



TOWN OF EAST HAMPTON

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FOR IMMEDIATE RELEASE

Statement from the office of East Hampton Town Supervisor Peter Van Scoyoc

Unsubstantiated: What were they? No examples of "factual inaccuracies" cited.

There are numerous factual inaccuracies contained in the advertisement recently placed in the newspaper titled "Seeking accountability from the Town of East Hampton," by Si Kinsella, and his report at the Wainscott.Life website.

False: A timeline of "all" events has *not* been provided by the Town (please see Note 1, below)

The attached document is an accurate timeline of all events. The Town Board acted promptly and reasonably. In fact, after the Town Board commenced installation of the water main and provided bottled water to impacted residents, New York State Department of Environmental Conservation ("NYSDEC") determined the Town's actions to be necessary and appropriate.

Misdirection: The Town submitted "false information" which it does not deny (i.e. not "withheld information").

The allegation that the Town withheld information from NYSDEC is incorrect.

The Town promptly provided all information it had in its possession. That search resulted in the Town's conclusion that it did not use, store or purchase aqueous film-forming foam (AFFF) at the Airport.

What Search? Had the Town searched Google, it would have found this link - <https://www.27east.com/southampton-press/southampton-police/emergency-servicespractice-for-mass-casualty-events-1585644/>

Instead, the East Hampton Fire Department, which is owned and operated by the Incorporated Village of East Hampton (a distinct municipality from the Town), caused the contamination by storing and using the foam. Every single use of AFFF identified in the Kinsella report and NYSDEC's site characterization was used by the East Hampton Fire Department. As the Town does not control this fire department, the Town does not have records or knowledge of uses and storage of AFFF except from what is identified in NYSDEC's Site Characterization Report. The Town has made multiple requests for the Village to disclose where the fire department used foam. The Village, however, through its outside counsel, rejected the Town's requests. As a result, the Town was forced to sue the Village to obtain, among other things, the production of this information and for the Village's insurer

Misdirection: On June 14, 2016, DEC sent the Town a PFOA/PFOS survey and the Town was "legally obligated" to report any usage of firefighting foam on Town property regardless of who was holding the hose at the time.

False: The Town neither acted promptly nor reasonably when it delayed for nine months reporting discharges of hazardous waste on its property that it was "legally obligated" to return within thirty days.

It is *not* reasonable to obstruct a DEC investigation and prolong by fourteen months a situation where hundreds of residents of the Town are drinking water contaminated with hazardous waste emanating from property owned by the Town.

Note 1: Conspicuously, *all* three documents which were the subject of the advertisement are missing from the Town's timeline as follows:

- (1) June 14, 2016 - DEC notifies Town that it is "legally obligated to respond to this [enclosed PFOA/PFOS] survey" within 30 days.
- (2) Mar 23, 2017 - Town emails completed PFOA/PFOS Survey 9 months later. Survey contains false information.
- (3) Nov 27, 2017 - Town emails Suffolk County, but does *not* provide *any* information regarding *nine on-site wells* at its airport when Deputy Commissioner Capobianco wanted to "schedule an appointment to sample wells" and requested "contact information for facilities served with on-site wells."

to provide financial assistance to the Town in connection with the clean-up. Mr. Kinsella should be aware of this as his report references the complaint filed by the Town against the Village; all of these facts are in that complaint.

Further, the Town has complied with every demand, request and order made by NYSDEC and the Suffolk County Department of Health regarding the investigation and cleanup. Throughout the period of October 2017 through 2018, the Town had regular calls with the Suffolk County Department of Health and NYSDEC to address the issue. Within two days of the Suffolk County Department of Health issuing a water quality advisory, the Town commenced its free bottled water deliveries to Wainscott residents. The Town quickly determined, after consultation with government agencies and the Suffolk County Water Authority, that an extension of the public drinking water supply line is the best course of action to ensure clean drinking water for Wainscott residents. The project was unprecedented as it called for the extension of approximately 9 miles of drinking water mains at a cost in excess of \$12 million. The water main installation was completed in 2018.

Further, the Town has recently entered into an Administrative Order on Consent with NYSDEC such that the Town will investigate and remediate on-site and off-site contamination as NYSDEC directs. The Town has hired environmental experts in the field to immediately address any and all issues.

