Claudia Diaz
24 Horseshoe Drive
East Hampton, NY 11937
October 14, 2017

VIA FEDERAL EXPRESS
Honorable Kathleen H. Burgess, Secretary
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350

Re: Case 17-M-0422: Petition of National Grid Generation LLC for a Declaratory Ruling Concerning 3 Cove Hollow Road, East Hampton, NY to East Hampton Energy Storage Center, LLC.
And
Re: Matter No. 17-00780: Petition of National Grid Generator LLC for Approval of a Transfer or Lease of Property with an Original Cost of Less Than $100,000 Located at 3 Cove Hollow Road, East Hampton, New York to East Hampton Energy Storage Center, LLC (the "Petition")

Dear Secretary Burgess,

I respectfully appeal your Declaratory Ruling and Lease Transaction (Issued and Effective September 19, 2017) (the "Declaratory Ruling") based upon the following inconsistencies, misrepresentations and technical deficiencies in National Grid's Generation LLC's ("National Grid") Petition for the Lease between National Grid and East Hampton Energy Storage Center, LLC ("EHESC") Lease Agreement (the "Lease") dated April 13, 2017 to be located at 3 Cove Hollow Road, East Hampton, New York (the "Land").

1. SITE PLAN: The final Site Plan prepared by ECI Engineering Services, P.C. and signed and sealed by licensed engineer Glen Alan Smith (New York State License No. 093689) dated August 24, 2017 and received by the Town of East Hampton (the "Town") on September 7, 2017 (the "Site Plan") (Exhibit A) is required to include the metes and bounds of the Battery Energy Storage System (the "BESS") project area and common areas in the Lease. This Lease, which was submitted to the New York State Public Service Commission (the "Commission") on April 19, 2017, has metes and bounds of the project area and common areas outlined in Schedule A: LAND; Schedule B: COMMON AREAS; and Schedule B, Cont'd. Description of Common Area II Over Lands of National Grid East Hampton Generating Station (Exhibit B). The metes and bounds of the Lease and the metes and bounds of the Site Plan do not match which makes the Lease technically defective. There is absolutely no correlation between the Lease and the Site Plan. The Site Plan does not state an address and the Section (part of the block and lot) is incorrect.
    a. The Site Plan is inaccurate and does not match the Lease. Deeds/Leases must match surveys/site plans. The Site Plan does not have a beginning point and it is impossible to follow the Land Lease Description without a beginning point on the Site Plan. National Grid and their hired professional engineer, Glen Alan Smith, lack transparency to both the public and the Town regarding the exact location of the proposed BESS. The East Hampton Town Engineer, Tom Talmage, has signed off on these plans in a Memo dated September 12, 2017(Exhibit C) but he is not signing and sealing the Site Plan with his New York State License. The Suffolk County Engineer has not signed and sealed this Site Plan either. The Suffolk County Engineering Department stated that New York State is a home rule state and there is no oversight of the Town. There has been no independent oversight of the combined Lease and Site Plan.
    b. In the General Notes on the ECI Engineering Services Cover Sheet state "10. The proposed disturbance will include approximately 0.80 acres and will be exempt from the requirement of a Stormwater Pollution Prevention Plan (SWPPP) per Article II Section 216-2.1, definition of Land Development Activity. *Sections are cited from the Town of East Hampton Code." (Exhibit D). The Lease states

the project size is .61967 or a combined area with common areas of 1.13 acres; another inconsistency. The Suffolk County Planning Commission states in its letter dated August 29, 2017 (Exhibit E) that "2. Best management practices should be utilized to retain all storm water runoff on site." The Site Plan states the exact opposite of what the Suffolk County Chief Planner, Andrew P. Freleng has recommended.

2. THE DEEDS:
    a. The 1962 Deed dated August 15, 1962 (Exhibit F) clearly states that Judson L. Banister sold the Land to Long Island Lighting Company for $10.00. The Original Deed states that the land is "to be acquired by Long Island Lighting Company for use as a *Supplementary Generating Site*". This Original Deed restricts the Land to be used as a *Supplementary Generating Site* only and does not mention that a BESS can be operated on the Land.
    b. The 1998 Deed dated May 27, 1998 (Exhibit G) shows the Land was sold for $10.00 from Long Island Lighting Company to MarketSpan Generation LLC. This is further evidence of the misrepresentation by National Grid in their Lease (Exhibit H) in which they stated they purchased the land for $51,580.35. The Lease is technically defective because it states that the Total Original Cost of the land as of December 31, 2016 was $51,580.35 with a Net Book Value of the Leased Property of $2,432.00. Clearly the information National Grid provided in its first application to the Commission appears to be misleading and inaccurate. According to the Commission's Declaratory Ruling the "original cost of the property is not relevant to the Commission's analysis in this situation" but it is indicative of the utilities questionable application submitted on April 19, 2017 – this application is not based on facts.
    c. The 1998 Deed also states "Reserving unto the Grantor, its successors and assigns, a permanent and perpetual easement for the *operation and maintenance of an electric transmission and distribution substation* and its related facilities on the easement parcel described on schedule A." Schedule A of this Deed describes the entire lot of 17.58 acres. An easement cannot cover an entire lot. The two Deeds clearly state the use of this land as a: 1) supplemental generating site; and

2) operation and maintenance of an electric transmission and distribution substation. A BESS is a new, potentially dangerous technology that should not be placed in a residential neighborhood. Neither of these two Deeds authorizes the use of the Land to be the recipient of 2.4gw of Wind Turbine power to be stored in a BESS.

3. The LEASE AND THE LAND: The true parties to the Lease are unclear. Currently the Land is owned by MarketSpan Generation LLC. The 1998 Deed does not show National Grid as the owner of the Land. The Deed casts doubt on who actually owns the Land. The Lease is inaccurate because MarketSpan Generation LLC owns the Land and MarketSpan Generation LLC is not a party to the Lease
4. THE LAND:
    a. Although this is the easiest and least expensive place for National Grid to lease the Land for the BESS, this is not the appropriate place for the BESS to be constructed:
        i. It is surrounded by 23 homes (one as close as 200 feet away) and the surrounding homeowner's association, Dune Alpin Farm Property Owners Association Inc., has expressed grave concerns about this BESS being built in its neighborhood (Exhibit I);
        ii. The Short Environmental Assessment Form Part 2 – Impact Assessment (Exhibit J) was not completed truthfully. "#3. Will the proposed action impair the character or quality of the existing community" should have been checked "Moderate to large impact may occur". How could the Town conclude in an Environmental Assessment Form Part 2 – Impact Assessment that a 24/7/365 humming HVAC associated with a 5MW BESS would not impact the quality of the existing community, a residential neighborhood?
        iii. A noise buffering wall cannot eliminate the noise of the HVAC/ BESS. In fact the computer generated noise analysis (also not an independent noise analysis) states that it will produce a continuous noise level 48 dBA out of a nighttime code limit of 50 dBA (Exhibit K) on Horseshoe Drive North – right on my property line.

iv. The Land is on a SGPA protected groundwater preserve which the Town acknowledged on the Short Environmental Assessment Form Part 1 – Project Information (Exhibit L). Once the Town declared itself the Lead Agency under SEQRA, they took the laws into their own hands and have completely disregarded laws that have been put into place to protect their own citizens. The Town has deemed the ground water to be irrelevant but the Suffolk planner states in his letter the "Suffolk County Water Authority public water supply well is located to the southeast of the battery storage site". Lithium batteries do not belong on top of protected groundwater preserves and near public water wells.

v. The BESS is a new dangerous technology that should not be placed in close proximity to the Suffolk County Water Authority public water supply well located on the corner of Cove Hollow Road and Buckskill Road (0.5 miles away). If a fire should occur and the chemicals in the batteries leak into the soil, the already sensitive water supply could be contaminated forever – just like Flint, Michigan.

5. ABUSE OF LOCAL AUTHORITY: Even though the Commission feels as though the Town is the proper authority to review this project, the Town is not protecting its residents/constituents. The Town should be requiring National Grid to place the BESS in another area that is not surrounded by Residential Zoning.

   a. Imposition Fees-Payments to the Town: The Lease clearly states: "Section 4.01 (a) Effective on the Lease Commencement Date, Tenant covenants and agrees hereinafter provided, to pay any reasonably documented increase in real estate taxes assessed due to the (i) construction and operation of the BESS on the Premises and (ii) increases in the valuation of the Land (collectively "Impositions")" (Exhibit M). It is clear that the Town has a great deal to gain financially from these "Impositions" by allowing the BESS to be built in its Town. So I respectfully state again, the surrounding homes are the ones that are being imposed upon, but the Town is the one cashing in on this deal. Please Secretary, intervene.

6. CERTIFICATE OF OCCUPANCY: The Certificate of Occupancy dated March 29, 1994 (CO #12603) (Exhibit N): The 1994 Certificate of Occupancy does not match the proposed use. Generation and transmission of electricity is very different from storing electricity in a 5MW BESS.
7. ENVIRONMENTAL, HEALTH, SAFETY AND NOISE ISSUES: The Declaratory Ruling states that "the Town is responsible for undertaking the SEQRA review process, which is the proper forum to address potential environmental impacts of the proposed battery storage project." The Town has not adequately, nor truthfully, completed the Environmental Assessment Forms. There has NOT BEEN A PROPER REVIEW PROCESS to address the potential environmental, health, noise and safety impacts of the BESS. To the contrary, the Town has not required nor even requested:
    i. an independent environmental analysis;
    ii. an independent health analysis;
    iii. an independent safety impact analysis; and
    iv. an independent noise analysis. (When the Town went to court to fight the noise at The East Hampton Airport they hired an independent noise analysis to be completed, but never required National Grid to do the same for the BESS and the existing substation. This illustrates the Town's favoritism toward National Grid).
8. FINAL EMERGENCY ACTION AND SAFETY PLAN: The Town has not received a Final Emergency Action and Safety Plan from EHESC. No independent analysis has been performed to determine whether or not the applicant's Final Emergency Action and Safety Plan is feasible. The Town should be required to submit this Final Emergency Action and Safety Plan to all surrounding neighborhoods which might have to flee in the event of a catastrophic event. If the BESS wasn't an unsafe entity, then the Lease would not require "All Risk" insurance, employers liability insurance, POLLUTION LIABLITY INSURANCE and umbrella insurance. There is even a requirement for earthquake insurance (Exhibit O). Also there is language indemnifying all parent entities in the Lease which is clearly placed in the Lease for a reason: everyone knows this is a dangerous technology. If there was a catastrophic on the Land, everyone is indemnified.

9. THE RESOLUTION: The Resolution adopted by the Town Planning Board on September 13, 2017 (the "Resolution") (Exhibit P) is incorrect as to the following points:
    a. The owner of the property is not National Grid;
    b. The size of the property to be leased is not 0.8 acres. Combined with the common areas stated in the Lease the entire project area is 1.13 acres. This is not accurately depicted on the Site Plan either.
    c. The exact property location and description is not on the Site Plan. The August 29, 2017 Suffolk County Planning Commission letter (Exhibit E) states "a decision of local determination should not be construed as either an approval or disapproval." This letter was placed into the file at the very end of the Town's review process. It appears to have been requested to give the feeling of oversight by the County, but at the same time Suffolk County is stating that it is not signing off on the project.
10. NOISE CODE: The Town has incorrectly stated that the project is in compliance with Chapter 255 of the Town Code, in particular, Section 255-1-11 (Exhibit Q) which states: (B) Protection of neighborhoods: to protect the established character of neighborhoods, especially residential neighborhoods, the social and economic well-being of residents and the value of private and public property. This section of the Town Code will be violated by the construction of the BESS. Also (F) Water recharge: to secure the regulation of land use in morainal water recharge areas and by other means the maximum recharge of the Town's fresh groundwater reservoir . . . " might also be violated since the BESS has been approved by the Town to be built on top of a special ground water preserve. The Town is not protecting its citizens and their natural resources.
    a. Other Town Codes that will be broken Noise Pollution Code Chapter 185, Section 185-1: (3) Cause a nuisance; (5) Interferes with the comfortable enjoyment of life and property . . . (5)(d) excessive or unreasonable noise, as defined here in (Exhibit R)
    b. The Town of East Hampton will also not issue fines against the utility even when the existing substation exceeds Town Code. Basically, residents do not have an effective government to protect them from the utility companies. Excessive noise was recorded on my property line on July 28, 2017. A noise reading was taken by

a Town Police officer. The noise exceeded nighttime Town Code limits at 54 dBA's (Exhibit S). The Town Code states 50 dBA's is the maximum allowed. Again, how can the Town state that this will not impact the surrounding community? The Town attorney in charge of Town Code Enforcement has instructed her Code Enforcement Officers that the Utility company is above the law and that no tickets/summons will be issued (Exhibit T). This leaves the citizens most affected by the excessive, continuous noise of the existing substation and the proposed 5MW BESS with no enforcement of the Town Code by the Town.

11. FIRE MARSHALL: Lack of Fire Marshall Signoff (Exhibit U): By letter dated April 19, 2017. The East Hampton Fire Marshall advised that there was water on the site but did not sign off as being able to combat and fight a fire on the Land. The Commission can see that the batteries are highly combustible and it is very difficult for the fireman to fight a lithium fire (Exhibit V). The Town certainly does not have the capability of handling this type of catastrophe. The East Hampton Fire Department is a volunteer based fire department and they are not trained to handle this new technology. It should be noted that the Resolution has not addressed Section 608 of the 2018 International Fire Code developed for Stationary Storage Battery Systems, nor has the East Hampton Fire Department addressed this either. According to an article by Klausbruckner & Associates dated January 4, 2017 "Battery chemistries for ESS have been in development for over a decade and new battery technologies will continue to be developed for the foreseeable future. Manufacturers are not incentivized to share proprietary information on their latest battery chemistry or technology, which makes the application of codes and standards, as well as the identification of a proper emergency response plan, more difficult. Information on the chemical makeup or physical and health hazards presented in the form of (M)SDS needs to be carefully reviewed and verified. All too often, systems are categorized based on energy capacity (kilowatt-hours) only, which is not very helpful in assessing their fire risks. For hazard assessment purposes, it would be better to categorize ESS batteries by technology and chemistry, as hazards differ significantly among those." (Exhibit W).

12. PERFORMANCE PLAN: No Performance Plan provided by the utility. According to Sections 25 and 25a of the Law, the Commission has the statutory authority to pursue penalties on the utilities states in part that "any public utility company, corporation or person and the officers, agents and employees thereof that knowingly fails or neglects to obey or comply with the provision of this chapter or an order adopted under authority of this chapter so long as the same shall be in force, shall forfeit to the people of the State of New York a sum not exceeding one hundred thousand dollars constituting a civil penalty for each and every offense and, in the case of continuing violation, each day shall be deemed a separate and distinct offense. Performance Plans are supposed to address areas such as: capital infrastructure replacement, customer satisfaction, service quality, system reliability, damage prevention, EMERGENCY RESPONSE TIMES, and/or violations noted during inspections or investigations. There is no Performance Plan for the EHESC BESS.
13. ZONING: In 1957 the first 400 feet on either side of the railroad tracks was zoned Commercial Industrial ("CI") (Exhibit X). The current irregular zoning boundary was created in 1962. When the original facility was built, the Town re-drew the zoning boundary to make half the lot Commercial Industrial (the Land is 17.6 acres: approximately 371,426 sq. feet is zoned Residential and approximately 394,405 sq. feet is zoned Commercial Industrial). This zoning should have never been changed to Commercial Industrial. Once Commercial Industrial Zoning was allowed, the Town should have never allowed homes to be built around the substation. Now, the Commission should not allow the Lease which will allow additional unknown potentially hazardous/dangerous technologies to surround these residential homes.
14. CERTIFICATE OF INSURANCE: There are no Certificates of Insurance on file with the Town nor provided to the public. There is no information regarding General Liability Insurance for the neighbors that will need such insurance contact information should a catastrophic event occur on the Land and destroy the surrounding water supply.
15. COST OF POWER. The power produced by the Wind Turbines will exceed the cost of power produced by fossil fuels (Exhibit Y). "LIPA has agreed to pay Deepwater Wind about 22 cents per kilowatt-hour . . . the average cost of natural-gas-fired electricity on Long Island is about 7.6 cents per kilowatt hour." The wind turbines should not be

allowed to be built on the shores of Long Island if the cost of wind power exceeds the current cost of fossil fuel power.

16. LIPA REV: The Long Island Power Authority South Fork RFP dated September 21, 2016 is based on inaccurate and misleading information. It states that East Hampton will grow 482% in the next 13 years and hence we need 2.4gw of power to be cursing through our community from wind turbines. The Town of East Hampton's population grew only 8% according to the National Census between 2000-2010 (Exhibit Z)
17. My previous letter to you dated September 8, 2017 (Exhibit AA) shows additional inconsistencies in National Grid's application which need to be taken into consideration.

Based upon the incontrovertible evidence I have presented to the Commission, please rescind the Lease of the Land for the construction of the BESS in my residential neighborhood. There has been no observance of good business practices by the Town, National Grid and National Grid's hired professionals.

Respectfully,

Claudia Diaz
24 Horseshoe Drive
East Hampton, NY 11937
Cell: 201-803-1520
Email: poolplayerclyde@aol.com

cc: President Donald Trump
1600 Pennsylvania Avenue
Washington, DC 20500

cc: Senator Joseph A. Griffo
Chairman of the Energy and Telecommunications Committee

188 State Street, Room 612
Legislative Office Building
Albany, NY 12247

cc: Mr. Thomas DiNapoli
The Office of the State Comptroller
59 Maiden Lane, #31
New York, NY 10038

cc: Mr. John Buyce
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

EXHIBIT INDEX

Exhibit A	ECI Engineering Services, P.C. Site Plan & Grading Plan dated August 24, 2017
Exhibit B	Lease: Schedule A, Schedule B and Schedule B, Cont'd. Description of Land Lease Area
Exhibit C	Thomas Talmage, P.E. Town Engineer Memorandum dated September 12, 2017
Exhibit D	ECI Engineering Services, P.C. Cover Sheet dated August 24, 2017
Exhibit E	Suffolk County Planning Commission Letter dated 8/29/17
Exhibit F	Deed dated August 15, 1962
Exhibit G	Deed dated May 27, 1998
Exhibit H	Lease: Exhibit 2 – Keyspan Generation LLC – East Hampton Property, Poperty as of December 31, 2016
Exhibit I	Dune Alpin Farm Property Owners Association Inc. letter dated July 11, 2017
Exhibit J	Short Environmental Assessment Form Part 2 – Impact Assessment
Exhibit K	Table D-1 Cumulative Analysis – Existing Facility combined with the East Hampton Energy Storage Project
Exhibit L	Short Environmental Assessment Form Part 1 – Project Information

Exhibit M	Lease, Article 4, Taxes: Imposition Fees, pages 8-9
Exhibit N	Certificate of Occupancy dated March 29, 1994
Exhibit O	Lease: Article 6: Insurance, pages 9-11
Exhibit P	Resolution Adopted 9/13/17: Site Plan/Special Permit Approval
Exhibit Q	Town Code Section 255-1-11: Town of East Hampton Zoning Code: Purposes
Exhibit R	Noise Code: Chapter 185: Noise, Section 185-1
Exhibit S	Code Enforcement Code Report CC#11749-17
Exhibit T	Email Chain from Nancy Lynn Thiel, Town Attorney – dated September 12-13, 2017
Exhibit U	Chief Fire Marshall Memo dated April 19, 2017
Exhibit V	"Battery Fire Pose New Risks to Firefighters" Article dated 2/27/15
Exhibit W	Klausbruckner & Associates News "Fire Codes for Energy Storage Systems" dated January 4, 2017
Exhibit X	Zoning Maps 1957 and 1962
Exhibit Y	City Journal: Bonackers vs. Big Wind
Exhibit Z	South Fork Resources Need Summary South Fork Need 2017 through 2030 Spreadsheet
Exhibit AA	Diaz letter to Commission dated September 8, 2017

EXHIBIT B

SCHEDULE A

LAND

Description of
Land Lease Area over Lands of National Grid
East Hampton Generating Station
Suffolk County Tax Map District: 300 Section: 185 Block: 2 Lot: 2
Situated in
East Hampton, County of Suffolk, State of New York

Land Lease Description

Beginning at the northwesterly corner of the area described herein, said point being distant southwesterly the following courses from a railroad monument at the intersection of the southerly line of the Long Island Railroad right-of-way with the westerly side of Cove Hollow Road:

Thence, along the westerly side of Cove Hollow Road, South 36° 02' 55" West a distance of 61.43 feet to a point;

Running thence in a westerly direction the following eight (8) courses:

1. South 72° 03' 08" West a distance of 52.62 feet to a point;
2. South 73° 28' 08" West a distance of 57.79 feet to a point;
3. South 75° 46' 16" West a distance of 61.02 feet to a point;
4. South 78° 11' 43" West a distance of 46.25 feet to a point;
5. South 75° 46' 54" West a distance of 213.20 feet to a point;
6. South 75° 21' 54" West a distance of 325.00 feet to a point;
7. South 78° 35' 53" West a distance of 94.13 feet to a point;
8. South 76° 33' 38" West a distance of 157.14 feet to a point;

Thence, in a southerly direction, South 13° 39' 19" East a distance of 131.82 feet to a point;

Thence, in a westerly direction, South 75° 47' 55" West a distance of 45.55 feet to the point of beginning and the northwesterly corner of the area described herein;

Thence, in an easterly direction, North 75° 47' 55" East a distance of 165.00 feet to a point;

Thence, in a southerly direction, South 14° 12' 05" East a distance of 163.59 feet to a point;

Thence in a westerly direction, South 75° 47' 55" West a distance of 165.00 feet to a point;

Thence in a northerly direction, North 14° 12' 05" West a distance of 163.59 feet to the point or place of beginning.

Containing within said bounds 26,993 Sq. Ft. &/or 0.61967 Acres more or less.

SCHEDULE B

COMMON AREAS

Description of
Common Area I over Lands of
National Grid East Hampton
Generating Station
Suffolk County Tax Map District: 300 Section: 185
Block: 2 Lot: 2 Situated in
East Hampton, County of Suffolk, State of New York

Common Area I Description

Beginning at the northeasterly corner of the area described herein, said point being distant southwesterly the following courses from a railroad monument at the intersection of the southerly line of the Long Island Railroad right-of-way with the westerly side of Cove Hollow Road:

Thence, along the westerly side of Cove Hollow Road, South 36° 02' 55" West a distance of 36.99 feet to a point;

Running thence in a westerly direction the following five (5) courses:

1. South 72° 10' 46" West a distance of 72.03 feet to a point;
2. South 75° 45' 14" West a distance of 163.82 feet to a point;
3. South 75° 07' 49" West a distance of 213.62 feet to a point;
4. South 76° 04' 44" West a distance of 325.70 feet to a point;
5. South 81° 45' 14" West a distance of 93.74 feet to the point of beginning and the northeasterly corner of the area described herein;

Thence, in a southerly direction, South 13° 35' 51" East a distance of 21.59 feet to a point;

Thence, in a westerly direction, South 76° 33' 38" West a distance of 157.14 feet to a point;

Thence in a southerly direction, South 13° 39' 19" East a distance of 131.82 feet to a point;

Thence in a westerly direction, South 75° 47' 55" West a distance of 45.55 feet to a point;

Running thence in a northerly direction the following four (4) courses:

1. North 16° 19' 20" West a distance of 46.98 feet to a point;
2. North 13° 49' 30" West a distance of 21.55 feet to a point;
3. North 14° 51' 29" East a distance of 15.43 feet to a point;

4. North 03° 57' 25" West a distance of 23.93 feet to a non-tangent point of curvature;

Thence along the arc of a curve to the right, with a radius of 45.00 feet, a delta angle of 90° 00' 00", a chord bearing of North 30° 34' 05" East, a chord length of 63.64 feet and an arc length of 70.69 feet to a point of tangency;

Thence in an easterly direction North 75° 34' 05" East a distance of 149.20 feet to the point or place of beginning.

