –

[TOEH Natural Resources Director] Kim Shaw reviewed Suffolk County Health Department Wainscott test well results. She noted there were no detects that exceeded EPA limits in wells along the East and West sides of the groundwater flow in the area (pointed out on a map ...). She mentioned there is a new test well off Wainscott Stone Road that will be routinely monitored [emphasis added]. Kim noted that there is only one public well in Wainscott located on Wainscott Northwest Road just beyond Home Goods. All other wells are private wells and stars on the above-referenced map ... indicate there has not been any sampling in a long time, maybe as long ago as 2006 [see [Exhibit 38](#)].⁹¹

During the ESC meeting, a well survey program was discussed “for Wainscott home owners ... to co-ordinate having their drinking water tested for hexavalent chromium ... [that] could be extended to test for other drinking water contaminants that form part of the EPA's Unregulated Contaminant Monitoring Rule (UCMR) program.” The minutes of the meeting continue –

The ultimate goal of the proposed well survey program was clarified by Member Kinsella: to increase confidence and guarantee that water drawn up by private wells from the shallow aquifer is drinkable. ... Citizens of Wainscott are concerned about the quality of water drawn from private wells because of troubling results from public wells [emphasis added]. ... Could the legislature/town supervisor be asked to arrange for more extensive well surveys in the area [emphasis added]?⁹²

At the second ESC meeting, the Environmental Sub-Committee reviewed and discussed what would become the ESC's first report into water quality. The report took the form of a letter titled: Request for the Protection of the Wainscott Hydrologic System (see [Appendix A](#)). The report was approved by the ESC subject to a comment period.

⁹¹ See [Exhibit 38](#) - Minutes of Wainscott CAC's Environmental Sub-Committee meeting of January 6, 2017 (at p. 2)

⁹² *Ibid* (at p. 3)

The minutes of the meeting read –

Member Kinsella discussed the draft Request for the Protection of the Wainscott Hydrologic System (“Hydrologic Protection Request”) before it’s tabled at the full WCAC meeting on January 7, 2016. This request ... advocates for a coordinated approach to protecting all water bodies. ... [Supervisor] Larry Cantwell stressed that the issue concerning groundwater is not so much supply as safety. It was decided that for a period of one (1) week anyone could comment on the Hydrologic Protection Request, and should it please the WCAC, finalize the request and send it to the consultants for the Wainscott Hamlet Study: Dodson & Flinker, Inc., 40 Main Street, Suite 1, Florence, MA 01062 (copied to the Town Board).

[Note: Two members of the Town Board, Supervisor Cantwell and Councilwoman Burke-Gonzalez, were present during the ESC meeting and, at the time, neither objected to the contents of the *Hydrologic Protection Request* and did not object to it being sent to the Town’s consulting firm, Dodson & Flinker. It is understood the report was used eleven months later as grounds for not re-appointing the report’s author to the Wainscott CAC in 2018 (and since). Specifically, due to the fact that its author copied the report to those listed (in the report). At the time, then Town Attorney Sendlenski wrote to the author (on February 3, 2017) making false insinuations and conclusionary statements in an attempt to mischaracterize what was, after all, a request. The author of the report replied to Town Attorney Sendlenski on February 10, 2017 (see letters at [Exhibit 59](#) and [Exhibit 60](#)). At no time did TOEH or its attorney raise the issue of possibly dismissing the report’s author from serving on the Wainscott CAC either before or after dismissing him.]

On January 15, 2017, a letter sent to Town Attorney, Michael Sendlenski, reads as follows (see [Exhibit 39](#)) –

There is concern that the shallow aquifer between Suffolk Cement and Georgica Pond, which currently lacks any regulatory protection, is not sufficiently tested to ensure its safe use for drinking water purposes [emphasis added]. The US Department of the Interior in US Geological Survey Circular 1139 (published 1999) identifies “shallow aquifers that are directly connected to surface water” (such as Georgica Pond), as containing “much of the ground-water contamination in the United States.” The circular continues: “In general, shallow ground water is more susceptible to contamination from human sources and activities because of its close proximity to the land surface.”

To allay Wainscott residents’ concerns specifically about hexavalent chromium contamination, and more generally about other drinking water contaminants which form part of the EPA’s Unregulated Contaminant Monitoring Rule (UCMR) program, can you please request that the SCDHS –

- 1. Seek permission from a sample of private well owners to thoroughly test the drinking water quality drawn from their private wells [emphasis added]. ... The tests should specifically include hexavalent chromium and other drinking water contaminants which form part of the EPA’s Unregulated Contaminant Monitoring Rule (UCMR) program?*

Once again, thank you for your assistance in ensuring that Wainscott residents, the majority of whom use private wells for their drinking water needs, are drawing clean and safe water without contamination.

Needless-to-say, neither of us want Wainscott to become renowned in the same way that the town of Flint in Michigan has become renowned.

On March 24, 2017, the ESC held its third meeting. In attendance at the meeting was Suffolk County Councilwoman Fleming, SCDHS Senior Public Health Engineer Jason Hime, and SCDHS Environmental Toxicologist, Amy Juchatz, TOEH Councilwomen Burke-Gonzalez and TOEH Natural Resources Director Shaw.

The ESC meeting focused solely on probable contamination of Wainscott's sole-source aquifer. During the meeting PFOS/PFOA contamination "in and around East Hampton Airport" was raised for the first time and that such contamination was "related to aircraft manufacturing, maintenance and operations." Councilwomen Fleming "raised a question about the effect of compounded contaminants" and "Health Engineer Jason Hime said that the SCDHS evaluates and prioritizes the contaminants and that it is currently focusing on 1,4 dioxane and perfluorinated compounds."

Just one day *before*, the ESC meeting (on March 23, 2017), the Town of East Hampton finally returned its PFOS/PFOA Facility Identification Survey reporting on its use and storage of firefighting foam at East Hampton Airport. The following day, PFC (perfluorinated compound aka PFAS) contamination was mentioned on four separate occasions and on two of those occasions, with reference to airports.⁹³ During the meeting, Councilwoman Burke-Gonzalez and Natural Resources Director Shaw scarcely say a word. This is unusual, strikingly so, as neither are shy and both are typically very forceful during meetings.

It would be another year before East Hampton Airport is tested for PFC contamination.

The following are excerpts from Wainscott CAC's Environmental Subcommittee meeting minutes of March 24, 2017 (see [Exhibit 24](#)) –

The stated purpose of meeting is to discuss how the users of private drinking water wells can have a higher level of confidence in their water quality. Citizens of Wainscott are concerned about contaminants in the water as reported in news [emphasis added]. Is it possible to survey private wells and use these results to protect the drinking water supply [emphasis added]?

It's important that we test for unregulated contaminants, pesticides, herbicides, organic matter, cyanobacterial related toxins, etc.. Are these contaminant getting into our drinking water supply? There is so much we do not know.

Councilwomen Fleming said that she was hoping to push the Health Dept. to conduct further testing at the Wainscott Sand and Gravel pit as well as some of the private wells within the vicinity ... pointed out that even without an established standard high levels of cancer on Long Island call for erring on the side of caution. She

⁹³ See [Exhibit 24](#) - Minutes of Wainscott CAC Environmental Subcommittee meeting of March 24, 2017

[Councilwoman Fleming] also raised a question about the effect of compounded contaminants [in reference to perfluorinated compound (PFC) contaminants, emphasis added].

Health Engineer Jason Hime and Toxicologist Amy Juchatz pointed out that all of the sole source aquifer is susceptible to contamination. If the contamination is local, it's more likely to contaminate a shallow well more quickly. Sources of contamination in shallow wells are likely to be local ...

Health Engineer Jason Hime said that the SCDHS evaluates and prioritizes the contaminants and that it is currently focusing on 1,4 dioxane and perfluorinated compounds [emphasis added].

Suffolk County Lead Hydrogeologist Ronald Paulsen (who runs the well-drilling crew) is currently reviewing the Suffolk County Dept. Health Services' (SCDHS) water quality test results database of water samples taken from private drinking water wells within Wainscott dating back to 1998 [emphasis added].

It was agreed that SCDHS will assist the ESC in developing a program to test private drinking water wells, where such tests target contaminants identified as potentially problematic by Hydrogeologist Ronald Paulsen in his aforementioned analysis.

With reference to Hannon Report (Kinsella) which cites three chemicals (below), we do not know whether they have been tested for in and around East Hampton Airport. These chemicals are related to aircraft manufacturing, maintenance and operations.

- 1) Perfluorooctanoic acid (PFOA)*
- 2) Perfluorooctanesulfonate (PFOS)*
- 3) Trichloroethylene (TCE) [emphasis added].*

The DEC is working on an inventory of where fire-fighting foam has been used (a cause of the chemicals' release) and it has tested the public wells in East Hampton and has not been found.

Health Engineer Hime said that those drinking from private wells are "drinking at their own risk". ... Suffolk County is prioritizing contaminants based on "current science" which is for such as perfluorinated compounds (PFCs), 1,4-dioxane, Freon, MTBE (methyl tertiary-butyl ether), etc. [emphasis added].

[Note: The only public wells in Wainscott are those on Town Line Road. These wells are upgradient (i.e. north) from East Hampton Airport. Any potential contamination flowing from East Hampton Airport would more likely be detected downstream (i.e. south), *not* upstream.]

Neither Wainscott CAC nor its Environmental Subcommittee heard back from Suffolk County Hydrogeologist Ronald Paulsen who was to provide a list of target contaminants for a well survey. Likewise, neither Wainscott CAC nor its ESC heard back from TOEH or its consultant, Dodson & Flinker, regarding the Wainscott CAC's *Request for Greater Protection of the Wainscott Hydrologic System*.