In order to recover the costs associated with the foregoing, the Town commenced legal action. That legal action was not only commenced against the Village and its Village's insurer, but also against eighteen (18) other defendants in federal court. The defendants include chemical manufacturers, fire-fighting foam manufacturers, and certain property owners.

Mr. Kinsella's position with respect to the Deepwater Wind project exacerbating PFAS contamination is not based on science and is grossly inaccurate.

FALSE:

The Town has *not* comply "with every demand, request and order".

For example:

(1) The Town did *not* return its PFOA/PFOS Facilities Identification Survey by July 15, 2016 as instructed by NYS DEC on June 14, 2016.

(2) The Town did *not* "install point of entry treatment systems (POETs) ... to address the contaminated water supply wells" as instructed by NYSDEC on Nov 10, 2017.

(3) The Town did *not* provide information regarding nine on-site wells at the airport site as requested by Suffolk County Deputy Commission Capobianco on Nov 24, 2017.

FALSE:

The Town cites no examples of non-scientific or "grossly inaccurate" information to support its (false) claim.

According to NYS DEC Site Characterization Report, the average concentration level of PFAS contamination (to a depth of 12 inches) over twenty-one wells sampled at East Hampton Airport is 2,281 ppt and to a depth of 19 to 42 feet is 392 ppt. Furthermore, Suffolk County Department of Health Services (SCDHS) detected PFOA/PFOS contamination in 230 private drinking-wells south and downgradient from the Town-owned airport site and over seventy-five (75) private drinking-water wells "were found to contain PFOA and/or PFOS at levels in excess of the Recommended MCLs" (see Town Complaint against Village of East Hampton 2:20-cv-01787-SJF-AYS).

Deepwater Wind plans to construct its high-voltage transmission infrastructure through this highly contaminated residential neighborhood for two (2) miles and to excavate approximately 14,000 cubic yards of what is likely to be contaminated material. Contaminated dust and dirt from Deepwater Wind's two-mile-long construction site can be blown into nearby residential homes.

The Town has not required Deepwater Wind to test soil and groundwater along its proposed construction site. Deepwater Wind has not filed with NYS Public Service Commission a detailed plan for excavating, handling, transporting (through residential streets) or disposing of contaminated material.

The position that Deepwater Wind will exacerbate existing PFAS contamination is based on NYS DEC Site Characterization Report of November 30, 2018 (see hyperlinks below) and over three hundred (300) laboratory test results from private drinking-water wells south of the town-owned airport site provided by SCDHS. If Town Supervisor Van Scoyoc believes NYS DEC and SCDHS has provided non-scientific and/or grossly inaccurate information, please provide documentation to support your allegation, now.

A copy of NYS DEC Site Characterization Report is available at www.Wainscott.Life, Appendix D (see Tables 1-3 at pp. 28-35). NB: Soil samples are expressed in nanograms/gram (or parts per billion). To convert these readings to parts per trillion (nanograms/kilogram), multiply the concentration level by one thousand. Water samples are expressed in nanograms/liter (or parts per trillion). For converted readings that include average calculations, please see Report on PFAS Contamination – Cover-up and Obstruction by Town of East Hampton - Tables 5 & 6 (at pages 82-83) download available at www.Wainscott.Life.



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Note: All writing in red has been added by Si Kinsella and is not from the Town of East Hampton. All writing in black is from Town of East Hampton Supervisor Peter Van Scoyoc.

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EAST HAMPTON TOWN / WAINSCOTT WATER DISTRICT
Extension of public water mains and private service line hook-ups to up to 520 properties in area affected by perfluorinated chemical contamination

TIMELINE:

- **May 10, 2016:** Town of East Hampton enters into Non-Disclosure Agreements (NDAs) with LIPA. The NDAs require that the Town keep information used in reviewing proposals submitted pursuant to the South Fork Request for Proposals ("RFP") confidential. The NDAs include the winning proposal submitted pursuant to the South Fork RFP by Deepwater Wind for its South Fork Wind Farm and also the Long Island Community Microgrid Project. At the time, property owned by the Town at East Hampton Airport was under consideration (initially for LI Microgrid & then Deepwater Wind) as a possible site for building power generation and transmission infrastructure due to its proximity to the LIRR as a means of access to LIPA's existing East Hampton Substation. If the property was found to be heavily contaminated with discharges of hazardous waste (firefighting foam which is a known source of PFOA/PFOS contamination), its feasibility as a potential site for building power generation and transmission infrastructure facilities would be questionable.

