

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

Petition of Moraga Storage, LLC pursuant to G.L. c.)
40A, § 3, for Individual and Comprehensive)
Exemptions from the Zoning Bylaw of the Town of)
Oakham, Massachusetts)

EFSB 25-07

Final Decision

On the Decision:

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Daniel Keleher
Presiding Officer
June 26, 2026

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ABBREVIATIONS

AC	alternating current
ACEC	Area of critical environmental concern
ANR	approval not required
ANRAD	Abbreviated Notice of Resource Area Delineation
ASTM	American Society for Testing and Materials
<u>Berkshire Power</u>	<u>Berkshire Power Development, Inc.</u> , D.P.U. 96-104 (1997)
BESS	battery energy storage system
<u>Beverly-Salem</u>	<u>New England Power Company d/b/a National Grid</u> , EFSB 19-04/D.P.U. 19-77/19-78 (2021)
BMP	best management practice
BMS	battery management system
BVW	bordering vegetated wetland
CCOP	construction community outreach plan
Certificate	Certificate of Environmental Impact and Public Interest
Charging Forward	Charging Forward: Energy Storage in a Net Zero Commonwealth Report, DOER and Massachusetts Clean Energy Center (2023)
Company	Moraga Storage, LLC or Moraga
CMR	Code of Massachusetts Regulations
CPEC	Clean Peak Energy Credit
CPS	Clean Peak Standard
<u>Cranberry Point</u>	<u>Cranberry Point Energy Storage, LLC</u> , D.P.U. 22-59 (2023)
dBA	decibels, A-weighted
DC	direct current
DCR	Massachusetts Department of Conservation and Recreation
DOER	Massachusetts Department of Energy Resources
EMF	electromagnetic field
ERP	emergency response plan
<u>Exelon West Medway</u>	<u>Exelon West Medway II, LLC</u> , EFSB 15-01/D.P.U. 15-25 (2016)

FEMA	Federal Emergency Management Agency
Fisher Report	fire protection engineering analysis of the BESS prepared by Fisher Engineering, Inc.
G.L.	Massachusetts General Laws
HF	hydrogen fluoride
HMA	hazard mitigation assessment
hp	horsepower
IDLH	Immediately dangerous to life or health
ISO-NE	Independent System Operator New England
<u>K Street Substation</u>	<u>NSTAR Electric Company d/b/a Eversource Energy</u> , D.P.U. 17-147 (2019)
kPA	kilopascals
kV	kilovolt
LFP	lithium iron phosphate
LSP	licensed site professional
LSSI	Large Scale Solar Installation, as defined by the Zoning Bylaw of the Town of Oakham
<u>Martorano</u>	<u>Martorano v. Department of Public Utilities</u> , 401 Mass. 257 (1987)
MassDEP	Massachusetts Department of Environmental Protection
MassDEP Noise Policy	Massachusetts Department of Environmental Quality Engineering (now MassDEP) Division of Air Quality Control Policy (DAQC Policy 90-001), dated February 1, 1990.
MCP	Massachusetts Contingency Plan, G.L. c. 21E
<u>Medway Grid</u>	<u>Medway Grid, LLC</u> , D.P.U. 22-18/22-19 (2023)
MEPA	Massachusetts Environmental Policy Act
mG	Milligauss
<u>Mid Cape Reliability Project</u>	<u>NSTAR Electric Company d/b/a Eversource Energy</u> , EFSB 19-06/D.P.U. 19-142/19-143 (2022)
Moraga	Moraga Storage, LLC, (or the Company) the petitioner in this proceeding
MP2XL	Tesla Megapack 2XL
MW	Megawatt
MWh	Megawatt-hour

National Grid	Massachusetts Electric Company d/b/a/ National Grid
<u>NY Central Railroad</u>	<u>New York Central Railroad v. Department of Public Utilities</u> , 347 Mass. 586 (1964)
NFPA	National Fire Protection Association
<u>NGR Canal</u>	<u>NGR Canal 3 Development LLC</u> , EFSB 15-06/D.P.U. 15-180 (2017)
NHESP	Natural Heritage and Endangered Species Program
NOC	Network Operation Center
Notice	Notice of Adjudication and Public Comment Hearing, issued September 24, 2025
Oakham	Town of Oakham
O&M	Operations and Maintenance
ORAD	Order of Resource Area Delineation
OSHA	Occupational Safety and Health Administration
<u>Park City Wind</u>	<u>Park City Wind, LLC</u> , EFSB 20-01/D.P.U. 20-56/20-57 (2023)
Petition	Moraga’s zoning petition filed pursuant to G.L. c. 40A, § 3, dated March 31, 2025
PILOT	payment in lieu of taxes
Project	180 MW/720 MWh BESS and related electric infrastructure, proposed to be located in Oakham, Massachusetts
ppm	parts per million
REC	recognized environmental condition
ROW	Right-of-way
RPIs	Represented Party Intervenors, i.e., the individual intervenors represented by counsel in this proceeding
<u>Save the Bay</u>	<u>Save the Bay, Inc. v. Department of Public Utilities</u> , 366 Mass. 667 (1975)
SF ₆	sulfur hexafluoride
Siting Board	Massachusetts Energy Facilities Siting Board
<u>SouthCoast Wind</u>	<u>SouthCoast Wind Energy LLC</u> , EFSB 22-04/D.P.U. 22-67/22-68 (2024)
SME	subject matter expert

SPCC	Spill Prevention, Control, and Countermeasure plan, as mandated by the USEPA
State of Charge	State of Charge: A Comprehensive Study of Energy Storage in Massachusetts, Report issued by DOER and Massachusetts Clean Energy Center (2016)
<u>Sudbury-Hudson</u>	<u>NSTAR Electric Company d/b/a Eversource Energy</u> , EFSB 17-02/D.P.U. 17-82/17-83 194 (2019)
SWCA Phase I ESA	Phase I Environmental Site Assessment and Limited Subsurface Investigation conducted by SWCA Environmental Consultants of the Project Site, dated May of 2022
SWPA	surface water protection area
SWPPP	stormwater pollution prevention plan
TMS	thermal management system
Town	Town of Oakham, Massachusetts
<u>Trimount ESS</u>	<u>Trimount ESS LLC</u> , EFSB 25-05/D.P.U. 24-152 (2026)
TÜV Report	UL 9540A test report prepared by TÜV Rheinland
TSC	Tesla Site Controller
UL	Underwriters Laboratories
USEPA	United States Environmental Protection Agency
UV/IR	ultraviolet/infrared
Zoning Bylaw	Zoning Bylaw of the Town of Oakham, Massachusetts, found at Chapter XIV/14 of the Oakham General Bylaws

SUMMARY OF THE FINAL DECISION

Moraga Storage, LLC (“Moraga” or the “Company”) proposes to construct a 180-megawatt/720 megawatt-hour battery energy storage system (“BESS”), a substation, and related electrical infrastructure in Oakham, Massachusetts (collectively the “Project”). The Project would be located on a 42.9-acre parcel at 358 Coldbrook Road, Oakham, with the footprint of the Project occupying approximately 10.8 acres in the eastern part of the parcel adjacent to a National Grid right-of-way containing a 115-kilovolt electric transmission line, to which the Project would interconnect. Pursuant to G.L. c. 40A, § 3, the Company requests: (1) individual exemptions from the Town of Oakham Zoning Bylaw; and (2) a comprehensive exemption from all the provisions of the Zoning Bylaw.

The Town of Oakham and its residents oppose the Project, which would be located in a rural area on the site of a former auto salvage yard partially within the Ware River sub-watershed. Their concerns include the possibility of the Project catching fire, contaminating groundwater and nearby drinking water, generating substantial noise, interfering with wildlife, deteriorating roadways, disregarding a municipality’s duly enacted law, and other potential impacts. This Final Decision addresses each of these impacts.

The Company intends to register the Project in the ISO New England wholesale energy, ancillary services, and capacity markets and proposes to charge the BESS at times when renewable energy production is typically high and demand is low and to discharge the BESS during times of peak demand, in accordance with the Clean Peak Standard. The Company asserts the Project would contribute to the Commonwealth’s policy goals related to the deployment and procurement of energy storage and the achievement of net zero emissions.

The Energy Facilities Siting Board reviewed the Company’s Petition to determine whether: (1) the Company qualifies as a public service corporation; (2) its proposed use of the land or structures is reasonably necessary for the public convenience or welfare; and (3) an exemption from local zoning is required. The Final Decision finds that Moraga is a public service corporation. The Final Decision finds that the Project as proposed is necessary and will provide public benefits, and that the Company considered alternative sites. An evaluation of the environmental and public safety impacts showed that the Company met the applicable standard of public convenience or welfare. The Company committed to a targeted clean-up of the automobile debris littering the Project Site and to work with regulatory bodies to address any related preexisting violations of wetlands regulations. The Company stated the Project would comply with all relevant state, federal, and international safety standards and regulations. The Company committed to working with the Oakham Fire Department to finalize the Project’s safety documentation and to provide the department with annual safety training.

Based on the record, the Final Decision finds that: (1) several provisions of the existing Zoning Bylaw would prevent construction of the Project and require exemption; and (2) a comprehensive zoning exemption is required for the Project and necessary to avoid substantial public harm. The Final Decision imposes several conditions to help ensure environmental and other benefits and to avoid, minimize, and mitigate the safety and environmental impacts of the Project.

Pursuant to G.L. c. 40A, § 3, the Energy Facilities Siting Board (“Siting Board”) hereby approves, subject to the conditions set forth below, the Petition (“Petition”) of Moraga Storage, LLC seeking individual and comprehensive exemptions from the operation of the Town of Oakham (“Town” or “Oakham”) Zoning Bylaw for the construction and operation of a 180-megawatt /720 megawatt-hour battery energy storage system (“BESS”) and associated electrical infrastructure in the Town of Oakham, Massachusetts.

I. INTRODUCTION

A. Description of the Proposed Project

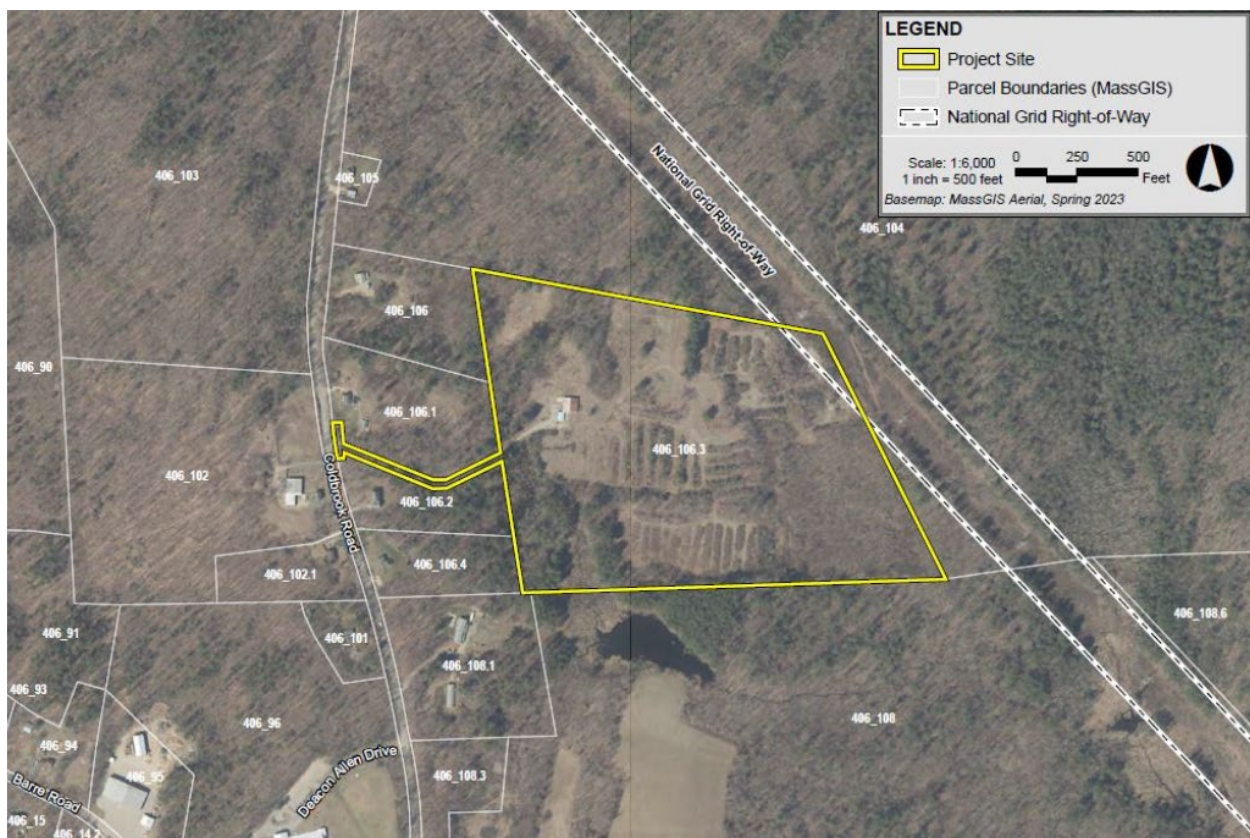
On March 31, 2025, Moraga Storage, LLC¹ (“Moraga” or “Company”) filed a petition pursuant to G.L. c. 40A, § 3 with the Siting Board for individual and comprehensive zoning exemptions from the operation of the Town of Oakham Zoning Bylaw for the construction and operation of a 180-megawatt /720 megawatt-hour battery energy storage system (“BESS”) and associated electrical infrastructure in the Town of Oakham, Massachusetts. The Company’s proposal includes construction and operation of a BESS, a new substation, a new switching station, and an interconnection line tap (collectively, the “Project”) located adjacent to an existing transmission right-of-way (“ROW”) at 358 Coldbrook Road in the Town of Oakham (the “Project Site”) (Exh. MS-1, at 1, 9-11). Moraga intends to own and operate the Project, with the exception of the switching station, which would be owned by the interconnecting utility, Massachusetts Electric Company d/b/a National Grid (“National Grid”) (Exhs. MS-1, at 11; EFSB-D-2; MS-A(S1), at 1).