The minutes of the ESC meeting on September 22, 2017 read as follows –

Member Kinsella noted that neither the ESC nor the WCAC had received a response from the Town or its consultant, Dodson & Flinker, to its request for greater protection of the Wainscott Hydrologic System. Member Kinsella questioned why the Town had failed to respond in substance to the request for greater protection of Wainscott drinking-water supply.

Residents Ignored – Conclusion ...

In June 2016, Wainscott CAC wrote to then Supervisor of the Town of East Hampton, Larry Cantwell, expressing concerns with “poor water quality” that rose to the level of being a “threat”.⁹⁴ Over the next nine months (from June 2016 to March 2017), East Hampton Town Board had been told twelve times in letters, emails and during community meeting of residents’ concerns with probable contamination of their private wells. A member of the Town Board was handed laboratory reports attesting hexavalent chromium contamination that was fifty-times the Californian drinking-water standard⁹⁵, a letter to then Town Attorney read: “There is concern that the shallow aquifer ... is not sufficiently tested to ensure its safe use for drinking water purposes,”⁹⁶ and residents’ concerns extended to perfluorinated compound (PFC) contamination “in and around East Hampton Airport ... [that] are related to aircraft manufacturing, maintenance and operations.”⁹⁷ Issues of water quality gave cause for Wainscott CAC to create a separate subcommittee, the Environmental Subcommittee (ESC). The Town Board was asked eight times to: “Please test our drinking-water.”⁹⁸ The Environmental Subcommittee asked: “Could the ... town supervisor be asked to arrange for more extensive well surveys in the area?”⁹⁹ On January 31, 2017, the Environmental Subcommittee submitted a report to the Town titled: *Request for the Protection of the Wainscott Hydrologic System*.¹⁰⁰ Supervisor Cantwell and Councilwoman Burke-Gonzalez were both present at the meeting when the report was discussed and approved, yet, eleven months later the Town Board’s response was to its author on dubious grounds. Town of East Hampton’s only response was to dismiss its author on dubious grounds eleven months later. A common response used on four separate occasions by TOEH was to say that new monitoring wells had been installed “that will be routinely monitored.”¹⁰¹ It turned out eight months later, that this was not true.¹⁰²

⁹⁴ See [Exhibit 33](#) - Letter from Wainscott CAC to Town of East Hampton Re: Moratorium, of June 6, 2016 (at p. 2)

⁹⁵ See [Exhibit 34](#) - Letter from Town Attorney Sendlenski to Kinsella Re: Hexavalent Chromium of Oct 13, 2016

⁹⁶ See [Exhibit 39](#) - Letter from Kinsella to Town Attorney, Re: Hexavalent Chromium & UCMR3 of Jan 15, 2017

⁹⁷ See [Exhibit 24](#) - Minutes of Wainscott CAC’s ESC meeting of March 24, 2017 (at p. 4)

⁹⁸ See [Exhibit 36](#) - Letter to Town Attorney Sendlenski from Si Kinsella dated October 24, 2016 (at p. 3)

⁹⁹ See [Exhibit 38](#) - Minutes of Wainscott CAC’s ESC meeting of January 6, 2017 (at p. 3)

¹⁰⁰ See [Appendix A](#) – Wainscott CAC’s ESC – Report One - Request for Hydrologic Protection (Jan 31, 2017)

¹⁰¹ See [Exhibit 38](#) - Minutes of Wainscott CAC’s ESC meeting of January 6, 2017 (at p. 2)

¹⁰² See [Exhibit 20](#) - Email Exchange between Councilwoman Burke-Gonzales and Kinsella (Aug 25, 2017)

Supervisor Cantwell's Letter to Wainscott CAC – October 25, 2017

On October 25, 2017, then TOEH Supervisor, Larry Cantwell, wrote to Wainscott CAC¹⁰³ in reply to an earlier letter of October 16, 2017¹⁰⁴ regarding the Water Quality Advisory issued by SCDHS on October 11, 2017.¹⁰⁵

SCDHS issued its Water Quality Advisory warning residents living in Wainscott that PFAS contamination had been detected in local wells and that one such well exceeding USEPA Health Advisory Level.

Supervisor Cantwell's reply is in answer to questions posed by the Wainscott CAC in its earlier letter of October 16. Excerpts from Supervisor Cantwell's reply to Wainscott CAC reads as follows –

6.) *When were samples taken from private wells for testing?*

Samples taken over past 4 weeks.

8.) *Where are the private wells which were tested located in relation to –*

- a. *East Hampton Airport*
- b. *Montauk Highway*
- c. *Former sand mine site (unknown industrial uses)*
- d. *Georgica Pond*
- e. *Wainscott Pond*
- f. *Wainscott School*

Location data of individual wells tested by SCDHS won't be provided to the Town of East Hampton by SCDHS for privacy reasons [emphasis added]. Enclosed is a map of the current survey area.

9.) *Where is the well located that exceeded the EPA's standard of 0.07ppb? (An approximate location that does not reveal the exact address is acceptable.)*

Location data of individual wells tested by SCDHS won't be provided to the Town of East Hampton by SCDHS for privacy reasons [emphasis added].

15.) *Can you provide a copy of the full test results for each well tested, please? (It is acceptable if the exact address and name is redacted.)*

Full test results for each well tested was not provided to the Town.

The Town of East Hampton will continue to work with both State and County governments to make sure that there is a full investigation and continued outreach and communication with the community.

¹⁰³ [Exhibit 40](#) - Letter to Wainscott CAC from Town Supervisor Cantwell, Water Quality Advisory (Oct 25, 2017)

¹⁰⁴ [Exhibit 41](#) - Letter to Supervisor Cantwell from Wainscott CAC, Water Quality Advisory (Oct 16, 2017)

¹⁰⁵ [Exhibit 30](#) - SCDHS Water Quality Advisory - PFAS Contamination issued October 11, 2017

In reply to question six (above), Supervisor Cantwell's claim that samples were taken from private wells for testing "over the past 4 weeks" would mean sampling began on September 27, 2017. At the time Supervisor Cantwell wrote this letter (on October 25), samples, in fact, had been taken from private wells over the past 10 weeks (i.e. samples were first taken on August 14, 2017).

In reply to question eight and nine (above), Supervisor Cantwell's claim that the: "Location data of individual wells tested by SCDHS won't be provided to the Town of East Hampton by SCDHS for privacy reasons [emphasis address]," like his claim above, is *not* true. This (false) claim was repeated by Councilwoman Burke-Gonzalez during the Wainscott CAC meeting of November 4, 2017 (see further discussion, below).

Heat Map of PFC Contamination – October 7 2017

On November 17, 2017, Councilwoman Burke-Gonzalez was sent an email that reads –

At our November WCAC Meeting, we discussed providing to residents a map of the PFC contamination similar to a "heat map". Needless-to-say, many Wainscott residents are concern about their contaminated drinking water, but there has been very little information trickling out from the Town/SCDHS. This is unacceptable. Has the Town requested from the SCDHS such a map? Has SCDHS provided such a map?¹⁰⁶

Councilwoman Burke-Gonzalez replied –

Due to privacy issues, I don't foresee a map being issued at this time. Particularly when NYS/Suffolk County only have results for 20% of the wells in the survey area.

Supervisor Cantwell and Councilwoman Burke-Gonzalez refused the Wainscott CAC's request for a PFC Contamination Heat Map on false pretenses at least three times.¹⁰⁷

In response, the Wainscott CAC's Environmental Subcommittee sought the information from SCDHS independently. Its second report on water quality, titled – *Town Drinking Water Contamination: PFC Contamination in Wainscott* – was written primarily for the purpose of providing information on the extent of the contamination in Wainscott that was being kept from Wainscott residents by Town of East Hampton.

¹⁰⁶ See [Exhibit 27](#) – Email chain between Town Councilwoman Burke-Gonzalez & Si Kinsella (Nov 17-21, 2017)

¹⁰⁷ In Supervisor Cantwell's letter of October 25, 2017 (see [Exhibit 40](#)), Councilwoman Burke-Gonzalez informed the Wainscott CAC during its meeting on November 4, 2017 (see [Exhibit 29](#) at p. 4), and in an email from Councilwoman Burke-Gonzalez on November 17, 2017 at 14:14 (see [Exhibit 27](#) at p. 3).

A Freedom of Information Law (FOIL) request had been filed with SCDHS on October 25, 2017. The FOIL request sought access to the following records –

All records pertaining to the Water Quality Advisory for Private-Well Owners in Area of Wainscott issued on Oct 11, 2017 (attached) and subsequent records pertaining to the “private well survey” conducted by the SCDHS in 2017 up until the time of the response to this FOIL request. Records should include but not be limited to: All water quality test results conducted during the “private well survey” for all potential contaminants, chemicals, elements and/or compounds within the hamlet of Wainscott, NY 11975. The water quality results should specifically include but not be limited to: perfluorooctane sulfonate (PFOS), perfluorooctanoic acid (PFOA) and/or other chemicals classified as perfluorinated compounds (PFCs). It is understood that the name of the property owner and exact address may be redacted for the purposes of privacy, but the FOIL response should include the street name.

In response to the FOIL request, SCDHS provided approximately two hundred and eighty four (284) laboratory test results for PFC contamination concentration levels in water from private wells located in Wainscott (“PFC Lab Reports”). The PFC Lab Reports were redacted insofar as a person’s name, street number and any identification that was unique to any given property. The name of the street was provided. The PFC Lab Reports contained the information the Wainscott CAC had requested from TOEH, but which it was denied by TOEH.

Suffolk County Department of Health Service were, and always have been, very helpful and professional.

In his letter of October 25, 2017, Supervisor Cantwell claims the reason for denying the Wainscott CAC’s request was because the required well location data “won’t be provided ... by SCDHS.” This claim is *not* true. The well location data *was* provided by SCDHS pursuant to FOIL Request F129834 to an individual who lived in Wainscott. Evidently, SCDHS *was* willing to provide well location data, so Supervisor Cantwell’s claim cannot be true. If SCDHS was willing to provide such location data to an individual, it follows that it would be willing to provide that same information to Supervisor Cantwell and Councilwoman Burke-Gonzalez ... had they asked.