Containing within said bounds 9,118 Sq. Ft. &/or 0.20932 Acres more or less.

SCHEDULE B, Cont'd

Description of
Common Area II over Lands of National Grid
East Hampton Generating Station
Suffolk County Tax Map District: 300 Section: 185 Block: 2 Lot: 2
Situated in
East Hampton, County of Suffolk, State of New York

Common Area II Description

Beginning at the northeasterly corner of the area described herein, said point being distant 36.99 feet southwesterly from a railroad monument at the intersection of the southerly line of the Long Island Railroad right-of-way with the westerly side of Cove Hollow Road;

Thence, along the westerly side of Cove Hollow Road, South 36° 02' 55" West a distance of 24.44 feet to a point;

Running thence in a westerly direction the following seven (7) courses:

1. South 72° 03' 08" West a distance of 52.62 feet to a point;
2. South 73° 28' 08" West a distance of 57.79 feet to a point;
3. South 75° 46' 16" West a distance of 61.02 feet to a point;
4. South 78° 11' 43" West a distance of 46.25 feet to a point;
5. South 75° 46' 54" West a distance of 213.20 feet to a point;
6. South 75° 21' 54" West a distance of 325.00 feet to a point;
7. South 78° 35' 53" West a distance of 94.13 feet to a point;

Thence, in a northerly direction, North 13° 35' 51" West a distance of 21.59 feet to a point;

Running thence in an easterly direction the following five (5) courses:

1. North 81° 45' 14" East a distance of 93.74 feet to a point;
2. North 76° 04' 44" East a distance of 325.70 feet to a point;
3. North 75° 07' 49" East a distance of 213.62 feet to a point;
4. North 75° 45' 14" East a distance of 163.82 feet to a point;
5. North 72° 10' 46" East a distance of 72.03 feet to the point or place of beginning.

Containing within said bounds 12,936 Sq. Ft. &/or 0.29696 Acres more or less.

Bearings described herein are derivative of NAD 83 NYS Plane Coordinate System, Long Island Zone.

EXHIBIT A

SITE PLAN

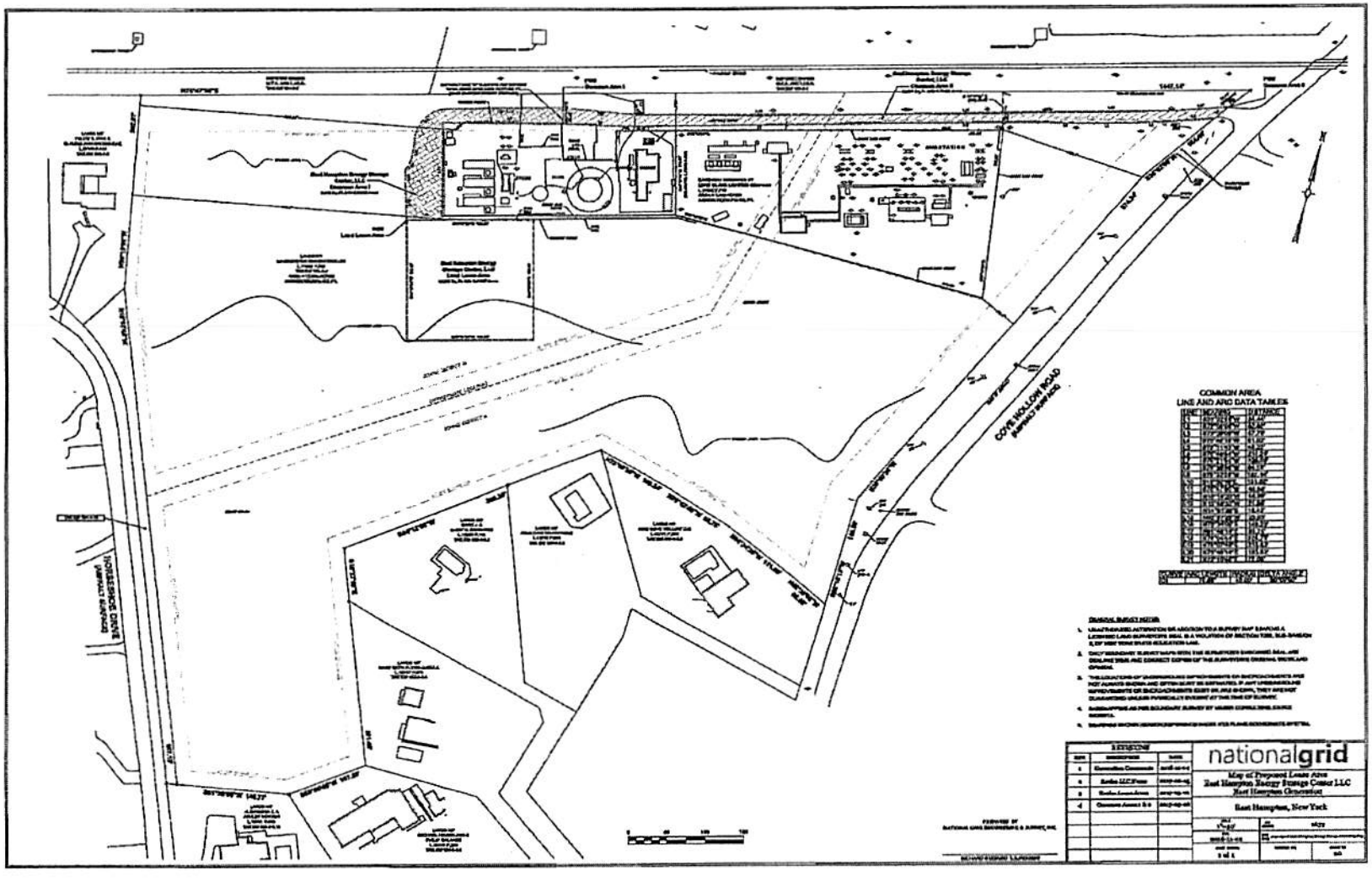

EXHIBIT C

Town of East Hampton

300 Pantigo Place
East Hampton, NY 11937-2684

DEPARTMENT OF ENGINEERING

THOMAS D. TALMAGE, P.E.
Town Engineer

Telephone (631) 324-1624

RECEIVED
SEP 12 2017
PLANNING BOARD

MEMORANDUM

September 12, 2017

TO: Planning Board

FROM: Thomas Talmage, P.E. Town Engineer Thomas Talmage

RE: Site Plan/Special Permit – East Hampton Energy Storage Center, LLC
Premises Situate: 3 Cove Hollow Road, East Hampton
SCTM# 300-185-2-2

As requested, I have reviewed the new submission stamped received by the Planning Board on September 7, 2017 and I offer the following:

- Sheet ESH-D-P002-1 Cover Sheet, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of August 31, 2017.
- Sheet ESH-D-P002-2 Map of Survey, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of August 28, 2017.
- Sheet ESH-D-P002-3 Layout Plan Overall, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of September 1, 2017.
- Sheet ESH-D-P002-4 Site Plan & Grading Plan, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of September 1, 2017.
- Sheet ESH-D-P002-5 Surface Plan, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of September 1, 2017.

- Sheet ESH-D-P002-6 Erosion Control Details, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of August 28, 2017.

- Sheet ESH-D-P003-1 General Arrangement & Landscape Plan, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of August 28, 2017.

- Sheet ESH-D-P004-1 Elevation A, B, C, and D, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of August 28, 2017.

- Sheet ESH-D-P007-1 Equipment Slab & Oil Containments Details, prepared by Glen Smith dated November 8, 2016 revised March 17, 2017 with the last revision date of August 28, 2017.

- Sheet ESH-D-P008-1 Fence Details, prepared by Glen Smith dated January 26, 2017 last revised January 27, 2017 with the last revision date of August 28, 2017.

- Sheet ESH-D-P008-2 Sound Wall Details, prepared by Glen Smith dated March 17, 2017 with the last revision date of August 28, 2017.

- Sheet ESH-D-P010-2 Lighting Plan, prepared by Glen Smith dated November 8, 2016 with the last revision date of August 28, 2017.

In reference to my comments from my previous April 21, 2017 as well as May 11, 2017 memorandum, I find the comments to be satisfactory.

The notes #1 and #2 contained on specification sheet ESH-D-007-1 and the information provided regarding Petro Plug I find to be satisfactory.

Should you have any questions or concerns, please do not hesitate to contact my office.

Cc: J. Pahwul

G:\JWilkins\engineering\site plans\300-185-2-2 E.H. Energy Storage Center, LLC.doc.

EXHIBIT D

SOILS MAP

General Notes

1. The property is described as part of East Hampton Division, Section 195, Block 2, Lot 2 and is located in the Commercial Industrial and Zone A Residential Zoning Districts. (§255–11–10) Construction will occur entirely in Commercial Industrial Zoning.
* Fire District: East Hampton Fire District
* School District: East Hampton School District
2. A building permit for the proposed structures will be submitted to the Building Inspector. (§255–11–38)
3. The Planning Board is the reviewing authority for the site plan; grading, clearing and construction will not occur until the site plan has been approved. (§255–6–20.A & B)
4. No grading, clearing or construction shall occur until a building permit has been approved. (§255–6–20.B)
5. This submission is subject to State Environmental Quality Review (SEQR) pursuant to §255–9–22.C.
6. These plans will comply with fire protection requirements approved in writing by the Fire Department. (§255–6–25)
7. This application is subject to Architectural Review Board approval per §255–7–30.A.
8. Fences proposed with this project will require a building permit and will be require architectural review prior to construction per §255–7–30.F.
9. These plans comply with the General Lighting Standards set forth in §255–1–83.
10. The proposed disturbance will include approximately 0.80 acres and will be exempt from the requirement of a Stormwater Pollution Prevention Plan (SWPPP) per Article II §216–2.1, definition of Land Development Activity.

*Sections (§) are cited from the Town of East Hampton Code

Index of Sheets

EXHIBIT E

COUNTY OF SUFFOLK

J. Potter
RECEIVED
SEP 2017
PLANNING BOARD

Steven Bellone
SUFFOLK COUNTY EXECUTIVE
Department of
Economic Development and Planning

Theresa Ward
Deputy County Executive and Commissioner

Division of Planning
and Environment

August 29, 2017

Town of East Hampton
300 Pantigo Place – Suite 103
East Hampton, NY 11937-2684
Attn: Job Potter

Dear Mr. Potter:

Pursuant to Section 239 l & m of the General Municipal Law, the following site plan and special permit which has been submitted to the Suffolk County Planning Commission is considered to be a matter for local determination as there appears to be no significant county-wide or inter-community impact(s). A decision of local determination should not be construed as either an approval or disapproval.

Site Plan/Special Permit	Address	File No.
East Hampton Energy Storage	0300 18500 0200 002000	N/A

Comments:

1. A Suffolk County Water Authority public water supply well field is located to the south-east of the battery storage site.
2. Best management practices should be utilized to retain all storm water runoff on site.
3. The applicant should review the Suffolk County Planning Commission entitled Managing Stormwater – Natural Vegetation and Green Methodologies; guidance for Municipalities and Developers (V.2.0, 2015).
4. The applicant should review the proposed project with the Suffolk County Department of Health Services with respect to the storage and containment of potentially hazardous materials pursuant to the Suffolk County Sanitary Code Article 7 and 12.
5. No more than 15% of the project landscaping and natural vegetation on site should be fertilizer dependent vegetation.
6. Vegetative clearing of the Pine Barren habitat on site should be limited to the greatest extent possible while buffering adjacent residential development to the east and south from noise and activities related to the battery storage project.

7. Vegetative clearing of the Pine Barren habitat on site should be limited to the greatest extent possible while providing wooded corridor connectivity to opens space areas to the north.

NOTE: Does not constitute acceptance of any zoning action(s) associated therewith before any other local regulatory board.

Very truly yours,

Sarah Lansdale
Director of Planning

Andrew P. Freleng
Chief Planner

APF/cd

EXHIBIT F

This Indenture,

Made the 1st day of August nineteen hundred and sixty-two

Between JUDSON L. BANISTER, residing at 34 Cove Hollow Lane, in the Village and Town of East Hampton, County of Suffolk and State of New York,

party of the first part,

and LONG ISLAND LIGHTING COMPANY, a New York corporation, having its principal office at 250 Old Country Road, Mineola, Nassau County, New York,

party of the second part,

Witnesseth, that the party of the first part, in consideration of ---------- TEN and no/100 ($10.00) ----------Dollars, lawful money of the United States, and other good and valuable considerations ----------paid by the party of the second part do es hereby grant and release unto the party of the second part, its successors ---------- and assigns forever,

All THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, shown on a certain map entitled "Map of Real Property Situate Town of East Hampton, Suffolk County, New York, to be acquired by Long Island Lighting Company for use as a Supplementary Generating Site", prepared by Geoffrey H. Bass, Land Surveyor, East Hampton, New York, dated May 14, 1962 and being more particularly bounded and described as follows:

BEGINNING at a Railroad monument on the northwesterly side of Cove Hollow Road, which monument is South 48 degrees 54 minutes 30 seconds West, a distance of 405.48 feet from the intersection of the southwesterly side of East Hampton-Sag Harbor Turnpike with the northwesterly side of said Cove Hollow Road, said monument in the northwesterly side of Cove Hollow Road also being located at the boundary line between land of Long Island Railroad and land of Judson L. Banister; running

THENCE along the said northwesterly side of Cove Hollow Road the following three courses and distances:

(1) South 48 degrees 54 minutes 30 seconds West 184.45 feet to a marble monument;
(2) South 38 degrees 55 minutes 10 seconds West 574.54 feet to a marble monument;
(3) South 15 degrees 06 minutes 50 seconds West 149.50 feet to land now or formerly of Maude B. Russell;

THENCE along said last mentioned land the following six courses and distances:

(1) North 49 degrees 37 minutes 30 seconds West 58.60 feet;
(2) North 51 degrees 42 minutes 40 seconds West 111.55 feet;
(3) North 57 degrees 51 minutes 10 seconds West 92.75 feet;
(4) North 60 degrees 09 minutes 00 seconds West 100.34 feet;
(5) South 67 degrees 03 minutes 40 seconds West 360.31 feet;
(6) South 06 degrees 36 minutes 20 seconds East 301.48 feet to land now or formerly of Joseph Repuk;

THENCE along said land of Joseph Repuk the following two courses and distances:
(1) South 66 degrees 45 minutes 20 seconds West 107.29 feet;
(2) North 85 degrees 42 minutes 20 seconds West 146.77 feet to land now or formerly of Frank H. Tillinghast;
THENCE along said last mentioned land of Frank H. Tillinghast the following two courses and distances:
(1) North 07 degrees 02 minutes 10 seconds West 687.18 feet;
(2) North 03 degrees 32 minutes 30 seconds East 262.07 feet to land of Long Island Railroad Company;
THENCE North 88 degrees 39 minutes 30 seconds East along said land of Long Island Railroad Company 1447.14 feet to the Railroad monument at the point or place of beginning.

Containing an area of approximately 17.58 acres.

BEING AND INTENDED TO BE the same premises conveyed by Donald A. Gould and Everett Foster, as Executors of the Last Will and Testament of J. Arter Gould, deceased, to Judson L. Banister, by deed dated December 13, 1955 and recorded in the Office of the Clerk of the County of Suffolk on December 23, 1955 in Liber 4044 of Deeds at Page 118.

Liber 5224 Page 135

State of NEW YORK
County of SUFFOLK } ss.:

On the 15th *day of* August *nineteen hundred and* sixty-two
before me came
JUDSON L. BANISTER,

to me known and known to me to be the individual described in, and who executed, the foregoing instrument, and acknowledged to me that he executed the same.

DOUGLAS E. DAYTON
NOTARY PUBLIC State of New York
No. 52-5044225, Suffolk County
Term expires March 30, 1964

State of
County of } ss.:

On the day of nineteen hundred and
before me came the subscribing
witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides in

that he knows

to be the individual described in, and who executed the foregoing instrument; that he, said subscribing witness, was present, and saw execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

L. I.
123549

JUDSON L. BANISTER
to
LONG ISLAND LIGHTING COMPANY

Deed

Dated, August 15th, 19 62

The land affected by the within instrument lies in Town of East Hampton, Suffolk County, N.Y.

RECORD AND RETURN TO
Lng Island Lighting Co
250 old Country Road
Mineola NY
Att Ed Wash

Clerk of the County and Recording Office.

RECORDED
AUG 31 1962
at 3336 M.
NORMAN E. KLIPP
County Clerk

(23)

BOXES 5 THRU 9 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING.

1 SUFFOLK COUNTY CLERK	2	3
L/P# 11902PG799 Number of pages 5 TORRENS Serial # Certificate # Prior Ctf#	43222 RECEIVED $ 0 JUL 6 1993 [illegible] TAX SUFFOLK COUNTY 43222	RECORDED 93 JUL -6 PM 2:56 EDWARD [illegible] CLERK OF SUFFOLK COUNTY
Deed / Mortgage Instrument	Deed / Mortgage Tax Stamp	Recording / Filing Stamps

4 FEES

Page / Filing Fee	15	Mortgage Amt.	
Handling	5	1. Basic Tax	
TP-584	5	2. SONYMA	
Notation		Sub Total	
EA-5217 (County)	5	3. Spec./Add.	
EA-5217 (State)	25	TOT. MTG. TAX	
Sub Total	30	Dual Town ___ Dual County ___ Held for Apportionment ___	
R.P.T.S.A.	15.00	Transfer Tax	0
Comm. of Ed.	5.00	Mansion Tax	
Affidavit		The property covered by this mortgage is or will be improved by a one or two family dwelling only. YES ___ or NO ___	
Certified Copy		If NO, see appropriate tax clause on page # ___ of this instrument.	
Reg. Copy			
Other			
Sub Total	45		
GRAND TOTAL	75		

SUFFOLK COUNTY SEAL

5 Real Property Tax Service Agency Verification

Dist	Section	Block	Lot
0300	185.00	02.00	002.000

Date 6-30-93
Initials BES

6 Title Company Information

Chicago
Company Name

[illegible]
Title Number

7 FEE PAID BY:
Cash ___ Check ___ Charge ___
Payer same as R & R ___
OR: ___

8 RECORD & RETURN TO (ADDRESS)

Kramer, Levin et al.
919 Third Ave.
New York New York 10022

9 Suffolk County Recording & Endorsement Page

This page forms part of the attached Deed made by:
(Deed, Mortgage, etc.)

Long Island Lighting Company
TO
Marketplace Generation LLC

The premises herein is situated in SUFFOLK COUNTY, NEW YORK.

In the TOWN of E. Hampton

In the VILLAGE or HAMLET of ___

EXHIBIT G

Parcel 184

DEED

LONG ISLAND LIGHTING COMPANY

TO

MARKETSPAN GENERATION LLC

Dated: May 27, 1998

The land affected by the within instrument is situated in

District	0300
Section	185
Block	02
Lot	02

on the tax map of Town of East Hampton,
County of Suffolk and State of New York

RECORD AND RETURN TO:

KRAMER, LEVIN, NAFTALIS & FRANKEL
919 THIRD AVENUE
NEW YORK, NEW YORK 10022

ATTENTION: Rudolph de Winter, Esq.

Parcel No. 384

THIS INDENTURE, made the 27th day of May, nineteen hundred and ninety-eight

BETWEEN LONG ISLAND LIGHTING COMPANY, a New York corporation having an office at 175 East Old Country Road, Hicksville, New York 11801, party of the first part (the "Grantor"), and

MARKETSPAN GENERATION L.L.C., a New York limited liability company having an office at 175 East Old Country Road, Hicksville, New York 11801, party of the second part (the "Grantee"),

WITNESSETH, that the Grantor, in consideration of ten dollars and other valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, the successors and assigns of the Grantee forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in East Hampton, Town of East Hampton, County of Suffolk and State of New York, bounded and described as set forth in Schedule A annexed hereto and made a part hereof.

Reserving unto the Grantor, its successors and assigns, a permanent and perpetual easement for the operation and maintenance of an electric transmission and distribution substation and related facilities on the easement parcel described on Schedule A, together with the right of ingress and egress, on foot and by vehicle, to and from the described easement parcel and the adjoining public roads over all existing and future roads and driveways on the herein conveyed premises.

TOGETHER with all right, title and interest, if any, of the Grantor, in and to any streets and roads abutting the above-described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the Grantee, the successors and assigns of the Grantee forever.

AND the Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

AND the Grantor covenants that it will execute and procure any further necessary assurance of the title to said premises.

IN WITNESS WHEREOF, the Grantor has duly executed this deed the day and year first above written.

LONG ISLAND LIGHTING COMPANY

By: William E. Steiger
William E. Steiger, Jr.
Vice-President, Real Estate

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

On the 27th day of May, 1998, before me personally came William E. Steiger, Jr. to me known, who, being by me duly sworn, did depose and say that he resides at 175 East Old Country Road, Hicksville, New York, that he is a Vice-President of LONG ISLAND LIGHTING COMPANY, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the board of directors of said corporation.

Angela N. Salvo
Notary Public

ANGELA N. SALVO
Notary Public, State of New York
No. 41-4941374
Qualified in Nassau County
Term Expires July 31, 1999

Schedule A

Q-12426

Description of Parcel # 384
Suffolk County Tax Map (1997)
Lot 02, District 0300, Section 185, Block 02
situated in
East Hampton, Town of East Hampton
Suffolk County, State of New York

Beginning at the northeasterly corner of the herein described property the said true point or place of beginning being more fully described and located as follows:

Beginning at a Railroad monument at the intersection of the northwesterly right-of-way line of Cove Hollow Road and the southerly right-of-way line of the Long Island Railroad the true point or place of beginning; Running thence along the northwesterly right-of-way line of Cove Hollow Road the following three (3) courses:

1. South 48° 54' 30" West 184.45 feet to a marble monument;
2. South 38° 55' 10" West 574.54 feet to a marble monument;
3. South 15° 06' 50" West 149.80 feet to land now or formerly of Maude B. Russell;

Thence along said mentioned land the following six (6) courses:

1. North 49° 37' 30" West 58.60 feet to a point;
2. North 51° 42' 40" West 111.58 feet to a point;
3. North 57° 51' 10" West 92.75 feet to a point;
4. North 60° 09' 00" West 100.34 feet to a point;
5. South 67° 03' 40" West 360.31 feet to a point;
6. South 06° 36' 20" East 301.48 feet to land now or formerly of Joseph Repuk;

Thence along the land of Joseph Repuk the following two (2) courses:

1. South 66° 45' 20" West 107.29 feet to a point;
2. North 85° 42' 20" West 146.77 feet to land now or formerly of Frank H. Tillinghast;

Thence along said last mentioned land of Frank H. Tillinghast the following two (2) courses:

1. North 07° 02' 10" West 687.18 feet to a point;
2. North 03° 32' 30" East 262.07 feet to the southerly right-of-way line of Long Island Railroad;

Thence North 88° 39' 30" East 1447.14 feet along said land of Long Island Railroad to the railroad monument the true point or place of beginning;

Containing within said bounds 17.58 acres more or less.

