

Name of Person Preparing Response: Lisa Covert, NYSDEC Counsel

Response Date: January 23, 2020

Case 18-T-0604 - Application of Deepwater Wind South Fork, LLC

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

Interrogatory/Document Request

Publicly available information. Not to be restricted to settlement negotiations.

Request Number:	Si Kinsella #11
Request Title:	PFAS & Other Contamination – Shaw Aero
Addressed To:	NYS Dept. of Environmental Conservation
From:	Simon Kinsella
Date of Request:	January 13, 2020

Background

New York State Department of Environmental Conservation (NYS DEC) failed to test contamination concentration levels at a probable source of significant PFAS contamination and a possible source of other contamination in its Site Characterization Report, East Hampton Airport, published November 30, 2018. This source of contamination is adjacent to and immediately north of the Beach Lane Route A Cable Corridor where Deepwater Wind South Fork, LLC (the Applicant) proposes to run its 138-kilovolt export cables (please see Appendices A and B).

Shaw Aero Devices, Inc/Shaw Aero Development, Inc/Shaw Aero Development, LLC (collectively referred to as “Shaw Aero”) manufactured parts for commercial, military, construction and mining vehicles and aircraft from the mid-to-late 1950’s through to 1993 (please see Appendices A, F and G).

According to National Biennial RCRA Hazardous Waste Report published by Environmental Protection Agency (EPA) for two years (1991 and 1993), Shaw Aero generated over 42 tons of hazardous waste (please see Appendices A and E).

The former Shaw Aero site is located at or near number 39 Industrial Road in Wainscott and adjacent to and immediately north of the Applicant's preferred Beach Lane Route A Cable Corridor (please see Appendices A, C and D at pages 2, 9 and 11).

The groundwater near the former Shaw Aero site generally flows from the northwest to the southeast. Please see Appendices A and B (Fig 10 at page 16). Contamination from this site would flow generally from the former Shaw Aero facility in a south-easterly direction towards the Applicant’s preferred Beach Lane Route A Cable Corridor.

Name of Person Preparing Response: Lisa Covert, NYSDEC Counsel

Response Date: January 23, 2020

List of Appendices

Please see the following documents (attached) –

Appendix A – Info Graphic based on NYS DEC’s Site Characterization Report, East Hampton Airport, published November 30, 2018 (see Fig 8) prepared by Si Kinsella (Jan 12, 2020).
Page 4

Appendix B – NYS DEC’s Site Characterization Report, East Hampton Airport, prepared by AECOM, published November 30, 2018 (pages 1-35, only).
Page 5

To download the complete Site Characterization Report, please click on the following link –

[DEC Site Characterization Report, East Hampton Airport \(pages 1-268\)](#)

Appendix C – Wainscott Water Distribution System Improvement Engineering Report by Suffolk County Water Authority (see Fig 10 at page 16)
Page 34

Appendix D – EPA FRS Facility Detail Report for Shaw Aero devices, Inc (ID: 11017238130)
Page 57

Appendix E – EDR Radius Map for Stephen Hands Path Wells Nos. 1 & 2 (at pp. 2, 9 and 11).
Page 61

Appendix F – EPA National Biennial RCRA Hazardous Waste Report: Based on data from 1991 and 1993
Page 75

Appendix G – About Shaw Arrow Development, LLC (source: www.ShawParts.com)
Page 77

Appendix H – NYS Department of State, Division of Corporations, Entity Information – Shaw Aero Development, Inc.
Page 80

NYSDEC Responses to Information Request:

Background and Appendices:

The New York State Department of Environmental Conservation (NYSDEC) objects to the Background and Appendices to Si Kinsella #11, as they are not requests under 16 NYCRR Part 5, and instead merely provide information. Therefore, NYSDEC will not respond to the Background and Appendices.

- 1) Has NYS DEC tested soil and/or groundwater for PFAS contamination or for any other contamination at the former Shaw Aero site on industrial Road in Wainscott? If NYS DEC tested soil and/or groundwater for contamination, please provide all laboratory test results and any report(s) based on said test results.

NYSDEC has not tested soil and/or groundwater at 39 Industrial Road. Therefore, NYSDEC has no records pursuant to this request.

- 2) Has NYS DEC performed any analysis on soil and/or groundwater at the former Shaw Aero site on industrial Road in Wainscott? If NYS DEC performed any analysis on soil and/or groundwater, please provide the analysis and any report(s) based on said analysis.

NYSDEC has not tested soil and/or groundwater at 39 Industrial Road. Therefore, NYSDEC has no records pursuant to this request.

- 4) Has NYS DEC endeavoured to “find and determine ... the nature of the probable environmental impact”¹ from contamination at the former Shaw Aero site? If NYS DEC has endeavoured to find and determine the nature of such environmental impact, please provide documentary evidence supporting NYS DEC’s findings and determinations.

Pursuant to Public Service Law § 126(1)(b) as referenced in footnote 1, it is the Public Service Commission’s role, not NYSDEC’s, to “find and determine...the nature of the probable environmental impact” in order to “grant a certificate for the construction or operation of a major utility transmission facility, either as proposed or as modified by the commission...” Public Service Law § 126(1)(b). NYSDEC has not endeavored to carry out that function in lieu of the Public Service Commission.

- 5) Has NYS DEC considered any environmental impact at the former Shaw Aero site? If NYS DEC has considered such environmental impact, please provide documentary evidence supporting NYS DEC’s considerations.

NYSDEC objects to this question on the grounds that it is irrelevant to this Article VII proceeding for the application of Deepwater Wind South Fork, LLC for a Certificate of Environmental Compatibility and Public Need for the construction of an export cable. Such application is not at 39 Industrial Road. Moreover, to the extent

¹ NY CLS Public Service Law § 126 (1)(b)

Name of Person Preparing Response: Lisa Covert, NYSDEC Counsel

Response Date: January 23, 2020

“environmental impact” is used in the same sense as in the prior question, it is the Public Service Commission’s role, not NYSDEC’s, to “find and determine...the nature of the probable environmental impact...” Public Service Law § 126(1)(b).

Notwithstanding the foregoing, without waiving said objection, 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.