As to whether or not TOEH actually *asked* SCDHS for well location data; during the Wainscott CAC meeting of November 4, 2017, Councilwoman Burke-Gonzalez confirm that TOEH had asked SCDH for a heat map.

The minutes of that meeting read –

Liaison Report [by TOEH Town Board liaison, Councilwoman Burke-Gonzalez]

*The Town has asked [SCDHS] for a heat map showing where the detections have been found. For privacy reasons, they have not identified locations to date.*¹⁰⁸

¹⁰⁸ See [Exhibit 29](#) – Minutes of Wainscott CAC meeting of November 4, 2017 (at p. 4)

Had Councilwoman Burke-Gonzalez, in fact, *asked* SCDHS for well location data sufficient for a heat map (i.e. redacted but for street names), SCDHS would have provided that data as it had in response to FOIL Request F129834. Councilwoman Burke-Gonzalez was *not* truthful before the November 4, 2017 Wainscott CAC meeting when speaking about the PFC contamination in the same way that Supervisor Cantwell was *not* truthful when writing to Wainscott CAC on October 25, 2017.

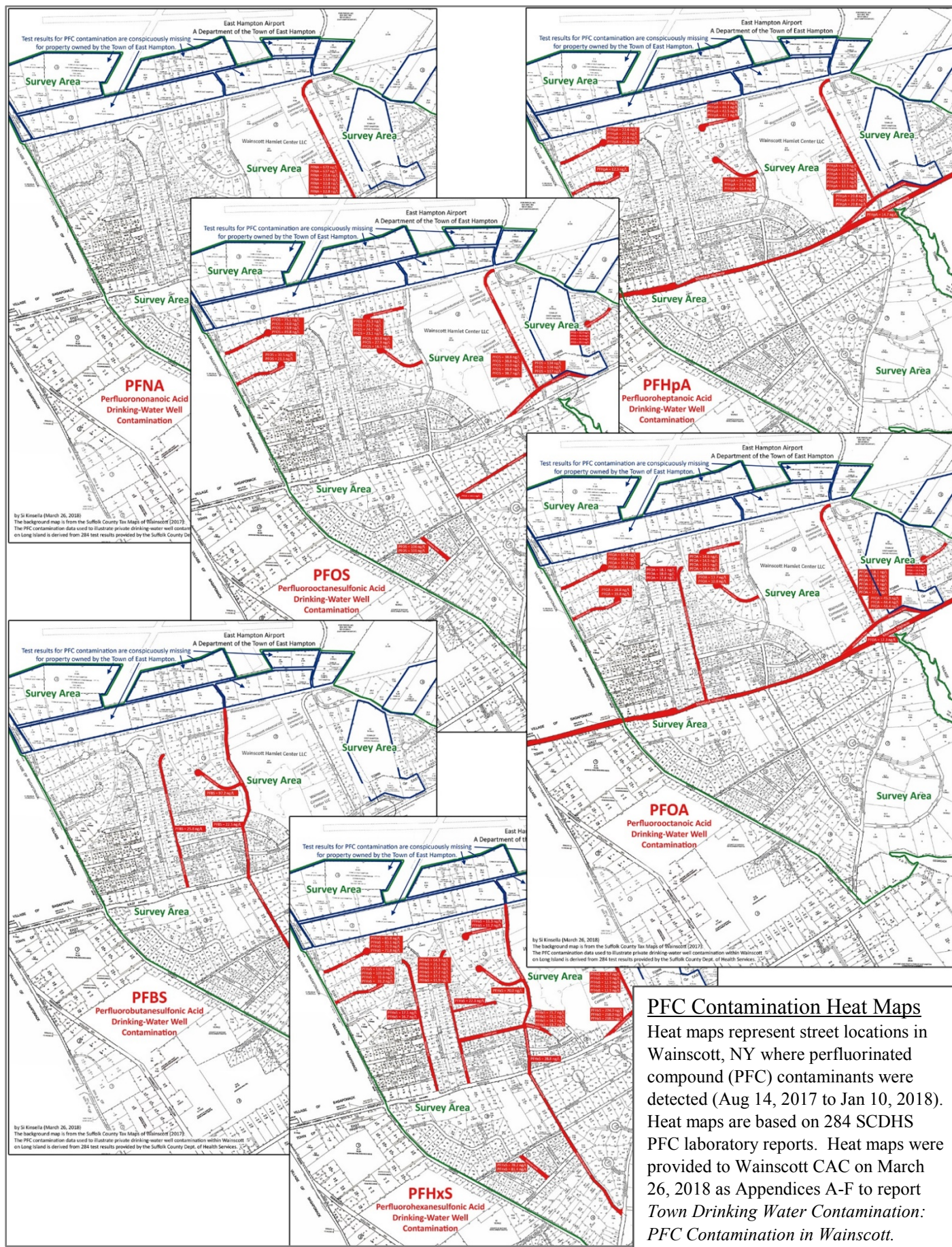
In its letter of October 16, 2017, Wainscott CAC made it clear that: “It is acceptable if the exact address and name is redacted” or in the alternative, TOEH could have provided broad locations relative to landmarks. For example, had TOEH decided to use landmarks as a point of reference, it could have described a group of well locations as such – Ten wells have been tested within 2,000 feet of Wainscott Post Office north of Montauk Hwy. There is no question that SCDHS would have provided the necessary location data to satisfy both these methods of describing well locations because SCDHS had provided this data pursuant to FOIL Request F129834.

With regards to question eight, it asked only for wells that had been tested irrespective of the result. The severity or degree of contamination, therefore, is not at issue. Since question eight was denied by TOEH, it was not *just* the intensity of contamination that the TOEH was concealing, but also the location of where wells were being tested. By concealing testing well locations, TOEH was also concealing the location of wells that had detectible levels of contamination. By denying question eight, TOEH reveals its true motive, to keep the NYSDEC and SCDHS as far away from the airport site as possible.

On March 26, 2018, the second report on water quality, titled – *Town Drinking Water Contamination: PFC Contamination in Wainscott* was released. Although, as discussed under the section title: Background (at p. 5), TOEH attempted to quash the report by dismissing the Chairman of the Environmental Subcommittee and the report’s author from serving on the Wainscott CAC. TOEH failed and the report was released, but it could not be endorsed by the Wainscott CAC nor its Environmental Subcommittee.

If information from two hundred and eighty-four PFC laboratory test results was collated and analyzed by one resident on his personal computer at home, then there is no valid reason why, with over three hundred people in its employ and an yearly budget of seventy-five million dollar, TOEH could not have done the same (see Fig. 13 overleaf) – heat maps based on the SCDHS laboratory test report and included in report titled – *Town Drinking Water Contamination: PFC Contamination in Wainscott*).

PFAS Contamination, Wainscott, NY - Cover-up and Obstruction by Town of East Hampton



PFC Contamination Heat Maps
 Heat maps represent street locations in Wainscott, NY where perfluorinated compound (PFC) contaminants were detected (Aug 14, 2017 to Jan 10, 2018). Heat maps are based on 284 SCDHS PFC laboratory reports. Heat maps were provided to Wainscott CAC on March 26, 2018 as Appendices A-F to report *Town Drinking Water Contamination: PFC Contamination in Wainscott.*

Town Delayed for Six Months Installing Drinking-Water Filters (POETs)

On November 10, 2017, NYSDEC wrote to then Town Supervisor Larry Cantwell (see [Exhibit 46](#)) notifying Town of East Hampton “as the identified property owner that this property is considered a potential inactive hazardous waste disposal site. . . . This letter also serves as DEC’s notification to you of . . . a need to install point of entry treatment systems (POETs) or other alternate water supply (i.e., waterline extension) to address the contaminated water supply wells mentioned above [emphasis added].”

In addition to receiving NYSDEC “notification” of a need to install POETs (on November 10, 2017), the letter was brought to the attention of the Town Board on numerous occasions, most notably at the regular Thursday Town Board meeting on December 21, 2017.¹⁰⁹

It was not until May 21, 2018 – six months later – that TOEH offered to homeowners in Wainscott “a rebate of up to 90 percent of the cost, or a maximum of \$3,000 [see [Exhibit 47](#)].” The burden of installing a POETs system, nevertheless, rested with the homeowner who had research filters, find an installer and pay for the installation upfront only to be reimbursed later. The Town provided minimal assistance that was limited to a USEPA Fact Sheet on PFOS/PFOA contamination, the telephone number of SCDHS, a schematic diagram of a filtration system, and a link to the Rebate Form.

Suspected Contamination Sites – Not Tested

Griffiths Carpet & Upholstery

Up until 2018, a commercial carpet cleaning company, Griffiths Carpet & Upholstery Cleaners (“Griffiths Carpet”) operated from a facility at or near 39/41 Industrial Road on the airport site (see [Exhibit 42](#)) and upstream from Hedges Lane where PFNA readings were extremely high (see Fig. 14 at p. 73). Griffiths Carpet advertised a Teflon-treatment process to make carpets resistant to stains and repel water, a well-known source of PFAS contamination (see [Exhibit 43](#)).

According to NYSDEC in its response (on January 23, 2020) to Interrogatory/Document Request: Si Kinsella #12 in NYSPSC Application by Deepwater Wind (case 18-T-0604) –

NYSDEC is reviewing the environmental impact of the proposed construction of the export cable by Deepwater Wind South Fork, LLC, including potential contamination along the proposed cable route and how same may be addressed.

¹⁰⁹ See video recording of Town of East Hampton Town Board meeting of December 21, 2017 - <http://easthamptontown.igmp.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1827>

For the complete Interrogatory/Document Request: Si Kinsella #12 – Griffiths Carpet, please see [Appendix H](#) and for NYSDEC complete response see [Appendix I](#).