The Project Site would be located on an approximately 42.9-acre parcel of partly forested land that was formerly used as an auto salvage and recycling facility, as shown in Figure 1 and Figure 2 (Exh. MS-1, at 1-2). The Company’s proposed construction envelope for the Project, also described as the limit of work, would encompass approximately 18 acres of land, and of that area, the final Project footprint consisting of access roads, electrical equipment, stormwater

¹ Moraga Storage, LLC is a wholly owned subsidiary of SRI Rhyndland Holdco I LLC, a partnership between Rhyndland Energy Holdings LLC and Segue Renewables 1, LLC (Exh. OAK-5(1)).

features, and inclusive of the associated limits of grading, would be approximately 10.8 acres (Exh. MS-1, at 6).² The Company proposes to interconnect the Project to a segment of National Grid's 115 kilovolt ("kV") A127-4 transmission line, which runs between the Barre and Paxton Substations on an existing ROW partially overlapping the northeast corner of the Project Site (Exhs. MS-1, at 11; EFSB-N-1).

Figure 1. Project Location

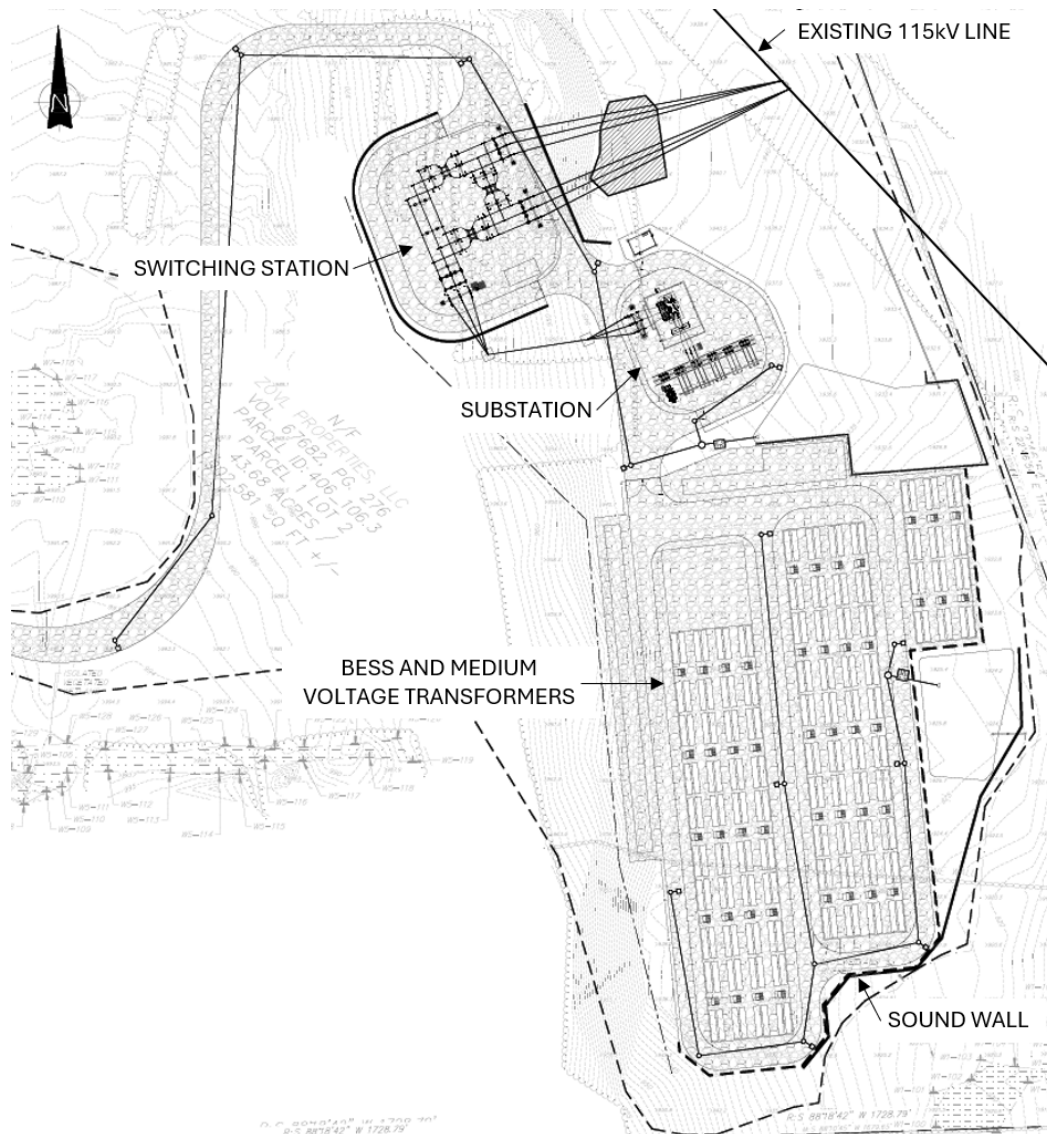


Source: Exh. MS-1, at 4.

²

The Company submitted an updated site plan, Exh. MS-A(S1), in December 2025, which relocated the switching station outside of a newly certified vernal pool (Exh. EFSB-W-3). The Siting Board reviewed the Project as redesigned.

The Project would consist of a 180-megawatt (“MW”), 720-megawatt-hour (“MWh”) BESS comprising 184 Tesla Megapack 2 XL (“MP2XL”) BESS units, each measuring approximately 28.8 feet long, 5.5 feet wide, and 9.1 feet tall and weighing approximately 84,000 pounds, or 42 tons (Exhs. MS-1, at 1, 9, 14; EFSB-D-10). The BESS units would be installed on concrete pads surrounded by a concrete curb and crushed stone or gravel, with all units spaced according to the manufacturer’s installation requirements (Exh. MS-1, at 9). The Tesla MP2XL unit uses lithium-iron phosphate (“LFP”) chemistry and, in addition to the battery modules, contains inverters that convert direct current (“DC”) to alternating current (“AC”), thermal regulation equipment, an AC circuit breaker, an explosion mitigation system, control modules, and a customer interface terminal (Exh. MS-F, at 6-8, 12). In addition to the BESS units, the Project would include 46 medium voltage transformers, medium voltage cables, and related electric infrastructure in addition to a stormwater management system, sound wall, security fencing, and an access road (Exhs. OAK-38(1), at 19; MS-1, at 9).

Figure 2. Project Site Plan

Source: Exh. MS-A(S1), at 2. (Labels added by Siting Board staff.)

The Project Substation would consist of one 115/34.5 kV power transformer, switchgear, circuit breakers, disconnect switches, and low- and high-voltage buses (Exh. MS-1, at 10). In addition to the electrical equipment, the Project Substation would include a graveled yard area and surrounding security fencing (Exh. MS-1, at 10). The Project Substation would be connected to the switching station, which would interconnect to National Grid's A127-4 overhead transmission line via an approximately 250 foot long 115 kV line tap connected with a

loop-in-loop-out three-breaker ring bus (Exhs. MS-1, at 11; MS-A(S1), at 1-2). The interconnection equipment would consist of a 115 kV monopole structure, overhead conductors, a control building, utility metering, and associated infrastructure to be defined in the Project's interconnection agreement (Exh. EFSB-D-9). Figure 3 depicts a computer rendering of the Project design. The Project is currently being studied in the ISO New England ("ISO-NE") interconnection queue, and the Company expects to execute its interconnection agreement with National Grid in October 2026, which is needed before the Project can be constructed (Exh. EFSB-G-7; Tr. 1, at 32).

Figure 3. Simulated View of the Project.



Source: Exh. MS-E, at 39.

Note: This rendering shows the Project prior to site plan changes that moved electrical equipment outside of the wetlands buffer zones and a recently certified vernal pool area. The current site plan is shown in Figure 2.

B. Procedural History

On June 27, 2022, the Oakham Annual Town Meeting adopted zoning bylaw amendments that limited BESS facilities in Oakham (Exhs. MS-OAK-G-3; MS-H at 18). By

letter, dated January 4, 2023, the Attorney General approved the Town's BESS amendments (Exh. OAK-A), and as a result of that approval, those zoning amendments became effective retroactive to June 27, 2022 (Exhs. OAK-A at 6; MS-H at 18).³ The newly effective BESS amendments included Section 4.4.4, which prohibits BESS "not located on the site of, and specifically appurtenant to, a permitted Large Scale Solar Installation" (Exhs. OAK-A at 1; MS-H at 18). On November 12, 2022, *i.e.*, after the Town's adoption of the BESS bylaw and before the Attorney General's approval of that bylaw, Moraga gained control of the Project Site when it entered into a Real Estate Purchase and Sale Contract with the owner of the property, ZOVL Properties LLC (Exhs. OAK-20(1) at 1; OAK-19(S1)). The record does not reflect whether any other town in Massachusetts has an Attorney General-approved bylaw similar to the Oakham BESS bylaw (Exh. INT-1-7, at 1).

The Company filed its Petition on March 31, 2025, docketed as EFSB 25-07 ("Petition"). On September 24, 2025, the Presiding Officer issued a Notice of Adjudication and Public Comment Hearing ("Notice"), and a "publication letter" instructing the Company on the required distribution of the Notice, and required repositories for the Petition with attachments. The letter also specified requirements for mailing the Notice to addresses in the area of the Project, local officials, and planning boards of abutting communities. The letter included instructions to publish the Notice in the Worcester Telegram & Gazette and in the Barre Gazette. By Affidavit dated October 14, 2026, the Company confirmed full compliance with the publication letter and attached copies of both newspaper publications.⁴

³ The Attorney General's approval of the Oakham bylaw included certain qualifications to that approval. We discuss the effect of the Attorney General's approval letter in Section II.B, below.

⁴ The Piuccis assert that the Company, by filing an affidavit of compliance without attaching the Notice it referenced, failed to comply with the mandatory notice requirements of G.L. c. 40A, § 11 (Piucci Brief at 4-5). But the referenced Notice had already been filed in this proceeding and was also attached to the affidavit as part of the newspaper clippings. It was, therefore, readily identifiable. The Notice was adequate under G.L. c. 40A, § 11, and the Affidavit confirmed compliance with the publication letter, which itself complied with the notice requirements of G.L. c. 40A, § 11.

The Siting Board conducted the noticed hybrid public comment hearing at the Oakham Center School and on Zoom on October 16, 2025, and during that hearing, received oral comments on the Project from approximately 40 people. Beginning months before the public comment hearing and continuing months after it, the Board received more than 700 public comments, the majority of them from residents of the Town of Oakham, most of which opposed the Project. Concerns were wide-ranging and included the possibility of a fire in the BESS, related contamination of ground water and nearby drinking water reservoirs, disturbance of wildlife, damage to roadways, loss of tranquility, and intrusion of the Siting Board on local zoning jurisdiction. The Town of Oakham and ten residents of Oakham individually sought to participate in the proceeding as intervenors. Another seven residents sought to participate individually as limited participants. The Presiding Officer admitted ten petitioners, including the Town, as intervenors,⁵ and granted limited participant status to seven residents.⁶ Seven of the intervenors were represented by common counsel (“Represented Party Intervenors” or “RPIs”).⁷

The Town of Oakham and its residents have objected to the Project since before the Company filed its petition and strenuously since then. In doing so, they have raised concerns about the possibility of the Project’s catching fire, contaminating ground water and nearby drinking water, generating substantial noise, interfering with wildlife, deteriorating roadways, disregarding a municipality’s duly enacted law, and other potential impacts. The concerns

⁵ The Presiding Officer admitted Michelle and James Bertrand, Sharon and Scott Corey, Clayton Rice, Thomas and Linda Saupe, James and Danielle Stevens, and the Town of Oakham as intervenors. The Presiding Officer denied Erik Baldwin’s request to intervene and instead recognized him as a limited participant (Ruling on Petitions to Intervene and on Petitions for Limited Participant Status, dated December 3, 2025).