Being and intended to be the same premises conveyed to the party of the first part by deeds recorded in the Suffolk County Clerks Office as follows;

Deed Dated	Recorded	Recorded Date
December 13, 1955	Liber 4044, Page 114	December 23, 1955
August 15, 1962	Liber 5224, Page 438	August 31, 1962

Legal Description was established from map by: Geoffrey H. Bass 6/5/62

Bearings, Distances and Area of property were computed by Lilco System Surveyor

Schedule A

Q-12426
Ref. Map
EE-57E

Description of Parcel # 384 Easement (Substation)
Suffolk County Tax Map (1997)
P/O Lot 02, District 0300, Section 185, Block 02
situated in
East Hampton, Town of East Hampton
Suffolk County, State of New York

Beginning at the northeasterly corner of the herein described property the said true point or place of beginning being more fully described and located as follows:

Beginning at a Railroad monument at the intersection of the northwesterly right-of-way line of Cove Hollow Road and the southerly right-of-way line of the Long Island Railroad (Montauk Branch); Running thence along the southerly right-of-way line of the Long Island Railroad South 88° 39' 30" West 323.16 feet to a point; Thence through p/o lot 02 South 01° 20' 30" East 53.00 to the true point or place of beginning:

Thence continuing through p/o lot 02 the following four (4) courses:

1. South 05° 11' 05" West 231.22 feet to a point;
2. North 75° 11' 14" West 417.19 feet to a point;
3. North 01° 25' 34" West 113.80 feet to a point;
4. North 88° 57' 59" East 427.18 feet to the true point or place of beginning;

Containing within said bounds 1.66 acres more or less.

Being and intended to be a part of the same premises conveyed to the party of the first part by deeds recorded in the Suffolk County Clerks Office as follows:

Deed Dated	Recorded	Recorded Date
December 13, 1955	Liber 4044, Page 114	December 23, 1955
August 15, 1962	Liber 5224, Page 435	August 31, 1962

Legal Description was established from map by:
Roy D. Hunt Ls #050220
Long Island Lighting Co.

Bearings, Distances and Area of property were computed by Lilco System Surveyor

EXHIBIT H

Exhibit 2

Keyspan Generation LLC - East Hampton Property
Poperty as of December 31, 2016

	Total Original Cost	Total Square Footage (17.58 acres)	Square Footage of Leased Property*	Proportion of Property Leased	Net Book Value of Leased Property **
Land	$ 51,580.35	765,785	36,111	4.72%	$ 2,432

* Leased Property is Section 185, Block 2, p/o Lot 2
** Land is not depreciated

EXHIBIT I

DUNE ALPIN FARM PROPERTY OWNERS ASSOCIATION, INC.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 11, 2017

Job Potter, Chairperson
East Hampton Town Planning Board
300 Pantigo Place, Suite 103
East Hampton NY 11937

Dear Mr. Potter:

I am writing on behalf of the Dune Alpin Property Owners Association which strongly objects to the proposed approximately 4,200 sq. ft. energy storage facility to be constructed within a 1.32-acre site of the 17.6-acre site adjacent to the LIRR (East Hampton Energy Storage Center or "EHESC").

We urge the Board to provide the neighbors of the EHESC (including the Dune Alpin Property Owners Association and the homeowners on Cove Hollow Road) with an independent third-party study addressing how the facility will be constructed and the impact it may have on its neighbors and on the environment. Although the proposed construction area is zoned both residential and commercial, this zoning was created in the early 1960s. In the past 50 plus years, the neighborhood has changed dramatically and has become considerably more residential.

There have been many objections from nearby residents, including those directly on Horseshoe Drive and on Cove Hollow Road. Specifically, homeowners are concerned about 1) the constant noise levels that would emanate from this new facility, 2) the height of the facility, 3) the adequacy of the sound buffers, 4) the outdoor lighting, 5) appropriate landscaping and 6) the width of the reserve area between the facility and adjacent homes. We are also concerned about the adequacy of the safeguards, should this facility be built. Having EHESC operational 24 hours 7 days a week, so that the interior temperature of this 4,200 sq. ft. facility would be maintained at a constant level, will only add to the existing noise levels of the area, including from the airport and the railroad. This noise could be a constant hum throughout the year, and would be especially disturbing during the summer months.

2 SHETLAND COURT • EAST HAMPTON, NY 11937 • (631) 324-3353 • FAX (631) 324-3370

Wind turbines are expected to generate power off the coast of Montauk by 2022, and these turbines will also bring additional power to EHESC. Once this facility is built, it may be impossible to control the noise emanating from the storage center. Since the Dune Alpin community and the homes on Cove Hollow Road are already adversely affected by the Long Island Rail Road, the planes overhead, and the existing emergency generator, any additional battery storage system would only further increase the noise level that would negatively impact the surrounding community and neighboring homes.

I respectfully ask you to review our concerns and look forward to hearing from you.

Thank you for your consideration.

Sincerely,

Steven Lambert, President
On Behalf of the Board of Directors

SL:lmc

EXHIBIT J

Agency Use Only [If applicable]

Project: East Hampton Battery Storage

Date: May 11, 2017

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.
Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	☑	☐
2. Will the proposed action result in a change in the use or intensity of use of land?	☑	☐
3. Will the proposed action impair the character or quality of the existing community?	☑	☐
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	☑	☐
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	☑	☐
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	☑	☐
7. Will the proposed action impact existing: a. public / private water supplies?	☑	☐
b. public / private wastewater treatment utilities?	☑	☐
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	☑	☐
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	☑	☐
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	☑	☐
11. Will the proposed action create a hazard to environmental resources or human health?	☑	☐

PRINT FORM

Agency Use Only [If applicable]

Project: East Hampton Battery

Date: May 11, 2017

Short Environmental Assessment Form
Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Project Description:

See attached

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☑ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Planning Board	
Name of Lead Agency	Date
Job Potter	Chairman
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT FORM

EXHIBIT K

Table D-1
Cumulative Analysis – Existing Facilities Combined With the East Hampton Energy Storage Project at Property Line Locations
Modeled Sound Levels and Town of East Hampton Noise Ordinance Sound Levels
(Octave Bands are in dB)

		Octave Band Center Frequency (Hz)									
Location	**dBA**	**31.5**	**63**	**125**	**250**	**500**	**1,000**	**2,000**	**4,000**	**8,000**	**Within Town Noise Ordinance Levels?**
Residential Receptors											
Nighttime Residential District Limit	**50**	**75**	**70**	**64**	**57**	**52**	**49**	**43**	**40**	**37**	
1 - Surrey Court	43	59	61	49	39	41	37	31	20	3	YES
2 - Horseshoe Drive North	48	65	66	54	43	46	43	37	29	12	YES
3 - Horseshoe Drive South	43	59	60	49	38	40	38	33	22	4	YES
4 - Cove Hollow Road Southwest	44	62	62	49	38	41	39	33	22	5	YES
5 - Cove Hollow Road Southeast	48	65	66	53	42	45	42	37	29	14	YES
6 - Buell Lane Extension	42	59	60	47	37	39	36	31	21	5	YES
7 - Cove Hollow Road	41	58	59	46	36	38	36	30	20	0	YES
Commercial Receptor											
Nighttime Commercial/Industrial District Limit	**55**	**78**	**73**	**67**	**60**	**55**	**51**	**46**	**43**	**40**	
8 - Hardscrabble Court	55	72	73	60	50	52	50	44	35	26	YES

EXHIBIT L

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information

Name of Action or Project:
East Hampton Energy Storage Project

Project Location (describe, and attach a location map):
Section 195, Block 2 Lot 2 located on Cove Hollow Road, Town of East Hampton, Suffolk County, New York

Brief Description of Proposed Action:
East Hampton Energy Storage Center, LLC is proposing to build and operate the East Hampton Energy Storage Project (Project) in the Town of East Hampton, Suffolk County, New York. The East Hampton Energy Storage Project was a selected project as a result of the Long Island Power Authority's (LIPA)/PSEG LI's Request for Proposals South Fork Resources (2015 SF RFP) to meet expected peak load requirements.

Name of Applicant or Sponsor:	Telephone: 561-304-5783
East Hampton Energy Storage Center, LLC	E-Mail: Ross.Groffman@nexteraenergy.com

Address:		
700 Universe Boulevard		
City/PO: Juno Beach	State: FL	Zip Code: 33408

	NO	YES
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.	☑	☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Town of East Hampton Site Plan/Special Permit Approval	☐	☑

3.a. Total acreage of the site of the proposed action? 17.6 acres
b. Total acreage to be physically disturbed? 0.8 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 0.8 acres

4. Check all land uses that occur on, adjoining and near the proposed action.
☐ Urban ☐ Rural (non-agriculture) ☑ Industrial ☑ Commercial ☑ Residential (suburban)
☑ Forest ☑ Agriculture ☐ Aquatic ☐ Other (specify): _____
☐ Parkland

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	☐	☑	☐
b. Consistent with the adopted comprehensive plan?	☐	☑	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☑	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: Name:SGPA, Reason:Protect groundwater, Agency:Long Island Regional Planning, Date:3-19-93	NO ☐	YES ☑	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO ☑	YES ☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☐	☑	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☐	☑	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies:	NO ☐	YES ☑	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: The proposed Project will have no need to connect to any water supply.	NO ☑	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: The proposed Project will have no need to connect to any wastewater utility.	NO ☑	YES ☐	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	☑	☐	
b. Is the proposed action located in an archeological sensitive area?	☑	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	☑	☐	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:	☑	☐	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:
☐ Shoreline ☑ Forest ☐ Agricultural/grasslands ☐ Early mid-successional
☐ Wetland ☐ Urban ☐ Suburban

	NO	YES
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	☑	☐
16. Is the project site located in the 100 year flood plain?	☑	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? ☑ NO ☐ YES	☐	☑
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? ☑ NO ☐ YES If Yes, briefly describe:		

	NO	YES
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	☑	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	☑	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	☑	☐

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: Ross D. Groffman, East Hampton Energy Storage Center LLC Date: 11/8/16

Signature: _____ Executive Director of East Hampton Energy Storage Center, LLC

PRINT FORM

EXHIBIT M

ARTICLE 4
TAXES

Section 4.01 (a) Effective on the Lease Commencement Date, Tenant covenants and agrees, as hereinafter provided, to pay any reasonably documented increases in real estate taxes assessed due to the (i) construction and operation of the BESS on the Premises and (ii) increases in the valuation of the Land (collectively "Impositions"). Tenant shall, during the Term of this Lease, pay and discharge, as Additional Rent, all Impositions not later than thirty (30) days prior to the due date thereof, or thirty (30) days prior to the day any fine, penalty, interest or cost may be added thereto as imposed by law for the non-payment thereof, if *such* day is used to determine the due date of the respective item; provided, however, that if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same in such installments, provided such installment payments are not prohibited by the terms of any Mortgage and provided further that the amount of all installments of any such Impositions (other than installments of special improvement assessments), which are a lien or charge on the Premises during the Term of this Lease and which are to become due and payable after the Expiration Date, shall (subject to the terms of any Mortgage which requires an amount equal to such Impositions to be deposited with the holder of such Mortgage) be deposited with Landlord for such payment on the date which shall be one (1) year immediately prior to the Expiration Date.

(b) The parties agree that nothing herein contained shall require Tenant to pay municipal, state or federal income, inheritance, estate, succession, transfer or gift taxes of Landlord, or any corporate franchise taxes imposed upon Landlord or any successor of Landlord; provided, however, that if at any time during the Term of this Lease the method of real estate taxation prevailing at the commencement of the Term hereof shall be altered so that any new tax, assessment, levy (including, but not limited to, any municipal, state or federal levy), imposition or charge, or any part thereof, measured by or based in whole or in part upon the Premises or the Rental, shall be imposed upon Landlord, then all such taxes, assessments, levies, impositions or charges, or the part thereof to the extent that they are so measured or based, shall be deemed to be included within the term "Impositions" for the purposes hereof, to the extent that such Impositions would be payable if the Premises were the only property of Landlord subject to such Impositions, and Tenant shall pay and discharge the same as herein provided in respect of the payment of Impositions.

Section 4.02 Any Imposition, other than an Imposition which has been converted into installment payments as referred to in Section 4.01 hereof, relating to a fiscal period of the taxing authority, a part of which period is included within the Term of this Lease and a part of which is included in a period of time after the expiration or termination of the Term of this Lease, shall (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or in respect of or become a lien upon the Premises, or shall become payable during the Term of this Lease) be apportioned between Landlord and Tenant as of the expiration or termination of the Term of this Lease, so that Tenant shall pay that portion of such Imposition which that part of such fiscal period included in the period of time prior to the expiration or termination of the Term of this Lease bears to such fiscal period, and Landlord shall pay the remainder thereof, provided, however, that Tenant shall not be entitled to receive any

apportionment if there be a Default hereunder.

Section 4.03 Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition, of nonpayment of such Imposition, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated therein.

ARTICLE 5
NO PERSONAL LIABILITY OF LANDLORD

Section 5.01 Notwithstanding anything to the contrary in this Lease, in any action or proceeding brought to enforce any of the obligations of Landlord (which term when used only in this Article shall be deemed to include "Related Parties" of Landlord, as such term is defined below) hereunder, the judgment or decree shall be enforceable against Landlord only to the extent of the interest of Landlord in the Premises, and any such judgment shall not be subject to the execution on, nor be a lien on, any assets of Landlord other than its interest in the Premises, it being specifically understood and agreed that Landlord shall have no other liability, personal or otherwise, hereunder. The term "Related Parties" shall mean and include: (i) Landlord and any officer, director, or shareholder of Landlord; (ii) any partner of Landlord or any partner of any partner of Landlord or any shareholder, officer, or director of any corporate partner of Landlord: (iii) any legal representative, heir, estate, successor, or assignee of any of the foregoing; and (iv) any corporation (or any officer, director, or shareholder thereof), partnership (or any partner thereof), individual, or entity to which the interest of Landlord in the Premises or part thereof or interest therein shall have been transferred (or any legal representative, heir, estate, successor, or assignee of any thereof).

ARTICLE 6
INSURANCE

Section 6.01 Prior to commencement of construction of the asphalt roadbed forming a part of Common Area I (as described in Section 39 herein) or any Improvements on the Premises, Tenant, at its own cost and expense, shall maintain, at a minimum:

(a) Insurance on all of the Premises, including personal property, under an "All Risk" policy or its equivalent (e.g., a "Special Causes of Loss" policy), with replacement cost valuation and an agreed value endorsement (hereinafter referred to as "All Risk") in an amount equal to not less than one hundred percent (100%) of the full replacement cost of the Improvements (determined without regard to depreciation of the Improvements, but exclusive of foundations and footings). If not included within the All Risk coverage above, Tenant shall also carry or cause to be carried (X) coverage against damage due to water and sprinkler leakage and collapse and flood (to the extent such coverage can be obtained at commercially reasonable rates in the State), which shall be written with limits of coverage of not less than the then replacement value per occurrence, and (Y) earthquake insurance in an amount equal to not less than ten percent (10%) of the replacement cost of the Improvements. Such policy shall be endorsed with (i) replacement coverage, (ii) an agreed amount clause (waiving applicable co-insurance clause) in accordance with such determination or appraisal, and (iii) coverage for demolition costs and increased costs of construction due to changes in Requirements.

EXHIBIT N

Fee: $25.00

BUILDING DEPARTMENT

Town of East Hampton

Certificate of Occupancy

No. 12603(2297,27940,29337,29509,29761) Date .... March 29 ....., 19..94

This certifies that the structure located at .....Cove Hollow Road.....
(STREET)
East Hampton -....., Map No. ....-....., Block No. ....-.....
(HAMLET)
Lot No. ....-....., (Tax Map No. 300-.....185-2-2.....), as shown on
~~xxattachedxx~~ survey dated ...February.27,..1992., prepared by ..Albert.H..Ralph,Jr,,.L.S..
....., conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit, pursuant to which Building Permit No. ....as. above., dated as. indicated .on permit records was issued, and conforms to all of the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is One .generator,. addition .to .electrical. substation, .spill .containment. area, 640 .sq. ft. control house. and .generation. & .transmission. station,replacement .of. 550 gallon waste oil tank.

This certificate is issued to .....LONG .ISLAND .LIGHTING .COMPANY.....
(OWNER, ~~LESSEE OR AGENT~~)

of the aforesaid structure.

Site Plan-5/9/90; 9/4/91; 10/23/91;
ARB 9/19/91; 11/7/91;

.....
CHIEF BUILDING INSPECTOR
FREDERICK E. SELLERS

FORM 3

EXHIBIT O

apportionment if there be a Default hereunder.

Section 4.03 Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition, of nonpayment of such Imposition, shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated therein.

ARTICLE 5
NO PERSONAL LIABILITY OF LANDLORD

Section 5.01 Notwithstanding anything to the contrary in this Lease, in any action or proceeding brought to enforce any of the obligations of Landlord (which term when used only in this Article shall be deemed to include "Related Parties" of Landlord, as such term is defined below) hereunder, the judgment or decree shall be enforceable against Landlord only to the extent of the interest of Landlord in the Premises, and any such judgment shall not be subject to the execution on, nor be a lien on, any assets of Landlord other than its interest in the Premises, it being specifically understood and agreed that Landlord shall have no other liability, personal or otherwise, hereunder. The term "Related Parties" shall mean and include: (i) Landlord and any officer, director, or shareholder of Landlord; (ii) any partner of Landlord or any partner of any partner of Landlord or any shareholder, officer, or director of any corporate partner of Landlord: (iii) any legal representative, heir, estate, successor, or assignee of any of the foregoing; and (iv) any corporation (or any officer, director, or shareholder thereof), partnership (or any partner thereof), individual, or entity to which the interest of Landlord in the Premises or part thereof or interest therein shall have been transferred (or any legal representative, heir, estate, successor, or assignee of any thereof).

ARTICLE 6
INSURANCE

Section 6.01 Prior to commencement of construction of the asphalt roadbed forming a part of Common Area I (as described in Section 39 herein) or any Improvements on the Premises, Tenant, at its own cost and expense, shall maintain, at a minimum:

(a) Insurance on all of the Premises, including personal property, under an "All Risk" policy or its equivalent (e.g., a "Special Causes of Loss" policy), with replacement cost valuation and an agreed value endorsement (hereinafter referred to as "All Risk") in an amount equal to not less than one hundred percent (100%) of the full replacement cost of the Improvements (determined without regard to depreciation of the Improvements, but exclusive of foundations and footings). If not included within the All Risk coverage above, Tenant shall also carry or cause to be carried (X) coverage against damage due to water and sprinkler leakage and collapse and flood (to the extent such coverage can be obtained at commercially reasonable rates in the State), which shall be written with limits of coverage of not less than the then replacement value per occurrence, and (Y) earthquake insurance in an amount equal to not less than ten percent (10%) of the replacement cost of the Improvements. Such policy shall be endorsed with (i) replacement coverage, (ii) an agreed amount clause (waiving applicable co-insurance clause) in accordance with such determination or appraisal, and (iii) coverage for demolition costs and increased costs of construction due to changes in Requirements.

(b) Commercial general liability insurance against liability for bodily injury and death and property damage, all such insurance to be in such amounts equal to [redacted]. Such commercial general liability insurance shall be written on an occurrence basis with respect to the Premises and all operations related thereto, whether conducted on or off the Premises, and coverage shall include specifically the Premises, Common Areas and parking areas, streets, alleys and sidewalks adjoining or appurtenant to the Premises.

(c) workers' compensation insurance for statutory obligations imposed by applicable laws;

(d) employers liability insurance with a limit of [redacted]

(e) automobile liability, covering all owned, non-owned and hired vehicles used in connection with lease operations with a minimum combined single limit of liability of [redacted] and

(f) pollution liability, covering any sudden and accidental pollution liability which may arise out of, under, or in connection with this Lease, including all Work and Services to be performed by or on behalf of Tenant, or that arise out of the Tenant's use of any owned, non-owned or hired vehicles, with a minimum limit of liability of [redacted];

(g) excess or umbrella liability insurance which shall apply to commercial general liability; employers liability and automobile liability insurance, required in (b), (d) and (e) above, with a limit [redacted];

If, by reason of changed circumstances or economic conditions, the insurance amounts referred to in this Lease become in Landlord's reasonable judgment inadequate with respect to industry standards, increase the amounts of such insurance promptly upon Landlord's reasonable request.

At the request of Landlord, provide and keep in force such other insurance in such amounts as may from time to time be required by any Governmental Authority.

Section 6.02 (i) All insurance provided by Tenant, as required by this Article, shall be carried for the benefit of Landlord, Tenant and the holder of any Mortgage as their respective interests may appear, and shall name Landlord and the holder of any Mortgage as additional insureds (except for the workers' compensation insurance). The loss under policies insuring against damage to the Premises by fire or other casualty shall be payable to Tenant.

(ii) All insurance required by any provision of this Lease shall be issued by such responsible insurance companies licensed or authorized to do business in the State and having a rating of "A-" or better and a financial class of "VII" or better (or the then equivalent of such ratings) as rated by A.M. Best's Insurance Guide (or any successor publication of comparable standing). All policies referred to in this Lease shall be in such

form reasonably acceptable to Landlord and shall be obtained by Tenant for periods of not less than one (1) year. Tenant and Landlord shall cooperate in connection with the collection of any insurance moneys that may be due in the event of loss. The insurance requirements addressed herein may be satisfied with any combination of primary and excess insurance.

(iii) All premiums on policies referred to in this Lease shall be paid by Tenant. The copies of such certificates of insurance evidencing such policies shall be delivered to the Landlord immediately upon receipt from the insurance company or companies (and such originals may be delivered by Landlord to the holder of a Mortgage). New or renewal certificates replacing any certificates expiring during the Term hereof shall be delivered to Landlord at least thirty (30) days before the date of expiration. Premiums on policies shall not be financed in any manner whereby the lender, on default or otherwise, shall have the right or privilege of surrendering or cancelling the policies.

Section 6.03 Every policy of insurance referred to in this Lease shall contain an agreement by the insurer that no cancellation or non-renewal of the coverages afforded under said policies will be effective until at least thirty (30) days' prior written notice of such cancellation or non-renewal has been given to Landlord in accordance with Article 27 of this Lease.

Section 6.04 Landlord shall, at all times during the Term, maintain in effect a policy or policies of insurance consistent with the requirements set forth in Section 6.01 covering the Common Areas. Any insurance provided for in this Section may be affected by a policy or policies of blanket insurance covering additional items or locations.

ARTICLE 7
USE OF CASUALTY INSURANCE PROCEEDS

Section 7.01 If the Improvements shall be destroyed or damaged in whole or in part by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Tenant shall give to Landlord immediate notice thereof, and Tenant, at its own cost and expense, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, shall (i) if the Initial Construction had been performed or had been in the process of being performed prior to the casualty, promptly repair, alter, restore, replace and rebuild the same, at least to the extent of the value of the Improvements prior to such occurrence and to as nearly as possible to the character of the Improvements existing immediately prior to such occurrence, and (ii) if the Initial Construction had not been performed prior to the casualty, perform such work to ensure the safety of the Premises; and Landlord shall in no event be called upon to repair, alter, replace, restore or rebuild such Improvements or any portion thereof, or to pay any of the costs or expenses thereof. In lieu of restoring or rebuilding the Improvements, Tenant shall have the option, upon twelve (12) months prior written notice to Landlord, to terminate the Lease, provided Tenant removes all the Improvements located within the Premises (within the aforesaid twelve (12) month period) and delivers the Premises to Landlord in the materially same condition existing as of the Lease Commencement Date. The asphalt roadbed shall not be removed by Tenant.