Note: NYS DEC Site Characterization Report of East Hampton Airport (dated Nov 30, 2018) confirms PFOA/PFOS contamination in soil up to 15,800 ppt and up to 299 ppt in groundwater (groundwater reading is four-times (> 4x) EPA Health Advisory Level of 70 ppt and twenty-nine-times (29x) NYS Standard of 10 ppt for PFOS).

NDAs remain enforceable until May 2021 (see NDA [Exhibit 48](#)).

- **June 14, 2016:** NYS Department of Environmental Conservation (DEC) sends to Town of East Hampton as owners of East Hampton Airport a survey on "Class B Fire Suppression Foam Usage." DEC mandates that Town of East Hampton "must complete the enclosed PFOA/PFOS Facility Identification Survey" and notifies the Town that it is "legally obligated to respond to this survey ... by e-mail on or before July 15, 2016." The Town of East Hampton "must" report any use and/or storage of firefighting foam on property it owns at the East Hampton Airport site (see [Exhibit 62](#)).

- **July 15, 2016** – Town of East Hampton misses its deadline and does not return to NYS DEC its PFOA/PFOS Facility Identification Survey in violation of Environmental Conservation Law, Article 27, Title 13. Town of East Hampton has to be reminded five times before it finally returns its survey on March 23, 2017.
- **July 23, 2016** – Suffolk County Department of Health Services (SCDHS) detects discharges of hazardous waste (PFOA/PFOS) in wells near Gabreski Airport in Westhampton and begins (on July 23) distributing bottled water to residents who use private wells in the area near the airport (see news article in published in East End Beacon at [Exhibit 09](#)).

Had the Town of East Hampton returned its PFOA/PFOS Facility Identification Survey (that was sent it on June 14, 2016) by July 15, 2016, residents living in Wainscott could have received bottled water more than a year sooner and could have avoided drinking water contaminated with discharges of hazardous waste emanating from property owned by the Town of East Hampton.

- **January 3, 2017: Hannon Report on Water Quality and Contamination** – is release. The Report’s Executive Summary and Hearing Highlights draw attention to issues related to PFOA and PFOS contamination, including “a particular focus on the City of Newburgh regarding the perfluorooctanesulfonate (PFOS) contamination of the public water supplies, which was caused by the use of firefighting foam at the Stewart Air Force Base.” The Hannon Report had been brought to the attention of the East Hampton Town Board. Councilwoman Burke-Gonzalez presented a letter from NYS Senators Hannon and O’Mara during a Wainscott Citizens’ Advisory Committee meeting to a member who testified at the hearings (see Hannon Report at [Exhibit 65](#)).
- **January 31, 2017: Report No. 1 – Request for the Protection of the Hydrologic System within the Hamlet of Wainscott** (see [Appendix A](#)) is submitted by the Wainscott Citizens’ Advisory Committee’s Environmental Subcommittee. The Town ignores the request and reprimands its author for making the request public. Eight months later the aquifer in Wainscott cannot be used for private drinking-water due to contamination.
- **January, 2017:** East Hampton Fire Department receives and returns NYS Department of Environmental Conservation questionnaire on “Class B Fire Suppression Foam Usage” indicating use and storage of firefighting foam at the fire department substation at East Hampton Airport
- **March 23, 2017:** Town of East Hampton returns to NYS DEC by e-mail its completed and certified PFOA/PFOS Facility Identification Survey. The Town takes nine (9) months to return an eleven-question survey that it was “legally obligated” to return within thirty (30) days. The survey relates to use and storage of firefighting foam on property owned by the Town (irrespective of who was holding the fire hose at the time).

When Town of East Hampton certified its PFOS/PFOA Facility Identification Survey as “true, accurate, and complete”, the Town confirmed (falsely) that Class B fire suppression foam had never been used for training purposes at its airport. This was not true. One of many examples of where firefighting foam was used for training purposes occurred during a mass casualty and fire training drill in June 2008 (as reported in the East Hampton Press). Airport Director Brundige, who signed and certified the PFOA/PFOS Facility Identification Survey in March 2017, also managed

the airport at the time of the training exercises in June 2008. Class B fire suppression foam also had been used to extinguish multiple fires as a result of plane crashes and other emergencies at the airport site.