⁶ The Presiding Officer recognized Erik Baldwin, Kathleen Dunn, Aaron Langlois, Sarah Peterson, Barbara Piucci, Vincent Piucci, and Susanne Shays as limited participants, and denied Lucille DiLeo’s request to be a limited participant (Ruling on Petitions to Intervene and on Petitions for Limited Participant Status, dated December 3, 2025).

⁷ The seven RPIs consist of Michelle and James Bertrand, Sharon and Scott Corey, Clayton Rice, and James and Danielle Stevens, i.e., all the individual intervenors other than the Saupes (Appearance of Counsel, dated December 11, 2025). The RPIs are all represented by common counsel: Attorneys Kenneth A. Reich and Steven Ferrey (id.).

include that the Town has already ceded land by eminent domain in 1927 for the Quabbin reservoir and that any further imposition would be excessive. The Siting Board recognizes the local concerns expressed in this proceeding. The Siting Board has exercised its duty to gather evidence regarding the need for and impacts of the Project and to determine the appropriateness of the Project based on the record evidence and applicable law. The intervenors, consisting both of the Town of Oakham and individual residents, raised many concerns during the course of this proceeding, and this Decision addresses each of those concerns.

The Presiding Officer issued a Draft Procedural Schedule on December 3, 2025, and received comment from the parties in writing and during a Procedural Conference. The Presiding Officer issued the Procedural Schedule on December 23, 2025. It contemplated conducting the evidentiary hearings the week of March 2, 2026. By email ruling, dated January 16, 2026, the Presiding Officer denied a request from the RPIs to postpone the start date of the hearings by two weeks.

The Siting Board staff, the Town, and the RPIs all issued multiple sets of discovery requests to the Company, and the Company responded to those requests. The Siting Board staff and the Company likewise issued discovery requests to the Town (with the Board staff issuing two rounds to the Town), and the Town responded to those requests. The Siting Board conducted seven days of evidentiary hearings, beginning on March 2, 2026, and ending on March 20, 2026. The Company presented six witnesses in support of its Petition: Brian Benito (Project developer, Rhyndland Energy), Joseph Stanek (finance director, Rhyndland Energy), Derek Anderson (civil engineer regarding stormwater and traffic, Arup), Marc Bergeron (wetland scientist, Epsilon Associates, Inc.), Ryan Callahan (noise consultant, Epsilon Associates, Inc.), and Shawn Morris (safety and emergency response consultant, Energy Safety Response Group). The Town presented eight witnesses as follows: Timothy Howe (fire chief, Town of Oakham), Fred Gehring (police chief, Town of Oakham), Phillip Warbasse (chair, Oakham Planning Board), Shawn Seeley (member, Oakham Conservation Commission), Steve Gatulis (chair, Oakham Conversation Commission), Matthew Broderick (chair, Oakham BESS Subcommittee), Kevin Quinn (civil engineer regarding stormwater, Quinn Engineering, Inc.), and Arthur Allen (wetlands scientist, EcoTec, Inc.). The RPIs presented one witness: James

Stevens (an abutter to the Project Site). The remaining intervenors, Thomas and Lynda Saupe, did not participate in the evidentiary hearings.

The Company, the Town, the RPIs, and one set of limited participants, Barbara and Vincent Piucci (“the Piuccis”), filed initial briefs on April 13, 2026. With the exception of the Town, they all filed reply briefs on April 24, 2026. In their briefs, the RPIs contend the Company withheld evidence, concealed facts, and unreasonably delayed producing evidence: “[A]t every opportunity to provide facts to support its project, the Company concealed facts rather than provided them, or didn’t disclose them until the hearing was well underway, and its representatives avoided or evaded legitimate questions with testimony under oath that was non-responsive” (RPI Brief at 3).⁸ The RPIs contend the Company’s alleged “non-compliance with the EFSB requirements to supplement its submissions before the hearing closed left fundamental gaps in the record” (RPI Brief at 3).⁹ Similarly, they say Moraga’s failure to seek Town permits and approvals has deprived this proceeding of material information and that the Company’s decision to delay providing evidence that would have arisen from such Town proceedings should lead to the Siting Board’s dismissal of the Company’s Petition for lack of substantial evidence on the whole record (RPI Brief at 4). The RPIs further contend “[t]hese gaps and the Company’s entire approach to these proceedings interfered with the goal of a fair and objective process” (RPI Brief at 3). The RPIs’ statements above essentially assert a lack of evidence. This Decision addresses the sufficiency (or insufficiency) of evidence in the context of the various elements of the Company’s case to which such evidence would apply. The Siting Board notes

⁸ The RPIs contend the withheld evidence includes the purchase and sale agreements referenced in the Memorandum of Option to Purchase Agreement between Moraga Storage, LLC and ZOVL Properties, LLC. These allegedly withheld documents were the subject of the Presiding Officer’s March 31, 2026, Ruling on the Town of Oakham’s Motion to Compel. Because the Presiding Officer denied the Town’s request to compel the production of these documents, the Company was under no obligation to produce them.

⁹ The RPIs claim that from the outset, the Company, through neglect, created a “deficient record” (RPI Brief at 5).

that the Company bears the burden of proof in this matter. The RPIs' assertions regarding evidentiary insufficiency, therefore, do not need to be addressed otherwise.

Siting Board staff prepared a Tentative Decision and distributed it on June 15, 2026 to the Service List for review and comment, and also distributed the Tentative Decision to the Siting Board. Siting Board staff allowed the parties and limited participants until June 23, 2026, to file written comments. The Company, the Town, individual Intervenors (Michelle and James Bertrand, Sharon Corey, Danielle Stevens, and James Stevens), Limited Participants (Kathleen Dunn, Aaron Langlois, Sarah Petersen, Susanne Shays), public officials (Matthew Broderick, Shawn Seeley, Phillip Warbasse), and fourteen other members of the public all timely filed written comments. After issuing proper notice, the Siting Board conducted a hybrid Board meeting (both in-person and on Zoom) on June 25, 2026, during which it received oral comments, deliberated, and voted on the Tentative Decision, as amended. After receiving presentations and public comments on the Tentative Decision, the Siting Board voted to approve the Petition, subject to conditions. The Siting Board directed staff to prepare a Final Decision, as set forth below.

C. Community Outreach

Moraga stated that it first approached the Town of Oakham to discuss this Project on December 1, 2022, through an introductory email to the chair of the Town of Oakham Planning Board (Exh. MS-1, at 44). The Company stated that it presented the Project to the Planning Board chair on January 13, 2023, and exchanged emails with him afterwards (Exh. MS-1, at 44-45). The Company stated it had no other substantive discussions with Town officials until February 25, 2025, when the Company met with numerous local officials, including members of the Planning Board, Police Department, Fire Department, Conservation Commission, and Board of Selectmen, as well as the Wiring Inspector (Exh. MS-1, at 44-46). According to the Company, at that meeting, the Town reiterated that the Town's Zoning Bylaw precluded the construction and operation of the proposed Project but agreed to continue discussions (Exh. MS-1, at 44).

The Company stated that on March 27, 2025, it held an Open House in Barre, Massachusetts, inviting business owners and residents within one-half mile of the Project Site to meet with the Company's representatives and learn more about the Project, with 150 attendees over three hours (Exh. MS-1, at 45).¹⁰ Moraga launched a Project website in March 2025 that provides information on the Project's engineering and design, development timeline, contracting and procurement, information on the Company and Project's development team, and contacts to reach the Company directly with concerns or inquiries (Exh. MS-1, at 45). The Company also provided a dedicated Project email address and phone numbers to stakeholders for direct communication with the Project's development team (Exh. MS-1, at 47). Table 1 summarizes the Company's community outreach activities.

Table 1. Community Outreach Communications Prior to Petition Filing.

Date	Group(s)/Local Officials	Topic
12/01/2022	Chair of the Town of Oakham Planning Board	Formal Introductory email regarding the Project and Moraga Energy Storage, LLC
01/13/2023	Chair of the Town of Oakham Planning Board	Presentation to Chair Warbasse on the Project
1/18/2023 – 2/7/2023	Chair of the Town of Oakham Planning Board	Follow up email correspondence with Chair Warbasse regarding the Project and certain zoning bylaws.
9/17/2024	Chair of Town of Oakham Planning Board	Follow up email to update Chair Warbasse on the Company's intent to develop the Project in Oakham (additional follow-up on 9/30/24)
10/29/2024	Town of Oakham Fire Department	Introduction to the Project and Moraga Energy Storage, LLC
2/25/2025	Town of Oakham Fire Department (Chief Howe);	Company presentations providing a review of the Project, the Project's site plan, and an overview of the Project's

¹⁰ The Company explained that it held the Open House in Barre rather than Oakham due to the lack of meeting venues in Oakham that could accommodate the anticipated number of attendees (Company Reply Brief at 5).

Date	Group(s)/Local Officials	Topic
	Members of the Town of Oakham Planning Board (Chair Warbasse, and Board Member Thomas Hughes); Members of the Town of Oakham Selectboard (Lucy Tessnau, Michael Brunelle, and Don Haapakoski); Town of Oakham Conservation Commission Member (Lucy Tessnau); Town of Oakham Wiring Inspector (Dennis Bergin); and Town of Oakham Police Chief Gehring.	draft emergency response plan and hazard mitigation analysis.
2/28/2025	Town of Oakham Fire Department.	Copies of 2/25/25 fire safety presentation and applicable NFPA code provisions sent from Energy Safety Response Group to Town of Oakham Fire Department
3/19/2025	Invitation to Open House	Invitations to an open house event to learn about the Project were mailed to neighbors within a half mile of the Project. The invitations stated the name of the Project, and the time and location of the open house.
3/19/2025	Website Published	https://www.moragaenergystorage.com/
3/27/2025	Public Open House	Company hosted an open house in Allen Hall at the Woods Memorial Library in Barre from 4-7 p.m. 150 people attended the meeting.

Source: Exhs. MS-1, at 45-46, Table 10-1.

According to the Company, with the exception of the outreach listed in Table 1 and the Siting Board's site visit and public comment hearing, the Town has declined to meet with the Company for this Project due to its bylaw prohibiting utility-scale BESS, despite the Company expressing willingness to work collaboratively with the Town (Exhs. EFSB-G-5; EFSB-G-6).

II. REQUEST FOR ZONING EXEMPTIONS PURSUANT TO G.L. C. 40A, § 3

A. Jurisdiction and Standard of Review

On November 20, 2024, Governor Maura Healey signed legislation to accelerate progress towards the state’s goals of net zero greenhouse gas emissions by 2050. “An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers,” St. 2024, c. 239 (“2024 Climate Act”). The 2024 Climate Act became effective February 18, 2025, changing local zoning exemption authority in two respects: (1) it codifies the definition of “public service corporation,” St. 2024, c. 239, § 36; and (2) moves the authority to grant zoning exemptions from the Department to the Siting Board. St. 2024, c. 239, § 37, 91.

General Laws c. 40A, § 3 states in relevant part:

Land or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or bylaw if, upon petition of the corporation, the [Siting Board] shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public ...

G.L. c. 40A, § 3. See also St. 1956, c. 665, § 6 (City of Boston); Trimount ESS LLC, EFSB 25-05/D.P.U. 24-152, at 11 (2026) (“Trimount ESS”).

Thus, a petitioner seeking exemption from a local zoning ordinance under G.L. c. 40A, § 3 must meet three criteria. First, the petitioner must qualify as a public service corporation. See Save the Bay, Inc. v. Department of Public Utilities, 366 Mass. 667 (1975) (“Save the Bay”); Trimount ESS at 11; Park City Wind, LLC, EFSB 20-01/D.P.U. 20-56/20-57, at 169 (2023) (“Park City Wind”); Vineyard Wind, LLC, D.P.U. 21-08, at 5 (2021) (“Vineyard Wind”). Second, the petitioner must demonstrate that its present or proposed use of the land or structure is reasonably necessary for the public convenience or welfare. Trimount ESS at 11-12; Park City Wind at 169; Vineyard Wind at 6. Finally, the petitioner must establish that it requires exemption from the zoning ordinance or bylaw. Trimount ESS at 12; Vineyard Wind at 6; NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 18-21, at 6-7 (2019).