EXHIBIT P

PLANNING BOARD OF THE TOWN OF EAST HAMPTON
EAST HAMPTON, NEW YORK

RECEIVED
SEP 14 2017
PLANNING BOARD

In the Matter of the Application

of

SITE PLAN/
SPECIAL PERMIT
APPROVAL

EAST HAMPTON
ENERGY STORAGE CENTER, LLC
SITE PLAN/SPECIAL PERMIT
SCTM #300-185-2-2

ADOPTED: 9/13/17

FINDINGS AND DETERMINATION OF THE BOARD

The findings of fact, conclusions, and determination set forth herein are made after consideration of the application, any presentations, memoranda or correspondence made or submitted to the Board by staff or interested parties, comments taken at any public hearing on the application, and inspection of the subject property.

A. PROJECT DESCRIPTION

1. **TYPE OF APPROVAL SOUGHT:**
   (a) Site plan approval pursuant to Article VI of Chapter 255 (Zoning) of the East Hampton Town Code.
   (b) Issuance of a special permit pursuant to Article V of Chapter 255 of the Town Code.
2. **USE REQUIRING SPECIAL PERMIT:** Public Utility
3. **DESCRIPTION OF PROPOSED WORK:** Construct a 46' 4" x 89' 8", or 4,154 sq. ft., structure to contain a battery system for the storage of electrical power, four (4) 9' x 4'6" pads containing HVAC units, three (3) 8' 6' x 21' pads containing inverters with transformers and inverters, a metering cabinet, switch gear box, and station service transfer box, and a 7' high chain link fence topped with barbwire. A 6' high sound attenuation walls along two sides of the HVAC units and a 9' high sound attenuation on one side of the inverters and transformers.
4. **SIZE OF PROPERTY:** 17.6 acres, 0.8 acre leased area
5. **OWNER OF PROPERTY:** National Grid
6. **APPLICANT:** East Hampton Energy Storage Center, LLC
7. **PROPOSED SITE PLAN:** EHS-D-P002-4 - Site Plan & Grading Plan, dated September 1, 2017 prepared by ECI Engineering Services and stamped and sealed by Glen A. Smith.
8. **DATE OF PUBLIC HEARING ON APPLICATION:** June 7, 2017

B. PROPERTY LOCATION AND DESCRIPTION

1. **SUFFOLK COUNTY TAX MAP DESIGNATION:** #300-185-02-02

2. **STREET LOCATION:** 3 Cove Hollow Road
3. **CONTIGUOUS WATER BODIES:** N/A
4. **HAMLET OR GEOGRAPHIC AREA:** East Hampton
5. **SITE DESCRIPTION & EXISTING IMPROVEMENTS:** The site is relatively flat and partially cleared and improved with an existing National Grid electrical substation.
6. **FILED MAP NAME:** N/A
7. **FILED MAP NUMBER:** N/A
8. **DATE OF MAP FILING:** N/A
9. **BLOCK NUMBER IN FILED MAP:** N/A
10. **LOT NUMBER IN FILED MAP:** N/A

C. ZONING CLASSIFICATION

1. **ZONING DISTRICT:** Commercial Industrial & A Residence
2. **ZONING OVERLAY DISTRICT:** N/A

D. SEQRA REVIEW

1. **SEQRA CLASSIFICATION:** Unlisted
2. **LEAD AGENCY:** East Hampton Planning Board
3. **DETERMINATION OF SIGNIFICANCE:** Negative declaration
4. **DATE OF DETERMINATION:** May 17, 2017

E. COUNTY COMMISSION REVIEW/ADDITIONAL FINDINGS OF FACT

1. By letter dated August 29, 2017, the Suffolk County Planning Commission has informed the Board that it considers the subject application to be a matter for local determination.

2. By letter dated April 19, 2017, the East Hampton Fire Marshal advised that there is presently a fire hydrant on site supplied by a public water main that will provide adequate water supply for firefighting purposes. He further advised that the Chief of the East Hampton Fire Department is confident in their ability to respond and address any concerns that may arise from the project.

3. No public water or sanitary systems are proposed and approval from the Suffolk County Department of Health is not required.

4. A *Fire Hazard Assessment of Lithium Ion Battery Energy Storage Systems* report prepared by Andrew F. Blum, P.E., CFEI, and dated February 26, 2016 was submitted to the file and reviewed by the Town's Chief Fire Marshal.

5. The *Project Narrative* prepared by TRC and dated November 2016 included a noise analysis based on all project generating noise components operating at full load. Figure 4 of this analysis indicates that the maximum dBA levels permitted under the Town Code will be achieved within the boundaries of the parcel. The *Cumulative Noise Impact Analysis* (Attachment D), prepared by TRC and dated received February 3, 2017, analyzed the noise from

the existing and proposed facility and demonstrated that the project noise at seven residential and one commercial receptor points off site, Surrey Court, Horseshoe Drive North, Horseshoe Drive South, Cove Hollow Road Southwest, Cove Hollow Road Southeast, Buell Lane Extension, Cove Hollow Road, complied with the Town Code. Table D-2, *East Hampton Energy Storage Project Combined with the Existing Facilities at Property Line Locations Cumulative Noise Impact Analysis (dBA),* demonstrated that the noise emanating from the project operating at full capacity with the noise from the existing facility factored in, will comply with dBA limits set §185 - 3 of the Town Code.

6. A *Draft Emergency Action and Safety Plan,* prepared by TRC and dated received February 3, 2017, was submitted to the file. This plan establishes the planned response actions that will be taken by remote Control Room Operators that oversee the 24/7 operation of the site and other emergency personnel. In the document, the plan is described as a "living" document that will need to be revised over time based on experience. Appendix 3 of the document includes a list of organizations, titles, and telephone numbers to be contacted by the Control Operator during an emergency.

7. The General Arrangement Plan Safety stamped and signed by Glen A. Smith dated revised May 1, 2017 notes a number of safety design features that are part of the project:

F. COMPLIANCE WITH TOWN CODE OR OTHER REQUIREMENTS OF LAW

Based upon the foregoing, the Planning Board finds that the application as approved, subject to any conditions or modifications specified in § H below, meets the following requirements:

1. The application contains all necessary elements of a site plan as enumerated in § 255-6-50 of the Town Code.

2. The application meets the standards enumerated for review of site plans in § 255-6-60 of the Town Code.

3. The application meets the general standards required for the issuance of a special permit by § 255-5-40 of the Town Code, in that:

(A) Nature of use. The use proposed will be in harmony with and promote the general purposes of Chapter 255 of the Town Code as the same are set forth in § 255-1-11 thereof.

(B) Lot area. The lot area is sufficient, appropriate, and adequate for the use, as well as reasonably anticipated operation and expansion thereof.

(C) Adjacent properties. The proposed use will not prevent the orderly and reasonable use of adjacent residential properties located in residential zoning districts.

A number of mitigative measures have been included in the project that will limit visibility of the project from neighboring residential areas on the westerly and southerly sides. A Map of Survey Plan signed and stamped by Glen A. Smith, P.E. dated May 1, 2017 depicts a scenic easement that is proposed over existing wooded areas of the site that will ensure that these areas are kept in their natural state in perpetuity and as such will provide buffering to residential areas to the west and south. The easement varies in width from 100' to approximately 250' on the westerly side of the property, bordering Horseshoe Drive and from 150' to approximately 500' on the southerly side facing Cove Hollow Road. This easement will prevent any further clearing or development in the area of the easement.

To further reduce visibility to neighboring residential areas, the project includes a proposal to plant a double row of 8' high White pines (*Pinus strobus)*, a native evergreen, on the southerly side and a single row on the westerly side at the edges of the project site. An edge of clearing line has also been incorporated into the project that will limit the extent of clearing that can occur on the site as a result of this project. A project limiting fence will be required to be installed and inspected prior to commencing clearing, grading or construction of the site.

The site presently utilizes gas powered portable generators to supplement the output of the substation during times of peak energy need. These portable generators generate noise that is unmitigated. It is anticipated that the subject project will eliminate or at least greatly reduce the need to rely on these generators and as such will have a beneficial impact on the neighborhood.

A number of mitigative measures have also been included in the project to limit noise impacts on the neighboring residential areas. The HVAC units proposed for the project were relocated off of the roof to a location on the easterly side of the building so as to reduce the potential for noise impacts to the neighboring residences. Sound attenuation walls are proposed on the sides of both the HVAC units and the inverters and transformers that will absorb noise emanating from the operation of the motors associated with this equipment.

The applicant submitted a noise analysis that included a Noise Contour Map (Figure 4), prepared by TRC and dated November 2016, that indicates that the 50 dBA maximum noise level permitted under the Town Code in a residential area between 7PM and 7AM, will be achieved within the boundaries of the property itself, except on the northerly side, where the facility borders a Commercial Industrial area and the 50 dBA would fall north of the LIRR tracks and the dBA limit for a commercial industrial area will also be met.

The *Cumulative Noise Impact Analysis* (Attachment D), prepared by TRC and dated received February 3, 2017, analyzed the noise from the existing and proposed facility and demonstrated that the project noise at seven residential and one commercial receptor points off site, Surrey Court, Horseshoe Drive North, Horseshoe Drive South, Cove Hollow Road Southwest, Cove Hollow Road Southeast, Buell Lane Extension, Cove Hollow Road, complied with the Town Code. Table D-2, *East Hampton Energy Storage Project Combined with the Existing Facilities at Property Line Locations Cumulative Noise Impact Analysis (dBA),* demonstrated that the noise emanating from the project operating at full capacity with the noise from the existing facility factored in, will comply with dBA limits set §185-3 of the Town Code.

(D) Compatibility. The site of the proposed use has contained an electrical substation, classified as a public utility, since the 1960's and the proposal to expand that use is a suitable one for the location in the Town, and the proposed use will be compatible with its surroundings and with the character of the neighborhood and of the community in general, particularly with regard to visibility, scale, and overall appearance. The project has incorporated a number of mitigative measures to reduce visibility and potential noise from the proposed facility in order to increase compatibility with the neighborhood. The site borders the LIRR right of way on the northerly side and residential areas on the westerly and southerly sides. Noise and visual mitigation to protect these residential areas has been included in the project.

(E) Effect on specific existing uses. The characteristics of the proposed use are not such that its proposed location would be unsuitably near to a church, school, theater, recreational area, or other place of public assembly.

(F) Use definition. The proposed use conforms to the Town Code's definition of "Public Utility," as that definition is used in § 255-1-20 of the Town Code.

(G) Circulation. Access facilities are adequate for the traffic estimated to be generated by the proposed use on public streets and sidewalks, so as to assure the public safety and to avoid traffic congestion; and vehicular entrances and exits are clearly visible from the street and are not within seventy-five (75) feet of the intersection of street lines at a street intersection.

(H) Parking. §255-11-45 (Schedule of Off-Street Parking Requirements) of the Town Code does not provide a parking requirement for a public utility use. The site will be monitored remotely and unmanned on a daily basis and not available to the public. Areas of the site are proposed to be improved with crushed rock and road base surfaces that will provide improved surfaces to park the vehicles that will occasionally service the site. Therefore the Board has determined that the off-street parking is sufficient and more than adequate for the use and anticipated number of occupants and that the site layout will allow that these spaces will be convenient and conducive to safe operation.

(I) Buffering and screening. Adequate buffer yards and screening have been provided to protect adjacent properties and land uses from possible detrimental impacts of the proposed use. An edge of clearing line has been established to preserve wooded areas around that site that provide screening to residential areas to the west and south. A scenic easement is proposed on the westerly and southerly sides that will require that wooded areas remain in their natural state in perpetuity. Additionally, a row of 8' high White pines (*Pinus strobus*) is proposed on both the westerly and southerly sides of the leased area of the project.

(J) Runoff and waste. Adequate provision has been made for the collection and disposal of stormwater runoff, sewage, refuse, and other liquid, solid, or gaseous waste which the proposed use will generate.

(K) Environmental protection. The natural characteristics of the site are such that the proposed use may be introduced there without undue disturbance or disruption of important natural features, systems, or processes and without significant negative impact to groundwater

and surface waters on or off the site.

(L) Compliance with other laws. The proposed use can and will comply with all provisions of the Town Code which are applicable to it, and can meet every other applicable federal, state, county, and local law, ordinance, rule, or regulation.

(M) Conformity with other standards. The proposed use can and will meet all of the specific standards and incorporate all of the specific safeguards required of the particular use by § 255-5-50 of the Town Code.

G. DISPOSITION OF APPLICATION

The application is approved as described herein, subject to any conditions or modifications specified in § H below.

1. TYPE OF APPROVAL GRANTED:

(a) Site plan approval pursuant to Article VI of Chapter 255 of the Town Code.

(b) Issuance of a special permit pursuant to Article V of Chapter 255 of the Town Code.

2. NATURE OF APPROVED USE: Public utility/energy storage facility

3. DESCRIPTION OF APPROVED WORK: Construct a 46' 4" x 89' 8", or 4,154 sq. ft., structure to contain a battery system for the storage of electrical power, four (4) 9' x 6" pads containing HVAC units, three (3) 8' 6' x 21' pads containing inverters with transformers and inverters, a metering cabinet, switch gear box, and station service transfer box, and a 7' high chain link fence topped with barbwire. A 6' high sound attenuation walls along two sides of the HVAC units and a 9' high sound attenuation on one side of the inverters and transformers.

H. CONDITIONS OF APPROVAL

The approval hereby granted is contingent upon full compliance with the conditions set forth in this section. The property may not be used except in accordance with this conditional approval, and all improvements shall be made, built, or installed in accordance with the plans described below.

1. APPROVED SITE PLAN: EHS-D-P002-4 - Site Plan & Grading Plan, dated September 1, 2017 prepared by ECI Engineering Services and stamped and sealed by Glen A. Smith.

2. APPROVED BUILDING OR CONSTRUCTION PLANS:

- Dimensional Data sheet for HVAC Unit from Trane dated received September 7, 2017;
- Data sheet for inverters from SMA America Production, LLC dated received September 7, 2017;
- Specification sheet for station service transformer dated received September 7, 2017;
- EHS-D-P002-1 - Cover Sheet, dated August 31,2017,
- EHS-D-P002-2 - Map of Survey, dated August 28, 2017,
- EHS-D-P002-3 - Layout Plan Overall, dated September 1, 2017,
- EHS-D-P002-5 - Surface Plan, dated September 1, 2017,
- EHS-D-P002-6 - Erosion Control Detail, dated August 28, 2017,
- EHS-D-P003-1 - General Arrangement & Landscape Plan, dated August 28, 2017,

- EHS-D-P004-1 - Elevations A, B, C, and D, dated August 28, 2017,
- EHS-D-P007-1 - Equipment Slab & Oil Containment Details, dated August 28, 2017,
- EHS-D-P008-1 - Fence Details, dated August 28, 2017,
- EHS-D-P008-2 – Sound Wall Details, dated August 28, 2017,
- EHS-D-P010-2 - Lighting Plan, dated August 28, 2017, all prepared by ECI Engineering Services and stamped and sealed by Glen A. Smith.

3. ADDITIONAL CONDITIONS AND TIME LIMITATIONS:

3.1 No building permits may issue, nor may clearing, grading, or construction activities be commenced, until and unless the conditions enumerated in sub¶ 3.2, 3.3 & 3.4 below have been met, as evidenced by the report of the Planning Board Chair.

3.2 The applicant shall obtain the final written approval of the Architectural Review Board.

3.3 The applicant shall grant to and have accepted by the Town of East Hampton a scenic and conservation easement in form acceptable to this Board and to counsel to the Board, over the wooded buffer areas, as shown on Map of Survey (EHS-D-P002-2), dated August 28, 2017, prepared by ECI Engineering Services and stamped and sealed by Glen A. Smith. A map depicting the metes and bounds of this easement shall be submitted to both the Planning Board and the Town Attorney. The applicant shall record this easement with the Office of the Suffolk County Clerk and shall return copies of the same, with proof of recordation shown thereon, to the Town Clerk

3.4 The applicant shall submit a *Final Emergency Action and Safety Plan* that includes the names and telephone numbers of the Environmental Response Team Company and On-Island Manager, as well as any other needed updates.

3.5 The Town of East Hampton shall be notified of any changes to the *Final Emergency Action and Safety Plan* within 30 days of their occurrence and an updated plan of all changes made to this plan during the course of the year, or proposed to be made, should be submitted for review by the Fire Marshal annually.

3.6 The applicant shall perform the parking, access, drainage, and landscaping improvements shown on the approved site plan and approved building or construction plans described above prior to the issuance of a certificate of occupancy.

3.7 The facility shall be equipped with all safety design measures specified on the General Arrangement Plan (D-P003-1) prepared by ECI Engineering Services and stamped and sealed by Glen A. Smith, dated August 28, 2017.

3.8 The applicant shall install a 6' high sound attenuation wall on two sides of the HVAC units and a 9' high sound attenuation was on the northerly side of the inverters and transformers, as depicted on General Arrangement & Landscape Plan, dated August 28, 2017, prepared by ECI Engineering Services and stamped and sealed by Glen A. Smith to assure that noise generated from the proposed improvements meets all requirements of the Town Code noise limits at the property lines.

3.9 The access improvements shall be maintained by the applicant for so long as the improvements approved as part of this site plan are in use. This requirement shall be a continuing condition of this approval, and the applicant and any successors in interest shall repair, replace, and maintain these improvements as may be necessary to satisfy this condition.

3.10 All runoff and drainage shall be contained on site. This shall be an ongoing condition of the site plan approval.

3.11 All landscaping shall be maintained by the applicant in accordance with the approved site planting plan for so long as the improvements approved as part of this site plan are in use. This requirement shall be a continuing condition of this approval, and the applicant and any successors in interest shall replace and replant the landscaping on the site as may be necessary to satisfy this condition.

3.12 Any areas to be seeded with grass shall utilize a native grass seed mixture. A proposal for a native grass seed mixture should be submitted for review by the Planning Department prior to planting.

3. 13 No Certificate of Occupancy shall be issued for this site or for the improvements thereon until and unless all of the foregoing conditions have been met.

3.14 The applicant shall apply for and obtain a building permit no later than three (3) years from the date of this resolution.

3.15 The applicant shall apply for and obtain a Certificate of Occupancy no later than four (4) years from the date of this resolution.

I. VALIDITY OF APPROVAL

If any condition of this resolution is not met, or is not met within the prescribed time period, all approvals, permits, or authorizations granted hereby shall be deemed void and of no effect.

DATED: September 13, 2017

cc: William Boer
1200 Wall Street West
Lyndhurst, NJ 07071

Ross D. Groffman, Executive Director
East Hampton Energy Storage Center, LLC
700 Universe Boulevard, FEW/JB
Juno Beach, FL 33408

Planning Department

Building Inspector
Architectural Review Board

EXHIBIT Q

Chapter 255 Zoning

Article I: General Provisions

§ 255-1-10 Title.

[Amended 11-15-1996 by L.L. No. 19-1996]

This chapter of the East Hampton Town Code shall be known and may be cited as the "Town of East Hampton Zoning Law" or the "Town of East Hampton Zoning Code."

§ 255-1-11 Purposes.

This chapter is adopted for the purpose of promoting the health, safety and general welfare of the people of the Town of East Hampton by regulating the uses of lots and lands and the dimensions, locations and uses of buildings and structures throughout the Town, exclusive of the Incorporated Villages of East Hampton and Sag Harbor therein, in order to achieve the following related specific objectives:

A. Orderly growth: to guide and regulate the orderly growth, development and redevelopment of the Town in accordance with a Comprehensive Plan and the long-range objectives, principles and goals set forth therein as beneficial to the interests of the people.

B. Protection of neighborhoods: to protect the established character of neighborhoods, especially residential neighborhoods, the social and economic well-being of residents and the value of private and public property.

C. Proper use of land: to promote, in the public interest, the utilization of land for the purposes for which it is the most appropriate and to protect and responsibly promote public access to and usage of publicly owned lands and waters.

D. Affordable housing: to provide for affordable housing of the type and in the locations where the same will be most beneficial to those Town residents of low and moderate income who wish to continue to live and work in East Hampton, but who find that escalating real estate values make it difficult or impossible for them to do so.

E. Preservation: to promote in the public interest the preservation of prime agricultural land, productive wetlands, protective barrier dunes and beaches, unique vegetation, important animal habitats and other natural resources and man-made features of historical, environmental or cultural significance to the community.

F. Water recharge: to secure through the regulation of land use in morainal water recharge areas and by other means the maximum recharge of the Town's fresh groundwater reservoir and thereby to assure a permanently adequate supply of wholesome and pure water for use by the human community as well as a continuing natural balance and integrity of existing ecosystems in the Town.

G. Clean water: to protect and promote the fisheries and resort industries of the Town by perpetuating and, where necessary, restoring a healthful biological and chemical balance throughout the Town's waters, including its bays, harbors, wetlands, estuaries, ponds, streams, kettleholes and other bogs, natural drainage channels and watercourses, as well as in the adjacent sounds and ocean.

H. Safety and health: to secure safety from fire, panic, flood, storm and other dangers, to provide adequate light, air and convenience of access for all properties, to avoid the creation of nuisances and other conditions impinging upon the quiet enjoyment and use of property and to prevent environmental pollution and degradation of whatever kind.

I. Prevention of overcrowding: to prevent the overcrowding of land or buildings, to avoid the undue and unnecessary concentration of population and to lessen and where possible, to prevent traffic congestion on the public streets and highways.

EXHIBIT R

Chapter 185: Noise

[HISTORY: Adopted by the Town Board of the Town of East Hampton 6-7-1985 by L.L. No. 5-1985. Amendments noted where applicable.]

GENERAL REFERENCES
Mass assemblages — See Ch. 151.
Dance halls — See Ch. 117.
Noise by peddlers — See Ch. 198.

§ 185-1 Definitions; abbreviations.

A. Definitions. As used in this local law, the following terms shall have the meanings indicated:

AIRBORNE SOUND
Sound that reaches the point of interest by propagation through air.

COMMERCIAL DISTRICT
All use districts pursuant to § 255-2-10C of this Code, including Central Business, Neighborhood Business, Waterfront and Resort.

COMMERCIAL SERVICE EQUIPMENT
All engine- or motor-powered equipment intended for infrequent service work in inhabited areas typically requiring commercial or skilled operators. Examples of "commercial service equipment" are chainsaws, log chippers, paving rollers, etc.

CONSTRUCTION DEVICE
Any powered device or equipment designed and intended for use in construction. Examples of "construction devices" are air compressors, bulldozers, backhoes, trucks, shovels, derricks and cranes.

dBA
The A-weighted sound level in decibels, as measured by a general purpose sound level meter complying with the provisions of the American National Standards Institute Specifications for Sound Level Meters (ANSI S1.4 1971), properly calibrated, and operated on the A-weighting network.

DECIBEL
A unit for measuring the volume of a sound, equal to the logarithm of the ratio of the sound pressure of the sound to the sound pressure of a standard sound (0.0002 microbars); abbreviated "dB."