Shaw Aero Devices, Inc.

Prior to and also location at or near 39/41 Industrial Road on the East Hampton Airport site (see [Exhibit 44](#)), was a parts manufacturer for commercial, military, construction and mining vehicles and aircraft from the mid-to-late 1950's through to 1993 – Shaw Aero Devices, Inc / Shaw Aero Development, Inc / Shaw Aero Development, LLC (see Fig. 14 at p. 73).

According to USEPA National Biennial RCRA Hazardous Waste Report, for two years (1991 and 1993), Shaw Aero generated over 42 tons of hazardous waste (see [Exhibit 45](#)).

According to NYSDEC in its response (on January 23, 2020) to Interrogatory/Document Request: Si Kinsella #11 in NYSPSC Application by Deepwater Wind (case 18-T-0604) –

NYSDEC has not determined 39 Industrial Road is contaminated. However, as a party in the Article VII proceeding, NYSDEC is reviewing the environmental impact of the proposed construction of the export cable by Deepwater Wind South Fork, LLC, including potential contamination along the proposed cable route and how same may be addressed.

For the complete Interrogatory/Document Request: Si Kinsella #11 – Shaw Aero, please see [Appendix J](#) and for NYSDEC complete response see [Appendix K](#).

As discussed in further detail in the following section: *Deepwater Wind South Fork, LLC* (see pages 73 to 83), no information regarding historic uses at 39/41 Industrial Road – neither Griffiths Carpets nor Shaw Aero devices – are included in a recently modified Environmental Impact Statement filed with NYS PSC by the Deepwater Wind South Fork, LLC on May 15, 2020 (see [Appendix N](#)),¹¹⁰ its Phase 1 Environmental Site Assessment Part 1 (see [Appendix P](#)) or its Environmental Site Assessment Part 2 (see [Appendix Q](#)) that including Deepwater Wind's Hazardous Materials Desktop Analysis.

The Hazardous Materials Desktop Analysis filed by Deepwater Wind South Fork, LLC arrives at the following conclusion (erroneously) – "... it was determined that there were no hydraulically upgradient or adjacent properties along the study corridor that would represent a significant environmental risk to subsurface conditions."¹¹¹

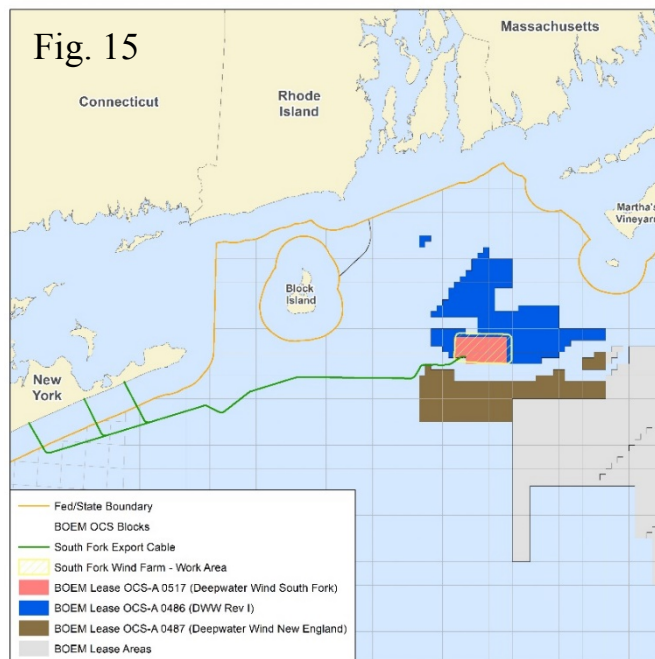
¹¹⁰ See [Appendix N](#) – Deepwater Wind NYSPSC Application, Exhibit 4, SFEC Environmental Impact (resubmitted to NYSPSC on May 15, 2020 at p. 4-44)

¹¹¹ See [Appendix Q](#) - Deepwater Wind NYSPSC Application – [Appendix F Part 2, Phase I Environmental Assessment](#) prepared by VHB Engineering, Surveying, and Landscape Architecture P.C. – Hazardous Materials Desktop Analysis, dated March 30, 2018 (at pp. 122-191)

New York State Public Service Commission (“NYSPSC”) is the lead agency responsible for the environmental review of an application by Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need (“Application” in case 18-T-0604).

Deepwater Wind South Fork, LLC (“Deepwater Wind”) proposes to construct, operate, and maintain the South Fork Wind Farm and South Fork Export Cable.

Deepwater Wind proposes to build its South Fork Wind Farm in federal waters in Bureau of Ocean Energy Management (“BOEM”) Renewable Energy Lease Area OCS-A 0486, approximately 35 miles east of Montauk Point (see map right). The South Fork Wind Farm will comprise of fifteen (15) wind turbines. Each wind turbine will have a nameplate capacity of 6 to 12 megawatts with a total generating capacity of up to 180 megawatts. Deepwater Wind claims that its South Fork Wind Farm will generate only up to 130 megawatts, but this limit is not specified in its applications with either NYSPSC or BOEM.



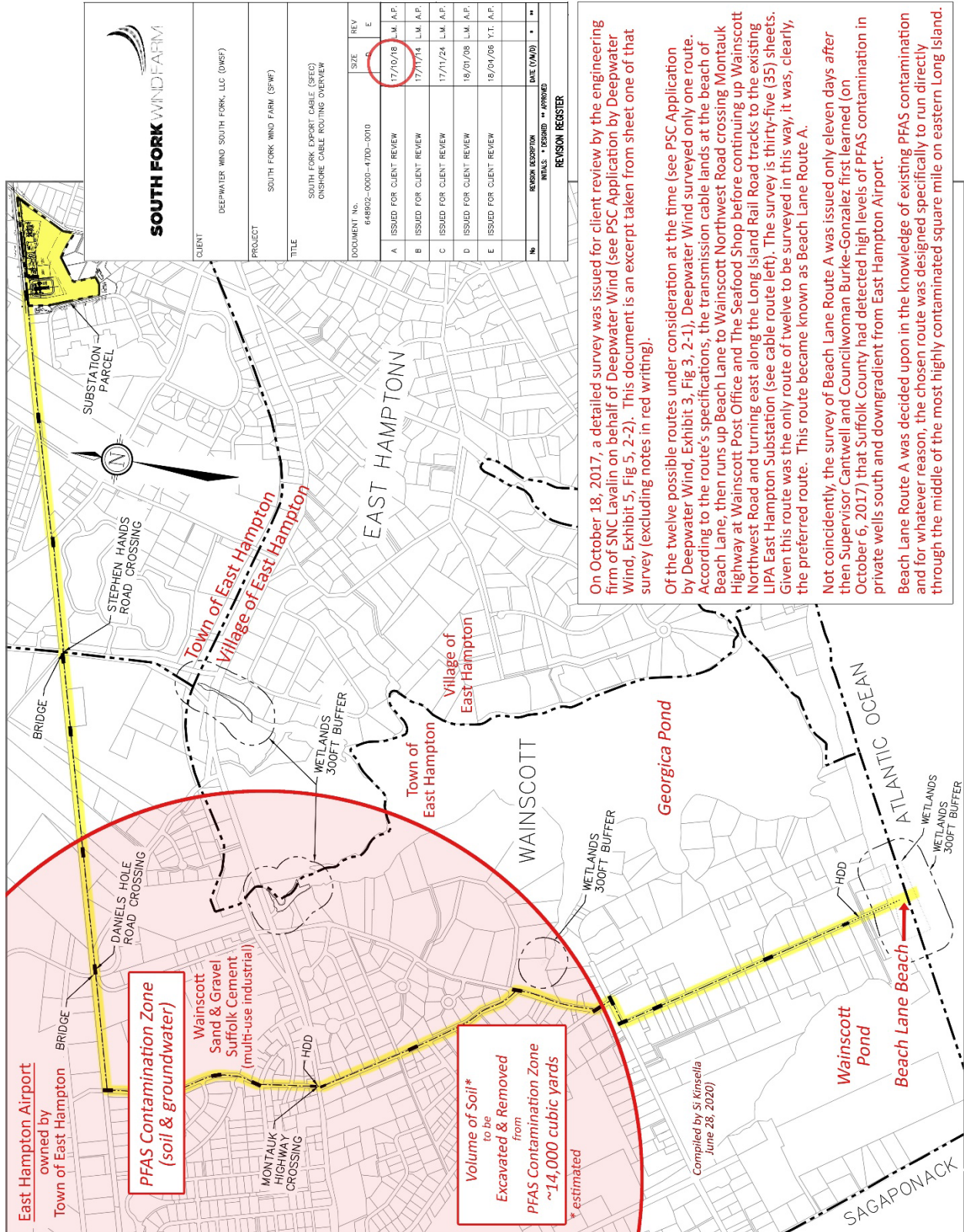
The specifications for the South Fork Export Cable require a 138-kilovolt alternating-current submarine/terrestrial single-circuit system designed to transmit power from the proposed South Fork Wind Farm to the existing LIPA East Hampton Substation in the Town of East Hampton (see map above).¹¹² Of the twelve possible onshore routes under consideration, Deepwater Wind and the Town of East Hampton decided between themselves behind closed doors to choose Beach Lane Route A for the SFEC.

According to the route’s specifications, the transmission cable is to land at the beach of Beach Lane, run up Beach Lane to Wainscott Northwest Road crossing Montauk Highway at Wainscott Post Office and The Seafood Shop before continuing up Wainscott Northwest Road to the Long Island Rail Road tracks where it will turn east and follow the LIRR to the East Hampton Substation (see Fig. 16 overleaf). Beach Lane Route A runs directly through the middle of the most highly contaminated square mile on eastern Long Island. The Town had prior knowledge of existing PFAS contamination in Wainscott and specifically this route, but chose the Beach Lane Route A, regardless.