The Siting Board favors the resolution of local issues on a local level whenever possible to reduce concern regarding any intrusion on home rule. The Siting Board has determined that the most effective approach is for a petitioner to consult with local officials regarding its project

before seeking zoning exemptions pursuant to G.L. c. 40A, § 3. Trimount ESS at 12; Cranberry Point Energy Storage, LLC, D.P.U. 22-59, at 21 (2023) (“Cranberry Point”); Medway Grid, LLC, D.P.U. 22-18/22-19, at 18 (2023) (“Medway Grid”). Thus, the Siting Board encourages petitioners to consult with local officials and, in some circumstances, to apply for local zoning permits, before seeking zoning exemptions from the Siting Board under G.L. c. 40A, § 3. Trimount ESS at 12; Cranberry Point at 21; Medway Grid at 18.

B. Procedural Objections

1. Effect of the AGO Letter and Approval

a. Positions of the Parties

The RPIs asserted that the Attorney General’s approval¹¹ of several amendments to Oakham’s zoning bylaws that together constitute a BESS bylaw confers upon Oakham, as allegedly the only Town in the Commonwealth to receive approval for such a bylaw, a unique legal status (RPI Brief at 1 (“uniquely approved”); 8 (“unique legally and substantively”); 17 (uniqueness of situation requires “a higher standard for the EFSB to preempt that authority”); 18 (“a unique, different legal status”); 31 (“legally unique”); 48 (“a totally unique and different status than every other town in the Commonwealth”)). The RPIs state that the BESS bylaw should prohibit the Project because it was in effect before the Company executed site control and that this fact adds to the bylaw’s unique legal status (RPI Reply Brief at 15).

b. Analysis and Findings

While municipalities are given wide discretion to enact zoning bylaws, see W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002), the alleged uniqueness of the Oakham BESS bylaw does not confer upon it a special legal status. The RPIs do not explain why the Town’s BESS bylaw would have special legal status, nor do they cite any law for the proposition that it does (RPI Brief at 31-32). The Attorney General’s letter approving the bylaw does not highlight Oakham as exceptional (Exh. OAK-A). On the contrary, it specifically

¹¹ See Exh. OAK-A.

recognizes that the zoning bylaw is subject to the continuing authority of the Siting Board (Exhs. OAK-A at 3 (“The Town cannot apply the by-law amendments in a way that would interfere with the protections in G.L. c. 40A, § 3”); OAK-A at 4 (“The Town cannot apply the by-law amendments to facilities that have received [an exemption pursuant to Section 3] from the [Siting Board].”); OAK-A at 5 (“The Town must not apply the by-law amendments adopted under Article 18 in a way that interferes with the jurisdiction of the [Siting Board] to review any proposed large energy facilities that are within the [Siting Board] jurisdiction”)). Thus, the Siting Board does not, as a result of the Oakham Zoning Bylaw’s alleged uniqueness, treat the bylaw any differently from any other zoning bylaw the Siting Board reviews. Explicit about its limitations, the AGO letter does not confer special legal status upon the Town’s BESS bylaw, nor does it interfere with the Siting Board’s authority under G.L. c. 40A, § 3 to grant zoning exemptions.

2. Due Process Violations

a. Positions of the Parties

The RPIs contend that the Siting Board, “[b]y approving a BESS project in this protected environment rather than in multiple more appropriate sites in New England, . . . would abandon its role as an objective administrative agency and violate the principles of fairness and due process that should be the hallmark of such proceedings” (RPI Brief at 2). The RPIs also assert that the Company’s failure to obtain necessary local permits and approvals before seeking approval from the Siting Board amounted to a “due process” violation (RPI Brief at 33).

b. Analysis and Findings

The RPIs do not cite law for their proposition that the Company’s failure to obtain necessary local permits and approvals before this proceeding amounted to a due process violation, and no such law is apparent. This zoning exemption case is not constrained by the timing of the Company’s filings with other agencies. Also, because the Company’s Petition is not a judicial action, the law imposes no requirement upon the Company to exhaust local administrative options before filing with the Board. In any case, the Town has made clear that such attempts would have been futile (see Exh. MS-OAK-G-3 (in which the Town states, “Grid

Scale BESS facilities are illegal in the Town”)). The Company must still seek necessary local permits; there was no violation of the parties’ due process rights by the Company’s request for zoning exemptions in this proceeding.

C. Public Service Corporation Status

1. Standard of Review

Previously, the Siting Board based its standard of review for public service corporation status on analysis articulated by the Supreme Judicial Court. Save the Bay, 366 Mass. at 680; NSTAR Electric Company d/b/a Eversource Energy, EFSB 17-02/D.P.U. 17-82/17-83, at 194 (2019) (“Sudbury-Hudson”); Berkshire Power Development, Inc., D.P.U. 96-104, at 26-36 (1997) (“Berkshire Power”). The 2024 Climate Act codified the definition of “public service corporation” to include:

a corporation or other entity duly qualified to conduct business in the commonwealth that owns or operates or proposes to own or operate assets or facilities to provide electricity, gas, telecommunications, cable, water or other similar services of public need or convenience to the public directly or indirectly, including, but not limited to, an entity that owns or operates or proposes to own or operate electricity generation, storage, transmission or distribution facilities, or natural gas facilities including pipelines, and manufacturing and storage facilities...

St. 2024, c. 239, § 36, amending G.L. c. 40A, §3.

2. Company Description

The Company asserts Moraga Storage, LLC is an entity duly qualified to do business in the Commonwealth (Exhs. MS-1, at 32; OAK-84(1)). In its Petition, the Company proposes to own and operate a 180 MW electricity storage facility (Exh. MS-1, at 5). For these reasons, the Company asserts it is a public service corporation within the meaning of G.L. c. 40A, §3 (Exh. MS-1, at 32).

3. Positions of the Parties

a. Town of Oakham

The Town argues the definition of “public service corporation” must be “interpreted consistently with the underlying text and intent of the Climate Act” to promote “clean” energy

projects (Town Brief at 5) and that electricity storage facilities must, therefore, “involve ‘clean’ energy to qualify for the zoning exemption” (Town Brief at 6). The Town further contends that the Company is not a “public service corporation” contemplated under the Climate Act because it does not claim, nor does it have any basis to claim, that any percentage of electricity stored at the facility is derived from renewable energy sources versus fossil-fuel derived sources (Town Brief at 6). The Town also asserts the Company’s pattern of conduct does not resemble that of a public service corporation in its interactions with the public and implies that it, therefore, does not qualify as a public service corporation (Town Brief at 7). In this regard, it asserts the Company conducted a public information session “just days away from its initial filing with the Board” and that it located the meeting in another town (Town Brief at 7). The Town also asserts the Company excluded Oakham Town officials from two meetings with the Massachusetts Department of Conservation and Recreation (“DCR”) and the Massachusetts Department of Environmental Protection (“MassDEP”) to discuss site issues (Town Brief at 7).

b. Represented Party Intervenors

The RPIs’ briefs do not address whether the Company qualifies as a public service corporation.

c. Limited Participants – the Piuccis

The Piuccis point to several case decisions, all from 1996 or earlier, that define a functional test for qualification as a “public service corporation” (Piucci Brief at 1). The Piuccis assert that, under the standards articulated in Save the Bay, Moraga does not qualify as a “public service corporation” (Piucci Brief at 2).

d. Company Response

The Company states that Moraga plainly meets the statutory definition of a public service corporation under the 2024 Climate Act (Company Reply Brief at 2). The Company asserts that according to the Siting Board’s decision in Trimount ESS, providing storage resources includes charging from the grid at periods of excess supply of electricity and delivering that energy back onto the electrical grid during times of peak demand or system necessity (Company Reply Brief

at 2, citing Trimount ESS). The Company adds that in decisions preceding the new statutory definition, the Department has already found that non-utility developers of BESS facilities qualify as public service corporations because of the important energy services and benefits BESS facilities provide to the public by advancing the Commonwealth's energy goals and climate objectives (Company Reply Brief at 3 n.5, citing Cranberry Point at 38; Medway Grid at 32).

The Company asserts that the purposes of the Project are more expansive than the Town acknowledges and such purposes include an intent to charge during periods of high renewable generation and low demand and that the Commonwealth considers energy storage critical to integrating renewable generation resources on the grid (Company Reply Brief at 3, citing Exhs. EFSB-G-10; EFSB-G-19(d)).

The Company explains it timed its public information session to be close in time to the Company's filing to ensure public awareness and participation in the proceeding (Company Reply Brief at 4-5). It explains further that the meeting was held in a nearby town because of the Town's inability to host the meeting anywhere besides the fire house (Company Reply Brief at 5).

The Company asserts the Town's responses to information requests and the testimony of its witnesses demonstrate that the Town has refused to meet with the Company, not vice versa (Company Reply Brief at 5). In particular, it points to the Town's response to Information Request MS-OAK-G-3, which states in pertinent part, "Naturally, any Town elected official, appointed official, and/or municipal employee that willfully collaborates with any party conspiring to blatantly violate the voter and state-approved bylaw, whether actively or passively, in their official capacity, would be engaging in a clear conflict of interest within the position they hold, and a breach of the public trust, at the very least" (Company Reply Brief at 5 n.14, citing Exh. MS-OAK-G-3). Additionally, it points to Chief Howe's testimony acknowledging that the Company tried to meet with him more than once to develop an emergency response plan and a hazard mitigation assessment but that he refused to do so (Company Reply Brief at 5, citing Tr. 4 at 648–650). With regard to the Piucci's argument, the Company asserts that the prior standard

of review the Piuccis rely on in their initial brief is no longer applicable because it has been replaced by the statutory definition in the 2024 Climate Act (Company Reply Brief at 28).

4. Analysis and Findings

The 2024 Climate Act added a statutory definition of “public service corporation” and this definition is now controlling. St. 2024, c. 239, § 36, adding the definition of public service corporation to G.L. c. 40A, § 1A. Because it is an entity duly qualified to do business in the Commonwealth and it proposes to own and operate a 180 MW electricity storage facility, the Company is, under the plain meaning of G.L. c. 40A, § 1A, a “public service corporation.” The Town’s contention that the Company is not a public service corporation because it did not act in the public interest in its dealings with the Town has no basis because the statutory definition does not impose such a criterion. Similarly, the Piuccis’ arguments are based on case precedent (from 1996 and earlier) that precede the 2024 Climate Act definition of “public service corporation” and, therefore, are superseded by the plain wording of the new statutory definition of a “public service corporation,” which unambiguously applies to the Company and the Project, and is fully consistent with recent Department and Siting Board precedent, both before and after adoption of the 2024 Climate Act. Therefore, the Siting Board finds that the Company is a public service corporation for purposes of G.L. c. 40A, § 3.

D. Public Convenience and Welfare

1. Standard of Review

In determining whether the present or proposed use is reasonably necessary for the public convenience or welfare, the Siting Board must balance the interests of the general public against the local interest. Save the Bay, 366 Mass. at 686; Town of Truro v. Department of Public Utilities, 365 Mass. 407, 410 (1974) (“Town of Truro”); Trimount ESS at 13-14. Specifically, the Siting Board is empowered and required to undertake “a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [make an] examination of the local and individual interests which might be affected.” Trimount ESS at 14; New York Central Railroad v. Department of Public Utilities, 347 Mass. 586, 592 (1964) (“NY Central Railroad”); NSTAR Electric Company d/b/a Eversource Energy, D.P.U. 17-147, at 7 (2019) (“K

Street Substation”). When reviewing a petition for a zoning exemption under G.L. c. 40A, § 3, the Siting Board is empowered and required to consider the public effects of the requested exemption in Massachusetts as a whole and upon the territory served by the applicant. Save the Bay, 366 Mass at 685; NY Central Railroad, 347 Mass at 592.

When making a determination as to whether a petitioner’s present or proposed use is reasonably necessary for the public convenience or welfare, the Siting Board examines (1) the need for, or public benefits of, the present or proposed use; (2) the present or proposed use and any alternatives or alternative sites identified; and (3) the environmental impacts or any other impacts of the present or proposed use. Trimount ESS at 14; Park City Wind at 175; NSTAR Electric Company d/b/a Eversource Energy, EFSB 19-06/D.P.U. 19-142/19-143, at 101 (2022) (“Mid Cape Reliability Project”). The Siting Board also considers safety aspects of the Project. See Trimount ESS, at 57-79. The Siting Board then balances the interests of the general public against the local interest and determines whether the present or proposed use of the land or structures is reasonably necessary for the convenience or welfare of the public. Trimount ESS at 14; Park City Wind at 175; Mid Cape Reliability Project at 101.