EXCESSIVE OR UNREASONABLE NOISE
Any sound that can be detected at the property line from which the noise emanates by a trained officer using his or her unaided hearing faculties that is deemed by that officer, based on his or her training or experience, to exceed the decibel limitations set forth in § 185-3 or is unreasonable based upon the totality of the circumstances. If the sound source under investigation is a sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic bass component of the music may be sufficient to constitute excessive or unreasonable noise.
[Added 7-19-2007 by L.L. No. 26-2007]

FREQUENCY
The number of oscillations per second, expressed in hertz (abbreviation Hz).

HOMEOWNERS' LIGHT RESIDENTIAL OUTDOOR EQUIPMENT
All engine- or motor-powered equipment intended for repetitive use in residential areas typically capable of

being used by a homeowner. Examples of "homeowners' light residential outdoor equipment" are lawn mowers, garden tools, riding tractors, snowblowers, hedge clippers, etc.

INDUSTRIAL DISTRICT

The Commercial-Industrial District (CI) as defined in § 255-2-10 of this Code.

NOISE CONTROL OFFICER

[Repealed 4-5-1991 by L.L. No. 5-1991]

NOISE DISTURBANCE

[Repealed 9-5-2003 by L.L. No. 28-2003]

NOISE POLLUTION

The presence of an amount of acoustic energy for that amount of time necessary to:
[Amended 9-5-2003 by L.L. No. 28-2003; 7-19-2007 by L.L. No. 26-2007]

(1) Cause temporary or permanent hearing loss in persons exposed;

(2) Be injurious, or tend to be, on the basis of current information, injurious to the public health or welfare;

(3) Cause a nuisance;

(4) Exceed standards or restrictions established in § 185-3; or

(5) Interfere with the comfortable enjoyment of life and property or the conduct of business. The following are deemed to interfere with the comfortable enjoyment of life and property or the conduct of business:

(a) The use or operation of any loudspeaker, public address system or other similar device between the hours of 9:00 p.m. and 9:00 a.m. the following day, except when used in connection with a public emergency by officers of any police department, fire department or any municipal entity. Noise from external speakers, bullhorns and the like mounted on motor vehicles, whether stationary or mobile, except when used in a public emergency as outlined above.

(b) Owning, possessing or harboring any pet animal or pet bird that frequently or for continued duration makes sounds that create a noise disturbance across a residential property line. For the purposes of this section, "noise pollution from a barking dog" shall be defined as that created by a dog barking for 15 minutes.

(c) Operating or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle for a period longer than 10 minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion or emergency work, on a public right-of-way or public space within 145 feet of a residential district between the hours of 9:00 p.m. and 9:00 a.m. the following day.

(d) Excessive or unreasonable noise, as defined herein.

OCTAVE BAND SOUND PRESSURE LEVEL

Sound pressure level measured in standard octave bands with a sound level meter and octave band analyser that meet ANSI S1.4 and S1.11 or the latest revision thereof.

PERSON

Any individual, association, firm, syndicate, company, trust, corporation, department, bureau or agency, or any other entity recognized by law as the subject of rights and duties.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, road, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.

EXHIBIT S

ORDINANCE ENFORCEMENT DEPARTMENT

Town of East Hampton

300 Pantigo Place, Suite 111 A
East Hampton, New York 11937

Case Synopsis

:omplaint Number: C0720171674

'iolation Number:

'ax Map Number: 472489 999.000-9999-001.000 0000

Officer assigned: KELLY KAMPF
Opened By: KARMEN CHACHO

.ocation:
lamlet: East Hampton
JRP:
Map: **Block:** **Zone:** **Lot:**

Category: NOISE
Nature of complaint: **NOISE FROM POWER PLANT**

nvestigator's Disposition:

Date Closed:

Narrative:

07/31/17 THIS OFFICE RECEIVED A PD REFERRRAL AND COMPLAINANT ALSO CALLED TO GIVE ME A REPORT ABOUT HER NOISE PROBLEM.
REFERRAL COMMENTS: HOME OWNER FROM ABOVE ADDRESS CLAUDIA DIAZ REQUESTED A NOISE READING AS A RESULT OF EXCESSIVE NOISE COMING FROM A POWER PLANT ON COCE HOLLOW RD. NOISE METER RESULTS POSTED A READING OF 54 AFTER 7PM/ SENDING AN ACNOWL TO COMPLAIINANT AND INFO ON CASE # TO EHPTD/ OPENING THIS CASE FOR INPS.

8/2/2017
RE ASSIGNING CASE TO DOCE BAMBRICK.//KKAMPF700
8/11/17 B BAMBRICK RESPONDED TO NATIONAL GRID SUBSTATION AT 33 COVE HOLLOW RD. SPOKE WITH BURT STANFORD A TECHNICIAN WITH AGGREKO COMPANY WHO IS MAINTAINING THE BACKUP GENERATORS. ALL WAS QUIET - NOTHING RUNNING NOW BUT HE STATED THEY DID RUN A TEST NOT TOO LONG AGO AND THAT WAS NOISY. UNFOUNDED AT THIS TIME. IN ADDITION THIS IS A UTILITY- THERE REMAINS A QUESTION AS TO WHETHER WE HAVE JURSTICTION. CLOSING CASE AS UNFOUNDED.
8/29/17 CLAUDIA DIAZ INTO OFFICE WANTING TO DISCUSS CASE. SHE STATED SHE HAS GONE TO PLANNING BOARD TO REQUEST THEY DENY APPLICATION FOR EXPANSION AT THIS SITE. SHE WAS REFERRED TO TOWN ATTORNEY.

08/30/17 FOIL REQUEST RECEIVED/K CHACHO

v85

TOWN OF EAST HAMPTON
300 PANTIGO PLACE, STE 111A
EAST HAMPTON, NY 11937

ELIZABETH A. BAMBRICK
DIRECTOR OF ORDINANCE ENFORCEMENT
CODE ENFORCEMENT UNIT

PHONE: (631) 324-3858
FAX: (631) 329-5899

CODE ENFORCEMENT REFERRAL

CC# 11749-17

Premise Address: # 24 Street: Horseshoe Drive
[ ]Amagansett [X]East Hampton [ ]Montauk [ ]Springs [ ]Wainscott

C# 17-1674
~~APSDA Kampf~~
DOCE: Bambrick

Housing
[ ] No House # Posted
[ ] Wrong House # Posted
[ ] People living or sleeping in Trailers, Camper or Out-Building
[ ] Illegal Apartment or Living Space in Basement, Attic or Garage
Note number of beds/mattresses per room
[ ] Multiple Apartments in Single-Family house – How Many? _____
[ ] More than 1 Food Prep area – How Many? _____
Describe any grouping of appliances ie. Microwave, Refrigerator, Toaster, Toaster Oven, Sink etc
[ ] Swimming Pool Not Properly Fenced
[ ] Business in Residential – *Note fleet of trade vehicle, business name, phone #, other details*

Sanitation / Environmental
[ ] Overflowing Septic or Cesspool onto property
[ ] Excessive Litter and Debris
[ ] Dumpster Uncovered
[ ] Dumpster Overflowing
[ ] Roadside Garbage/Waste
[ ] Illegal Dumping

JUL 31 2017

Vehicles
[ ] Excessive Vehicles – *Number Present?* _____
[ ] Unregistered Vehicles – *If more than 2, How Many?* _____

Other: Noise Complaint

Misc. Comments: Home owner from above address (Claudia Diaz), requested a noise reading as a result of excessive noise coming from a power plant on Cove Hollow Rd. Noise meter results posted a reading of 54. after 7 pm.

Print Officer / Employee Name: P.O. Morales #238 **Date:** 7/29/2017

Town Dept: East Hampton Town Police Dept. **Contact #:** (631) 537-7575

Best Time for Code Enforcement to call you? _____ **AM / PM Other:** _____

East Hampton Town Police Department
Noise Meter Worksheet

Event # 11749-17	Date: 7/28/2017
Summons #	Time: 1948
Officer: PO Morales #238	Source Location: Power plant off Cove Hollow Dr.
Instrument Serial # 5044763	
Reading Location: 24 Horseshoe DR North	

Commercial Noise Limits

Night Time (19:00 - 07:00) 7pm-7am

Octave Band Freq (Hz)	Noise Limit (dB)	Actual readings (dB)
A	55	
16	~	
31.5	78	
63	73	
125	67	
250	60	
500	55	
1k	51	
2k	46	
4k	43	
8k	40	
16k	~	

Residential Noise Limits

Night Time (19:00 - 07:00) 7pm-7am

Octave Band Freq (Hz)	Noise Limit (dB)	Actual readings (dB)
A	50	54.3
16	~	13
31.5	75	32.0
63	70	60.4
125	64	60.7
250	57	39.6
500	52	41.1
1k	49	44.0
2k	43	41.1
4k	40	38.7
8k	37	34.3
16k	~	13.8

Day Time (07:00 - 19:00) 7am-7pm

Octave Band Freq (Hz)	Noise Limit (dB)	Actual readings (dB)
A	70	
16	~	
31.5	85	
63	80	
125	74	
250	67	
500	62	
1k	58	
2k	53	
4k	50	
8k	47	
16k	~	

Day Time (07:00 - 19:00) 7am-7pm

Octave Band Freq (Hz)	Noise Limit (dB)	Actual readings (dB)
A	65	
16	~	
31.5	78	
63	73	
125	67	
250	60	
500	55	
1k	51	
2k	46	
4k	43	
8k	40	
16k	~	

Comments:

EXHIBIT T

From: NancyLynn Thiele <NThiele@EHamptonNY.Gov>
To: Claudia Diaz <poolplayerclyde@aol.com>; John Jilnicki <JJilnicki@EHamptonNY.Gov>
Cc: JoAnne Pahwul <JPahwul@EHamptonNY.Gov>; jpotter2 <jpotter2@optonline.net>; icalder-piedmonte <icalder-piedmonte@ehamptonny.gov>; Tom Talmage <TTalmage@EHamptonNY.Gov>; dweir <dweir@ehamptonny.gov>; kathyfaraone <kathyfaraone@yahoo.com>; Eric Schantz <ESchantz@EHamptonNY.Gov>; Marguerite Wolffsohn <MWolffsohn@EHamptonNY.Gov>; jpotter <jpotter@ehamptonny.gov>; nkeeshan <nkeeshan@ehamptonny.gov>; kcunningham <kcunningham@ehamptonny.gov>; pleber <pleber@ehamptonny.gov>; rparsons <rparsons@ehamptonny.gov>; dweir0711 <dweir0711@gmail.com>; Sylvia Overby <SOverby@EHamptonNY.Gov>
Subject: Re: Town Planning Board's Word vs. Town Code Enforcement's Word
Date: Wed, Sep 13, 2017 3:06 pm

Our noise statutes only allow one to be liable for noise they make or have control over. However if the applicant has agreed to maintain a combined noise level as a condition of its site plan, and does not do so, then a violation of site plan may be appropriate.

Sent from my Verizon, Samsung Galaxy smartphone

-------- Original message --------
From: Claudia Diaz <poolplayerclyde@aol.com>
Date: 9/13/17 2:50 PM (GMT-05:00)
To: NancyLynn Thiele <NThiele@EHamptonNY.Gov>, John Jilnicki <JJilnicki@EHamptonNY.Gov>
Cc: JoAnne Pahwul <JPahwul@EHamptonNY.Gov>, jpotter2@optonline.net, icalder-piedmonte@ehamptonny.gov, Tom Talmage <TTalmage@EHamptonNY.Gov>, dweir@ehamptonny.gov, kathyfaraone@yahoo.com, Eric Schantz <ESchantz@EHamptonNY.Gov>, Marguerite Wolffsohn <MWolffsohn@EHamptonNY.Gov>, jpotter@ehamptonny.gov, nkeeshan@ehamptonny.gov, kcunningham@ehamptonny.gov, pleber@ehamptonny.gov, rparsons@ehamptonny.gov, dweir0711@gmail.com, Sylvia Overby <SOverby@EHamptonNY.Gov>
Subject: Town Planning Board's Word vs. Town Code Enforcement's Word

Ms. Thiele,
Please see the attached Site Plan/Special Permit Approval which will be discussed tonight at the Town Planning Board Meeting (#5, page 2) which states "that the noise emanating from the project operating at full capacity with the noise from the existing facility factored in, will comply with dBA limits set by Section 185-3 of the Town Code".

The Town Planning Board has assured the public that if the combined noise levels from the pre-existing substation and the proposed BESS exceeds Town Noise levels,
they will be issued a summons.

What you stated yesterday Ms. Thiele, as the Town's Code Enforcement Attorney, is that you will only issue a summons against the BESS and not the pre-existing substation.
Is that Correct?

Town Planning Board, this is not what you have been stating to the public in your meetings.
Is this your new position Job Potter on the day that you plan on passing the Resolution allowing this BESS to be

built?
Knowing what you now know from your counsel, if this the new position that the Town Planning Board is taking? Which is completely different from what you have portrayed at the Town meetings?

Which means the computer modeling noise analysis that we have been provided from the applicant is garbage because my Town Code Enforcement Attorney has no intention of
upholding the law regarding Town Noise Codes.

Job and Nancy Lynn it would be helpful if you both would respond.

Thank you.

Claudia Diaz

Claudia Diaz
poolplayerclyde@aol.com

-----Original Message-----
From: NancyLynn Thiele <NThiele@EHamptonNY.Gov>
To: Claudia Diaz <poolplayerclyde@aol.com>; nlthiele <nlthiele@ehamptonny.gov>; John Jilnicki <JJilnicki@EHamptonNY.Gov>
Cc: JoAnne Pahwul <JPahwul@EHamptonNY.Gov>; jpotter2 <jpotter2@optonline.net>; icalder-piedmonte <icalder-piedmonte@ehamptonny.gov>; Tom Talmage <TTalmage@EHamptonNY.Gov>; dweir <dweir@ehamptonny.gov>; kathyfaraone <kathyfaraone@yahoo.com>; Eric Schantz <ESchantz@EHamptonNY.Gov>; Marguerite Wolffsohn <MWolffsohn@EHamptonNY.Gov>; jpotter <jpotter@ehamptonny.gov>; nkeeshan <nkeeshan@ehamptonny.gov>; kcunningham <kcunningham@ehamptonny.gov>; pleber <pleber@ehamptonny.gov>; rparsons <rparsons@ehamptonny.gov>; dweir0711 <dweir0711@gmail.com>; Sylvia Overby <SOverby@EHamptonNY.Gov>
Sent: Tue, Sep 12, 2017 12:09 pm
Subject: RE: Town Code Noise Violation at 24 Horseshoe Drive

What I have told you, and what is completely consistent with the Planning Board, is that if the privately owned and operated battery storage facility – which has not yet been approved, built or put into operation – violates the noise levels set by Town Code, they will be subject to prosecution under the code.

NancyLynn S. Thiele
Assistant Town Attorney
Town of East Hampton
159 Pantigo Road
East Hampton, New York 11937
(631) 324-8787
(631) 329-5371 (fax)

e-mail: nthiele@ehamptonny.gov

From: Claudia Diaz [mailto:poolplayerclyde@aol.com]
Sent: Tuesday, September 12, 2017 12:07 PM
To: NancyLynn Thiele <NThiele@EHamptonNY.Gov>; nlthiele@ehamptonny.gov; John Jilnicki <JJilnicki@EHamptonNY.Gov>; Poolplayerclyde@aol.com
Cc: JoAnne Pahwul <JPahwul@EHamptonNY.Gov>; jpotter2@optonline.net; icalder-piedmonte@ehamptonny.gov; Tom Talmage <TTalmage@EHamptonNY.Gov>; dweir@ehamptonny.gov; kathyfaraone@yahoo.com; Eric Schantz <ESchantz@EHamptonNY.Gov>; Marguerite Wolffsohn <MWolffsohn@EHamptonNY.Gov>; jpotter@ehamptonny.gov; nkeeshan@ehamptonny.gov; kcunningham@ehamptonny.gov; pleber@ehamptonny.gov; rparsons@ehamptonny.gov; dweir0711@gmail.com; Sylvia Overby <SOverby@EHamptonNY.Gov>
Subject: Re: Town Code Noise Violation at 24 Horseshoe Drive

But Ms. Thiele this is not what your Town Planning Board has been promising the public in their so called "public hearings"

Watch the tapes and you will see that you and your Town Planning Board are conveying two completely different messages to the public.

THE COMBINED NOISE IS TO NOT EXCEED CODE OR THEY WILL BE IN VOILATIION AND THE BESS WILL BE SHUT DOWN

THAT IS WHAT THE TOWN PLANNING BOARD HAS BEEN TELLING THE PUBLIC AND NOW YOU

AS THE TOWN ATTORNEY ARE STATING SOMETHING COMPLETELY DIFFERENT.

TOWN PLANNING BOARD WHICH ONE IS IT?

Claudia Diaz

Claudia Diaz
poolplayerclyde@aol.com

----Original Message----
From: NancyLynn Thiele <NThiele@EHamptonNY.Gov>
To: Claudia Diaz <poolplayerclyde@aol.com>; nlthiele <nlthiele@ehamptonny.gov>; John Jilnicki <JJilnicki@EHamptonNY.Gov>
Cc: JoAnne Pahwul <JPahwul@EHamptonNY.Gov>; jpotter2 <jpotter2@optonline.net>; icalder-piedmonte <icalder-piedmonte@ehamptonny.gov>; Tom Talmage <TTalmage@EHamptonNY.Gov>; dweir <dweir@ehamptonny.gov>; kathyfaraone <kathyfaraone@yahoo.com>; Eric Schantz <ESchantz@EHamptonNY.Gov>; Marguerite Wolffsohn <MWolffsohn@EHamptonNY.Gov>; Tom Talmage <TTalmage@EHamptonNY.Gov>; jpotter <jpotter@ehamptonny.gov>; nkeeshan <nkeeshan@ehamptonny.gov>; kcunningham <kcunningham@ehamptonny.gov>; pleber <pleber@ehamptonny.gov>; rparsons <rparsons@ehamptonny.gov>; dweir0711 <dweir0711@gmail.com>; Sylvia Overby <SOverby@EHamptonNY.Gov>

Sent: Tue, Sep 12, 2017 11:42 am
Subject: RE: Town Code Noise Violation at 24 Horseshoe Drive

Ms. Diaz,

I will remind you that the existing substation is a public utility, and as we discussed at length, as such they are exempt from our Town Code. No code violation will be issued.

The proposed battery storage facility is not yet built and could not in any way contributed to the noise of which you complain.

NancyLynn S. Thiele
Assistant Town Attorney
Town of East Hampton
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From: Claudia Diaz [mailto:poolplayerclyde@aol.com]
Sent: Tuesday, September 12, 2017 11:35 AM
To: nlthiele@ehamptonny.gov; NancyLynn Thiele <NThiele@EHamptonNY.Gov>; John Jilnicki <JJilnicki@EHamptonNY.Gov>
Cc: poolplayerclyde@aol.com; JoAnne Pahwul <JPahwul@EHamptonNY.Gov>; jpotter2@optonline.net; icalder-piedmonte@ehamptonny.gov; Tom Talmage <TTalmage@EHamptonNY.Gov>; dweir@ehamptonny.gov; kathyfaraone@yahoo.com; Eric Schantz <ESchantz@EHamptonNY.Gov>; Marguerite Wolffsohn <MWolffsohn@EHamptonNY.Gov>; Tom Talmage <TTalmage@EHamptonNY.Gov>; jpotter@ehamptonny.gov; nkeeshan@ehamptonny.gov; kcunningham@ehamptonny.gov; pleber@ehamptonny.gov; rparsons@ehamptonny.gov; dweir0711@gmail.com; Sylvia Overby <SOverby@EHamptonNY.Gov>
Subject: Town Code Noise Violation at 24 Horseshoe Drive

Dear Town of East Hampton Officials,

Attached please find evidence that the existing substation located at 3 Cove Hollow exceeded the evening Town Code Noise Limit of 50 dBs.
On July 28th at approximately 8:00pm an actual reading was taken by an East Hampton police officer which registered at 54 dBs. This matter was referred to Code Ordinance who went to the substation at a later date and
did not hear any noise. This subsequent visit is irrelevant.

A Noise Code Violation took place at my property line and the violator needs to receive a summons. I have been reassured by the Town Planning
Board at the "public hearings" over the past three months that if the substation and the Battery Energy Storage System noises COMBINED exceeded Town Code a ticket would be issued and the violator would be required to show up in court.
The substation alone has exceed Town Code Noise limits and a summons has still not been issued.

Please provide me evidence of such ticket because it is your duty as Town Officials to enforce the Town Code that you have written and to protect the citizens of East Hampton from code violators.

I believe that all noise projections provided by the applicant EHESC should be reevaluated based on this actual (not computer modeled) noise reading.
It is obvious that the noise projections provided to the Town Planning Board are inaccurate. It is alarming to me that the Town Planning Board is about to issue a Resolution allowing the Battery Energy Storage System to be built
without having required the applicant to provide an independent noise analysis.

The Town Planning Board should require the applicant to turn on the existing substation to maximum capacity and require an independent noise analysis be completed prior to the Resolution being passed and
the building permit being issued.

It is alarming to me that I had to file a FOIL just to get the Case Synopsis related to a incident that took place on my property line.

It is more than obvious that the substation currently exceeds Code and that the combined noise levels from the substation and the proposed Battery Energy Storage System
will exceed Town Code. How can the Town Planning Board allow this all to be built right on top of a residential neighborhood?

Please provide evidence of the Ticket issued to the Noise Violator.

Thank you

Claudia Diaz

Claudia Diaz
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EXHIBIT U

Town of East Hampton
Office of Fire Prevention
300 Pantigo Place, Suite 111
East Hampton, New York 11937
Phone 631-329-3473
Fax 631-329-9403

Memo

TO: Job Potter, Planning Board Chairman

FROM: David Browne, Chief Fire Marshal DB

SUBJECT: East Hampton Energy Storage Center, LLC
SCTM 300-185-2-2

DATE: April 19, 2017

The Fire Marshal's Office has thoroughly reviewed the submitted site plans for the East Hampton Energy Storage Center, LLC, at 3 Cove Hollow Road, including the most recent updated plans received by this office April 12th, 2017. Copies of these have also been sent to and reviewed by the Chief of the East Hampton Fire Department.

On April 5th, 2017, I also arranged and attended the applicant's presentation for the Town Fire Chiefs Association. The demonstration was an overview of the entire project with an emphasis on potential hazards, fire detection, fire suppression and emergency response.

We have found the submitted plans indicate sufficient emergency vehicle access. There is presently a fire hydrant on site supplied by a public water main that will provide adequate water supply for firefighting purposes. The Chief of the East Hampton Fire Department is confident in their ability to respond and address any concerns that may arise.

In summary after careful review and consultation with the East Hampton Fire Department we have no objections to this project going forward.

If you have any questions or concerns please contact this office.