¹¹² Bureau of Ocean Energy Management (<https://www.boem.gov/renewable-energy/state-activities/south-fork>)

Fig. 16

Fig. 16



A recently modified Environmental Impact statement filed with NYSPPSC by Deepwater Wind on May 15, 2020 (see [Appendix N](#))¹¹³ reads as follows –

4.5.1 Existing Topography, Geology, Soils, and Groundwater Conditions

The section discusses the existing topographic, geologic, soils, and groundwater conditions. The following information is based on existing published data and a literature review within a 500-foot (152 m) study area surrounding the sea-to-shore transition corridor, SFEC-Onshore corridor, and the SFEC-Interconnection Facility.

Deepwater Wind cites many sources for its in-depth analysis of soil and groundwater. For example, it provides four pages of quotes from the Soil Survey of Suffolk County, New York (USDA, 1975) a sample of which reads –

In a representative profile, the surface layer is dark-brown silt loam approximately 11 inches (28 centimeters [cm]) thick. The upper part of the subsoil is yellowish-brown and light olive-brown friable silt loam, which extends to a depth of about 23 inches (58 cm). The central part of the subsoil is friable, olive silt loam that contains grayish-brown and yellowish-brown mottles, which extend to a depth of about 34 inches ...

Deepwater Wind cites NYSDEC, “[t]he aquifers underlying Long Island are among the most prolific in the country... The three most important Long Island aquifers are the Upper Glacial Aquifer, the Lloyd Aquifer, and the Magothy Aquifer” (NYSDEC, [2017e](#)).”

Under a section titled “Chemical Characteristics”¹¹⁴, the Environmental Impact statement describes testing the near-shore marine sea-bed “to determine particle size distribution, Atterberg Limit properties (i.e. plasticity), thermal conductivity, and specific gravity. Each vibracoring sampling location was also tested for: Arsenic (6010C), Cadmium (6010C), Copper (6010C), Lead (6010C), Mercury (7471B), Benzene (8260C), Total BTEX (8260C), Total PAH, Sum of DDT+DDE+DDD (8081B_LL), Mirex (8081B_LL), Chlordane (8081B_LL), Dieldrin (8081B_LL), PCBs (sum of aroclors) (8082A), Dioxin (Toxic Equivalency Total) (1613B), Grain Size, Total Organic Carbon.”

In a report prepared for Deepwater Wind titled: “Phase 1 Environmental Site Assessments,”¹¹⁵ the consulting engineering firm describes in great detail over one hundred and thirty eight (138) pages of environmental analysis pertaining to the proposed site for Deepwater Wind’s Interconnection Facility on Cove Hollow Road next to the LIPA East Hampton Substation.

¹¹³ See [Appendix N](#) – Deepwater Wind NYSPPSC Application, Exhibit 4, SFEC Environmental Impact (resubmitted to NYSPPSC on May 15, 2020 at p. 4-44)

¹¹⁴ *Ibid* - Section 4.8.1.2 Chemical Characteristics (at p. 4-69)

¹¹⁵ See [Appendix P](#) - Deepwater Wind NYSPPSC Application – [Appendix F Part 1, Phase I Environmental Assessment](#) prepared by VHB Engineering, Surveying, and Landscape Architecture P.C. dated January 12, 2018 (at pp. 3-138)

The report concludes: “The subject property does not appear in listings, databases or registries of Superfund sites, CERCLIS sites, hazardous waste treatment facilities, known or suspected hazardous waste disposal sites or landfills maintained by the USEPA or NYSDEC.”

In the same report: “Phase 1 Environmental Site Assessments,” but in a separate PDF file without a coversheet or introduction (at page 122 of the report) is another report by the same consulting engineering firm titled: *Hazardous Materials Desktop Analysis*.¹¹⁶

The introduction of the report reads as follows –

This memorandum has been provided as an assessment of potential subsurface conditions within an approximately 13-mile-long corridor located along the east end of Long Island (hereinafter the “study corridor”). The study corridor consists of the Long Island Railroad (LIRR) right-of-way that begins (from west-to-east) approximately 0.20 mile west of the Wainscott-Northwest Road crossover and east to approximately 0.65 mile east of the Napeague-Harbor Road crossover within the Hither Hills State Park.

...
For the purposes of the analysis, as well as in accordance with the scope of work approved by Deepwater Wind, the radius from the corridor was extended to 500-feet beyond the LIRR right-of-way.

...
The aforementioned historic resources and EDR database report were reviewed to determine the history and usage of the study corridor. Adjacent and surrounding site uses were also examined within 500 feet as part of the analysis to determine if any potential hazardous materials may have affected subsurface conditions within the corridor. As previously indicated, site hydrogeology was also analyzed and special consideration was given to adjacent and surrounding sites located both topographically and hydraulically upgradient of the corridor, as these locations have a greater potential to affect hazardous materials conditions within the corridor [emphasis added].

The Hazardous Materials Desktop Analysis concludes (erroneously) –

Based upon an evaluation of historical resources including Sanborn Fire Insurance maps and historic aerial photographs, as well as a review of regulatory agency database listings provided by EDR, it was determined that there were no hydraulically upgradient or adjacent properties along the study corridor that would represent a significant environmental risk to subsurface conditions[emphasis added].

...
In the absence of any observed gross contamination by on-site workers during trenching and/or directional boring activities during construction/installation of the proposed utility conduits, VHB recommends that the on-site workers follow a CHASP, and all disturbed soils be re-used as backfill in the corresponding excavated and/or drill spoils areas [emphasis added].

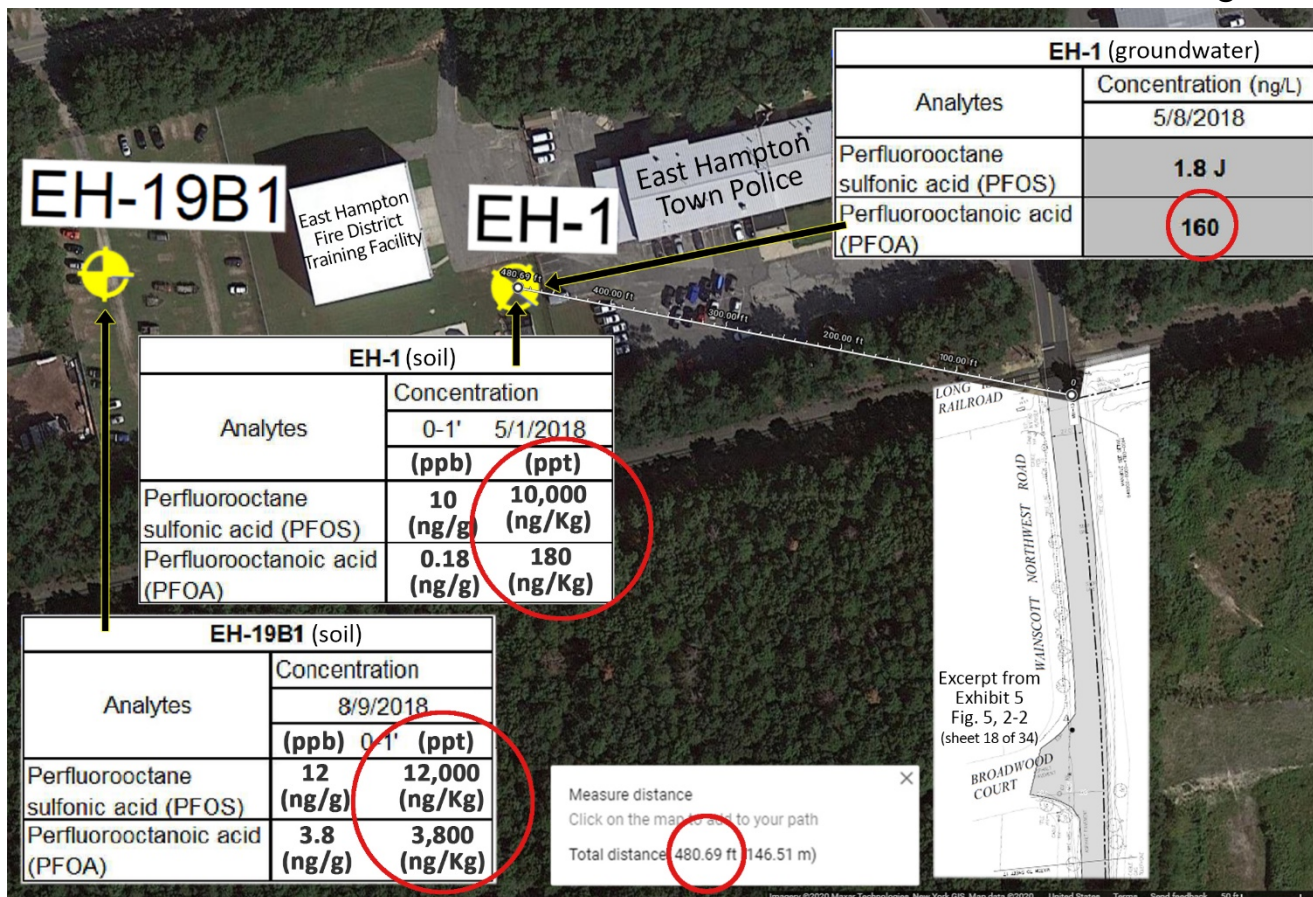
¹¹⁶ See [Appendix Q](#) - Deepwater Wind NYSPSC Application – [Appendix F Part 2, Phase I Environmental Assessment](#) prepared by VHB Engineering, Surveying, and Landscape Architecture P.C. – Hazardous Materials Desktop Analysis, dated March 30, 2018 (at pp. 122-191)

The Hazardous Materials Desktop Analysis is dated March 30 2018, five months *after* Suffolk County issued its Water Quality Advisory for Private-Well Owners in Area of Wainscott (on October 11, 2017) warning residents that “PFOS and PFOA [had been] detected above the USEPA lifetime health advisory level of 0.07 ppb [i.e. 70 ppt]” in the drinking-water supply near East Hampton Airport.

