

EMAIL:

[Si@OSWSOUTHFORK.INFO](mailto:Si@OSWSOUTHFORK.INFO)

SIMON V. KINSELLA

P.O. BOX 792

WAINSCOTT, N. Y. 11975

M (631) 903-9154

December 27, 2023

Colleen Dawson, Records Access Officer  
New York State Energy Research and Development Authority  
17 Columbia Circle  
Albany, NY 12203-6399

Delivered by email only  
Foil@nyserda.ny.gov  
Fax: 518-862-1091  
Page 1 of 1

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

Dear Sir or Madam:

Pursuant to New York State Freedom of Information Law (FOIL), I hereby request a copy of each “record” of the New York State Energy Research and Development Authority (“NYSERDA”) and each “agency” of the NYSERDA (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 NYSERDA 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](mailto: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

**From:** [erda.sm.records.access.officer](mailto:erda.sm.records.access.officer)  
**To:** [Si Kinsella](#)  
**Subject:** RE: FOIL: East Hampton Battery Energy Storage Fire  
**Date:** Wednesday, December 27, 2023 8:58:29 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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Dear Si Kinsella-

NYSERDA acknowledges receipt of your Freedom of Information Law request. NYSERDA now uses a tracking system to receive and response to FOIL requests. If possible, can you please resubmit your request using the tracking system. A link to the tracking system is located here: <https://www.nyserda.ny.gov/Contacts/FOIL> under Submit a FOIL request.

Thank you.

**Colleen Dawson**  
Senior Counsel

**NYSERDA**

17 Columbia Circle | Albany, NY 12203-6399

P: 518-862-1090 ext. 3454 | C: 518-928-7510 | Email: [Colleen.Dawson@nyserda.ny.gov](mailto:Colleen.Dawson@nyserda.ny.gov)

[nyserda.ny.gov](http://nyserda.ny.gov)

follow : friend : connect with NYSERDA

VIEW THE VISION, MISSION, AND PROMISE THAT GUIDE  
OUR ORGANIZATION'S CURRENT AND FUTURE INITIATIVES.

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[WATCH THEM IN ACTION](#)



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**From:** Si Kinsella <[si@oswsouthfork.info](mailto:si@oswsouthfork.info)>  
**Sent:** Tuesday, December 26, 2023 12:05 PM  
**To:** erda.sm.records.access.officer <[foil@nyserda.ny.gov](mailto:foil@nyserda.ny.gov)>  
**Subject:** FOIL: East Hampton Battery Energy Storage Fire

You don't often get email from [si@oswsouthfork.info](mailto:si@oswsouthfork.info). [Learn why this is important](#)

**ATTENTION:** This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Attention: Records Access Officer  
New York State Energy Research and Development Authority  
Please see the FOIL request (attached).  
Sincerely yours,  
Si Kinsella

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Simon Kinsella

PO Box 792

Wainscott, NY 11975

Email: [Si@oswSouthFork.info](mailto:Si@oswSouthFork.info)

Mobile: +1-631-903-9154

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**Si Kinsella**

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**From:** NYSERDA Foil Records Access Center <nyszerda@govqa.us>  
**Sent:** Tuesday, January 30, 2024 4:19 PM  
**To:** Si Kinsella  
**Subject:** [Records Center] FOIL Records Request :: R000359-122823

--- Please respond above this line ---



RE: FOIL Records Request of December 28, 2023, Reference # R000359-122823

Dear Simon Kinsella,

The NYS Energy Research & Development Authority received a public records request from you on December 28, 2023. Your request mentioned:

**Filed December 26, 2023**

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

**Dear Sir or Madam:**

**Pursuant to New York State Freedom of Information Law (FOIL), I hereby request a copy of each “record” of the New York State Energy Research and Development Authority (“NYSERDA”) and each “agency” of the NYSERDA (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 NYSERDA provides me with the requested records.**

Item 1

You may find records responsive to this portion of your request in the FOIL Records Access Center. Certain records or portion of those records are being withheld from disclosure pursuant to NY

Public Officers Law section 87(2)(g). That section provides an exception to disclosure for inter- or intra-agency records that do not contain, as relevant here, statistical or factual tabulations or data or final agency policy or determinations. Such material is exempt “to protect the deliberative process of the government by ensuring that persons in an advisory role would be able to express their opinions freely to agency decision makers.” (Matter of Sea Crest Const. Corp. v. Stubing, 82 A.D.2d 546, 549 [1981]). “Factual data ... means objective information, in contrast to opinions, ideas, or advice exchanged as part of the consultative or deliberative process of government decision making” (Xerox Corp. v. Town of Webster, 65 N.Y.2d 131, 132 (1985), quoting Matter of Johnson Newspaper Corp. v. Stainkamp, 94 A.D.2d 825, 827 (1983), *aff’d* on *op* below, 61 N.Y.2d 659 (1984)). The exemption applies to agency employees as well as outside consultants retained by an agency. See Matter of Xerox Corp. v. Town of Webster, 65 N.Y. 2d 131, 133 (1985).

“In deciding to exempt from disclosure under FOIL certain intra-agency or inter-agency materials that contain ‘communications exchanged for discussion purposes not constituting final policy decisions,’ the Legislature recognized the need to ‘permit people within an agency to exchange opinions, advice and criticism freely and frankly, without the chilling prospect of public disclosure.’” Town of Waterford v. New York State Dep’t of Env’tl Conservation, 77 A.D. 3d 224, 228 (3d Dep’t 2010) citing Matter of Gould v. New York City Police Dep’t, 89 N.Y. 2d 267, 276 (1996). “The reasoning behind the protection of opinions from disclosure is that the inherent dangers involved in releasing non-final recommendations which may be based on reasoning rejected, or never adopted, by the final decision maker will not only impinge on the agency’s pre-decisional process, but mislead the public.” General Electric Co. v. New York State Dep’t of Env’tl Conservation, 2000 WL 35793198, at \*1 (Supr. Ct. Alb. Co. Sept.14, 2000) citing Matter of David v. Lewisohn, 142 A.D. 2d 305, 308 (3d Dep’t. 1988).

#### Item 2

You may find the record responsive to this portion of your request in the FOIL Records Access Center.

Please log in to the FOIL Records Access Center at the following link to retrieve the responsive records.

[FOIL Records Request - R000359-122823](#)

If you believe this letter improperly denies you access to records, you have the right to appeal within thirty (30) days pursuant to NY Public Officers Law section 89(4)(a). Please direct any appeal in writing to:

Doreen M. Harris  
President and CEO  
NYSERDA  
17 Columbia Circle  
Albany, NY 12203  
SUBJECT: FOIL Appeal

Copy Records Access Officer

Very truly yours,

Colleen Dawson  
Senior Counsel and Records Access Officer

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To monitor the progress or update this request please log into the [FOIL Records Access Center](#)