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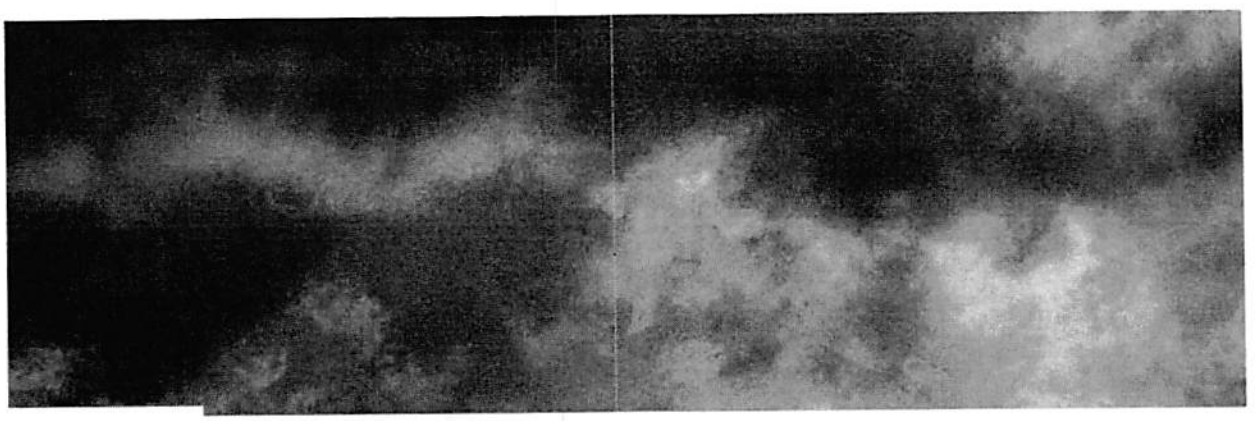
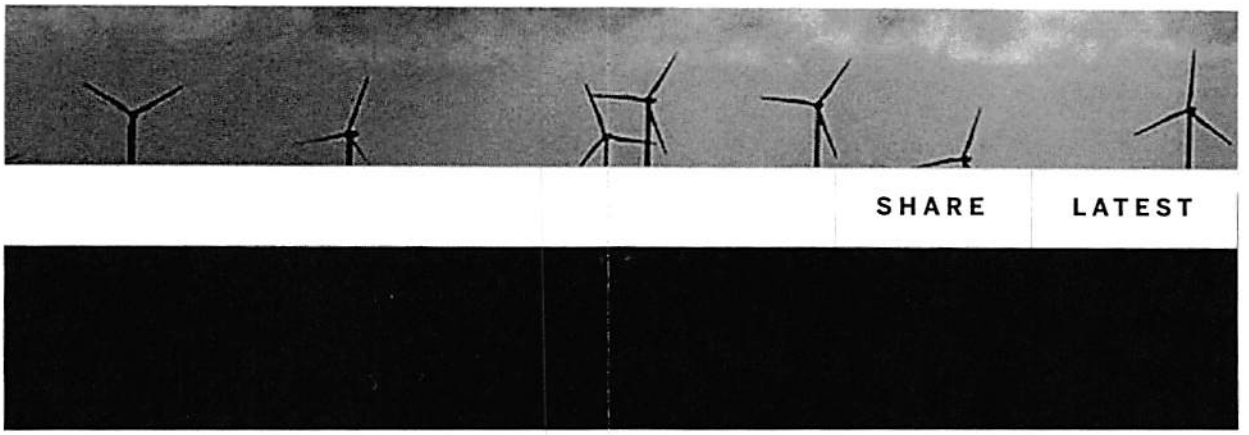
SUSTAINABILITY

Battery Fires Pose New Risks to Firefighters

Electricity storage booms as regulators race to develop safety standards

By Umair Irfan, ClimateWire on February 27, 2015





The fire was a hard lesson for energy storage developers and first responders in handling a new technology. Credit: Philip Male/Flickr

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Smoke, sirens and flashing lights interrupted the night on Aug. 1, 2012, as a fire took hold at the remote Kahuku wind farm along the north shore of Oahu in Hawaii. The blaze sparked at 3:30 a.m. in a metal warehouse with 12,000 lead acid batteries mounted in racks towering more than 6 feet high.

The 10-megawatt battery system, installed by Xtreme Power, was used to buffer electricity from the 12-turbine, 30 MW wind farm operated by First Wind, smoothing out spikes and low spots in wind power production.

Within 20 minutes, the Honolulu Fire Department arrived at the scene. It was the third fire the firefighters had responded

to at that 9,000-square-foot building since operations there started in 2011, but the previous fires burned themselves out or were extinguished before causing extensive damage.

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"On-site supervisors advised us that entry into the building was not advised because of the hazards," said Terry Seelig, battalion chief at the Fire Prevention Bureau of the Honolulu Fire Department.

The risks from scalding heat, poisonous fumes, a collapsing structure and the potential for battery explosions kept firefighters outside the warehouse. After determining no one was inside, the response team focused on keeping the blaze from spreading to other buildings at the site.

"It's a defensive fire attack at that point," Seelig said. "The only risk at that point would be to the responders going in."

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using it to extinguish the fire out of concerns for electric shock and risks of creating toxic chemical runoff. Instead, they waited for a carbon dioxide extinguishing system to arrive on the scene, but that proved ineffective at quenching the inferno.

What happens when 12,000 batteries burn?

The stubborn blaze burned for more than 13 hours and continued to smolder after 36 hours, spewing gray smoke and forcing the wind turbines to shut down. Though there were no injuries reported, the operators wrote off the entire battery system.

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The fire was a hard lesson for energy storage developers and first responders in handling a new technology. Grid-level battery systems in particular are cropping up around the

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compel energy providers to invest in storage.

"We are increasing our commitment to storage," said Energy Secretary Ernest Moniz in a House budget hearing this week.

Storing energy on the grid is a big part of making intermittent renewable energy more palatable for utilities (*ClimateWire*, Feb. 13). Industry officials also want EPA to include storage as a way to comply with the Obama administration's Clean Power Plan, as well as state renewable portfolio standards (*ClimateWire*, Jan. 30).

According to market research firm IHS, energy storage is poised to expand from 340 MW in capacity in 2013 to more than 40 gigawatts by 2022, a hundredfold increase. That means flywheels, batteries, compressed air caverns and pumped hydropower will crop up in more jurisdictions for the first time.

Federal officials now want to make sure that ambulance crews and firefighters don't find out the hard way that giant power storage installations pose unique challenges and are working to establish rules to pre-empt disaster.

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"This is not to say that energy storage systems are specifically unsafe," said Imre Gyuk, energy storage program manager in the Office of Electricity Delivery and Energy Reliability at the Department of Energy. "But the point is, energy storage systems are being deployed more and more."

1,200 storage projects coming

Speaking last month during a Web-based seminar discussing DOE's energy storage safety strategic plan, Gyuk said that there are more than 1,200 energy storage projects already running or in development around the world, and the concern is that energy storage technology is coming online faster than regulations can keep up.

"Many of the big companies are indeed very much aware of

the issue, but without codes and standards and generalized guidelines, we are really at the mercy of people's goodwill," he said. "The vast majority of codes were not developed for

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Moving and storing energy in any form carries inherent risks: Fuel depots can catch on fire. Transmission lines can fall and cause shocks. Gas pipelines can explode. Liquid fuels can leak. But rescue workers have decades of experience fighting these challenges, and the industry has established procedures to prevent problems.

Grid-level energy storage, on the other hand, is a new frontier, and establishing safety standards is crucial not just to protect human life and the environment, but also to safeguard expensive energy investments.

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The Kahuku wind farm received a $117 million loan guarantee from DOE in 2010. Xtreme Power declared bankruptcy in 2014, and German energy storage developer Younicos

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"We are still looking into why the fire happened," said Philip Hiersemenzel, press spokesman for Younicos. The company suspects that the fire may not have started with the batteries themselves but may have ignited from foreign material or a ground arc fault.

According to Hiersemenzel, Younicos is agnostic about battery chemistries but is sticking to lithium-ion cells in new projects for now. Many of the company's safeguards come from how installations are designed, using software to regulate cell performance, keeping cells in comfortable conditions and isolating battery packs so a failure in one doesn't cascade to another.

"We are pretty confident that our installations are very safe," Hiersemenzel said, but he acknowledged that cramming megawatt-hours in a small space will always pose hazards. "I think anybody who will say that 'my battery will never burn under no circumstances whatsoever' is being a little disingenuous."

Producer says new technology can be safer

However, compared to conventional generators and electrical infrastructure, energy storage can have safety advantages.

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"In a lot of ways, storage is actually safer than other ways we can do things," said Praveen Kathpal, vice president of AES Energy Storage, a firm with 200 MW of storage in its portfolio online and more than 100 MW in development around the world. "One advantage of storage is you have a controlled environment, and you have something that's modular."

He explained that developers build battery storage systems around identical cells. Unlike batteries in cars or aircraft, grid-scale batteries don't face severe weight and size restrictions, nor do they have to withstand high-speed crashes, so developers have ample room to provide cooling, isolation and fire suppression systems.

And when it comes to lithium-ion cells, the technology has a

proven safety record and wide public acceptance. "Pretty much everyone has a lithium battery in their pocket," Kathpal said.

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Kenneth Willette, manager of the public fire protection division at the National Fire Protection Association, said the transportation sector offers a precedent for how to train first responders in energy storage.

With the rise of electric cars and more energy-dense batteries on aircraft, emergency crews have already dealt with persistent battery fires and thermal runaway conditions (*ClimateWire*, Dec. 18, 2014).

Willette cited the experience of the hybrid-electric Chevrolet Volt. The manufacturer taught first responders how to handle battery problems and built features into the car to protect firefighters, like marking high-voltage cables orange and including an emergency discharge system for the batteries.

"Those little things really seem huge in the field," Willette said. "When there were Chevy Volt battery fires, that didn't have a significant impact on [perceptions of safety in] the Volt and the industry."

Applications in office buildings and homes

Large batteries are also taking root in commercial applications like office buildings and may soon make it into homes, as well. In some communities, homes with rooftop solar panels have a

greater incentive to store their own electricity instead of feeding it into the grid, saving it to use when the sun sets.

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battery systems into the residential market (*ClimateWire*, Feb. 12).

A larger market means more battery producers, carrying greater risks of manufacturing defects as new companies spring up to meet demand. Wider deployment also means a greater chance of inadequate safety precautions, adding to the urgency of establishing codes governing energy storage.

One important lesson is to have fire response resources on-site, like dry chemicals and deployment systems. Containment structures like warehouses also have to have better ways to contain flames and prevent hazardous chemicals from leaking.

"This is a very rural area," said Seelig of Kahuku. "By the time you get enough firefighting forces and the right extinguishing sources, the fire is going to progress quite a bit."

Another critical factor is the information gap between energy storage operators and responders. "Those facilities might have an internal fire brigade or response team ... but in some instances, there are no on-site people," said Willette. This means firefighters may have to extinguish a blaze without knowing what chemicals are in play, where the electrical shutoffs are or what kind of fire retardant to use.

Developers and responders need to take proactive steps to ensure they know what they are dealing with when an accident occurs, Willette added.

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Hawaii's enthusiasm for renewable energy and energy storage is in flux as the state contemplates rolling back incentives (*ClimateWire*, Jan. 26). In 2014, operators restored the Kahuku wind farm to full capacity, minus the electricity storage component.

Earlier this year, the Hawaii Public Utility Commission signed off on another wind turbine installation at Kahuku, but this installation would send energy directly to power lines instead of buffering through a battery system.

However, demand for energy storage remains robust in other parts of the country, like California, which has a mandate for 1.3 GW of grid energy storage by 2020.

"Finally, finally, finally people are understanding the value of energy storage," said Younicos' Hiersemenzel. "It's transitioning from something exotic to something that's becoming mainstream."

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EXHIBIT W

- Klausbruckner & Associates News - http://www.klausbruckner.com/blog -

Fire Codes for Energy Storage Systems

Posted By *KnA Editor* On January 4, 2017 @ 8:00 am In Building Codes,Educational,Facility Management,Featured Articles,Fire Codes,Fire Protection,Hazardous Materials | Comments Disabled

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ESS In recent years, there has been a marked increase in the deployment of various types of battery technologies for use in Energy Storage Systems (ESS). Code enforcing bodies, such as local Authorities Having Jurisdiction (AHJs), are asked to successfully address risks associated with these new battery technologies. However, there is little or no guidance and direction on how to deal with associated hazards, or more specifically, on how to review a successful fire protection approach.

Li-ion Battery Technologies

There are many different battery technologies used in the application of ESS. Let's consider Lithium-ion technology as an example. While Lithium-ion battery technologies are commonly used, it is easily forgotten that Lithium-ion is not one specific battery chemistry or technology, but rather a catch-all term for hundreds of different chemistries each fine-tuned for a specific product or application (e.g. Li-CoO_2, Li-MnO_2, Li-NO_2, Li-AlO_2, Li-TiO_3, Li-$FePO_4$, $LiNiMnCoO_2$, $LiNiCoAlO_2$). Furthermore, when talking about fire risks and how to negotiate these risks, many influencing factors come into play, such as the battery management system employed, the size and type of cooling (air-cooled vs. liquid cooled), whether these batteries are connected to an electrical grid or only stored for later use in a grid, etc.

In the case of storage and warehousing of low-capacity Lithium-ion batteries (e.g., power packs for power tools), fire tests have been performed[1,2,3] to evaluate the fire dynamics (fire behavior) in rack storage. It was found that storage configurations with cartoned power tool power packs burn similarly to cartoned Group A plastics. Furthermore, it was noted that *changes in the components of the packaging can significantly impact the flammability characteristics of cartoned Li-ion batteries, such as the divider used to separate the batteries within the cartons.*[3] These tests also demonstrated that conventional water sprinkler systems can control or suppress these types of fires. For these kinds of storage scenarios NFPA 13[4] and FM Global's Property Loss Prevention Data Sheets[5], will provide directions on how to successfully protect cartoned (Lithium-ion) batteries.

Energy Storage Systems

However, these low-capacity power packs hold little electrical power compared to the large battery arrays deployed in Energy Storage Systems – the much larger cousins to 'household' batteries, capable of storing much more electrical energy. In many cases, the difference in power among these battery categories is orders of magnitude i.e., the typical industrial ESS array can store 100,000 times the power of a typical consumer battery system. Therefore, it is not surprising that the risks associated with Energy Storage Systems require careful review and assessment of all associated hazards. It is these types of ESS that we would like to discuss in more detail, namely to highlight some of their risks and provide ways of addressing them.

High-capacity Energy Storage Systems are often used in facilities like hospitals, data centers, airports, high-rise office buildings, residences (for the storage of solar energy), or electric utility companies to address swings in electric loads during spikes in demand. The specific hazards inherent in ESS are typically arcing, combustion, fire, toxicity, and voltage. Additional hazards arise from battery fires after suppression, such as re-ignition hazards and electrical shock to both first responders and removal personnel.

New and Emerging Battery Technologies

Battery chemistries for ESS have been in development for over a decade and new battery technologies will continue to be developed for the foreseeable future. Manufacturers are not incentivized to share proprietary information on their latest battery chemistry or technology, which makes the application of codes and standards, as well as the identification of a proper emergency response plan, more difficult. Information on the chemical makeup or physical and health hazards presented in the form of (M)SDS needs to be carefully reviewed and verified. All too often, systems are categorized based on energy capacity (kilowatt-hours) only, which is not very helpful in assessing their fire risks. For hazard assessment purposes, it would be better to categorize ESS batteries by technology and chemistry, as hazards differ significantly among those.

Many of the current battery technologies can be categorized into Lead Acid (vented, VRLA), Nickel Cadmium, Li-ion, Sodium Sulfur (NAS), and Flow Batteries (tank based energy storage). There are other types of batteries, sometimes in the form of a hybrid between these battery types or the materials used. Therefore, this categorization is somewhat of a simplification and may change in the future as new technologies emerge.

Regardless of whether active fire protection systems (water sprinkler systems, gaseous suppression systems, etc.) and/or passive fire protection systems (separation, location, etc.) are employed, they are all dependent on how ESS battery types and chemistries

perform in fire situations. Oftentimes, different battery technologies perform differently under the same conditions.

Code Development

NFPA's Fire Protection Research Foundation sponsored an ESS safety workshop in November 2015. The event hosted a panel of *60 leading professionals from government, the insurance industry, the fire service, utilities, the ESS industry, the codes and standards world, and other disciplines to discuss the current state of ESS, as well as gaps in safety knowledge, codes and standards considerations, and research.*[6] NFPA set up a technical committee to develop new standards for the installation of energy storage systems, and as part of this effort approved NFPA 855[7], Standard for the Installation of Stationary Energy Storage Systems, earlier this year to address the design, construction, installation, and commissioning of ESS. The new standard is still in the early development stages.

The International Code Council, publisher of the International Fire Code, has already developed a code language that will address design, installation, and deployment for a successful emergency response in the event of a fire. This code language was discussed during last year's code development hearings and is expected to be included in the 2018 edition of the International Fire Code. Statewide adoption of the International Fire Code (with state specific amendments) occurs some time thereafter, or in the case of California one year later.

FM Global has been working on a new Property Loss Prevention Data Sheet for Energy Storage Systems, DS 5-33. It was released in February 2017. This new data sheet[8] addresses many aspects of Energy Storage Systems including protection, operation and maintenance, emergency response and contingency planning.

From these various workshops and discussions a level of consensus was reached that allows the code practitioner to address fire and life safety issues originating from the installation and deployment of energy storage systems. It is this consensus from experts that we would like to discuss, while also highlighting some of the issues of deploying ESS and reviewing the current thinking on how to address them successfully.

When specifying or reviewing the fire safety of an energy storage system, codes and regulations often represent the "first line of defense." Nevertheless, not every situation can or will be covered by the fire codes for any specific ESS installation or deployment. This is why the Authority Having Jurisdiction (AHJ) can request additional information.

Considerations

When applying these new ESS fire codes (shown below), the following issues should be considered:

Third Party Verification: (M)SDS information from various manufacturers is classified differently and the hazards associated with the different battery technologies are sometimes not considered. Therefore, the classifications based on (M)SDS, the verification of hazards based on ingredients, and the appropriate hazard mitigation for each type of battery need to be verified by a third party other than the manufacturer.

Electrolytes: If liquid electrolytes are used, the chemical composition and individual quantities need to be carefully reviewed to account for maximum allowable quantities. Some (M)SDS are incomplete, so they do not show the actual hazards associated with the particular battery systems. It takes an experienced hazardous materials expert to verify the actual classification based on the ingredients in the batteries.

Fire Suppression: Battery chemistries differ among ESS installations, so specific extinguishing agent(s) need to be matched to the hazard(s). A single agent may not provide optimum protection characteristics depending on the specific ESS application they are protecting. In general, large amounts of water have been shown to be effective, yet chemical suppressants need to be considered for batteries that are water-reactive.

Gaseous & Chemical Suppression: Gaseous & chemical suppression may be the best way to suppress fires in ESS with water-reactive batteries. However, these systems are only designed for one-time use. Re-ignition in these types of battery systems is very common. At the very least, having a backup suppression agent should be considered. Water suppression is often the cheapest solution, but that application must be weighed against the potential for fire due to re-ignition.

Post Fire: Damaged ESS using batteries can still have stranded electrical energy. This can lead to unsafe conditions for long periods of time (e.g., days or even weeks) due to re-occurring thermal runaway causing re-ignition, even long after the fire is fully extinguished. At that time, battery management systems or safety sensors are compromised and can no longer be relied on. There is also the consideration of first responder and post-fire cleanup personnel safety, due to the stranded electrical energy in the batteries.

Site Location: The installation location is a critical consideration for manual firefighting efforts. Systems located on upper floors present a much greater concern than those on the ground floor or an isolated exterior location. Outdoor systems located in non-occupiable spaces are less likely to create dangerous situations for personnel safety.

Environmental Impact: Runoff and spillage of ESS pose environmental risks based on the battery chemistry and the volume spilled. Additionally, the combined suppression water when mixed with ESS chemicals creates a larger environmental burden. Spill

control and environmental protection may need to be incorporated due to the hazards (toxicities) posed by the use of ESS. Responsibilities and accountabilities for decontamination and cleanup in the event of a fire need to be clearly identified.

Categorization: Currently the MAQs (in Table 608.3 of IFC 2018) are based on capacity and battery technology, but it may be better to provide subcategories based on the hazard class of the lithium batteries. In other words, there is a probability of ignition and a severity component associated with wattage (due to stranded electrical energy), as well as the extent of damage and spread of the fire due to the chemical components of these batteries. Therefore, the chemistry (highly water-reactive chemical components versus stable chemicals, etc.) of the battery should also be considered when evaluating these systems.

International Fire Codes for Energy Storage Systems (Stationary Storage Battery Systems)

Below we included Section 608 of the 2018 International Fire Code developed for Stationary Storage Battery Systems (with permission of the International Code Council[9]).

Stationary Storage Battery Systems - 2018 International Fire Code* (click here).

SECTION 608 STATIONARY STORAGE BATTERY SYSTEMS

608.1 Scope. Stationary storage battery systems having capacities exceeding the values shown in Table 608.1 shall comply with Section 608.1.2 through 608.6.6, as applicable.

TABLE 608.1 BATTERY STORAGE SYSTEM THRESHOLD QUANTITIES.

BATTERY TECHNOLOGY	CAPACITY [a]
Lead acid, all types	70 KWh (252 Megajoules)
Nickel cadmium (Ni-Cd), all types	70 KWh (252 Megajoules)
Lithium, all types	20 KWh (72 Megajoules)
Sodium, all types	20 KWh (72 Megajoules) [c]
Flow batteries [b]	20 KWh (72 Megajoules)
Other battery technologies	10 KWh (36 Megajoules)

a. For batteries rated in Amp-Hours, KWh shall equal rated voltage times amp-hour rating divided by 1000

b. Shall include vanadium, zinc-bromine, polysulfide-bromide, and other flowing electrolyte type technologies

c. 70 KWh (252 Mega joules) for sodium-ion technologies

608.1.1 Permits. Permits shall be obtained for the installation and operation of stationary storage battery systems in accordance with Section 105.7.2.

608.1.2 Construction documents. The following information shall be provided with

the permit application:

Location and layout diagram of the room in which the stationary storage battery system is to be installed.

Details on hourly fire-resistant rated assemblies provided.

Quantities and types of storage batteries and battery systems.

Manufacturer's specifications, ratings and listings of storage batteries and battery systems.

Details on energy management systems.

Location and content of signage.

Details on fire suppression, smoke detection and ventilation systems.

Rack storage arrangement, including seismic support criteria.

608.1.3 Hazard mitigation analysis. A failure modes and effects analysis (FMEA) or other approved hazard mitigation analysis shall be provided in accordance with Section 104.7.2 under any of the following conditions:

Battery technologies not specifically identified in Table 608.1 are provided.

More than one stationary storage battery technology is provided in a room or indoor area where there is a potential for adverse interaction between technologies

When allowed as a basis for increasing maximum allowable quantities. See 608.3.

608.1.3.1 Fault condition. The hazard mitigation analysis shall evaluate the consequences of the following failure modes, and others deemed necessary by the fire code official. Only single failure modes shall be considered.

Thermal runaway condition in a single battery storage rack, module or array.

Failure of any energy management system.

Failure of any required ventilation system.

Voltage surges on the primary electric supply.

Short circuits on the load side of the stationary battery storage system.

Failure of the smoke detection, fire suppression, or gas detection system.

Spill neutralization not being provided or failure of the secondary containment system.

608.1.3.2 Analysis approval. The fire code official is authorized to approve the hazardous mitigation analysis provided the consequences of the hazard mitigation analysis demonstrate:

Fires or explosions will be contained within unoccupied battery storage rooms for the minimum duration of the fire resistance rated walls identified in IBC table 509.1.

Fires and explosions in battery cabinets in occupied work centers will be detected in time to allow occupants within the room to safely evacuate.

Toxic and highly toxic gases released during fires and other fault conditions shall not reach concentrations in access of IDLH level in the building or adjacent means of egress routes during the time deemed necessary to evacuate from that area.

Flammable gases released from batteries during charging, discharging and normal operation shall not exceed 25% of their lower flammability limit (LFL).