Conspicuously absent from Deepwater Wind’s Environmental Impact statement (of 193 pages), its Phase 1 Environmental Site Assessment Part 1 (of 138 pages) and its Environmental Site Assessment Part 2 (of 191 pages) including Deepwater Wind’s Hazardous Materials Desktop Analysis, is any mention of existing PFAS contamination including but not limited to extensive PFOS and PFOA contamination of both soil and groundwater (see Fig. 6 at p. 39, Fig. 12 at p. 58 and Fig 17 below).

For example, within 500 feet of Deepwater Wind’s proposed Beach Lane Route A is test well EH-1 where AECOM USA, Inc on behalf of NYSDEC detected levels of PFOA groundwater contamination as high as 160 ng/L that exceeds USEPA Health Advisory Level of 70 ng/L by more than double (see Fig. 17 below).

Fig. 17



Likewise, the Hazardous Materials Desktop Analysis prepared by VHB Engineering, Surveying, and Landscape Architecture PC on behalf of Deepwater Wind failed to mention historic contamination that was listed in the USEPA National Biennial RCRA Hazardous Waste Report, for two years (1991 and 1993), for Shaw Aero Devices, Inc (see page 71 and Fig. 14 at page 73). Contamination at this site is immediately upgradient and within 200 feet of the Beach Lane Route A cable corridor.

The Hazardous Materials Desktop Analysis also fails to mention Griffiths Carpet & Upholstery Cleaners (“Griffiths Carpet”) that operated from the same facility at or near 39/41 Industrial Road located immediately upgradient and within 200 feet of the Beach Lane Route A cable corridor. Griffiths Carpet used a Teflon-treatment process which is a known source of PFAS contamination (see page 71 and Fig. 14 at p. 73).

In the modified Environmental Impact statement (see [Appendix N](#))¹¹⁷ it reads –

4.5.2 Potential Topography, Geology, Soils, and Groundwater Impacts and Proposed Mitigation

This section identifies and evaluates the potential construction and operational impacts of the Project to topography, geology, soils, and groundwater.

...

Prior to the start of construction activities, temporary erosion control measures ... (e.g. hay bale and/or silt fence barriers and the protection of soil stockpiles) will be utilized to reduce the risk of soil erosion, fugitive dust from exposed soils, and siltation.

Following the installation of the Project, disturbed areas will be stabilized, and excavated soils will be examined to determine their suitability for reuse on-site and, where reuse is not possible, excavated soils will be disposed of at a licensed facility. If any contaminated soils are discovered during Project excavation, steps will be taken to minimize further contamination, which will be detailed in the Project EM&CP and the Construction Contingency Plan.

...

In summary, no significant impacts are anticipated on soils as a result of construction of the Project [emphasis added].

NYSDEC confirmed PFAS contamination to the north, south, east and west of Deepwater Wind’s preferred Beach Lane Route A cable corridor, therefore, it is indisputable that PFAS contamination exists along the preferred route. Regardless, as of May 15, 2020 when Deepwater Wind submitted its modified Environmental Impact statement, it clearly states that only *following* the installation of the Project will excavated soils will be examined and that if contaminated soils are discovered *during* the Project, steps will be taken to *minimize further contamination*. Deepwater Wind plans to delay environmental review and consideration of the PFAS contamination until *after* it has been granted a Certificate of Environmental Compatibility and Public Need by NYSDEC.

¹¹⁷ See [Appendix N](#) – Deepwater Wind NYSDEC Application – Exhibit 4, SFEC Environmental Impact (at p. 4-44)

Since submitting its application to NYSPSC, neither Deepwater Wind nor NYSPSC has made any attempt that has been publicly disclosed to find and determine the nature of the probable environmental impact of excavating highly contaminated soil along the preferred Beach Lane Route A cable corridor which it is required pursuant to NY CLS, Public Service Law, Article VII, Section 126.

PFAS Soil Contamination

According to its Application, the total length of Deepwater Wind's preferred Beach Lane Route A corridor is 4.1 miles. Of this, approximately two miles (or 49%) runs through an area contaminated with Per- and Polyfluoroalkyl Substances (PFAS). Immediately to the north of and upgradient from the LIRR section of the Beach Lane Route A is East Hampton Airport, the main source of PFAS contamination. Immediately to the south of the LIRR section of this route is Wainscott Sand and Gravel that is another source of PFAS contamination. The Beach Lane Route A cable corridor also runs to the west and adjacent to Wainscott Sand and Gravel for approximately half a mile.

On November 30, 2018, AECOM USA, Inc. on behalf of NYSDEC published a report titled: Site Characterization Report, East Hampton Airport (see page 50 for further details on groundwater contamination). The levels of soil contamination at East Hampton Airport detected were highest to a depth of 1 foot (see Table 5 at p. 82) with a maximum reading of 15,800 ppt for combined PFOS/PFOA contamination at well EH-19B1 where firefighting foam was stored (see Fig. 17 at p. 78). The second highest reading of 10,180 ppt for combined PFOS/PFOA contamination was recorded at well EH-1 (see Fig. 17 at p. 78).

The location of Well EH-1 is within 500 feet of Beach Lane Route A and where Deepwater Wind proposes to excavate and bury beneath Wainscott Northwest Road a splicing vault similar in size to a forty-foot shipping container.¹¹⁸

The average level of PFOS/PFOA (combined) *soil* contamination over all twenty-one well locations at East Hampton Airport to a depth of 1 foot is 2,281 ppt (see Table 5 at p. 82). Over the same number of well locations, but at a depth from 19 to 42 feet, the average level of PFOS/ PFOA (combined) soil contamination is 392 ppt (see Table 6 at p. 83).

Within the Wainscott PFAS Contamination Zone the proposed Beach Lane Route A cable corridor is approximately two miles long through which Deepwater Wind plans to construct duct banks in trenches at least eight feet deep and four feet across in addition to at least ten splicing vaults (see Fig. 16 at p. 75).

¹¹⁸ Deepwater Wind proposes to construct at least 19 splicing vaults each measuring 26' 4" long by 9' 4" wide and 11' 4" deep in addition to a transition vault that is larger.

The amount of soil required to be excavated from just the two-mile stretch within the PFAS Contamination Zone is approximately 14,000 cubic yards (see Excavation Calculation in Table 4 below).

Table 4

Excavated Soil within Wainscott PFAS Contamination Zone							
Deepwater Wind South Fork Preferred Beach Lane Route A	Qty	Length (feet)	Width (feet)	Depth (feet)	Volume	Total Estimate of Excavated Material	
Splicing Vault Dimensions		26.33	9.33	11.33			
Excavation Allowance (1 ft @ side & 4 ft deep):		2.00	2.00	4.00			
Excavation for Splicing Vault	10	28.33	11.33	15.33	4,924	49,237	cubic feet
Length to be deducted from duct bank length:		283					
<i>(See PSC Application, Exhibit 05 - Fig 5, 2-1 - Vault)</i>							
Duct Bank Dimensions (length = 2.0 miles)		10,560	3.00	5.92			
Duct Bank Excavation Allowance (6" @ side)		-283	1.00	2.08			
Excavation for Duct Bank	1	10,277	4.00	8.00	328,716	328,716	cubic feet
<i>(See PSC Application, Exhibit 03 Underground Construction, E-3.3.3.1 Open Trenching at page E-3-14)</i>							
Total Excavated Soil within PFAS Contamination Zone:						377,953	cubic feet
						14,000	cubic yards

The excavated material is hazardous waste and will require expert handling and expensive removal from a residential neighbourhood. Contaminated soil, dirt and dust can easily be carried on the wind into residents’ homes and more so during winter when Deepwater Wind plans to construct and install its high-voltage alternating-current infrastructure through local roads in a residential neighborhood.

The contaminated soil will have to be transportation through local streets and along Montauk Highway to a registered hazardous waste disposal site off Long Island.

The construction site will have to be fully remediated at great expense.

If Deepwater Wind is failing to adequately plan for the safe removal of contaminated material, now, and ignoring all the voluminous evidence of PFAS contamination, now, then it would be foolish to believe it will act responsibly when it has a financial incentive to cut corners to save millions of dollars.

The health and safety of local residents living in the Hamlet of Wainscott is *not* Deepwater Wind’s primary concern or ultimate responsibility.