If the Town was unsure as to whether or not firefighting foam had ever been used, it could easily have checked the box marked "Unknown," but instead it checked the box marked "no." The Town submitted this false information to NYS DEC in the knowledge that it was *not* true along with other incomplete and misleading information. (See NYS DEC Emails & Town's Certified Survey at [Exhibit 63.](#))

- **October 6, 2017** (2:30pm): Then Town Supervisor Cantwell and Councilwoman Burke-Gonzalez are advised of PFOA/PFOS contamination during a conference call with NYS DEC, NYS Department of Health and Suffolk County Department of Health Services. (See email from Councilwoman Burke-Gonzalez Re: PFC Timeline at [Exhibit 27.](#))
- **October 7, 2017** (9:00am): Wainscott Citizens Advisory Committee (WCAC). Then Councilman Van Scoyoc and Councilwoman Burke-Gonzalez both speak at the WCAC meeting (seeking the committee's support in the up-coming election). Despite learning of the PFOA/PFOS contamination a day earlier, Councilwoman Burke-Gonzalez does not mention to the residents living in Wainscott that the water they are drinking is contaminated with discharges of hazardous waste that NYS DEC suspects is coming from property owned by the Town at the airport. There are over one hundred and fifty (150) homes immediately south and downgradient from the airport site. (See Wainscott Citizens' Advisory Committee meeting minutes at [Exhibit 28.](#))
- **October 10, 2017**: Weekly conference calls on water quality begin, with participation by East Hampton Town, County Health Dept., NYS Health Dept., NYS DEC, and regional elected officials – ongoing (biweekly as of August, 2018)
- **October 11, 2017**: County Health Dept. issues "Water Quality Advisory for Private-Well Owners in Area of Wainscott" and announces well testing program
- **October 13, 2017**: Town begins providing free bottled water deliveries to all Wainscott residents upon request - fourteen (14) months *after* residents living near Gabreski Airport in Westhampton had begun to receive bottled water. Why didn't the Town of East Hampton return its PFOA/PFOS Facility Identification Survey by July 15, 2016 as it was legally obligated to do?
- **Nov. 10, 2017**: Town receives letter from NYS D.E.C. informing town of PFC contamination investigation. The letter **indicates confirms** that "These compounds are known components of firefighting foams," listed as hazardous substances in NYS, have been detected in wells near the East Hampton Airport. "This information leads us to suspect that hazardous waste may have been disposed of," and **indicates notifies the Town of a** "need to install point of entry treatment systems (POETs) or other alternate water supply (i.e., waterline extension)."

Not completely true: NYS DEC suspected that hazardous waste was disposed of at the Town-owned airport site and notified (i.e. *not* "indicates") the Town of a need to install POETs. The DEC letter of November 10, 2017 reads as follows –

This letter also serves as DEC's notification to you [Town] 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. Also, bottled water must

be provided until such time as that system or alternate supply is in place.

Town of East Hampton ignores NYS DEC letter of November 10, 2017 and does not install point-of-entry-treatment-systems (POETs). (See NYS DEC Letter to then Supervisor Cantwell "Re: Potential Hazardous Waste Disposal Site" at [Exhibit 46.](#))

- **November 27, 2017** - Suffolk County Department of Health Services (SCDHS) Deputy Commissioner Capobianco emails then Supervisor Cantwell wanting to "schedule an appointment to sample wells" at East Hampton Airport and requests "contact information for facilities served with on-site wells" (Nov 24). In response, the Town Supervisor's office provides a list of three properties, two of which are vacant lots with no on-site wells and the other a property the Town was selling. The Town did not provide SCDHS with any information pertaining to the nine (9) on-site wells located on its property at East Hampton Airport. The town-owned airport property is not tested for PFOA/PFOS contamination during 2017 and early 2018 despite Suffolk County a month earlier issuing a Water Quality Advisory that identified *only* one suspected source of PFOA/PFOS contamination (i.e. on property owned by the Town of East Hampton at the airport site). (See emails between then Supervisor Cantwell and SCDHS Deputy Commissioner Capobianco regarding testing wells on-site wells at East Hampton Airport at [Exhibit 31.](#))
- **Jan., 2018:** Supervisor Peter Van Scoyoc takes office; discussions with Suffolk County Water Authority begin regarding water main extension throughout entire Wainscott area to allow residents to get off private wells and insure access to regularly tested clean "public" water