Flammable gases released from batteries during fire, overcharging and other abnormal conditions shall not create an explosion hazard that will injure occupants or emergency responders.

608.1.3.3 Additional protection measures. Construction, equipment and systems that are required for the stationary storage battery system to comply with the hazardous mitigation analysis, including but not limited to those specifically described in Section 608.1, shall be installed, maintained and tested in accordance with nationally recognized standards and specified design parameters.

608.1.4 Seismic and structural design. Stationary storage battery systems shall comply with the seismic design requirements in Chapter 16 of the International Building Code, and shall not exceed the floor loading limitation of the building.

608.1.5 Vehicle impact protection. Where stationary storage battery systems are subject to impact by a motor vehicle, including fork lifts, vehicle impact protection shall be provided in accordance with Section 312.

608.1.6 Combustible storage. Combustible materials not related to the stationary storage battery system shall not be stored in battery rooms, cabinets or enclosures. Combustible materials in occupied work centers covered by Section 608.2.5 shall not be stored less than 3 feet (915 mm) from battery cabinets.

608.1.7 Testing, maintenance and repairs. Storage batteries and associated equipment and systems shall be tested and maintained in accordance with the manufacturer's instructions. Any storage batteries or system components used to replace existing units shall be compatible with the battery charger, energy management systems, other storage batteries, and other safety systems. Introducing other types of storage batteries into the stationary storage battery system, or other types of electrolytes into flow battery systems shall be treated as a new installation and require approval by the fire code official before the replacements are introduced into service.

608.2 Location and construction. Rooms and areas containing stationary storage battery systems shall be designed, located and constructed in accordance with this section.

608.2.1 Location. Stationary storage battery systems shall not be located in areas where the floor is located more than 75 feet (22 860 mm) above the lowest level of fire department vehicle access, or where the floor level is more than 30 feet (9144 mm) below the finished floor of the lowest level of exit discharge.

Exceptions:

Lead acid and nickel cadmium stationary storage battery systems.

Installations on noncombustible rooftops of buildings exceeding 75 feet (22 860 mm) in height that do not obstruct fire department rooftop operations shall be permitted where approved by the fire code official.

608.2.2 Separation. Rooms containing stationary storage battery systems shall be separated from other areas of the building in accordance with Section 509.1 of the International Building Code. Battery systems shall be allowed to be in the same room with the equipment they support.

608.2.3 Stationary battery arrays. Storage batteries, prepackaged stationary storage battery systems and pre-engineered stationary storage battery systems shall be segregated into stationary battery arrays not exceeding 50 KWh (180 Mega joules) each. Each stationary battery array shall be spaced a minimum three feet (914 mm) from other stationary battery arrays and from walls in the storage room or area. The storage arrangements shall comply with Chapter 10.

Exceptions:

Lead acid and nickel cadmium stationary storage battery systems.

Listed pre-engineered stationary storage battery systems and prepackaged stationary storage battery systems shall not exceed 250 KWh (900 Mega joules) each.

The fire code official is authorized to approve listed pre-engineered and prepackaged battery arrays with larger capacities or smaller battery array spacing if large scale fire and fault condition testing conducted or witnessed and reported by an approved testing laboratory is provided showing that a fire involving one array will not propagate to an adjacent array, and be contained within the room for a duration equal to the fire resistance rating of the room separation specified in Table 509 of the International Building Code.

608.2.4 Separate rooms. Where stationary batteries are installed in a separate equipment room accessible only to authorized personnel, they shall be permitted to be installed on an open rack for ease of maintenance.

608.2.5 Occupied work centers. Where stationary storage batteries are located in

an occupied work center, they shall be housed in a noncombustible cabinet or other enclosure to prevent access by unauthorized personnel.

608.2.5.1 Cabinets. Where stationary batteries are contained in cabinets in occupied work centers, the cabinet enclosures shall be located within 10 feet (3048 mm) of the equipment that they support.

608.2.6 Signage. Approved signs shall be provided on doors or in locations near entrances to stationary storage battery system rooms and shall include the following or equivalent.

The room contains energized battery systems.

The room contains energized electrical circuits.

The additional markings required in Section 608.6 for the types of storage batteries contained within the room.

Exception: Existing stationary storage battery systems shall be permitted to include the signage required at the time it was installed.

608.2.6.1 Electrical disconnects. Where the stationary storage battery system disconnecting means is not within sight of the main service disconnecting means, placards or directories shall be installed at the location of the main service disconnecting means indicating the location of stationary storage battery system disconnecting means in accordance with NFPA 70.

608.2.6.2 Cabinet signage. Battery storage cabinets provided in occupied work centers in accordance with Section 608.2.5 shall have exterior labels that identify the manufacturer and mode number for the system and electrical rating (voltage and current) of the contained battery system. There shall be signs within the cabinet that indicate the relevant electrical, chemical and hazards, as required by Section 608.6.

608.2.7 Outdoor installations. Stationary storage battery systems located outdoors shall comply with this Section, in addition to all applicable requirements of Section 608. Installations in outdoor enclosures or containers which can be occupied for servicing, testing, maintenance and other functions shall be treated as battery storage rooms.

Exception: Stationary battery arrays in noncombustible containers shall not be required to be spaced three feet (914 mm) from the container walls.

608.2.7.1 Separation. Stationary storage battery systems located outdoors shall

be separated by a minimum five feet (1524 mm) from the following:

Lot lines

Public ways

Buildings

Stored combustible materials

Hazardous materials

High-piled stock

Other exposure hazards

Exception: The fire code official is authorized to approve smaller separation distances if large scale fire and fault condition testing conducted or witnessed and reported by an approved testing laboratory is provided showing that a fire involving the system will not adversely impact occupant egress from adjacent buildings, or adversely impact adjacent stored materials or structures.

608.2.7.2 Means of egress. Stationary storage battery systems located outdoors shall be separated from any means of egress as required by the fire code official to ensure safe egress under fire conditions, but in no case less than 10 feet (3048 mm).

Exception: The fire code official is authorized to approve smaller separation distances if large scale fire and fault condition testing conducted or witnessed and reported by an approved testing laboratory is provided showing that a fire involving the system will not adversely impact occupant egress.

608.2.7.3 Security of outdoor areas. Outdoor areas in which stationary storage battery systems are located shall be secured against unauthorized entry and safeguarded in an approved manner.

608.2.7.4 Walk-in units where a stationary storage battery system includes an outer enclosure, the unit shall only be entered for inspection, maintenance and repair of batteries and electronics, and shall not be occupied for other purposes.

608.3 Maximum allowable quantities. Fire areas within buildings containing stationary storage batteries systems exceeding the maximum allowable quantities in Table 608.3 shall comply with all applicable High Hazard Group H occupancy requirements in this code and the International Building Code.

Exception: Where approved by the fire code official, areas containing stationary storage batteries that exceed the amounts in Table 608.3 shall be permitted to be

treated as incidental use areas and not Group H occupancies based on a hazardous mitigation analysis in accordance with 608.1.3 and large scale fire and fault condition testing conducted or witnessed and reported by an approved testing laboratory.

TABLE 608.3 MAXIMUM ALLOWABLE BATTERY QUANTITIES

BATTERY TECHNOLOGY	MAXIMUM ALLOWABLE QUANTITIES [a]	GROUP H OCCUPANCY
Lead acid, all types	unlimited	N/A
Nickel cadmium (Ni-Cd)	unlimited	N/A
Lithium, all types	600 KWh	Group H-2
Sodium, all types	600 KWh	Group H-2
Flow batteries [b]	600 KWh	Group H-2
Other battery technologies	200 KWh	Group H-2 [c]

a. For batteries rated in Amp-Hours, KWh shall equal rated voltage times amp-hour rating divided by 1000

b. Shall include vanadium, zinc-bromine, polysulfide-bromide, and other flowing electrolyte type technologies

c. Shall be a Group H-4 occupancy if the fire code official determines that a fire or thermal runaway involving the battery technology does not represent a significant fire hazard

608.3.1 Mixed battery systems. Where areas within buildings contain different types of storage battery technologies, the total aggregate quantities of batteries shall be determined based on the sum of percentages of each battery type quantity divided by the maximum allowable quantity of each battery type. If the sum of the percentages exceeds 100%, the area shall be treated as high-hazard Group H occupancy in accordance with Table 608.3.

608.4 Storage batteries and equipment. The design and installation of storage batteries and related equipment shall comply with these sections 608.4.1 through 608.4.8.

608.4.1 Listings. Storage batteries and battery storage systems shall comply with all of the following:

Storage batteries shall be listed in accordance with UL 1973.

Prepackaged and pre-engineered stationary storage battery systems shall be listed in accordance with UL 9540.

Exception: Lead-acid batteries are not required to be listed.

608.4.2 Prepackaged and pre-engineered systems. Prepackaged and pre-

engineered stationary storage battery systems shall be installed in accordance with their listing and the manufacturer's instructions.

608.4.3 Energy management system. An approved energy management system shall be provided for battery technologies other than lead acid and nickel cadmium for monitoring and balancing cell voltages, currents and temperatures within the manufacturer's specifications. The system shall transmit an alarm signal to an approved location if potentially hazardous temperatures or other conditions such as short circuits, overvoltage (overcharge) or under voltage (over discharge) are detected.

608.4.4 Battery chargers. Battery chargers shall be compatible with the battery chemistry and the manufacturer's electrical ratings and charging specifications. Battery chargers shall be listed and labeled in accordance with the UL 1564 or provided as part of a listed pre-engineered or prepackaged stationary storage battery system.

608.4.5 Inverters. Inverters shall be listed and labeled in accordance with UL 1741. Only inverters listed and labeled for utility interactive system use and identified as interactive shall be allowed to operate in parallel with the electric utility power system to supply power to common loads.

608.4.6 Safety caps. Vented batteries shall be provided with flame-arresting safety caps.

608.4.7 Thermal runaway. Where required by Section 608.6 storage batteries shall be provided with a listed device or other approved method to prevent, detect and control thermal runaway.

608.4.8 Toxic and highly toxic gas. Stationary storage battery systems that have the potential to release toxic and highly toxic gas during charging, discharging and normal use conditions shall comply with Chapter 60.

608.5 Suppression and detection systems. Suppression and detection systems shall be provided in accordance with Sections 608.5.1 through 608.5.5.

608.5.1 Fire suppression systems. Rooms containing stationary storage battery systems shall be equipped with an automatic sprinkler system installed in accordance with Section 903.3.1.1. Commodity classifications for specific technologies of storage batteries shall be in accordance with Chapter 5 of NFPA 13. If the storage battery types are not addressed in Chapter 5 of NFPA 13, the fire code official is authorized to

approve the fire suppression system based on full scale fire and fault condition testing conducted or witnessed and reported by an approved laboratory.

Exception: Spaces or areas containing stationary storage battery systems used exclusively for telecommunications equipment in accordance with Section 903.2.

608.5.1.1 Alternative suppression systems. Battery systems that utilize water reactive materials shall be protected by an approved alternative automatic fire-extinguishing system in accordance with Section 904. The system shall be listed for protecting the type, arrangement and quantities of storage batteries in the room. The fire code official shall be permitted to approve the alternate fire suppression system based on full scale fire and fault condition testing conducted or witnessed and reported by an approved laboratory.

608.5.2 Smoke detection system. An approved automatic smoke detection system shall be installed in rooms containing stationary storage battery systems in accordance with Section 907.2.

608.5.3 Ventilation. Where required by Section 608.6 or Section 608.1.3, ventilation of rooms containing stationary storage battery systems shall be provided in accordance with the International Mechanical Code and the following:

The ventilation system shall be designed to limit the maximum concentration of flammable gas to 25% of the lower flammability limit, or for hydrogen 1.0 percent of the total volume of the room; or. Continuous ventilation shall be provided at a rate of not less than 1 cubic foot per minute (cfm) per square foot [$0.00508 m^3/(s \cdot m^2)$] of floor area, but not less than 150 cfm (4 m^3/min).

The exhaust system shall be designed to provide air movement across all parts of the floor for gases having a vapor density greater than air and across all parts of the ceiling for gases having a vapor density less than air.

608.5.3.1 Cabinet ventilation. Where cabinets located in occupied spaces contain the storage batteries that are required by Section 608.6 or 608.1.3 to be provided with ventilation, the cabinet shall be provided with ventilation in accordance with Section 608.5.3.

608.5.3.2 Supervision. Required mechanical ventilation systems for rooms and cabinets containing storage batteries shall be supervised by an approved central station, proprietary or remote station service or shall initiate an audible and visual signal at an approved constantly attended on-site location.

608.5.4 Gas detection system. Where required by Section 608.6 or 608.1.3, rooms

containing stationary storage battery systems shall be protected by a gas detection system complying with Section 916. The gas detection system shall be designed to activate where the level of flammable gas exceeds 25 percent of the lower flammable limit (LFL), or where the level of toxic or highly toxic gas exceeds 1/2 of the IDLH.

608.5.4.1 System activation. Activation of the gas detection system shall result in all the following:

Initiation of distinct audible and visible alarms in the battery storage room.

Transmission of an alarm to an approved location.

De-energizing of the battery charger.

Activation of the mechanical ventilation system, where the system is interlocked with the gas detection system.

Exception: Lead acid and nickel cadmium stationary storage battery systems shall not be required to comply with items 1, 2, and 3 above.

608.5.5 Spill control and neutralization. Where required by Section 608.6, approved methods and materials shall be provided for the control and neutralization of spills of electrolyte or other hazardous materials in areas containing stationary storage batteries as follows:

For batteries with free-flowing electrolyte, the method and materials shall be capable of neutralizing a spill of the total capacity from the largest cell or block to a pH between 5.0 and 9.0.

For batteries with immobilized electrolyte, the method and material shall be capable of neutralizing a spill of 3.0 percent of the capacity of the largest cell or block in the room to a pH between 5.0 and 9.0.

608.6 Specific battery type requirements. This section includes requirements applicable to specific types of storage batteries. Stationary storage battery systems with more than one type of storage battery shall comply with requirements applicable to each battery type.

608.6.1 Lead acid storage batteries. Stationary battery systems utilizing lead acid storage batteries shall comply with the following:

Ventilation shall be provided in accordance with Section 608.5.3.

Spill control and neutralization shall be in accordance with Section 608.5.5.

Thermal runaway protection shall be provided for VRLA storage batteries in accordance with Section 608.4.7.

The signage in Section 608.2.6 shall also indicate the room contains Lead Acid batteries.

608.6.2 Nickel cadmium (Ni-Cd) storage batteries. Stationary battery systems utilizing nickel cadmium (Ni-Cd) storage batteries shall comply with the following:

Ventilation shall be provided in accordance with Section 608.5.3.

Spill control and neutralization shall be in accordance with Section 608.5.5.

Thermal runaway protection shall be provided for valve regulated sealed nickel cadmium storage batteries in accordance with Section 608.4.7.

The signage in Section 608.2.6 shall also indicate the room contains nickel cadmium batteries.

608.6.3 Lithium-ion storage batteries. The signage in Section 608.2.6 shall also indicate the type of lithium batteries contained in the room.

608.6.4 Sodium beta storage batteries. Stationary battery systems utilizing sodium beta storage batteries shall comply with the following:

Ventilation shall be provided in accordance with Section 608.5.3.

The signage in Section 608.2.6 shall also indicate the type of sodium batteries in the room and APPLY NO WATER.

608.6.5 Flow batteries. Stationary battery systems utilizing flow storage batteries shall comply with the following:

Ventilation shall be provided in accordance with Section 608.5.3.

Spill control and neutralization shall be in accordance with Section 608.5.5.

The signage required in Section 608.2.6 shall also indicate the type of flow batteries in the room.

608.6.6 Other battery technologies. Stationary battery systems utilizing battery technologies other than those described in Sections 608.6.1 through 608.6.5 shall comply with the following:

Gas detection systems complying with Section 916 shall be provided in accordance with Section 608.5.4 where the batteries have the potential to produce toxic or highly toxic gas in the storage room or cabinet in excess of the permissible exposure limits (PEL) during charging, discharging and normal system operation.

Mechanical ventilation shall be provided in accordance with Section 608.5.3.

Spill control and neutralization shall be in accordance with Section 608.5.5.

In addition to the signage required in Section 608.2.6, the marking shall identify the type of batteries present, describe the potential hazards associated with the battery type, and indicate the room contains energized electrical circuits.

* We do not guarantee or warrant the accuracy or completeness of the cited IFC regulations. Section 608 of the 2018 International Fire Code. Excerpted from the 2015 Group A Proposed Changes to the I-Codes Memphis Committee

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[9] Section 608 of the 2018 International Fire Code. Excerpted from the 2015 2015 Group A Proposed Changes to the I-Codes Memphis Committee Hearings; Copyright © 2015 International Code Council, Inc., www.iccsafe.org. All rights reserved. Excerpts reprinted with permission.

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EXHIBIT X

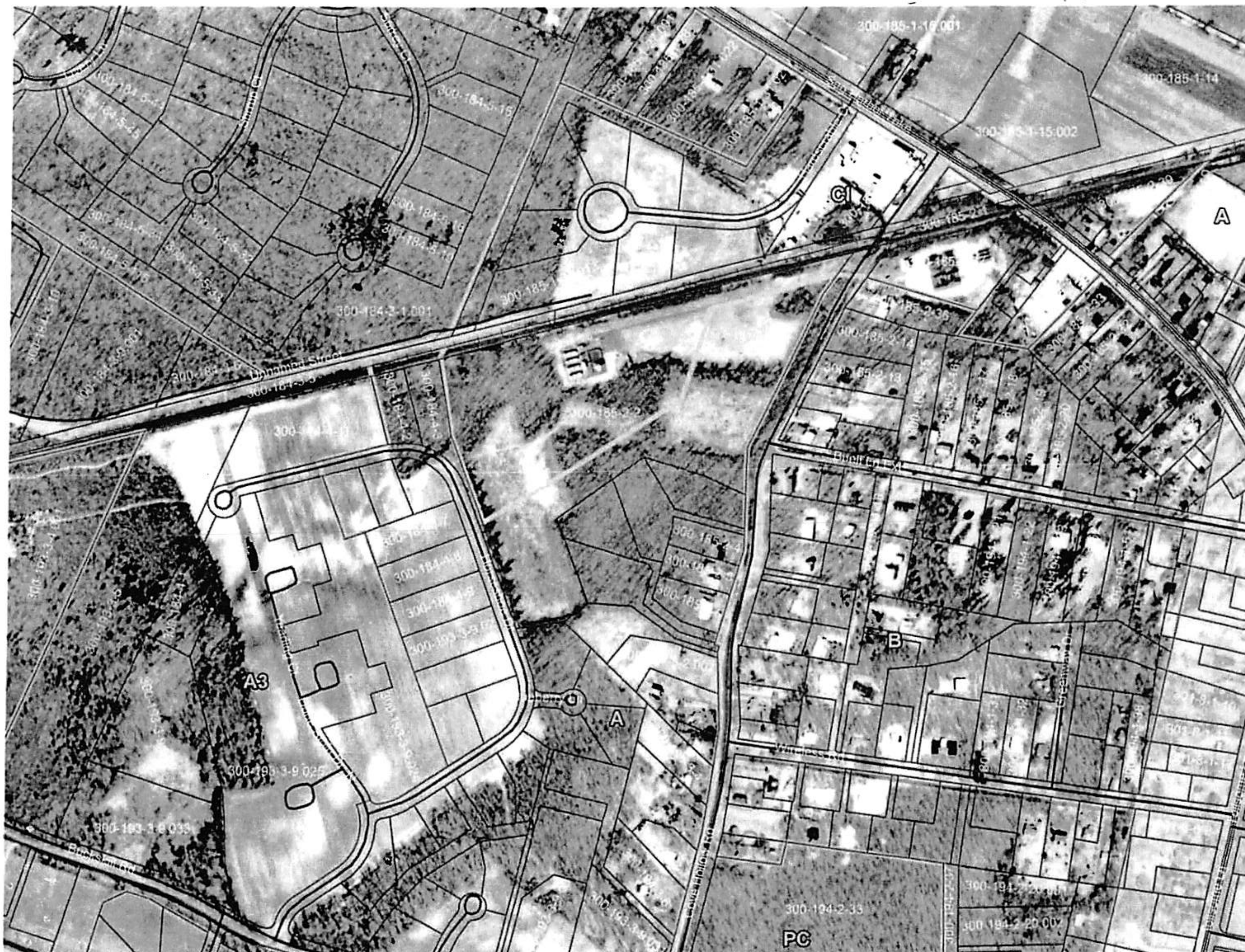
From: Eric Schantz <ESchantz@EHamptonNY.Gov>
To: 'poolplayerclyde@aol.com' <poolplayerclyde@aol.com>
Subject: 3 Cove Hollow road
Date: Thu, Sep 28, 2017 3:00 pm
Attachments: doc05281320170928145522.pdf (334K), doc05281520170928150226.pdf (309K)

The attached scan is of the original Town zoning map adopted in 1957. As you can see, the 1st 400' on either side of the train tracks in this area was zoned CI. It appears the current irregular zoning boundary was created in 1962. The reason for the re-drawing is unknown to me.

I also attached an aerial photograph from 1970. We have aerials from 1962 as well which show the site entirely vacant. It looks like after this original facility was built the Town re-drew the zoning boundary to indicate that the rear portion of the lot should be left residential and not include utilities. However, this is just my assumption.