Table 5

PFAS Contamination		Source: NYS DEC		East Hampton Airport Site Characterization Report - Soil Sample Data - Wells < 1 foot (ng/kg or ppt)																			
Name (acid)	Initials	North Field				Sound Aircraft	Airport Parking Lot			NW Woods	EHTPD	LTV	Aircraft/Helicopter Taxiway				E. End Hanger	ARFF					
		EH-B	EH-B1	EH-E	EH-E1	EH-SAS	EH-16	EH-161	EH-162	EH-C	EH-1	EH-10	EH-A	EH- A1	EH-A2	EH-A3	EH-1B	EH-19A	EH-	EH-	EH-19B	EH-19B1	
		Apr 30	Aug 08	Apr 30	Aug 08	Aug 08	Apr 30	Aug 08	Aug 09	May 01	May 01	May 01	May 02	May 02	May 02	May 02	May 03	May 04	Aug 09	Aug 09	May 03	Aug 09	
		0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	0-1'	
6:2 Fluorotelomer sulfonic	6:2 FTS	170 U	180 U	170 U	170 U	170 U	170 U	180 U	170 U	180 U	170 U	180 U	170 U	170 U	170 U	170 U	170 U	170 U	180 U	170 U	170 U	180 U	
8:2 Fluorotelomer sulfonic	8:2 FTS	220 U	230 U	220 U	220 U	220 U	220 U	240 U	220 U	230 U	220 U	230 U	220 U	220 U	220 U	220 U	220 U	220 U	230 U	220 U	220 U	240 U	
Perfluorotetradecanoic	PFTeDA	380 U	390 U	380 U	380 U	380 U	380 U	410 U	380 U	400 U	380 U	390 U	380 U	380 U	380 U	380 U	380 U	380 U	390 U	380 U	390 U	400 U	
Perfluorotridecanoic	PFTrDA	240 J	160 U	190 J	150 U	150 U	150 U	160 U	150 U	180 J	150 U	160 U	190 J	160 J	150 U	150 U	160 J	150 U	160 U	150 U	160 J	160 U	
Perfluorododecanoic	PFDODA	260 U	270 U	260 U	260 U	260 U	260 U	280 U	260 U	270 U	260 U	270 U	260 U	260 U	260 U	260 U	260 U	260 U	270 U	260 U	270 U	280 U	
N-Ethyl perfluorooctane *	N-E PFOAA	110 U	120 U	110 U	110 U	110 U	110 U	120 U	110 U	120 U	110 U	120 U	110 U	110 U	110 U	110 U	110 U	110 U	120 U	110 U	120 U	120 U	
Perfluoroundecanoic	PFUnDA	260 J	260 U	250 U	250 U	250 U	250 U	270 U	250 U	260 U	250 U	260 U	250 U	250 U	250 U	250 U	250 U	250 U	260 U	250 U	260 U	270 U	
N-Methyl perfluorooctane **	N-M PFOSA	85 U	240 J	85 U	85 U	85 U	85 U	90 U	410 J	88 U	85 U	86 U	85 U	85 U	85 U	85 U	85 U	85 U	86 U	85 U	87 U	90 U	
Perfluorodecane sulfonic	PFDS	170 U	180 U	170 U	170 U	170 U	170 U	180 U	170 U	180 U	170 U	180 U	170 U	170 U	170 U	170 U	170 U	170 U	180 U	170 U	180 U	180 U	
Perfluorodecanoic	PFDA	410 U	210 U	290 U	200 U	200 U	200 U	220 U	200 U	250 U	270 U	210 U	230 U	200 U	200 U	250 U	210 U	210 U	210 U	200 U	220 U	210 U	
Perfluorononanoic	PFNA	320 U	320 J	480 U	180 U	180 U	240 U	190 U	180 U	320 U	550 U	240 U	290 U	240 U	180 U	210 U	290 U	490 U	190 U	180 U	250 U	490 J	
Perfluorooctane sulfonic	PFOS	4,000	1,900	3,600	170 U	170 U	720 J	330 J	200 J	180 J	10,000	640 J	170 U	340 J	170 U	170 U	540 J	3,900	180 U	170 U	220 J	12,000	
Perfluorooctanoic	PFOA	180 U	350 J	180 U	330 J	180 U	180 U	260 J	180 U	230 U	180 U	190 U	180 U	180 U	180 U	180 U	180 U	180 U	190 U	200 J	420 J	3,800	
Perfluorooctane sulfonamide	FOSA	130 U	140 U	130 U	130 U	130 U	130 U	140 U	130 U	140 U	130 U	140 U	130 U	130 U	130 U	130 U	130 U	130 U	140 U	130 U	140 U	140 U	
Perfluoroheptane sulfonic	PFHpS	140 U	150 U	140 U	140 U	140 U	140 U	150 U	140 U	150 U	140 U	150 U	140 U	140 U	140 U	140 U	140 U	140 U	150 U	140 U	150 U	1,900	
Perfluoroheptanoic	PFHpA	280 J	230 U	270 J	220 U	220 U	230 J	240 U	220 U	510 J	240 J	230 U	220 U	250 J	220 U	220 U	260 U	220 U	230 U	220 U	300 U	240 U	
Perfluorohexane sulfonic	PFHxS	530 J	270 U	250 J	270 U	180 U	170 U	200 U	170 U	180 U	170 U	180 U	170 U	170 U	170 U	170 U	170 U	170 U	170 U	170 U	280 J	3,800	
Perfluorohexanoic	PFHxA	210 U	220 U	210 U	340 J	210 U	210 U	230 U	210 U	510 J	210 U	220 U	210 U	210 U	210 U	210 U	210 U	210 U	230 J	210 U	210 U	750 J	
Perfluoropentanoic	PFPeA	190 U	200 U	190 U	200 J	190 U	190 U	210 U	190 U	480 J	190 U	200 U	190 U	190 U	190 U	190 U	190 U	190 U	200 U	190 U	190 U	480 J	
Perfluorobutane sulfonic	PFBS	170 U	180 U	170 U	170 U	170 U	170 U	180 U	170 U	180 U	170 U	180 U	170 U	170 U	170 U	170 U	170 U	170 U	180 U	170 U	180 U	180 U	
Perfluorobutanoic	PFBA	180 U	190 U	180 U	180 U	180 U	180 U	190 U	180 U	190 U	180 U	190 U	180 U	180 U	180 U	180 U	180 U	180 U	190 U	180 U	180 U	190 U	
	Avg. PFAS:	411	304	377	206	188	217	213	204	249	677	221	196	200	187	191	213	380	217	188	219	1,243	
	Combined PFOS/PFOA (0-1'):	4,180	2,250	3,780	500	350	900	590	380	410	10,180	830	350	520	350	350	720	4,080	370	370	640	15,800	
	Average PFOS/PFOA per Area (0-1'):	2,678				350	623			410	10,180	830	393				720	1,365					
	Average PFOS/PFOA at Airport Site (0-1'):	2,281																					
		* N-Ethyl perfluorooctane sulfonamidoacetic acid																					
		** N-Methyl perfluorooctane sulfonamidoacetic acid																					
		ng/Kg Detected concentrations are in white text on red																					

In Deepwater Wind’s Environmental Impact statement, under section: *Accidental Spills*, Deepwater Wind admits the following –

During construction of the SFEC-NYS, various offshore vessels will be utilized, each containing various amounts of fuels, hydraulic fluid, oil, and other potentially hazardous materials that could be accidentally released into the water.

Immediately following this statement, Deepwater Wind confirms that it has *not* developed a “Construction Contingency Plan,” but promises to do so “within the Project EM&CP ... to prevent spills to the extent practicable [emphasis added]” *after* it has been granted a Certificate of Environmental Compatibility and Public Need by NYSPPSC.

Finally, Deepwater Wind writes –

Given the minimal volumes of hazardous materials that will be present during construction, any accidental discharges will be considered negligible.¹¹⁹

PFAS clean-up costs taxpayers \$1bn extra (West Gate Tunnel)

In February 2020, two contractors in the middle of building a new \$6.7 billion roadway tunnel terminated the contract over a dispute concerning the disposal of soil contaminated with “PFAS - chemicals used in firefighting foams and other industrial and consumer products.” The contractors allege they were told the excavated soil “would be classified as ‘fill material’ that could be recycled or put into regular landfill sites, but subsequently found that most of the soil was contaminated” (see [Exhibit 54](#)).¹²⁰

The West Gate Tunnel is in Melbourne and involves excavating contaminated soil from a 4-mile-long roadway tunnel. Although it is not Deepwater Wind and is not a high-voltage transmission infrastructure project in East Hampton, it still has the same PFAS contamination and the same problem – exactly who is responsible for cleaning up and remediating a construction site that is heavily contaminated with PFAS chemicals that are classified in NYS as hazardous waste?

Further, if remediation costs become prohibitively expensive for Deepwater Wind, will it simply walk-away leaving local taxpayers with the clean-up bill in the same way the two contractors, CIMIC and John Holland, are threatening to walk away from their public/private partnership leaving the Victorian Government with a half-completed project on a contaminated site?

¹¹⁹ See [Appendix N](#) – Deepwater Wind NYSPPSC Application – Exhibit 4, SFEC Environmental Impact (at p. 4-73)

¹²⁰ See [Exhibit 54](#) – Article by Jenny Wiggins in The Australian Financial Review titled: *Transurban under pressure to resolve West Gate Tunnel dispute* published February 5, 2020

The Australian Financial Review article brings the issue into focus (see [Exhibit 54](#))¹²¹ –

Analysts have estimated the West Gate Tunnel could now cost an additional \$1 billion to finish, but the Victorian government is reluctant to pump in additional taxpayer funds

The similarities are not limited to the PFAS contamination.

The West Gate Tunnel project involves multiple parties both private and public, complex contracts, overlapping jurisdictional issues and an arcane risk allocation model.

When compared to the South Fork Wind Farm project, however, the West Gate Tunnel project is a walk in the park.

The South Fork Wind Farm is owned by Deepwater Wind South Fork, LLC which is owned by another private company which is owned by a foreign company. Deepwater Wind has contracts, certificates, licenses, leases, easements, permits, etc. with US federal, state and local government entities and supplying power to a quasi-public entity with an opaque soviet-style management structure (LIPA) managed by a private company based in another state (PSEG is based in NJ) and even involves an arcane a board of trustees who were granted their rights in 1686 by James II King of England. As the news article astutely points out (see [Exhibit 58](#))¹²² –

Removing and disposing of PFAS contamination is costly. Figuring out who is responsible for paying is complicated

With regards to the West Gate Tunnel project, it appears as though it is heading towards "a full-flung fight" over "who will pay for \$1 billion in cost blow-outs" associated with cleaning up the PFAS contamination.

Is anyone paying attention to constructions risks associated with Deepwater Wind?

Of one thing we can be assured, Governor Andrew Cuomo does *not* want his signature renewable energy program to end in financial ruin as happened with the Shoreham Nuclear Power Plant during his father's tenure. Long Islanders are still paying down billions of dollars of debt from the Shoreham Nuclear Power Plant fiasco, but it could be worse this time around with Deepwater Wind. Deepwater Wind is hiding fundamental flaws in its project that will likely lead to failures and endanger the health and safety of residents living near an old and frail LIPA East Hampton Substation. Deepwater Wind is beginning to sounds like Deepwater Horizon.

