



TOWN OF EAST HAMPTON

159 Pantigo Road
East Hampton, New York 11937

KATHEE BURKE-GONZALEZ
Town Supervisor

Tel: (631) 324-4140
kburke-gonzalez@ehamptonny.gov

July 31, 2026

Mr. Brian Bolster
President and Chief Executive Officer
NextEra Energy Resources LLC
700 Universe Boulevard
Juno Beach, FL 33408

Mr. John W. Ketchum
Chairman, President and Chief Executive Officer
NextEra Energy, Inc.
700 Universe Boulevard
Juno Beach, FL 33408

East Hampton Energy Storage Center LLC
3 Cove Hollow Road
East Hampton, NY 11937
Attn: Officer

Ms. Zoe Yujnovich
Chief Executive Officer
Ms. Sally Librera
President, New York
National Grid
One Metrotech Center
Brooklyn, NY 11201

**RE: East Hampton Energy Storage Center, LLC
3 Cove Hollow Road, East Hampton, NY**

Dear Sirs/Mesdames:

The Town of East Hampton is concerned about the potential environmental implications of the above-mentioned facilities. This letter is to identify information required to provide clearer identification of the measures in place to ensure the safety of the facilities with respect to its surrounding environment.

On March 24, 2017, and again on May 2, 2017, TRC Environmental Corporation submitted to our Planning Department, on behalf of East Hampton Energy Storage Center, LLC, information responding to questions regarding "information and specifications on the proposed batteries including chemical composition, toxicity, flammability" and a list of the safety design features of the Battery Energy Storage System (BESS) facility, respectively, located at 3 Cove Hollow Road East Hampton, NY (the Facility). In both submissions, TRC on behalf of other applicant stated that the battery electrolyte "is a non-aqueous organic solvent and, therefore, *no liquid is within each battery cell that could spill.*" It then describes the containment provided as a structure for the mineral oil in the transformers and inverters.

The Town relied on these assertions and the Planning Board as SEQRA lead agency, issued a negative declaration on May 17, 2017. And when the Board approved the Facility on September 13, 2017, it approved the General Arrangement and Landscape plan Sheet D-P003-1 that

included that list of safety features in the submissions making that list binding. Further, condition 3.7 requires the Facility to be equipped with all safety design measures specified on that plan, and separately required, at Condition 3.10, that all runoff and drainage be contained on site as an ongoing condition of the approval.

Whether an intact cell leaks was never the concern at a facility of this kind. The concern, which appears to have manifested, is that cells may open under thermal runaway and that whatever is used to put the resulting fire out carries their contents into the ground. Your own submission shows this was understood: item 3 of the same list describes the Facility's fire protection as a gaseous suppressant system backed up by a water sprinkler system. However, the Town Planning Board was told that the only hazardous spillable liquid on the property was transformer oil.

The containment built to satisfy item 6 was scoped to oil and nothing else. The site plans limited spill containment to transformers and inverters. The oil containment Sheet D-P007-1 detail sizes the basins to 110 percent of the oil volume of individual pieces of equipment, 550 gallons in one case, 176 gallons in the other.

Nothing else on the site would have held anything. The yard is crushed rock and road base over native soil. The approved plans show no permanent drainage or collection structures of any kind.

In conducting its SEQRA analysis and in granting site plan and special permit approval, the Town materially relied on the representations made by the applicant. Based on recent information, the Town understands that the applicant's representations to the Town may not have been accurate.

On May 31, 2023, a battery fire occurred at your Facility. The Suffolk County Water Authority (SCWA) alleges the Facility's fire suppression system ran roughly thirty hours, discharged more than 2.2 million gallons, and water was left pooled to the south.

The State's Investigation

During the week of July 20, 2026, the Department of Environmental Conservation, the Department of Health, and the Suffolk County Department of Health Services began field work under a joint investigation of PFAS groundwater contamination at SCWA's Bridgehampton Road Wellfield, carried under DEC Spill No. 2601953. DEC's community update for that investigation, issued this month, states that no source has been determined and that the investigation includes an evaluation of your Facility. DEC is installing eight monitoring wells on and near the property, sampling for PFPrA and forty other PFAS compounds across twenty-one wells, and collecting soil samples beside the new wells to test whether PFAS are leaching from soil into groundwater at suspected release locations.

