

EMAIL:

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SIMON V. KINSELLA

P.O. BOX 792

WAINSCOTT, N. Y. 11975

M (631) 903-9154

January 29, 2024

Supervisor Kathee Burke-Gonzalez
Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937

Delivered by email to:
KBurke-Gonzalez@EHamptonNY.Gov

Re: FOIL Request: Fire at the
East Hampton Energy Storage Center
Suffolk County Tax Map: 0300-185-02-002

Dear Supervisor Burke-Gonzalez,

On December 26, 2024, I requested records from the Town of East Hampton pursuant to the N.Y. Freedom of Information Law (FOIL) (*see* Exhibit A). The request was for records from **May 1, 2023**, until the Town provides me with the records that specifically included—

- 1) All correspondence, including but not limited to emails, letters, etc., concerning the Battery Energy Storage System (“BESS”) near Cove Hollow Road operated by East Hampton Energy Storage Center, LLC, and
- 2) All reports, analyses, laboratory test results, sampling plans, bore logs, and other documents regarding the aforementioned records concerning the BESS, including but not limited to soil *and* groundwater sampling results from an authorized laboratory.

Thirteen days later (January 8, 2024), I received a link from Administrative Assistant Nora T. Jacobs to a shared folder containing five files (*see* Exhibit B).¹ Three of those files concerned the Long Island Lighting Co. (LILCO), which, as you know, was subsumed by the Long Island Power Authority (LIPA) in 1998 and predate the records request by 25 years.

The file “*East Hampton Energy Storage Center, LLC!300-185-2-2!Site Plan and Special Permit !Planning.PDF*” contains technical drawings and site plans from 2016 and 2017, and the last of the five files, “*East Hampton Energy Storage Center LLC!300-185-2-2!Site Plan Special Permit!Planning.PDF*” (of 499 pages), contains records up to July 2018. Thus, the two files predate the records requested by more than four years.

¹ https://townehmy.sharepoint.com/:f/g/personal/njacobs_ehamptonny_gov/EmQYiB2vUkpHmWgPrknxrgBZucmS5OyUoiwTMwzwlSbA?e=jGBsvz

In summary, *none* of the files provided by the Town satisfy the request for records “from May 1, 2023, until the Town provides me with the requested records” and *none* of the records include those specifically requested, such as “[a]ll correspondence,” and “[a]ll reports, analyses, laboratory test results, sampling plans, bore logs,” and “soil *and groundwater* sampling results” leading up to and following the fire at the East Hampton Energy Storage Center.

New York Law mandates that the Town, “within five business days of the receipt of a written request for a record reasonably described, shall make such record available ... deny such request in writing or furnish a written acknowledgment of the receipt of such request and a statement of the approximate date ... when such request will be granted or denied” (N.Y. Public Officers Law § 89(3)(a)). The Town responded *thirteen days* later and failed to provide *any* of the records requested when it did respond. “Failure by an agency to conform to the provisions of subdivision three of this section shall constitute a denial.” *Id.* (§ 89(4)(a)).

Pursuant to N.Y. Public Officers Law § 89(4)(a), I hereby appeal the Town’s constructive denial of access to the requested records. The Town must fully explain in writing the reasons for its denial within ten business days or provide access to the records sought. The Town shall immediately forward a copy of this appeal and the ensuing determination to the committee on open government.

Finally, I hereby request that the Town certify the correctness of the records it provides and certify that it does not have possession of any other records meeting my request other than those provided or that the Town cannot find any other records meeting my request after diligent search. I am willing to pay the fee prescribed for such certification.

If you have any questions, please call me on my mobile at (631) 903-9154. I appreciate your cooperation.