Lab test results and analysis begin to indicate extent of contamination; results show detections at scattered locations. NYS DEC provides point-of-entry treatment systems at locations where perfluorinated chemicals are detected above health advisory level of 70 parts per trillion – NB: Town ignored NYS DEC notification dated November 10, 2017 and did not install point-of-entry treatment systems (POETs).
- **March 26, 2018: Report No. 2 – Town Drinking Water Contamination: PFC Contamination in Wainscott** is released. The report is based on nearly three hundred laboratory reports from Suffolk County Department of Health Services and shows for the first time the extent of PFOA/PFOS contamination in the form of heat maps that the Town had denied Wainscott residents under false pretenses. Report No. 2 was critical of the Town of East Hampton, specifically its refusal to have its own property tested for contamination especially given that NYS DEC suspected it to be a major source of PFOA/PFOS contamination (see Report No. 2 at [Appendix B](#)).
- **April 25, 2018:** Property owned by the Town of East Hampton at the airport site is tested for the first time. It takes nearly two years from when NYS DEC first mandates that the Town "must complete the enclosed PFOA/PFOS Facility Identification Survey" and notifies the Town that its legal obligation to respond by July 15, 2016" until the first samples are taken from the nine drinking-water wells on April 25, 2017. (See NYS DEC Airport Site Characterization Report, Table 2 at [Appendix D.](#))
- **Spring, 2018:** Water district developed and defined; Health Dept. expands testing area
- **May 8, 2018:** SCWA sets estimates cost for main extension and private service line hook-ups for 520 properties at \$24.3 million

- Town prepares to bond for the entire amount, with cost for water main to be repaid from general town, outside village, obligation, and cost for private service line hook-ups (approximately 50/50 of total) to be repaid by Wainscott residents in the program, who will be charged through a separate line on tax bills over amortization period for the cost of their own hook-ups
- East Hampton Town, SCWA agree to submit joint NYS intermunicipal water infrastructure grant application, for up to \$10 million award toward project
- **May 15, 2018:** East Hampton Town declares state of emergency in Wainscott re drinking water contamination. To assist residents with PFC chemicals in their wells below the health advisory level, who have not been provided with point-of-entry treatment systems by the DEC, the Town announces rebate program for Wainscott property owners with any level of PFC contamination who install POET systems, establishing a \$400,000 funding line.

Town ignored for six (6) months the DEC letter of November 10, 2017 that notified the Town of “a need to install point of entry treatment systems (POETs)”. In the end, the Town did not install point of entry treatment systems, but instead offered a partial rebate (that was erroneously taxed as income) leaving the burden of installing a complex and specialized filtration system to homeowners and their families who were already burdened by having to drink, cook, brush their teeth and for some bathe in bottled water.

While the town is normally precluded by law from expending public money on private properties, the emergency declaration allows town to offer rebates of up to \$3,000, or 90 percent, of the cost of treatment system installations to allow access to clean water until water mains go in, and public water is available. While initial information indicates that rebate funds are taxable, and residents applying for them are so advised, further legal research concludes that the rebates do not incur tax liability.

- **May 21, 2018:** Town holds public hearing on establishing Wainscott Water District
- **May 25, 2018:** Health Dept. again expands well testing survey area, into phase 4, which includes areas of Southampton Town
- SCWA submits water district plan to Health Dept. for approval
- **June 5, 2018:** Water district established by East Hampton Town. Town structures district so that it can finance and pay upfront costs of residents’ private service line hook-ups – normally out-of-pocket costs for property owners – to insure every resident who wishes to may hook up to water mains.

Again, while the town is barred by law from expending public funds on private properties, the Town, in order to make public water available to all, forges an agreement with Suffolk County Water Authority to lay out payment for the cost of a publicly-bid construction project for service line installation, allowing property owners to amortize the costs of their hook-ups, repaying the town for their cost through tax bill assessments over a period of at least 20 years.