In early 2026, SCWA detected PFPrA, an ultrashort-chain PFAS compound, in samples from four wells at its Bridgehampton Road Wellfield. The Water Authority removed three wells from service and reduced use of the other to emergency use only. The Department of Health has set a site-specific screening value of 3 parts per billion for PFPrA, materially lower than New York's 50 ppb for unspecified organic contaminants. And in the profile wells the County installed between the supply wells and your Facility, results include 1,170 parts per billion of PFPrA. That is roughly three hundred ninety times the value the State is using to decide whether water is fit to drink. For the private supply wells in the area, the County identified 26 homes in the area not connected to public water and is awaiting results for the wells it has sampled. The Water

Authority alleges in its litigation that PFPrA is associated with the thermal breakdown of lithium-ion batteries.

DEC has not determined a source, and I will not prejudge its conclusion. But I am not waiting for it, and I want to be clear why the Town's demands do not depend on where DEC lands. DEC's update explains that ultrashort-chain PFAS were not previously monitored by any public water supply in this State, that they are not listed as hazardous substances or emerging contaminants at any level of government, and that the laboratory methods for detecting them are new and not yet certified.

The Town is therefore not suggesting you should have told us about PFPrA in 2017. That is not the failure. The failure is that you knew (or should have known) that a lithium-ion fire at this Facility could be met with water, knew (or should have known) that thermal runaway opens cells, and that therefore building containment for transformer oil and nothing else was not likely to contain runoff on site. That was knowable by you in 2017, and the condition it produced, a water-suppressed battery building with no capacity to hold what comes out of it, on a surface designed to infiltrate, above the only drinking water this community has, exists today exactly as it existed on May 31, 2023. Now that this has come to our attention, we direct that containment is imperative.

What the Town Requires

The Town demands the following at your sole cost and expense, the governing objective of each is the protection of groundwater:

1. Develop a Revised Final Emergency Action and Safety Plan for Town approval. Submit it within thirty days to the Town Attorney, the Planning Board, and the Chief Fire Marshal. Conditions 3.4 and 3.5 already require the Plan and require notice of changes to it. The Revised Plan must describe the suppression systems as actually installed; state, with a documented methodology, the maximum volume of suppression water a worst-case thermal runaway at full installed capacity could generate; specify how every gallon of that volume will be collected, contained, characterized, and lawfully disposed of, with zero discharge to soil, groundwater, surface water, Cove Hollow Road, or any adjoining property; provide for immediate notice to the Town, the Chief Fire Marshal, the East Hampton Fire Department, DEC, the County Health Department, and the Water Authority upon any thermal event; address unmanned and off-hours operation; and account fully and accurately for what the Facility's protective systems did and did not do on May 31, 2023. Submission is not compliance. The Plan must be approved.

2. Design and install engineering controls that capture and hold all fire water and all fire-related runoff. Submit within sixty days a stamped and sealed design, prepared by a New York licensed professional engineer, for physical measures adequate to protect environmental resources in the event of a future fire, including containment of fire runoff, and construct those measures on an expedited schedule approved by the Town. The design must address, or justify excluding, full secondary containment of the battery building sized to the worst-case suppression volume; an impervious, lined and curbed surface within the leased area in place of crushed rock; sealed drainage with normally closed, fail-safe isolation valves; dedicated capture tankage or a lined, valved structure that does not infiltrate; leak detection; and prompt removal and off-site disposal of captured water as a potentially hazardous waste. For the avoidance of doubt, the oil basins beneath the transformers and inverters do not satisfy this demand and should not be offered as though they did. State whether the Facility is presently in service and whether you

intend to keep it in service. The Town's position is that operating it without containment sufficient to hold a worst-case fire-water volume does not satisfy Condition 3.7 or Condition 3.10. DEC is presently testing whether PFAS are leaching from soil into groundwater at suspected release locations on and near this property. Whatever that work concludes about 2023, the absence of any structure capable of holding a fire-water discharge is a present condition, and it is the condition this demand addresses.