2. Need for or Public Benefit of Use

a. Company Description

Moraga argues the Project would play a critical role in transitioning the electric grid to accommodate an increasing amount of renewable energy resources, thereby helping the Commonwealth reach important health, environmental, and energy policy goals (Exh. MS-1, at 39-40). In particular, the Company claims the Project would contribute to the achievement of the statewide net zero emissions target for 2050 pursuant to the Global Warming Solutions Act, St. 2008, c. 298, and the energy storage procurement target of 5,000 MW for 2030 pursuant to the 2024 Climate Act (Exh. MS-1, at 40).¹² The Company noted that Governor Healey’s

¹² The 2024 Climate Act created the Section 83E procurement process under which the Commonwealth’s electric distribution companies in coordination with DOER must solicit proposals for and, provided reasonable proposals have been received, enter into “cost-effective long-term contracts” equal to an aggregate of approximately 5,000 MW of energy storage systems not later than July 31, 2030. St. 2024, c. 239, § 98.

Executive Order No. 654, issued on March 16, 2026, set a new statewide goal of having an additional 5,000 MW of energy storage online or under development by the end of 2035 (Company Brief at 11-12, citing Executive Order No. 654). Based on the information available on the Department of Energy Resources (“DOER”) website, Moraga estimated that 944 MWh of storage had been installed in the state and 1,268 MW of energy storage capacity had been selected for long-term contracts through the DOER’s Section 83E procurement process as of December 2025 (Exh. EFSB-N-2). The Company intends to submit a bid for the Project to secure a long-term contract in future Section 83E storage procurements once it has received the necessary approvals (Exhs. EFSB-N-2; EFSB-G-13). The Company asserts the Project would also be consistent with the Commonwealth’s Energy Storage Initiative, which the state launched in 2015 to: (1) attract, support, and promote storage companies in Massachusetts; (2) accelerate the development of commercial storage technologies; (3) expand markets for storage technologies and value storage benefits to clean energy integration, grid reliability, system wide efficiency, and peak demand reduction; and (4) recommend policies, regulations, and programs that help achieve those objectives (Exh. MS-1, at 40; Company Brief at 12).

Moraga asserts the Project would be consistent with the Massachusetts Clean Peak Standard (“CPS”), 225 CMR 21.00, which provides incentives to clean energy technologies that supply electricity or reduce demand during seasonal peak demand periods as defined by the DOER (Exh. MS-1, at 42). The Company stated the CPS is designed to compensate energy storage resources for grid services that reduce overall system costs (Exh. EFSB-N-7). The Company intends to register the Project in the Clean Peak Program after its operation, which would include demonstrating that the Project is eligible to generate Clean Peak Energy Certificates (“CPECs”), installing and maintaining appropriate metering and data systems, and submitting required operational and performance data to verify compliance with applicable CPS regulations (Exh. EFSB-N-3; Tr. 1, at 33). To generate CPECs, an energy storage resource must charge and discharge within specific time periods defined by the CPS: charging hours are defined as 12 a.m. to 6 a.m. across seasons and vary between 7 a.m. to 4 p.m. seasonally, and discharge hours vary between 4 p.m. to 9 p.m. seasonally (Exh. EFSB-G-10). The Company assumed the batteries would charge and discharge once per day (Exh. EFSB-N-9). By operating

during these windows - charging the BESS during periods when there is typically excess renewable energy production and discharging during periods of peak energy demand - the Company argues that the Project would help better utilize renewable energy resources and displace fossil fuel generating resources (Exhs. MS-1, at 43; EFSB-G-10; EFSB-G-19; OAK-39; Tr. 1, at 160-161). Additionally, Moraga pointed out that Massachusetts currently has an undersupply of CPECs being generated each year to meet the CPS minimum standards for retail electricity suppliers; these entities must pay an alternative compliance payment when this minimum is not reached, the cost of which passes onto ratepayers (Exh. MS-1, at 42-43).

The Company argues that the Project is needed because it would help enable greater integration of renewable energy resources, manage peak demand, and maintain system reliability, and in doing so will help remedy the undersupply of CPECs (Exhs. MS-1, at 43; EFSB-N-6; OAK-43). As a fully dispatchable resource, the Company stated the Project would be able to absorb excess energy during off-peak periods and respond quickly to fluctuations in intermittent renewable generation to ensure grid stability (Exhs. OAK-43; EFSB-G-19). Additionally, Moraga claims the Project would provide grid benefits such as increasing flexibility and enhancing resiliency of the transmission system (Exhs. EFSB-G-19; MS-1, at 43). The Company stated that the Project was designed to respond to system conditions identified through regional planning and market signals, and it intends to register the Project for participation in ISO-NE's wholesale energy, ancillary services, and capacity markets (Exhs. OAK-43; EFSB-N-4; Tr. 1, at 33).

Moraga stated it would own and operate the Project with all capital, operating, and decommissioning costs being borne by the Company, not by Massachusetts ratepayers (Exhs. OAK-47; OAK-39). The Company stated it has prior experience developing utility-scale BESS projects, including four projects in New York and Texas in either the construction or operation stage, though it does not currently own or operate any BESS facilities (Exhs. OAK-46(1); EFSB-G-3). The Company referenced the "State of Charge: A Comprehensive Study of Energy Storage in Massachusetts" ("State of Charge") and "Charging Forward: Energy Storage in a Net Zero Commonwealth" ("Charging Forward") reports produced by the DOER and Massachusetts Clean Energy Center to illustrate the economic benefits associated with BESS

(Exh. MS-1, at 40-41). According to the Company, the State of Charge report found that the grid services and emissions reductions associated with BESS projects result in cost benefits to ratepayers (Exhs. MS-1, at 41; EFSB-G-8).¹³ The Company claims that, by charging during periods of low-cost electricity and discharging when costs are higher, the Project would help reduce peak system demand, thereby providing downward pressure on regional and system-wide costs that are passed to ratepayers (Exh. OAK-47). The Company clarified that any reliability or market benefits resulting from the Project would be reflected in rates across the region, not on a local basis (Exh. OAK-47).

Moraga expects the Project would generate revenues to the Town of Oakham through local property taxes or a payment in lieu of taxes (“PILOT”) agreement, the latter of which may result in Town revenues up to \$1,000,000 per year (Exhs. EFSB-N-6; OAK-67). The Company stated that the Project would also generate revenues to the Commonwealth through state-level taxes applicable to project construction, operations, and maintenance (Exh. EFSB-N-6). The Company claims the Project would provide other socioeconomic benefits including temporary construction period employment, ongoing operations and maintenance (“O&M”) activity, and indirect economic activity through the use of regional contractors, suppliers, and service providers (Exh. EFSB-N-6). Moraga has committed to paying a fair living wage and working with union shops to the maximum extent practical (Tr. 4, at 790).

b. Positions of the Parties

i. Town of Oakham

The Town argues that the Project is unrelated to renewable energy and does not significantly reduce or eliminate the use of energy from non-renewable sources, positing instead that the Project’s sole purpose is to increase the use of non-renewable energy sources (Town Brief at 6, 9-10). The Town asserts that Moraga did not provide technical analysis to support the claim that the Project is needed, and instead only cited to the 2024 Climate Act as support of its claim (Town Brief at 10, citing EFSB-G-14). The Town asserts that the 2024 Climate Act

¹³ The Siting Board takes administrative notice of documents cited by the Company in its Petition as evidence of the existence of state policy. 980 CMR 1.06(7)(a).

focuses on promoting renewable energy projects and therefore the Project, having no relation to renewable energy according to the Town, is not entitled to the blanket exemption from local zoning requirements available under the 2024 Climate Act (Town Brief at 10).

Furthermore, the Town argues that the Project would be financially disadvantageous to the Commonwealth and electricity ratepayers (Town Brief at 8). The Town contends that state policymakers should only override local bylaws for the public convenience and welfare for project proponents who are not driven by private profit motive (Town Brief at 9). The Town claims that rather than having the financial benefits that the Company claimed, the Project would instead result in dramatically increased costs for infrastructure (Town Brief at 8-9). The Town alleges that Moraga would not pay for the Project's equipment and that the cost of capital, return on investment, and financing would instead be passed on to ratepayers (Town Brief at 9-10). The Town contends that Moraga was unwilling and unable to produce evidence of access to conventional bank financing for the Project and alleges that the Company's sole source of financing is undisclosed venture capital funding, which the Town claims would unduly expose ratepayers to higher cost (Town Brief at 9). The Town acknowledged that the Project might provide ratepayer cost savings, but only if the BESS facilities were to cost the ratepayers somewhere near zero (Town Brief at 9).

ii. Represented Party Intervenors

The RPIs argue that the Company did not produce substantial evidence on the record to demonstrate a public need for the Project, thereby failing to meet its burden of proof for a zoning exemption (RPI Reply Brief at 17-18).

iii. Limited Participants – the Piuccis

The Piuccis argue that the Company has not demonstrated the Project is reasonably necessary for the convenience or welfare of the public (Piucci Brief at 3). Specifically, the Piuccis claim Moraga has not supplied robust, site-specific, and technology-specific evidence on need, and that general references to statewide clean energy policy are insufficient to address this evidentiary deficiency (Piucci Brief at 2). The Piuccis point to the decision in Medway Grid, in

which, according to the Piuccis, the Department made detailed findings of public necessity and convenience, asserting that Moraga in comparison has not demonstrated an equivalent ISO-NE obligation to serve, an equivalent integration into the transmission system, or the kind of site-specific, quantified evidence of public necessity the Department required in Medway Grid (Piucci Brief at 4).

The Piuccis claim the Siting Board's determination of whether the Project serves the public convenience and welfare requires it to consider the need for a particular use, the adequacy of alternative sites, and the environmental and local impacts, and then weigh the statewide and local effects (Piucci Reply Brief at 3-4). The Piuccis argue that nothing in the record suggests the Commonwealth would be unable to reach its storage targets without siting this particular BESS in Oakham (Piucci Reply Brief at 5).

iv. Company Response

Moraga asserts that the Town's claims regarding the costs of the Project being passed on to ratepayers are baseless and contradicted by the evidence submitted in the record, including assertions from the Company that it will pay for the Project and documentation from Moraga's investor stating it has the financial ability and commitment to bear the full cost of the Project through construction, operation, and decommissioning (Company Reply Brief at 6, citing Exhs. OAK-11; EFSB-G-12; EFSB-G-20(d); OAK-9(1); OAK-47). The Company contends that the Town provided no evidence for any of the claims it made about the Project being disadvantageous to ratepayers and furthermore ignored the record evidence explaining the broad economic benefit of BESS facilities like the Project (Company Reply Brief at 6-7, citing Town Brief at 9). The Company finds the Town's argument that zoning exemptions should not be granted to applicants driven by profit to be misguided, contrary to settled law, and irrelevant to the Siting Board's decision in this proceeding, and would undermine the Commonwealth's energy goals and needs (Company Reply Brief at 7).

Additionally, the Company claims that the Town ignored the record evidence establishing the benefits of standalone BESS with respect to renewable energy resources and the electric grid, stating that the Town has no expertise in this regard (Company Reply Brief at 6-7, citing Exhs.

EFSB-G-10; EFSB-G-19). Moraga reasserts that the Project would participate in the CPS and in ISO-NE wholesale markets, and notes that the Siting Board previously found that such participation was demonstrative of need and public benefit (Company Reply Brief at 7-8, citing Trimount ESS at 21). Moraga reiterated its claim that the Project would have significant financial benefit for Oakham, stating a PILOT agreement could result in revenues to Oakham of up to \$1,000,000 per year (Company Reply Brief at 8, citing Exh. OAK-67).

c. Analysis and Findings

To promote a decarbonized electric grid, the Commonwealth has adopted legislation to increase deployment of energy storage resources, procure energy storage capacity, and achieve net zero emissions by 2050, e.g., the Global Warming Solutions Act and the 2024 Climate Act. The record establishes the Project would help further these legislative requirements by adding a fully dispatchable 180 MW, 720 MWh BESS to the grid that would support the integration of intermittent renewable resources. The Project plans to participate in state programs, such as the Clean Peak Program and the Section 83E procurement, which are designed to incentivize and support the deployment of energy storage, demonstrating that the Project serves a public need. Consistent with the CPS, Moraga would charge the BESS on a daily basis during periods when renewable energy production is typically high and discharge during periods of peak demand or electric system need. Additionally, the Project would participate in the ISO-NE energy, capacity, and ancillary services markets. The record demonstrates that the Project would provide additional benefits beyond facilitating renewable energy integration, including lowering peak demand and improving grid reliability and flexibility, which would place downward pressure on costs for all ratepayers. The intervenors and limited participants argue that making generalized statements about contributing to state energy storage legislative targets is insufficient to demonstrate need; however, it is undeniable that the Commonwealth has set specific, time-bound targets for the deployment and procurement of energy storage, that these targets have not yet been met, and that the Project is a BESS facility consistent with the objectives and requirements of these policies.