Eric Schantz
Senior Planner
Town of East Hampton
Planning Department
300 Pantigo Place, Suite 105
East Hampton NY 11937
(631) 324-2178

146



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300-185-1-14
300-185-1-15.002
300-184-5-15
CI
A
300-184-2-1.001
A3
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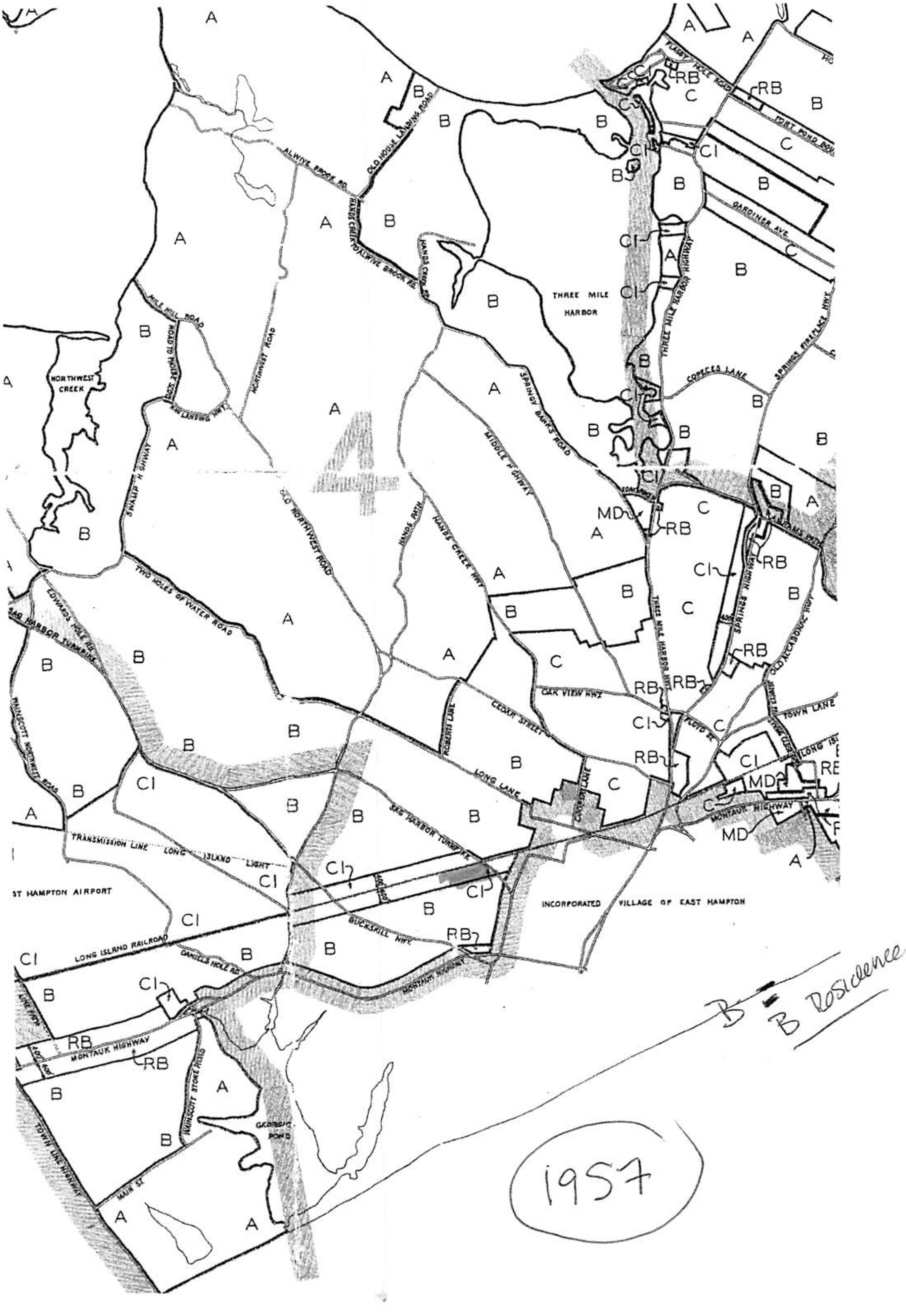
B
300-193-3-9.025
300-193-3-9.039
300-194-2-33
PC



ALWIVE BROOK RD.
OLD HOUSE LANDING ROAD
HANDS CREEK TO ALWIVE BROOK RD.
HANDS CREEK RD.
THREE MILE HARBOR
FLAGGY HOLE ROAD
FORT POND BOU
GARDINER AVE.
THREE MILE HARBOR HIGHWAY
SPRINGS FIREPLACE HWY.
COPECES LANE
NORTHWEST CREEK
MILE HILL ROAD
ROAD TO POTTER LANDING
SWAMP HIGHWAY
NORTHWEST ROAD
OLD NORTHWEST ROAD
SPRINGY BANKS ROAD
MIDDLE HIGHWAY
HANDS PATH
HANDS CREEK HWY
TWO HOLES OF WATER ROAD
EDWARDS HOLE RD.
SAG HARBOR TURNPIKE
WAINSCOTT NORTHWEST ROAD
SPRINGS HIGHWAY
OLD ACCABONAC HWY
TOWN LANE
LONG ISL
OAK VIEW HWY.
CEDAR STREET
ROBERTS LANE
FLOYD ST.
LONG LANE
MONTAUK HIGHWAY
TRANSMISSION LINE LONG ISLAND LIGHT
ST HAMPTON AIRPORT
INCORPORATED VILLAGE OF EAST HAMPTON
BUCKSKILL HWY.
LONG ISLAND RAILROAD
DANIELS HOLE RD.
WAINSCOTT STONE ROAD
GEORGICA POND
TOWN LINE HIGHWAY
MAIN ST.
A
B
C
CI
RB
MD
4
B = B Residence
1957

EXHIBIT Y

CITY JOURNAL

FROM THE MAGAZINE

Bonackers vs. Big Wind

Governor Andrew Cuomo's preposterous renewable-energy plan threatens Long Island's fishing industry.

Robert Bryce

Nat Miller and Jim Bennett didn't have much time to chat. It was about 8:45 on a sunny Sunday morning in early May, and they were loading their gear onto two boats—a 20-foot skiff with a 115-horsepower outboard, and an 18-foot sharpie with a 50-horse outboard—at Lazy Point, on the southern edge of Napeague Bay, on the South Fork of Long Island. "We are working against the wind and the tide," Miller said as he shook my hand.

The men had already caught a fluke the size of a doormat and were eager for more. Miller and Bennett are Bonackers, a name for a small group of families who were among eastern Long Island's earliest Anglo settlers. The Bonackers are some of America's most storied fishermen. They've been profiled several times, most vividly by Peter Matthiessen in his 1986 book *Men's Lives*. Miller's roots in the area go back 13 generations, Bennett's 14. That morning, Miller and Bennett and five fellow fishermen were heading east to tend their "pound traps," an ancient method of fishing in shallow water that uses staked enclosures to capture fish as they migrate along the shore. Miller and Bennett were likely to catch scup, bass, porgies, and other species.

If Governor Andrew Cuomo gets his way, though, they and other commercial fishermen on the South Fork may need to look for a new line of work. An avid promoter of renewable energy, Cuomo hopes to install some 2,400 megawatts

of wind turbines off New York's coast, covering several hundred square miles of ocean; a bunch of those turbines will go smack on top of some of the best fisheries on the Eastern Seaboard. One of the projects, led by a Manhattan-based firm, Deepwater Wind, could require plowing the bottom of Napeague Bay to make way for a high-voltage undersea cable connecting the proposed 90-megawatt South Fork wind project to the grid. The proposed 50-mile cable would come ashore near the Devon Yacht Club, a few miles west of the beach on which we were standing. "I have 11 traps, and all of them run parallel to where that cable is proposed to be run," Miller says. "My grandfather had traps here," he adds before shoving his skiff into the water. "I want no part of this at all."

The mounting opposition to the development of offshore wind in Long Island's waters is the latest example of the growing conflict between renewable-energy promoters and rural residents. Cuomo and climate-change activists love the idea of wind energy, but they're not the ones having 500-, 600-, or even 700-foot-high wind turbines built in their neighborhoods or on top of their prime fishing spots. The backlash against Big Wind is evident in the numbers: since 2015, about 160 government entities, from Maine to California, have rejected or restricted wind projects. One recent example: on May 2, voters in three Michigan counties went to the polls to vote on wind-related ballot initiatives. Big Wind lost on every initiative.

Few states demonstrate the backlash better than New York. On May 10, the town of Clayton, in northern New York's Jefferson County, passed an amendment to its zoning ordinance that bans all commercial wind projects. On Lake Ontario, a 200-megawatt project called Lighthouse Wind, headed by Charlottesville, Virginia–based Apex Clean Energy, faces opposition from three counties—Erie, Niagara, and Orleans—as well as the towns of Yates and Somerset. An analysis of media stories shows that, over the past decade or so, about 40 New York communities have shot down or curbed wind projects.

Cuomo started pushing offshore wind because he and his political allies realized that building massive amounts of new wind capacity onshore isn't going to happen. In January, the governor contended that offshore wind poses

none of the aesthetic problems that have made land-based projects so difficult. "Not even Superman standing on Montauk Point could see these wind farms," he said. Maybe not; and maybe wealthy beachfront homeowners won't be able to see the proposed turbines, but lots of fishermen will. And that has them spoiling for a fight.

On May 6, at the Town Dock in Montauk, most of the fishing boats remained in their slips, due to high seas. The sentiment among the fishermen on the dock was identical to what I'd heard from Miller and Bennett. Bruce Beckwith, owner of the trawler *Allison & Lisa*, had just backed into his slip after catching several bushels of fish in the bay. He had been fishing with his son, P. J., and grandson, Alex. Beckwith traces his family's roots in the region back more than 300 years. "I'm totally opposed" to the wind project, he said. "It's going to be a hazard to navigation." Standing near Beckwith was Ed Andresen, who also operates a trawler. When asked for his thoughts about offshore wind, he replied: "I can't stand it. If you want wind energy, why would you put the turbines offshore?"

Montauk's fishermen are far from alone in their worries. Renewable-energy mandates will require installing thousands of offshore turbines all along the Eastern Seaboard, from Maine to the Carolinas. Last year, for instance, Massachusetts governor Charlie Baker, a Republican, signed into law a provision that requires his state's utilities to purchase 1,600 megawatts of electricity from offshore wind by 2026. During a meeting at Inlet Seafood, a Montauk restaurant owned by six local fishermen, Bonnie Brady, executive director of the Long Island Commercial Fishing Association, told me that fishermen are facing "permanent denial" of their labor in the areas in and around the proposed projects. "We can't go anywhere else," she tells me. Asked about the politics of offshore wind, Paul Farnham, who owns the Montauk Fish Dock, which packs fish for shipment and sale (on consignment) to the New Fulton Fish Market at Hunts Point in the Bronx, replies: "I'll guarantee you, 90 percent or more of all these fishermen voted for Trump. It wasn't because they liked him. It was because they wanted less regulation."

America's biggest environmental groups—including the Sierra Club and

Natural Resources Defense Council (NRDC)—are lobbying for more offshore wind capacity. Last December, after America's first offshore project—the Block Island facility located off Rhode Island's coast—went online, Kit Kennedy of the NRDC enthused that Block Island was "only the beginning for this abundant energy resource!" Like many other renewable-energy cheerleaders, Kennedy talked about jobs, citing a Department of Energy report that claimed that "with the right policies in place, the offshore wind industry could support 160,000 jobs here in America."

The South Fork fishermen are fighting to preserve their access to some of the most productive fisheries in the world. Some 99 percent of all the wild-caught seafood in New York comes from Long Island. About 40 percent of that catch is landed by commercial fishermen working out of Montauk. They catch about 12 million pounds of seafood every year—worth about $16 million at the dock. But the South Fork has become a magnet for the ultrarich. Vacant lots within a few blocks of the beach sell for $9 million. And these 1 percenters have brought their trendy green politics with them. The town of East Hampton, which includes the hamlet of Montauk, has set a goal of meeting *all* of its electricity needs with renewables by 2020. If that means placing lots of wind turbines offshore, so be it. And if those pickup-driving Bonackers, living in their tiny homes, have to leave town, that's too bad, because, you know, climate change.

All the major environmental groups—including the Sierra Club—are lobbying for more offshore wind capacity.

Montauk's fishermen face a flotilla of deep-pocketed foes. Deepwater Wind is part of the D. E. Shaw Group, a Manhattan-based investment firm that manages about $40 billion. Like every other company in the wind business, Deepwater Wind is rushing to collect tax credits. Such credits are the ultimate prize in tax

avoidance—far more valuable than a deduction from revenue or accelerated depreciation. As my accounting consultant (and brother) Wally Bryce, a CPA, reminds me: "You'd much rather get a tax credit because it applies dollar for dollar against what you owe the government." Onshore wind firms can collect a production tax credit, which applies to the amount of energy (measured in watt-hours) that a given project generates. Offshore wind companies take advantage of a different part of the tax code: the investment tax credit, which is based on their project's total cost—and is currently equal to 24 percent of that cost. If Deepwater Wind builds the South Fork project, it will collect some $170 million in tax credits.

Deepwater Wind and D. E. Shaw have close ties to the NRDC and to Cuomo. Max Stone, a managing director at D. E. Shaw, is a vice chair of NRDC's board of trustees. Before Kit Kennedy joined NRDC, she worked for Cuomo as head of the state attorney general's environmental protection bureau from 2007 to 2010. After joining NRDC, she wrote a blog post urging the Long Island Power Authority (LIPA) to include a Deepwater Wind project on its "short list for a renewable energy contract." Basil Seggos, commissioner of the New York Department of Environmental Conservation, worked at NRDC before working for Cuomo. David E. Shaw, founder of D. E. Shaw, "has contributed widely to Democratic political campaigns, including more than $38,000 to Gov. Andrew M. Cuomo's campaigns for state attorney general and governor," *Newsday*'s Mark Harrington reported in 2014.

There's more. Cuomo recently appointed John Rhodes to run the state Public Service Commission. Rhodes had been head of the Energy Research and Development Authority. Before that, Rhodes worked at—where else?—the NRDC.

The fishermen are also fighting Norwegian oil giant Statoil ASA. Last year, the state-controlled company (market capitalization: $58 billion) won an offshore wind lease with a record bid of $42.5 million. After winning the bid, Statoil suggested that the site could eventually accommodate about 1,000 megawatts of wind capacity. The lease was immediately lauded by the American Wind Energy Association, which said that the deal "increases the strong momentum"

behind "ocean energy resource."

While Big Wind's myriad lobbyists exult over the Statoil deal, the new lease sits atop some of the best squid and scallop fisheries on the Eastern Seaboard, as Bonnie Brady's husband, Dave Aripotch, captain of a 73-foot trawler, *Caitlin and Mairead*, showed me with a heat map. Aripotch has been pulling squid from this area for years. He says that if the wind project is built on the tract, he may not be able to fish there anymore.

In November, Brady's Long Island Commercial Fishing Association, along with the Fisheries Survival Fund, the Rhode Island Fishermen's Alliance, the town of Narragansett, Rhode Island, the city of New Bedford, Massachusetts, and several other groups of fishermen and fishmongers filed a federal lawsuit to stop the Bureau of Ocean Energy Management from auctioning the tract that Statoil won. The suit claimed that the project would bring "both great and actual harm" to the fisheries. The lease sale happened anyway. In February, the U.S. District Court for the District of Columbia denied the fishermen's request for a preliminary injunction blocking the final ratification of the lease. The lawsuit, however, was allowed to continue.

Expanding offshore wind to the 2.4 gigawatts that Cuomo has pledged will require covering about 300 square miles of offshore territory with turbines. And that's only a small percentage of what could happen off U.S. coasts. Last year, the outgoing Obama administration published its National Offshore Wind Strategy, a document that claims that the U.S. can install 86 gigawatts of offshore wind capacity by 2050. (The words "fishing" and "fishermen" don't appear in the document.) It takes roughly 129 square miles for each gigawatt of wind-energy capacity; achieving the 86-gigawatt goal would require covering more than 11,000 square miles of offshore territory—nearly eight times the size of Long Island—with turbines.

Offshore wind energy has been hyped nearly as much as a Kardashian wedding. In 2011, then–interior secretary Ken Salazar spoke at an offshore wind energy conference in Baltimore. "From Texas to Oregon, to up and down the

Atlantic Coast," he observed, "there's movement on offshore wind." He went on to say that the Obama administration had set "an ambitious—but achievable—goal of deploying 10 gigawatts—that's 10,000 megawatts—of offshore wind generating capacity by 2020." We're halfway through 2017, and the U.S. has just 30 megawatts of offshore wind capacity, so things aren't proceeding as hoped.

The reality is that doing anything offshore is politically difficult and expensive. For proof, look at the case of Cape Wind, the 468-megawatt project that aimed to cover 24 square miles of Nantucket Sound with wind turbines. The backers of Cape Wind filed their first permit application in 2001. But the project ran into fierce opposition from landowners on Cape Cod, including, most prominently, Robert F. Kennedy, Jr., who didn't want the turbines installed anywhere near his family's Hyannisport haciendas. (Irony alert: Kennedy is a senior attorney at the NRDC, the very same group that is hyping offshore wind. Perhaps Superman would have been able to see Cape Wind from Hyannisport.) Despite getting environmental approvals from the federal government and the backing of many elected officials in Massachusetts, the project was finally halted for good in early 2016. Offshore wind projects in other countries have also been stymied. In 2015, for instance, the British government refused a permit for the 968-megawatt Navitus Bay offshore wind project, which was to be built in the English Channel, near the Isle of Wight. Among the stated reasons for rejecting the project, which would have utilized 650-foot-tall turbines, was its "seascape, landscape and visual impact."

Cuomo has decided that New Yorkers should be using politically fashionable electricity instead of cheaper electricity generated from nuclear power and natural gas. Cuomo pushed for—and got—a deal that will prematurely close Westchester's Indian Point nuclear plant. He has banned hydraulic fracturing in New York, and his administration refuses to issue permits to new natural-gas pipelines. By constricting the flow of natural gas, Cuomo appears to be hoping that renewables in general—and offshore wind in particular—will be the go-to option for the state's utilities.

But a bit of math shows just how tough that will be. Deepwater Wind's

proposed South Fork wind project will produce about 370 gigawatt-hours of electricity per year. Compare that with Indian Point, which produces about 16,600 gigawatt-hours of energy per year. Thus, replacing a single nuclear plant with offshore wind energy will require building 45 offshore wind projects, all the size of the proposed South Fork project, which, if built, would be the nation's largest. Add in the 29,000 gigawatt-hours that the New York Independent System Operator recently said will be needed to meet Cuomo's goal of producing 50 percent of the state's electricity from renewables by 2030, and the scale of the problem becomes even more obvious.

In addition to the political friction and scale problems, offshore wind energy is among the most costly ways of producing electricity. LIPA has agreed to pay Deepwater Wind about 22 cents per kilowatt-hour for the electricity produced from the South Fork project. But as *Newsday*'s Harrington pointed out in February, the average cost of natural-gas-fired electricity on Long Island is about 7.6 cents per kilowatt-hour. Thus, Cuomo is effectively preventing New Yorkers from using low-cost gas-fired electricity in favor of electricity from offshore that costs about three times as much.

That brings me back to Nat Miller. Just before launching his skiff into the water, Miller told me that he and his family are living in a 1,100-square-foot house and that, over the past five years, his electric bill had doubled. "We are the last of the middle class out here," he said. "Now they want to cram a wind farm up our ass so Cuomo can look good when he runs for president."

The push for expensive offshore wind energy, he predicts, will "bury the working class. People with money are going to feel good about themselves as they are wasting electricity. It's such bullshit."

Robert Bryce is a senior fellow at the Manhattan Institute and the author of Smaller Faster Lighter Denser Cheaper: How Innovation Keeps Proving the Catastrophists Wrong.

Photo: Jim Bennett and Nat Miller (pictured at Lazy Point, Napeague Bay) are Bonackers, part of a group of families who were among eastern Long Island's earliest settlers and have fished the waters for 14 generations. (COURTESY OF THE AUTHOR)

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EXHIBIT Z

South Fork: Resource Need Summary
South Fork Need 2017 through 2030

	2017	2018	2019	2020	2021	2022	2023	2024	2025
Need E/O Amagansett only	1.00	1.00	1.98	2.98	4.03	5.12	6.21	7.31	8.50
Need at Buell/E Hampton or East	**3.69**	**8.14**	**12.49**	**16.45**	**21.23**	**26.11**	**30.91**	**35.72**	**40.92**
Need E/O Canal	3.69	9.25	14.91	19.96	26.13	32.16	38.26	44.36	50.97
Total South Fork Need	8.38	18.39	29.38	39.39	51.39	63.39	75.38	87.39	100.39

Source:
Long Island Power Authority
South Fork RFP
LIPA Board of Trustees
REV Committee Briefing
September 21, 2016
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South Fork: Resource Need Sum
South Fork Need 2017 through 2

	2026	2027	2028	2029	2030	Total
Need E/O Amagansett only	9.69	10.97	12.15	13.52	14.80	99.26
Need at Buell/E Hampton or East	**46.12**	**51.73**	**56.93**	**62.94**	**68.54**	**481.92**
Need E/O Canal	57.57	64.69	71.30	78.92	86.02	598.19
Total South Fork Need	113.38	127.39	140.38	155.38	169.36	

Source:
Long Island Power Authority
South Fork RFP
LIPA Board of Trustees
REV Committee Briefing
September 21, 2016
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EXHIBIT AA

24 Horseshoe Drive
East Hampton, NY 11937
September 8, 2017

Dear Hon. Kathleen Burgess,

On Friday, June 2, 2017, I was notified that The Town of East Hampton would be holding a public hearing on June 7th. In those five days I learned that my public officials were proposing to allow the construction of a 5 MW Battery Energy Storage System ("BESS") by East Hampton Energy Storage Center ("EHESC"). EHESC wants permission from NYS PSC to lease land from National Grid/LIPA/PSE&G next to my residential property.

Since the beginning of June, I know one thing is certain, that my public officials and utility representatives have planned to transform the South Fork of Long Island into a major producer, transmitter, distributor and storer of power. This will help elevate the utility companies, bail out Shoreham and promotes the Governor of New York State at the same time devastating the ocean floor off of Montauk and destroying the beauty of the Town of East Hampton, Montauk, Amagansett, Wainscott and beyond.

The proposed construction of the 5MW BESS is unique in that it is the first of it's kind to be placed on top of a special ground water protected area in one of the most delicate, hurricane prone ecosystems in New York. I also now know that 25% of New York State's renewable energy needs will be generated from wind turbines placed off the coast of Montauk by 2022 (90MW). This exceeds power needed by the Town of East Hampton, so the remaining power will then be transmitted westward on high voltage wires adjacent to the LIRR Railroad tracks. Power will be sold to New York residents and beyond at a premium price.

As my elected officials, you have been entrusted to approve leases like the one at 3 Cove Hollow Road only if it benefits the residents that are immediately impacted and surrounded by the project. The surrounding residential community, Dune Alpin and Cove Hollow Road, will be irreparably harmed by the construction of the 5MW BESS, the installation of emergency generators, the upgrade of the substation and the transmission and distribution of 90MW of wind turbined power and let's not forget the

additional large-scale renewable projects that will be delivered to the South Fork. The BESS that is proposed to be constructed will be located 400 feet from my property line and will impact 20 other residences that surround 3 Cove Hollow Road.

The Official Statement issued by the Town of East Hampton dated August 7, 2017[1] states that from 2000 to 2010 East Hampton grew 8.8%. Suffolk County grew only 5.1% in the same time period.[2]

LIPA is stating that future growth from 2017 to 2030 will exceed 482%. These numbers are preposterous.[3] (See the attached chart entitled "South Fork: Resource Need Summary – South Fork Need 2017 through 2030" which states that East Of (E/O) East Hampton only will grow 482% from 2017-2030).

In 2010, the Town's population was 21,457. If growth continues at a rate of 8.8% for the current decade, the Town's population will be 23,345 in 2020. According to LIPA's projections, the Town's Population in 2030 will be 112,523. It is highly unlikely that the Town of East Hampton's population will increase by 90,000 people in the next 13 years.

It seems that LIPA/PSE&G/National Grid is more than eager to accept these projections. I find it hard to believe that there is no alternative other than what is being proposed.

KeySpan and LIPA are two of the top three taxpayers in the Town of East Hampton and this has created an imbalance in my Town. The Town is being forced, or held hostage, to bend to the Utility's will. First PSE&G installed 6.5 miles of high voltage poison laden utility poles running along with high voltage transmission wires throughout my beautiful Town. Now the signs of the Utility's might are prevalent throughout the downtown area and beyond.

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[1] Town of East Hampton, Suffolk County, New York: $3,431,425 Various Purpose Serial Bonds – 2017 and $24,650,990 Bond Anticipation Notes – 2017, dated August 7, 2017.

[2] See page A-27 of the Official Statement.

[3] See page 5 of the *South Fork RFP, LIPA Board of Trustees, REV Committee Briefing* dated September 21, 2016.

It is my understanding is that the Lease at 3 Cove Hollow should only be approved if it actually benefits the surrounding residential community more than any other recipient of the power. This is not the case. Therefore, I respectfully request again that East Hampton Energy Storage Center not be allowed to lease the land at 3 Cove Hollow Road from National Grid/PSE&G/LIPA.

Thank you,

Claudia Diaz
24 Horseshoe Drive
East Hampton, NY 11937