¹²¹ See [Exhibit 54](#) – Article by Jenny Wiggins in The Australian Financial Review titled: *Transurban under pressure to resolve West Gate Tunnel dispute* published February 5, 2020

¹²² See [Exhibit 58](#) – Article by Jenny Wiggins in The Australian Financial Review titled: *West Gate Tunnel dispute veers towards 'full-flung fight'* published June 19, 2020

What PFAS Contamination?

The Town of East Hampton has been concealing the PFAS contamination since June 2016 and, now, Deepwater Wind is also refusing to acknowledge any PFAS contamination in Wainscott.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Town Agrees to Keep Deepwater Wind Secret (NDAs)

On May 10, 2016 – five weeks *before* Town of East Hampton (“TOEH”) received its PFOA/PFOS 2016 Survey – then Town Supervisor, Larry Cantwell, [REDACTED] signed unilateral Non-Disclosure Agreements (“NDAs”) as did officials from the Town of South Hampton.¹²⁵

The NDAs require TOEH to keep information used in reviewing proposals submitted pursuant to the South Fork Request for Proposals (“South Fork RFP”) confidential. The winning proposal for the South Fork RFP was that submitted by Deepwater Wind for its South Fork Wind Farm. The Town, therefore, was contractually obligated to keep secret all information regarding the South Fork Wind Farm that Deepwater Wind submitted for consideration pursuant to the South Fork RFP and the information Deepwater Wind was required to submit covers every aspect of the South Fork Wind Farm proposal. The information as specified in the South Fork RFP includes pricing, resource overview, development plans and schedule, status and reporting, program management capabilities, program calculation of impacts, resource performance, resource environmental characteristics, fuel supply plan, electrical equipment, design studies, factory tests, commissioning tests, training, field services, maintenance and support, future upgrades, communication capabilities, customer interaction capabilities, and respondent information and qualifications.¹²⁶

The DNAs are still in effect today and do *not* expire until May/June of 2021¹²⁷

The NDA’s were executed in May of 2016 and were kept secret for nearly four (4) years until disclosed in early 2020.

On August 14, 2017, for example, Councilwoman Burke-Gonzalez was asked about the NDAs by a member of the Wainscott CAC. Councilwoman Burke-Gonzalez replied via email copied to all Wainscott CAC members as follows (see [Exhibit 57](#))¹²⁸ –

The Town of East Hampton is not bound by any Confidentiality or Non-Disclosure Agreements (NDA) that limits the Town from fully discussing the DeepWater [sic] Project.

¹²⁵ See [Exhibit 48](#) - TOEH Supervisor Larry Cantwell (May 10, 2016)

¹²⁶ See [Appendix O](#) – South Fork RFP 2015 released on June 24, 2015 (at pp. 12-36)

¹²⁷ The date of June 1, 2021 is based on an effective start date of May 31, 2016, the date of the first Stakeholder meeting. The start date used from which to calculate the NDAs five-year term assumes that the first time Confidential Information was received by Town was on the day of the first meeting.

¹²⁸ See [Exhibit 57](#) – Email exchange between Councilwoman Burke-Gonzalez and Wainscott CAC regarding Deepwater Wind Non-Disclosure Agreements? - NDAs (Aug 14, 2017)

... Nothing within the NDA legally binds the Town or serves as an NDA which prohibits the release of any information by the Town or any of its officials since the time the RFP was awarded by LIPA.

Given that the NDAs *are* binding upon TOEH until around May of 2021, Councilwoman Burke-Gonzalez misled the Wainscott CAC by *not* telling it the truth.

The NDAs, in effect, are a gag order prohibiting TOEH from disclosing Confidential Information that is defined within the NDA's to include any information used in reviewing Deepwater Wind's proposal for the South Fork Wind Farm.

The NDAs define Confidential Information in broad terms (below) –

2. *The term "Confidential Information" means ... information used ... in reviewing proposals submitted pursuant to the SOUTH FORK RFP and any and all information pertaining to the formation, discussions and conduct of business ... business secrets; business information, business plans and practices; financial and pricing information; financial statements and reports; employee information or data; project specifications; projections; schematics and drawings; trade secrets; processes; materials; customer information or data; shareholder information or data; supplier lists; sales volume; territories; markets; current, future or potential acquisitions; technical, production, operational, marketing or sales information; or any and all other financial, business, organizational and technological information, in all respects related to LIPA's review of the responses to the SOUTH FORK RFP... and ... shall include all writings, notes, memoranda, ... made by ... its employees, agents or servants with respect to such Confidential Information."*

By entering into the NDAs, TOEH agreed to “treat and maintain Confidential Information as confidential and proprietary and shall not for any purpose or in any manner use or disclose Confidential Information, in whole or in part, without ... prior written consent [emphasis added].”¹²⁹

TOEH, therefore, could not disclose, inform or discuss, even with Town residents, information related to Deepwater Wind or its proposed South Fork Wind Farm unless it had “prior written consent” or the information “was already in the public domain” or had subsequently “entered the public domain.”¹³⁰

By its entering into such NDAs, the TOEH Town Board had essentially agreed to be a ventriloquial figure. What words may have appeared to come from the Town Board where, pursuant to contracts, vetted and approved by PSEG Long Island on behalf of LIPA in collusion with Deepwater Wind. It is a very convenient relationship that keep information about Deepwater Wind out of the public domain and avoids public scrutiny and criticism.

¹²⁹ See [Exhibit 48](#) – Non-Disclosure Agreement between LIPA and Town of East Hampton, Town Supervisor Larry Cantwell, [REDACTED], dated May 10, 2016, Paragraph 6. (at p. 3)

¹³⁰ *Ibid* Paragraph 6 at p. 3 and Paragraphs 3(a) and 3(b) at p. 2

Although the TOEH Town Board was elected to represent residents living in the Town, by entering into the NDAs it – willingly – agreed *not* to speak with residents living in the Town about Deepwater Wind without “prior written consent.” When TOEH signed away its rights to speak freely and openly about issues pertaining to the proposed South Fork Wind Farm, it denied residents of the Town their rights to representation. Having had their voices stolen, the residents’ interests became subordinate to the interests of LIPA and PSEG Long Island in collusion with Deepwater Wind.

TOEH’s Town Board was elected to represent the interests of its residents and primary among those is an interest in their overall health and safety. Yet despite its obligation, the Town Board treated the health and safety of its resident as secondary to the outside interests of Deepwater Wind.

[REDACTED]

[REDACTED]

[REDACTED]

¹³¹ Application for a Certificate of Environmental Compatibility and Public Need by Deepwater Wind South Fork, LLC before New York State Public Service Commission (docket number: 18-T-0604).

[REDACTED]

[REDACTED]

It was not until September 14, 2018 when Deepwater Wind submitted its Application for a Certificate of Environmental Compatibility and Public Need to New York State Public Service Commission (case: 18-T-0604) that the public learned of Deepwater Wind's plans to construction and bury underneath local roadways for approximately three-to-four miles fourteen splicing vaults each the size of a forty-foot shipping container and to connect these vaults via cement-encased duct-banks: through the middle of the most highly contaminated square mile of soil in the Town of East Hampton.¹³³

As at the time of writing this report, neither Town nor New York State Public Service Commission as lead agency responsible for the environmental review of Deepwater Wind's Application, has publicly required Deepwater Wind to test the soil or groundwater for PFAS contamination along its proposed Beach Lane Route A.

[REDACTED]

... END OF REPORT ...

¹³³ See [Appendix M](#) - NYS PSC Application by Deepwater Wind (case: 18-T-0604), Exhibit 5, Fig 5, 2-1 and 2-2

Disclaimer

In 2016, as a new member of the local Wainscott Citizens' Advisory Committee, I promised the committee that I would look into issues pertaining to water quality. At the time, there was little, if any, oversight of water quality from private wells. This has not changed. When these issues were brought to the attention of the East Hampton Town Board, our elected officials were dismissive.

I am neither a scientist, lawyer nor do I have any medical qualifications. I am a resident of Wainscott and a (recent) US citizen who is concerned about the environment and the health of his family, friends and community.

These reports try to provide information that concerns the quality of our drinking-water, aquifers, surface waters and associated issues with regards to ongoing contamination. Much of this information has been kept quiet by our elected officials, especially officials at the Town of East Hampton. Much of this information has been obtained through FOIL requests over the past three years.

If you believe anything in this report (or prior reports) is untrue or misrepresents the truth in any way, please let me know. I am the first person who wishes to know so that I may have the opportunity to correct the error. I can be contacted via email – Si@Wainscott.Life

The primary purpose of this report is to present information and to raise awareness. Any conclusions or opinions presented in this report are *not* professional opinions and are based *only* on available information that is publicly available.

Any information, data, opinions or conclusions are subject to the following limitations –

1. The information and data presented in this report is from an examination of records in the public domain. In any data analysis there may be transposition errors. With the passage of time, occurrence of future events, or revelation of new information, information, data analysis, findings, and/or conclusions presented in this report may need to be reevaluated.

2. No warranty or guarantee whether expressed or implied is made with respect to the information contained in this reported, its findings or conclusions.

3. This report does *not* purport to present professional opinions and findings of a legal, scientific or technical nature. The report does *not* offer legal opinions or make representations as to the requirements of or compliance with environmental laws, rules, or regulations, or policies of federal, state, or local government agencies. *No* liability for financial or other losses or subsequent damage caused by or related to any use of this document shall be assumed.

4. This report is *not* a definitive study of contamination at a site and should not be interpreted as such. This report has relied solely on site evaluations performed by third parties and does *not* come to any other conclusions other than those as reflected in evidence. An evaluation of subsurface soil and groundwater conditions was not performed as part of this investigation other than that presented by third parties.

5. This report is based solely on information provided by third-party sources.