The record indicates that the Project is not co-located with a renewable energy source but will charge from the electric grid. The Siting Board notes that though the percentage of renewable energy within the grid mix cannot be guaranteed at any time, the CPS requires BESS facilities to operate in a manner that increases the likelihood of both capturing excess clean energy generation and displacing higher-emitting, and more costly fossil fuel peaker plants. The Siting Board has previously found that participation of an energy storage resource in the Clean Peak Program is relevant to the question of what mix of grid electricity the Project is likely to use to charge the BESS and what sources of grid electricity the BESS would likely displace when discharged. See Medway Grid at 40; Cranberry Point at 45. The Town did not provide any evidence for its claims that the Project would be unrelated to and would not support renewable energy, nor did it provide evidence for its claims regarding financing and ratepayer impacts, and the record disproves such statements. To help ensure the Project's asserted renewable energy benefits and air emission benefits are realized and ratepayers receive the benefits of the Project operating as proposed, the Siting Board directs the Company to submit an application to register the Project as an eligible resource with the Clean Peak Program within 120 days of Project's commercial operation and to submit confirmation of acceptance into the program to the Siting Board once received.

The Siting Board has also found on various occasions that participation of an energy resource in the ISO-NE wholesale market indicates such a resource is needed for reliability purposes by Massachusetts customers and the New England market. See Trimount ESS at 21, Medway Grid at 39, and Cranberry Point at 44; see also Exelon West Medway II, LLC, EFSB 15-01/D.P.U. 15-25, at 17 (2016) ("Exelon West Medway"); NGR Canal 3 Development LLC, EFSB 15-06/D.P.U. 15-180, at 143, 156 (2017) ("NRG Canal"). The Siting Board views the Project's suitability in providing multiple services in the wholesale market as an indication that it would play a useful role in providing diverse benefits to the respective markets and their customers.

Accordingly, the Siting Board finds the Company has demonstrated the Project is needed and that the construction and operation of the Project would result in public benefits.

3. Alternative Sites Explored

a. Company Description

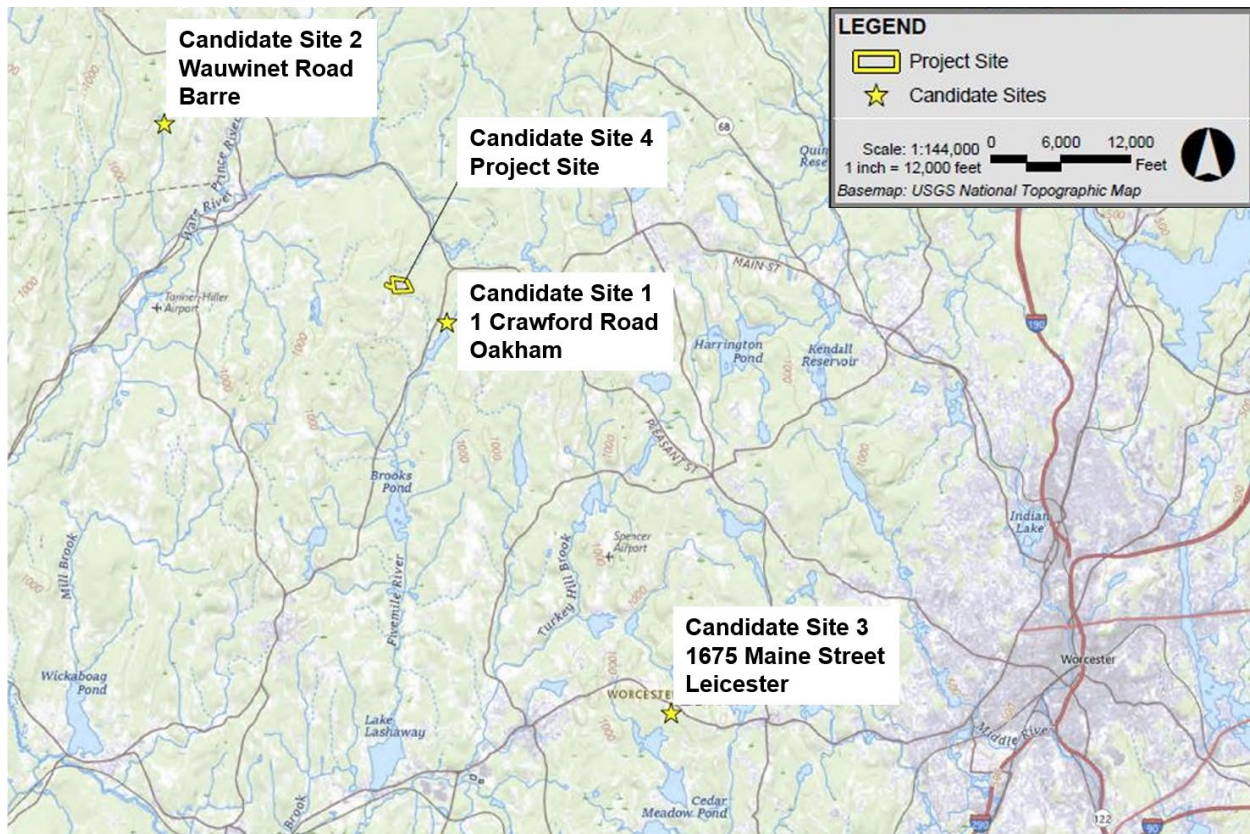
According to the Company, it evaluated alternative sites for the Project on the following criteria: (1) proximity to existing transmission lines and their associated ROWs; (2) distance to the nearest residential abutters; (3) existing access from a public roadway; (4) compatibility with surrounding land uses; and (5) avoidance or minimization of environmental and ecological impacts (Exh. MS-1, at 15). Moraga identified four potential sites, labeled Candidate Sites 1 through 4, including the proposed Project Site, as shown in Figure 4 (Exh. MS-1, at 15). Additionally, the Company evaluated a “no-build” alternative in which the Project would not be constructed but dismissed that alternative as insufficient to meet the Commonwealth’s climate goals and energy storage targets (Exh. MS-1, at 19).

Candidate Site 1 is a 31-acre forested parcel at 0 Crawford Road, Oakham, which is bisected by an existing transmission ROW (Exh. MS-1, at 16). The Company stated that the land has no wellhead protection areas, surface water protection areas (“SWPAs”), or protected open space areas, and that the only previously developed portion of the parcel is the transmission ROW (Exh. MS-1, at 16-17). However, the Company explained that a forested wetland covers the parcel near the public access way, which would require a 100-foot-long crossing to access upland areas that are sufficiently large to develop the BESS (Exh. MS-1, at 16-17). The Company stated that Candidate Site 1 has frontage on Lake Dean and is situated across from a recreational campground, with other surrounding land uses being primarily residential (Exh. MS-1, at 16-17). Moraga dismissed Candidate Site 1 due to its potential impact to forested wetlands, proximity to the recreational campground, and lack of previously developed areas and sufficient upland areas near the public access point (Exh. MS-1, at 17).

Candidate Site 2, located at 0 Wauwinet Road, Barre, consists of 36 acres of active agricultural land, undeveloped forest, and an electric transmission ROW (Exh. MS-1, at 17). The closest residence to this site is 110 feet from the property line (Exh. MS-1, at 17). The Company explained that though there is sufficient upland area for a 180 MW BESS project outside of any SWPAs or protected open space, development on this site would either disturb previously undeveloped land or result in the loss of farmland of statewide importance

(Exhs. MS-1, at 17-18; EFSB-SS-1). Because of this, the Company eliminated Candidate Site 2 from further consideration (Exh. MS-1, at 18).

Figure 4. Map of Project Site and Alternative Locations.



Source: Exh. MS-1, at 16. (Modified by Siting Board staff.)

Candidate Site 3, located at 1675 Main Street in Leicester, is a 21-acre parcel containing undeveloped forested areas and features associated with a drive-in theater business (Exh. MS-1, at 18). The Company explained that the site is surrounded by multi-family residential developments and commercial properties, with the closest residence located approximately 50 feet from the site's property line (Exh. MS-1, at 18). Additionally, the Company explained that the closest transmission corridor is approximately 8,000 feet from the site (Exh. MS-1, at 18). Due to its proximity to multi-family residences and excessive distance from existing transmission corridors, the Company dismissed Candidate Site 3 (Exh. MS-1, at 18).

The final site the Company considered is the Project Site, a 42.9-acre parcel located at 358 Coldbrook Road in Oakham that was formerly used as an auto salvage and recycling facility (Exh. MS-1, at 19). The Company stated this site is accessible from a public roadway and has a transmission ROW in the northeast corner of the property (Exh. MS-1, at 19). At the time of its Petition, the Company asserted that there were no known state-listed rare species, certified or potential vernal pools, Areas of Critical Environmental Concern (“ACECs”), Federal Emergency Management Agency (“FEMA”) floodplains, wellhead protection areas, or protected open space areas on this site (Exh. MS-1, at 19). However, the Massachusetts Natural Heritage and Endangered Species Program (“NHESP”) certified three vernal pools at the Project Site after the Petition was filed, including one near the transmission ROW, which led the Company to update the site plan to avoid vernal pool impacts (Exhs. EFSB-W-3; EFSB-W-6).

The Company stated that the Project Site contains several wetland resource areas, and that the western portion of the parcel has areas mapped as SWPA Zone A and Zone C for the Ware River sub-watershed (Exh. MS-1, at 19). Nevertheless, the Company determined that there is sufficient accessible upland area outside of the resource protection areas in the eastern part of the parcel for siting the Project (Exh. MS-1, at 19). The Company stated it chose the Project Site due to the adequately sized and previously developed upland area, which is not within any mapped protected natural resource areas, along with its proximity to an existing transmission ROW (Exh. MS-1, at 19).

b. Positions of the Parties

i. Town of Oakham

The Town argues that the Company has no justification for its selection of a site in a rural-residential district, claiming this choice runs contrary to the public welfare (Town Brief at 10, 14). The Town claims that such a large-scale industrial project is inconsistent with sound planning and does not serve the purpose of the 2024 Climate Act in any way meaningful enough to outweigh its adverse impacts on the Town (Town Brief at 11). The Town asserts the state’s seizure of land in Oakham by eminent domain to service the Quabbin Reservoir had lasting financial consequences for the community (Town Brief at 10-14, citing Exh. OAK-MB at 3-6).

The Town asserts that siting the Project in Oakham would further intrude on the Town's home-rule authority and self-determination and argues that, given the unique circumstances of Oakham's history, this Project is contrary to the public welfare (Town Brief at 14).

ii. Represented Party Intervenors

The RPIs argue that Moraga's site selection process failed to consider sufficient reasonable alternative sites (RPI Brief at 28). The RPIs claim that the Company is required to justify its selection of developing the Project in Oakham over other sites within the Commonwealth (RPI Brief at 4, 8). The RPIs assert the state contains thousands of other potential sites that the Company neglected to consider in its site selection process, including those in industrial zones or sites of shuttered generating facilities with existing electric infrastructure, adjacent to existing electric transmission infrastructure, or collocated with clean energy generation (RPI Brief at 15-16).

The RPI Brief references Exh. RPI-2, a publicly available Bidder Response Form that Rhyndland Energy (the Project proponent) completed for its proposed 500 MW BESS project in Tyngsborough in response to the DOER's Section 83E storage procurement process (RPI Brief at 10).¹⁴ The RPIs contend that Moraga acted in bad faith by not disclosing its affiliated Tyngsborough project's existence earlier in the proceeding (RPI Brief at 9-10, 33-34, citing Tr. 1, at 108, 117-119, 121, 140-141). The RPIs note that Rhyndland contracted only a portion of its Tyngsborough project's capacity through the Section 83E procurement process and therefore contend that its remaining capacity should be considered as an alternative to the Project in Oakham (RPI Brief at 6, 14, 18, 29-31, citing Tr. 1, at 117, 123, 133-135).