Sincerely yours,


Simon V. Kinsella

c/c: Carole Brennan, Town Clerk
Nora T. Jacobs, Administrative Assistant
Town of East Hampton
159 Pantigo Road,
East Hampton, NY 11937

Email: cbrennan@eamptonny.gov
Email: njacobs@eamptonny.gov

Exhibit A

From: [Si Kinsella](#)
To: CBrennan@EHamptonNY.Gov
Subject: FOIL: East Hampton Battery Energy Storage Fire
Date: Tuesday, December 26, 2023 12:01:00 PM
Attachments: [2023-12-26, FOIL, TOEH, EH BESS Fire.pdf](#)

Dear Carole,
Please see the FOIL request (attached).
Sincerely yours,
Si Kinsella

Simon Kinsella
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Wainscott, NY 11975
Email: Si@oswSouthFork.info
Mobile: +1-631-903-9154

EMAIL:

Si@OSWSOUTHFORK.INFO

SIMON V. KINSELLA

P.O. BOX 792

WAINSCOTT, N. Y. 11975

M (631) 903-9154

December 27, 2023

Carole Brennan
Town Clerk
Town of East Hampton
159 Pantigo Road
East Hampton, NY 11937

Delivered by Email and Fax
cbrennan@EHamptonNY.Gov
Fax: 631-324-4128

Page 1 of 1

Re: FOIL Request: Fire at the
East Hampton Energy Storage Center
Suffolk County Tax Map: 0300-185-02-002

Dear Ms. Brennan,

Pursuant to New York State Freedom of Information Law (FOIL), I hereby request a copy of each "record" of the Town of East Hampton ("Town") and each "agency" of the Town (as the terms "record" and "agency" are defined in Public Officers Law §86), specifically:

- 1) All correspondence, including but not limited to emails, letters, etc., concerning the Battery Energy Storage System ("BESS") near Cove Hollow Road operated by East Hampton Energy Storage Center, LLC, and
- 2) All reports, analyses, laboratory test results, sampling plans, bore logs, and other documents regarding the aforementioned records concerning the BESS, including but not limited to soil *and* groundwater sampling results from an authorized laboratory.

The period covered by this FOIL request is from May 1, 2023, until the Town provides me with the requested records.

If required, I will pay the applicable fee(s) to print or deliver copies of the requested records. The records may be emailed to Si@oswSouthFork.info or delivered via United States Postal Service to PO Box 792, Waincott, NY 11975.


If you have any questions, please call me on my mobile at (631) 903-9154. I appreciate your cooperation.

Sincerely yours,


Simon V. Kinsella

Exhibit B

From: [Nora Jacobs](#)
To: [Si Kinsella](#)
Cc: [Carole Brennan](#)
Subject: East Hampton Energy Storage Center
Date: Monday, January 8, 2024 9:51:47 AM
Attachments: [image001.png](#)

 https://towneh-my.sharepoint.com/:f/g/personal/njacobs_eamptonny_gov/EmQYiB2vUkpHmWgPr-knxrgBZucmS5OyUoiwTMwzw-jSbA?e=jGBsyz

Good Morning,

The above one drive link contains the file for the East Hampton Energy Storage Center. Thank you for your patience. Please let me know if you have any problems opening the enclosed documents.






Thank you,

Nora T. Jacobs
Administrative Assistant
Town of East Hampton

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NJ Nora Jacobs > Foil Request East Hampton Storage Center

Name ▾	Modified ▾	Modified...	File size ▾	Sharing	Activity
 East Hampton Energy Storage Center LLC!300-185-2-2!Site Plan Special Permit!Planning.PDF	✕ December 28, 2023	Nora Jacobs	137 MB	🔗 Shared	
 East Hampton Energy Storage Center, LLC!300-185-2-2!Site Plan and Special Permit!Planning.PDF	✕ December 28, 2023	Nora Jacobs	8.48 MB	🔗 Shared	
 LILCO Generating Station (Stepdown Transformer)!300-185-2-2!Site Plan!Planning.PDF	✕ December 28, 2023	Nora Jacobs	19.7 MB	🔗 Shared	
 LILCO Generating Station (Transformer, Dikes and Firewalls)!300-185-2-2!Site Plan!Planning.PDF	✕ December 28, 2023	Nora Jacobs	62.4 MB	🔗 Shared	
 LILCO Generating Station!300-185-2-2!Site Plan!Planning.PDF	✕ December 28, 2023	Nora Jacobs	3.79 MB	🔗 Shared	