3. Develop a hazardous waste management plan. Submit it with the Revised Plan. It must govern the identification, segregation, characterization, storage, manifesting, transport, and disposal of every waste stream a thermal event or equipment failure could generate, including damaged cells, modules, and racks, contaminated suppression water, contaminated soil and structural media, spent adsorbents, and dielectric fluid, in accordance with 6 NYCRR Parts 370 et seq. and all applicable federal, State, and County requirements, and must likewise govern routine operations, module replacement, end-of-life handling, and decommissioning.

4. Correct the record and certify the accuracy of the spill containment representation. Within thirty days, provide a written statement signed by an officer with authority to bind the company that identifies the manufacturer, model, and chemistry of every cell, module, and rack installed at the Facility, with current safety data sheets and the full composition of the electrolyte, binder, separator, and every fluorinated constituent; states whether the cells or their components are a source in the environment of PFPrA, trifluoroacetic acid (TFA), or any other PFAS, on decomposition or incomplete combustion; states the total mass of fluorinated material on site; states whether item 6 of the May 2, 2017 safety design features was accurate and complete when made, and if not, in what respect; discloses every analysis or communication in your possession or that of your affiliates, including from the cell manufacturers, bearing on PFAS content, thermal decomposition products, or fire-water contamination, whether generated before or after 2023; states whether your company or any affiliate has itself sampled soil, groundwater, or any other medium at or near this Facility since May 31, 2023, and if so provides all results and the dates they were obtained; and identifies every material change since 2017 to the Facility's battery chemistry, suppression system, or safety design measures, and whether the Town was notified as Condition 3.5 requires.

5. Provide a study of the Facility's necessity for the East End electric grid. Within sixty days, commission and provide an independent study, by a qualified power systems consultant acceptable to the Town and not affiliated with your company or its parent, assessing whether this Facility is necessary to the reliability of the East End grid. It should address the reliability need the Facility was intended to serve and whether it persists; current and forecast peak load and transmission and distribution capacity on the South Fork, including resources placed in service since August 2018; whether the benefit the Planning Board credited in 2017, that the project would eliminate or greatly reduce reliance on the unmitigated portable generators then used at the substation during peak demand, was in fact realized, and the current status and run hours of those generators; the consequences of the Facility ceasing operation, being derated, or being relocated outside the contributing area of the aquifer; alternatives, including non-lithium chemistry, water-free suppression, and resiting; and the underlying LIPA, PSEG Long Island, and NYISO data, furnished in full rather than summarized. This study must also analyze the impacts to the grid that occurred during the approximate 13-month period that the Facility was offline after the fire, which period presents real-world data for the study.

6. Provide access and cooperation and reimburse the Town's costs. Provide the Town, its Chief Fire Marshal, and its consultants access to the Facility, the leased area, and any monitoring or sampling locations on reasonable notice. We understand that you have already granted DEC and the County access for the monitoring wells and soil sampling planned on and near the Facility. And reimburse the Town the reasonable costs of technical and legal review of the submissions required above.

The Town does not allege that any individual knowingly made a false statement to it, and it does not need to. What the file shows is that this Facility was approved on the representation that it had no spillable liquid other than transformer/inverter oil.

Nothing in this letter waives or elects among any of the Town's rights or remedies, all of which are expressly reserved. Those include enforcement of Conditions 3.4, 3.5, 3.7, and 3.10 and the consequences prescribed by Section I of the September 13, 2017 determination, which provides that if any condition is not met, all approvals granted are void and of no effect; modification, suspension, or revocation of the site plan approval and special permit; supplemental review under SEQRA and Chapter 128 of the Town Code; enforcement under Chapters 128, 180 and 255; and all rights and claims available under the Environmental Conservation Law, the Navigation Law, federal law, and common law. The Town is not a party to the Water Authority's litigation and takes no position here on the allocation of liability at issue in it.

Please direct your response to me, with a copy to the Town Attorney. If the Town does not receive one in accordance with each deadline stated above, it will proceed as it deems appropriate.

Sincerely,



cc: The Honorable Kathy Hochul
Suffolk County Executive Edward Romaine
East Hampton Village Mayor Jerry Larsen
NYSDEC Commissioner Amanda Lefton
NYSDOH Commissioner James V. McDonald
SCWA CEO Jeff Szabo
East Hampton Town Board
Town Administrator Rebecca Hansen
Town Attorney Jacob Turner
Chief Fire Marshall David Browne