The RPIs also contend that the Company's Oakham Project is bound by the same site selection "criteria" used by the DOER in its Section 83E bid process, and that the Company "did

¹⁴ During the evidentiary hearings, the Company objected to questions on its 500 MW BESS project in Tyngsborough as irrelevant to the EFSB 25-07 petition (Tr. 1, at 122-126). The Presiding Officer allowed the line of questioning. The DOER Bidder Response Form has a section for applicants to discuss the siting, permitting, and community support for the project put forth in the request for proposals (Exh. RPI-2, at 35).

not even consider, let alone comply with” the site selection information listed in the DOER Bidder Response Form with regard to the Oakham Project (RPI Brief at 10, 12-14, citing Exh. RPI-2). The RPIs also indicate that rather than siting the Project in Oakham, the Company could construct an additional 180 MW BESS at its Tyngsborough site (RPI Brief at 6, 29-31, 48 citing Exh. RPI-2; Tr. 1, at 122, 142, 145, 178).

The RPIs also assert that Oakham is unsuitable to host a BESS facility (RPI Brief at 18-19, citing Tr. 1, at 30, 173). The RPIs emphasize that Oakham is a quiet, residential community with protected environmental resources, and that an industrial BESS facility at the Project Site would pose a substantial risk to the community’s environment, health, and safety (RPI Brief at 3-5).

iii. Limited Participants – the Piuccis

The Piuccis echo the RPI’s arguments on site selection: (1) the DOER Bidder Response Form constitutes a legal standard for Siting Board cases; (2) Rhyndland’s Tyngsborough project is a viable alternative site; (3) the Company’s four site alternatives are inadequate to evaluate the many other potential alternatives; and (4) the Oakham site is unsuitable given the Town’s zoning bylaw prohibiting BESS (Piucci Reply Brief at 2-5).

iv. Company Response

(A) Town of Oakham

Moraga reiterates that to establish site suitability, the law requires the Company only to provide information about alternative sites considered and explain the relative advantages and disadvantages of those sites; the Company states that the Town’s brief also acknowledges it is not required by statute to demonstrate the Oakham location is the best possible alternative (Company Reply Brief at 9; Company Brief at 18, citing Cranberry Point; Town Brief at 10). The Company points out the Project would provide a significant source of revenue for the Town with minimal impacts to its surroundings, particularly once the Project is in operation (Company Reply Brief at 8-9, citing Exh. OAK-67). The Company argues that, compared to the site’s former use as an auto salvage yard which had up to 35 round trips of daily traffic, the Project would be more compatible with Oakham’s rural character and not dissimilar to other electrical

infrastructure in rural communities, including Oakham (Company Reply Brief at 8-9, citing Exh. EFSB-T-10).

(B) Represented Party Intervenors

The Company asserts that if the standard of review was for a project proponent to consider and reject every possible alternative site presented by opponents, then no project could ever be developed, and no zoning exemption could ever be granted (Company Reply Brief at 23). The Company rejects the RPIs' assertion that its choice to site the Project in a town with a bylaw prohibiting BESS is central to this proceeding, reiterating the criteria for which it selected the Project Site over others (Company Reply Brief at 24, citing RPI Brief at 1; Exh. MS-1, at 19).

The Company clarifies that the Section 83E Bidder Response Form details the information that must be submitted as part of the Section 83E request for proposal and are not requirements for siting a BESS in the Commonwealth (Company Reply Brief at 22-23). The Company states that, "if and when the Company submits a bid for a long-term contract through a subsequent Section 83E procurement round, it will comply with the submission requirements applicable to that particular RFP" (Company Reply Brief at 23). However, the Company distinguishes such informational requirements of an RFP process from the requirements for siting BESS in Massachusetts (Company Reply Brief at 23).

The Company reiterates Rhyndland's intent to develop the full 500 MW capacity of its Tyngsborough project, stating there is no ability for the Tyngsborough project site to somehow host the proposed Project (Company Reply Brief at 24). The Company also notes that the first round award of one-quarter of the Commonwealth's 5,000 MW energy storage procurement target established in the 2024 Climate Act does not indicate that no more energy storage is needed, and that the 5,000 MW procurement target itself is not a cap on the overall amount of storage that should be built within Massachusetts (Company Reply Brief at 24-25, citing 2024 Climate Act). Therefore, the Company dismisses RPI's assertion that the Project would not contribute to the Commonwealth's storage targets (Company Reply Brief at 25).

c. Analysis and Findings

With respect to the site chosen by a petitioner, G.L. c. 40A, § 3 does not require the petitioner to demonstrate that its preferred site is the best possible alternative, nor does the statute require the Siting Board to consider and reject every possible alternative site presented. Rather, the availability of alternative sites, the efforts necessary to secure them, and the relative advantages and disadvantages of those sites are matters of fact bearing solely upon the main issue of whether the preferred site is reasonably necessary for the convenience or welfare of the public. Martorano v. Department of Public Utilities, 401 Mass. 257, 265 (1987) (“Martorano”); NY Central Railroad, 347 Mass. at 591; Trimount ESS at 13. The record shows that, in addition to the Project Site, the Company evaluated three alternative sites as well as a “no-build” alternative.¹⁵ The Company assessed each alternative site for its proximity to transmission infrastructure, distance to residential abutters, accessibility from a public roadway, compatibility with surrounding land uses, and minimization of environmental impacts. The record establishes the Project Site could host the 180 MW BESS with fewer impacts to the environment compared to the alternatives presented. In addition, the record shows that the proposed Project Site is preferable to the identified alternatives in terms of its proximity to the point of interconnection and its distance from nearby residences.

The RPIs assert that the Company was obligated to: (1) assess a large number of alternative sites; (2) consider sites that are co-located with energy resources or other electrical infrastructure; and (3) provide all the site selection information that would be requested in a DOER Section 83E bid process. These factors are not required by the Siting Board’s standard of review for granting a zoning exemption. Further, the choice of sites for BESS facilities is not predetermined by the Commonwealth but is driven by the market. The RPIs conflate BESS-related program elements practiced by DOER with the criteria that govern the Siting Board’s grant of a zoning exemption. The information that DOER may collect from respondents in a

¹⁵ The Siting Board concurs with the Company’s dismissal of the no-build alternative given that it would not contribute to the Commonwealth’s established emission-reduction goals nor its energy storage targets.

Section 83E bid process does not necessarily reflect the criteria that the Siting Board is obligated to follow in determining whether to grant a zoning exemption.

Neither G.L. c. 40A, § 3, applicable judicial interpretations, nor case precedent, support the alleged requirements that the RPIs would have the Board apply to the Company's request for zoning relief. In particular, the Siting Board has not, and does not, require a petitioner to consider all possible alternative sites, nor demonstrate that its proposed site is the best possible alternative in order to grant a zoning exemption. See Martorano, 401 Mass. at 265. Rather, the Siting Board requires that the petitioner show that its proposed use of the land or structures at a site is reasonably necessary for the convenience or welfare of the public, which may be informed, in part, by other locations an applicant has considered. However, such consideration of alternative sites is not intended to be an exhaustive test and does not require that the proposed site be shown superior to all others.

Both the RPIs' and the Piuccis' briefs argue that Rhyndland's Section 83E proposed BESS project in Tyngsborough should have been considered as an alternative and chosen over siting the Project in Oakham. However, other projects the Company may be developing, whether in Massachusetts or elsewhere, do not automatically constitute alternatives to the Project that require a comparative evaluation, or warrant consideration as a Project substitute. To the contrary, the Company has provided evidence that it intends to pursue multiple BESS projects, including both the Oakham Project and the Tyngsborough project – and not one to the exclusion of the other.

As stated previously, the Siting Board notes that the Company is not required by G.L. c. 40A, § 3 to demonstrate that its preferred site is the best possible alternative, nor does the statute require the Siting Board to consider and reject every possible alternative site presented. Martorano, 401 Mass. at 265. The record shows that Moraga evaluated multiple factors in its evaluation process for the four candidate sites, and that by doing so, its evaluation is consistent with Martorano. The Siting Board takes into account this evaluation as a factor in the Board's determination whether the Project Site is reasonably necessary for the convenience or welfare of the public.

4. Impacts of the Proposed Use

This section evaluates the third category of considerations for determining whether the Project is reasonably necessary for the public convenience or welfare, namely the expected impacts of the Project, including impacts related to construction; traffic; land-based resources and land use; water resources and wetlands; visual effects; noise; air; solid waste and hazardous materials; and magnetic fields. These sections (Section II.D.4) consider and address Project construction and normal operations. Considerations of abnormal events are addressed in the safety section (Section II.D.5).

a. Construction, Future Augmentation, and Decommissioning

i. Company Description

(A) Construction Methods and Schedules

The Company stated that Project construction would require the use of an approximately 18-acre portion of the 42.9-acre Project Site, which the Company referred to as the “Project construction envelope” (Exh. MS-1, at 6). Project construction activities within this 18-acre area would include the following: (1) establishing areas for equipment materials storage and staging, and construction laydown areas; (2) installing the proposed access road (with connections to circulation paths within the BESS facility, substation, and switching station) and associated grading; (3) installing the BESS facility and associated features; and (4) installing the proposed substation and switching station/transmission interconnection (Exhs. MS-1, at 6; MS-A(S1)).

According to the Company, the final Project footprint would include areas occupied by the access road, BESS facility, substation, and switching station with the transmission interconnection (Exh. MS-1, at 6). Inclusive of all associated limits of grading, the Company calculated these features would occupy approximately 10.8 acres within the 18-acre Project construction envelope (Exh. MS-1, at 6). The Company stated that it would use the remaining 7.2 acres of the Project construction envelope for equipment maneuvering, temporary vehicle access, materials handling, and limited staging or laydown, as needed to support construction sequencing and safety (Exh. EFSB-CM-10; MS-1, at 6). The Company would refine specific locations of these uses during final design and contractor mobilization, and would restore disturbed areas through loaming when Project construction concludes (Exhs. EFSB-CM-10;

MS-1, at 6). The Company anticipated that the Project construction envelope could accommodate all of these uses but the Company could not rule out the necessity of off-site staging space, potentially outside the Town of Oakham (Tr. 2, at 351-353). The Company committed to locating these uses outside of wetlands, vernal pools, other water resources areas, corresponding buffers, and environmentally sensitive areas (Tr. 2, at 353-354).

Site preparation would consist of felling trees, clearing vegetation, installing sediment and erosion controls, and grading but not blasting (Exh. EFSB-CM-6). The Company did not anticipate the need for widespread removal of topsoil from the Project Site but did anticipate potential grading in localized areas for the installation of access roads, equipment foundations, stormwater infrastructure, or utility features, which would involve limited stripping and handling of topsoil (Exh. EFSB-CM-11). Prior to starting any earthwork, the Company would implement sediment and erosion control measures in accordance with the Massachusetts Erosion and Sediment Control Guidelines to prevent sediment-laden runoff from entering the SWPA Zone C (Exhs. EFSB-W-13; MS-B(S1) at 4). According to the Company, these measures would include placing perimeter controls such as compost filter socks downgradient of all disturbed areas and stabilizing exposed soils through temporary seeding, mulch, erosion control blankets, or stone (Exhs. EFSB-W-13). The Company would maintain these sediment controls throughout Project construction and arrange qualified personnel to conduct routine inspections, particularly after precipitation events to maintain their effectiveness (Exh. EFSB-W-13).

The Company noted that certain construction activities may require dewatering, depending on actual groundwater and stormwater conditions (Exh. EFSB-W-15). If dewatering is needed, the Company would implement standard dewatering best management practices (“BMPs”), such as placing temporary sediment basins and filter bags (Exh. EFSB-W-15). Moraga would include these details, alongside other detailed dewatering procedures and BMPs, in the Stormwater Pollution Prevention Plan (“SWPPP”), which is further discussed in the wetland impacts section (Section II.D.4.d.i(B)) (Exh. EFSB-W-15).

The Company anticipated construction hours would be from Monday to Friday from 7:00 a.m. to 5:00 p.m., consistent with the Town of Oakham Zoning Bylaw Section 6.3.4 (Exhs. EFSB-CM-1; EFSB-CM-4; Tr. 2, at 203-204; see Exh. MS-H at 29, § 6.3.4). If exceptions from

allowed construction hours are required, the Company would coordinate with the Oakham Police Department or relevant Town officials (Exh. EFSB-CM-4). The Company expected Project construction would last approximately 12 to 18 months (Exh. EFSB-NO-5; see Exh. EFSB-G-16).