SCWA, following required bidding procedures for public projects, awards private service line contract to Asplundh Construction, the “lowest [cost] responsible bidder.” Cost of water main extension throughout hamlet, under a separate SCWA contract, to be

borne by entire town, outside incorporated villages, under normal bonding/ capital project procedures.

- NYS DEC contractors to install private service lines at properties with chemical contamination above the Health Advisory Level of 70 parts per trillion
- **July 5, 2018:** Town approves future bond issue for \$24,344,878 for water improvements in Wainscott water supply area
- **July 27, 2018:** Outreach letter sent by SCWA to Wainscott residents; residents may hook up to water main under town program within a 2-year period (after which residents will have to pay upfront to connect); In coordination with town supervisor's office SCWA sets construction plans to prioritize areas with contamination
- **July 25, 2018:** Town, SCWA submit joint application for grant funding through NYS intermunicipal water infrastructure grants program, for up to \$10 million award
- **July, 2018:** NYS Legislature approves bill allowing use of community preservation funds for water main infrastructure and hook-ups (Sponsors, Assemblyman Thiele and Senator LaValle; still to be signed by governor)
- **Aug. 20, 2018:** Groundbreaking and press conference on water main extension/ private service line hook-ups
- **September, 2018:** Wainscott residents receive estimates for private service line hook-ups from Asplundh Construction; due to the legal requirements of public projects (Wicks Law prevailing wage, insurance requirements, etc.) prices exceed those that can be offered by private plumbers. Town and SCWA initiate parallel informational outreach and campaigns to inform residents of their options: use, and pay, for a private plumber, or have hook-up done under public program by Asplundh Construction, with costs amortized and repaid through annual tax bills
- **September 21, 2018:** Forty-two percent of water main installation has been completed by Suffolk County Water Authority; main installation projected to be fully complete as soon as the end of October
- **October 2, 2018:** Governor Cuomo announces \$9.7 million grant to East Hampton Town and Suffolk County Water Authority to help pay for water main extension in Wainscott
- **December, 2018:** DEC "site characterization" report of East Hampton Airport released

It took two (2) years before NYS DEC was able to test the airport site – Town of East Hampton was "legally obligated" to report any use or storage of firefighting foam (a known PFOA/PFOS contaminant) on June 14, 2016, but the first groundwater water sample was taken from airport site on Apr 25, 2018).

The NYS DEC *Site Characterization Report of East Hampton Airport* (dated Nov 30, 2018) is based on the samples taken *after* April 25, 2018. The report confirms PFOA/PFOS contamination in soil up to 15,800 ppt and up to 299 ppt in groundwater

(groundwater reading is four-times (> 4x) EPA Health Advisory Level of 70 ppt and twenty-nine-times (29x) NYS Standard of 10 ppt for PFOS).

Within five hundred feet of where Deepwater Wind proposes to construct underground its high-voltage infrastructure, soil contamination is 10,180 ppt and 162 ppt in groundwater (reading for groundwater is two-times (> 2x) EPA Health Advisory of 70 ppt and sixteen-times (16x) the NYS standard of 10 ppt for PFOA).

(See NYS DEC Site Characterization Report: East Hampton Airport at [Appendix D](#)).

- **December, 2018/January, 2019:** Wainscott Water District water main extension completed by Suffolk County Water Authority. More than 8.5 miles, or 45,000 feet, of new water main, extending public water service to approximately 520 residences and businesses, installed in “record time” on an ambitious four-month timeline.
- **July 14, 2020: Report No. 3 – PFAS Contamination, Wainscott NY – Cover-Up and Obstruction by the Town of East Hampton** is released (see www.Wainscott.Life)

By failing to comply with Environmental Conversation Law, by concealing information from NYS DEC and Suffolk County and by submitting false information to NYS DEC, Town of East Hampton prolonged exposing residents to drinking-water contaminated with discharges of hazardous waste from property it owned.

The Town of East Hampton government caused hundreds of residents to ingest contaminated water daily for over a year longer than otherwise, thereby exposing them to adverse health effects the EPA has linked to cancer, liver damage, antibody production, immunity and more.

(See EPA Fact Sheet on PFOA/PFOS at [Exhibit 10](#)).