

Case #5. Hampton Town vs. Offshore Wind Turbines

In February 2022, New York Gov. Kathy Hochul and U.S. Interior Secretary Deb Haaland marked the start of shoreside construction for the South Fork Wind project Friday in East Hampton, N.Y., future site of the junction for the export cable landfall for energy from 12 planned offshore wind turbines.

However, residents of the exclusive New York hamlet of Wainscott are continuing to wage legal battles that could further complicate a project to power 70,000 homes



Why Small Towns Are Fighting Renewable Energy Development. Play video: Why Small Towns Are Fighting Renewable Energy Development. Property owners in the windy and sunny parts of the U.S. are pushing back against large-scale renewable energy development, opposition that researchers say could slow the transition to a cleaner economy. Photo: Aaron Yoder/WSJ

By [Amrith Ramkumar](#) and [Jennifer Hiller](#) The Wall Street Journal April 16, 2022 (excerpt)

A dozen giant wind turbines are on track to start spinning roughly 50 miles offshore from some of the country's ritziest beach towns. That is unless last-ditch efforts by local residents can stop one of the country's first offshore wind projects.

South Fork Wind will power 70,000 homes around East Hampton, N.Y., when it starts generating electricity next year. Construction began recently after a six-year approval process from federal, state and local governments.

One of the few remaining snags could be a group of **residents of the exclusive hamlet of Wainscott** who don't want the cable carrying power from the windmills to be buried under a street that runs to the beach. Even though digging has begun, they are still waging legal battles on several fronts that could delay construction or further complicate the project.



Trenching for a cable in the Hamptons that would bring offshore wind power on shore began earlier this year. Opponents say the cable's installation will disrupt residential life and contaminate the area. Photographs by Johnny Milano

Local opposition to renewable-energy projects from large-scale solar farms to windmills on land and sea is delaying and sometimes halting the shift away from fossil fuels.

More than 200 wind and solar projects face local opposition, according to Columbia University's **Sabin Center for Climate Change Law**, which backs green projects through a pro bono partnership with the law firm Arnold & Porter. That is up from roughly 165 in September. The Sabin Center worked for a group of residents who argued in favor of South Fork.

The rising opposition could be due to the rising number of projects. Analysts say it is too early to tell whether renewable-energy projects face the same level of opposition as oil-and-gas drilling, pipelines and electricity transmission lines.

Shifting to renewable energy has gained increased urgency as evidence of climate change mounts. Russia's invasion of Ukraine has driven up prices of oil and gas, making renewables more attractive while highlighting the risks of being dependent on foreign sources of energy.

The opposition to the Hamptons project is centered on Beach Lane in **Wainscott, a hamlet of about 650 people where the average home sells for more than \$3 million**. Beach Lane turns into sand when it hits Wainscott Beach, which stretches for miles along the Atlantic Ocean in either direction.

The windmills won't be visible from there, nor will the cable carrying the electricity they generate. The power line will make landfall on Wainscott Beach and run underneath Beach Lane. Construction is planned primarily for cooler months, when many houses are unoccupied, and the cable will be undetectable from above ground, the project's owners say.

Opponents say they support the project and clean power but feel the cable's installation will disrupt residential life and contaminate the area. Other routes would be less intrusive, they argue.





As workers continued with the project earlier this month, operators say they plan to install the cable primarily during cold-weather months, when many houses are unoccupied.

“The impact to us is significant,” said Pam Mahoney, a Realtor who lives on Beach Lane with her husband, Mike, in a roughly 1,400-square-foot home on an acre of land that is their primary residence. The trench for the cable is starting to be dug near their home. “There is a huge rush to do everything.”

The Mahoneys have filed a lawsuit against **Federal government agencies** alleging they didn’t adequately assess environmental and pollution risks, including groundwater contamination. A group of project opponents, **Citizens for the Preservation of Wainscott**, has filed several local

and state petitions and lawsuits against the operators and local government. Judges and policy makers have dismissed their cases.

“A toxic brew of political vanity, corporate indifference and environmental ‘cancel culture’” is pushing forward the project that could contaminate the area, a spokesman for the citizens group said. He said the group is appealing various rulings against it.

The companies operating the project—**Danish offshore wind power company Ørsted AS** and **Connecticut-based Eversource Energy**—and the **supervisor of the town of East Hampton** say the current cable route is safe and the least disruptive, and the permitting process was appropriate.



Residents will see no sign of the underground cable when installation is finished. Opponents argue that other cable routes would have been less disruptive.

U.S. developers are expected to add 167 gigawatts of solar and wind projects, including 8.6 gigawatts of offshore wind, in the next five years, according to S&P Global Commodity Insights. That would increase the capacity of those renewables by more than 70%.

Offshore wind would see exponential growth under the Biden administration’s plans but is bumping into opposition despite its small size in the U.S. Just seven turbines were installed as of 2021, compared with 5,852 in Europe and 5,448 in China, according to the Global Wind Energy Council.



After the cable is installed and offshore wind turbines are put in place many miles from shore, South Fork Wind is scheduled to begin generating power by late 2023.

In the Hamptons, more lawsuits are coming, including one claiming the turbines could harm the endangered North Atlantic right whale. “That area is a breeding ground,” said Si Kinsella, a resident who has fought the project.

More offshore wind projects are planned. **Federal government** auctions for nearly half a million acres for wind farms off the coast of New York and New Jersey raised record amounts in February.

Actors in the Case

NOTE: “South Fork Wind” is the name of the project; not an actor

Citizens for the Preservation of Wainscott (residents of the exclusive Hampton hamlet of Wainscott)

Federal government agencies

Federal Court

Danish offshore wind power company Ørsted ASy

Connecticut-based Eversource Energy

supervisor of the town of East Hampton
Sabin Center for Climate Change Law

CASE QUESTIONS

1. (3) What property rights conflicts are raised by this case?

[NOTE: in this and future cases, there may be more than one actor asserting one or more rights on either side of the rights conflict]

Show conflicts in this form:

_____ right to _____ [state very specific to the case] _____

versus

_____ right to _____ [state very specific to the case] _____

(maximum length 100 words)

NOTE: The rights of government agencies and NGOs are not at issue in the cases in this course! However, as actors, government agencies, media and NGOs do advocate on behalf of the *rights of others who for a variety of reasons cannot act for themselves* in many cases.

2. (3) How would the following actors describe the view of the social contract of the South Fork Wind Project?
- a. South Fork Wind
 - b. Connecticut-based Eversource Energy
 - c. Citizens for the Preservation of Wainscott

(Each answer should be in the form:

“The social contract of _____ should be _____ maximum length 75 words)

3. (2) There is no certainty that South Fork Wind will be able to fend off the legal challenge from the Citizens for the Preservation of Wainscott, who are asserting their rights (and the

rights of whales) against South Fork Wind? Is there any guidance you would offer to future wind projects, based on the South Fork experience. Explain your answer. **(maximum length 60 words)**