(B) Construction Community Outreach Plan

To keep stakeholders informed of construction activities, the Company would develop, in collaboration with the Town, a Construction Community Outreach Plan (“CCOP”) that:

(1) identifies multiple communication methods to disseminate information; (2) provides updates during construction via different media; and (3) provides a list of stakeholders to be informed of construction activities, including Town officials and abutters (Exhs. MS-1, at 47; EFSB-G-6; EFSB-CM-7). The Company stated the CCOP would be developed prior to the start of Project construction (Exh. EFSB-CM-7). Moraga expressed a longstanding desire to establish and maintain a constructive working relationship with Town officials and public safety agencies and stated it remains willing and available to engage with Town boards and officials throughout construction, operations, and decommissioning (Exh. EFSB-G-6).

(C) Future Augmentation

As reflected in the site plan, the Company reserved space to fit approximately 44 additional BESS units and ancillary equipment (e.g., medium-voltage transformers) for future augmentation (Exh. EFSB-D-10; Tr. 1, at 61-63). According to the Company, Tesla specified an expected useful service life for the MP2XL unit is up to 15 to 20 years (Exhs. OAK-140; OAK-141). To ensure the facility can maintain the Project’s 180 MW/4-hour nameplate rating throughout its lifetime, the Company may augment the BESS with a one-for-one, like-for-like replacement of batteries or the installation of additional BESS units (Tr. 1, at 39-41). Moraga specified augmentation would not increase the Project’s nameplate rating or its footprint (Tr. 1, at 39-41, 61-63). The Company would develop an augmentation plan several years after the Project has been in commercial operation and has collected sufficient performance data for analysis (Tr. 1, at 35). The Company did not anticipate the augmentation plan would warrant the

Siting Board's review but anticipated working with the Town to ensure coordination of traffic and logistics of the augmentation (Tr. 1, at 42). According to the Company, the space identified for future BESS units would include only gravel during initial Project construction (Exh. EFSB-CM-12).

(D) Decommissioning

The Company stated that the Project would have a 25-year anticipated operational life (Exh. EFSB-D-7). The Company committed to full site restoration upon Project end-of-life, with decommissioning funded through a decommissioning bond or other suitable financial mechanism established between the Company and the Town prior to the Project's commercial operation (Exhs. EFSB-G-12; EFSB-G-20). The Company would work collaboratively with the Town to develop a decommissioning plan that would entail the following:

- Permanent cessation of operations and securing of the site;
- Removal of all above-ground Project equipment and structures;
- Removal of foundations and subsurface infrastructure to a depth sufficient to allow future non-industrial use;
- Offsite transport, recycling, or disposal of Project materials at licensed facilities; and
- Revegetation or other site stabilization consistent with pre-Project conditions.

Source: Exhs. EFSB-G-12; OAK-48.

The Company would ensure the decommissioning is conducted by qualified contractors using established industry best practices in accordance with manufacturer guidance and applicable regulatory requirements (Exh. EFSB-S-11, part e). When decommissioning the Project, the Company would coordinate with the government authority having jurisdiction to ensure that fire safety, spill prevention, and environmental protection measures remain in place until all equipment is safely removed and the Project Site is restored (Exh. EFSB-S-11, part e). The Company stated while it is unaware of any hazardous waste that would be generated from Project decommissioning, it would transport and manage any batteries or equipment removed

from the Project Site for maintenance or decommissioning in accordance with all local, state, and federal guidelines and regulations (Exhs. OAK-177; OAK-178).

While the Company intends to retain ownership of the Project, if an ownership transfer change were to occur, the Company would provide appropriate transitional support to ensure continued effective community relations and outreach, proper emergency response and reporting, and proper decommissioning (Exh. EFSB-G-18). The Company stated that a new owner would remain subject to any and all permits, approvals, and operational conditions relating to the Project (Exh. EFSB-G-18).

ii. Positions of the Parties

(A) Town of Oakham

The Town expresses concern about Project construction impacts, specifically on noise, traffic, and a risk of toxic exposure from disturbed hazardous materials on the Project Site (Town Brief at 14-16, citing Exh. OAK-MB at 8-11; RR-EFSB-11). The Town also raises concern about traffic impacts from the Project's future battery "replacement and decommissioning hauls" in addition to the initial battery delivery (Town Brief at 21; see EFSB-OAK-1).

(B) Represented Party Intervenors

The RPIs question the implications on the Project's construction duration and noise impacts from "so-called auxiliary batteries planned for placement in [the Company's] facility footprint and replacement batteries over time" (RPI Brief at 39). The RPIs also allege there is no limit on how many additional "auxiliary" batteries that the Company could add to this Project Site, claiming that (1) the Company has an incentive to add more BESS to maximize its return on investment; (2) the site plan already has reserved space for the additional batteries; (3) the Company refused to limit the Project's capacity to 180 MW, especially if more transmission interconnection capacity becomes available; and (4) the Company suggested that adding such batteries would not require notifying the Siting Board (RPI Brief at 40-41, citing Tr. 1, at 42, 104; Tr. 6, at 1042-1044).

(C) Limited Participants – the Piuccis

Besides reiterating the Town’s concern about traffic impact from the construction, future replacement, and decommissioning of the Project, the Piuccis do not contest other aspects of the Project’s proposed construction, future augmentation, or decommissioning (Piuccis Reply Brief at 6).

(D) Company Response

(1) Response to the Town of Oakham

The Company contends that the Town avoids any discussion of the Company’s willingness to conduct a post-construction and post-augmentation noise assessment to ensure compliance with applicable noise standards (Company Reply Brief at 12, citing Tr. 2, at 200-201). The Company also disputes the Town’s assessment of traffic impacts associated with Project construction and future augmentation (Company Reply Brief at 16-17, citing RR-EFSB-4(1); Town Brief at 19; Exhs. EFSB-T-10; EFSB-OAK-1). The Company maintains that the Town ignores record evidence regarding the environmental condition of the Project Site and the Siting Board’s requests that the Company clean up the Project Site while simultaneously arguing that doing so would create additional environmental hazards (Company Reply Brief at 9-10).

(2) Response to Represented Party Intervenors

In the context of noise impacts, the Company argues RPIs’ concerns regarding possible future augmentation strategies and future degradation of the batteries are entirely speculative (Company Reply Brief at 26, citing RPI Brief at 37-41). Moreover, the Company maintains that the Project would continue to be subject to the applicable limits under the MassDEP Noise Policy¹⁶ for the life of the Project (Company Brief at 26-27). The Company contends that the

¹⁶ The MassDEP Noise Policy is a one-page document entitled “Massachusetts Department of Environmental Quality Engineering Division of Air Quality Control Policy (DAQC Policy 90-001)” and dated February 1, 1990. In interpreting MassDEP’s noise regulation at 310 CMR 7.10, the MassDEP Noise Policy states that a source of sound would violate this regulation if it increased the broadband sound by more than 10 dBA above ambient

RPIs speculative concerns regarding potential augmentation or exceedance of applicable limits in the future are without merit and do not provide a basis to deny a zoning exemption (Company Brief at 27).

iii. Analysis and Findings

The record reflects that the Company would mitigate construction impacts through implementing construction BMPs, conducting routine inspections and maintenance of sediment controls, following compliant dewatering procedures, limiting removal of topsoil from the Project Site, and restoring disturbed areas after construction. The Siting Board directs the Company to locate any staging or laydown areas (including equipment maneuvering, temporary vehicle access, and materials handling) outside of wetlands, vernal pools, other resources areas, and corresponding buffers on the Project Site. In addition, the Siting Board directs the Company not to use construction methods that utilize blasting except by prior written agreement with the Town of Oakham, or other entity having such jurisdiction. The Siting Board directs the Company to provide Project updates at the completion of 60 percent and 90 percent design stages to the Town and the Siting Board.

The Company's proposed regular construction hours comport with the Town of Oakham Bylaw and, in fact, are more limited than the Bylaw by excluding the otherwise allowable work hours on Saturday. The Siting Board directs the Company to limit construction to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday. Should the Company need to extend construction work beyond the above-noted hours and days, with the exception of emergency circumstance on a given day necessitating extended hours, the Siting Board directs the Company to seek written permission from the Oakham Selectboard or designee before the commencement of such work, and to provide the Siting Board with a copy of such permission. If the Company and municipal officials are not able to agree on whether such extended construction hours should occur, the Company may request prior authorization from the Siting Board and shall provide the relevant municipality with a copy of any such request and authorization, if granted.

or if it created pure tone conditions. See <https://www.mass.gov/doc/massdep-noise-policy/download>.

The record reflects that the Company would develop a CCOP in collaboration with the Town to ensure all stakeholders and the public stay informed. The Company would continue outreach and coordination with Town boards and officials throughout construction, operations, and decommissioning. The Siting Board directs the Company to develop the Project's CCOP in consultation with the Town of Oakham and to submit the plan to the Siting Board at least 60 days before the start of Project construction. The CCOP shall include, at minimum, the following:

- The Company's goals of engagement;
- A list of stakeholders to be informed of construction activities, including Town officials and abutters;
- A mechanism for collecting and incorporating input and feedback;
- Detailed outreach strategies including the use of multiple communication methods to disseminate information;
- Project timelines and milestones, and a method for providing updates during construction;
- Language access and accessibility considerations; and
- Resources allocated for community participation, including transportation for any public meetings held outside of the Town of Oakham, if applicable.

As used throughout this Decision, the Company's "obligation to consult" with the Town consists of the Company's inviting the Town to provide input early enough to incorporate feedback, reasonably considering any input received, and incorporating such feedback as reasonably feasible. The Company's obligation to consult the Town does not require the Company to receive such input from the Town or to incorporate untimely input. Nevertheless, the Siting Board directs the Company and the Town to work in good faith to implement the conditions in this Decision.

The Company provided preliminary details regarding future augmentation necessary to maintain, but not increase, the Project's 180 MW/4-hour nameplate rating. The Company regards augmentation as either a one-for-one, life-for-like replacement of batteries or the

installation of additional BESS units to maintain the system's capacity as the batteries degrade over time. The RPIs argue that there is no limitation on the extent to which the Company could expand the Project; however, the Company has stated augmentation would not increase the Project's nameplate rating or site footprint, and there is no evidence in the record to contradict these claims. Further, the Company has an obligation to construct and operate its Project in conformance with all aspects of its proposal as presented to the Siting Board. The Siting Board regards any future increase to the Project's nameplate capacity or the expansion of the Project footprint to be outside the scope of its approval in this Decision and therefore will require notice to the Siting Board to determine whether future review of the Project changes is appropriate. See Condition JJ, below. The Siting Board directs the Company to submit any augmentation plans to the Town of Oakham and the Siting Board for review, whenever they become available, including any updates. The augmentation plans shall address anticipated impacts of the augmentation process, such as impacts on local traffic and noise impacts, include an updated sound study showing consistency with the MassDEP Noise Policy, and describe corresponding mitigation.

The Company also committed to decommissioning, including recycling and disposal of any hazardous waste, which would be funded through a bond or other suitable financial mechanism to be established between the Company and the Town prior to Project's commercial operation. The Siting Board directs the Company, in consultation with the Town, to develop the Project's decommissioning plan and submit it to the Siting Board at least 30 days before the Project's commercial operation. The decommissioning plan shall include, at minimum, the following:

- A description and evidence of a decommissioning bond or other suitable financial mechanism that is 125 percent of a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and labor rates outlined by the Massachusetts Department of Labor Standard's Prevailing Wage Program and shall account for increased costs due to inflation at a rate of 2.5 percent per year;
- Procedures for the permanent cessation of operations and securing of the site;
- Procedures for the removal of all above-ground Project equipment and structures;

- Procedures for the removal of foundations and subsurface infrastructure to a depth sufficient to allow future non-industrial use;
- Procedures for the offsite transport, recycling, or disposal of Project materials at licensed facilities; and
- Procedures for revegetation or other site stabilization consistent with pre-Project conditions. Revegetation shall utilize native plant species and restore like-for-like habitats.

The Siting Board further directs the Company to submit any decommissioning plan updates, including any updates to the financial surety for decommissioning, to the Siting Board as such updates become available. By recognizing an anticipated operational lifespan of 25 years and by directing the Company to prepare a decommissioning plan, the Siting Board does not require the Company to decommission the Project after 25 years. Rather, it requires the Company to prepare for that possibility and to decommission the Project at its end. At all times, the Siting Board directs the Company to maintain the decommissioning bond or other suitable financial mechanism for the full operational life of the Project. The Siting Board directs the Company to provide an updated estimate of the decommissioning costs after ten years of Project operation and subsequent updates in five-year intervals after that date, for the remainder of the Project's lifetime. If the updated estimate exceeds the balance of the surety the Company shall provide additional surety in the amount of 125 percent of the most recent estimated cost of decommissioning.

The Siting Board directs the Company to dispose of any dismantled BESS units and components during future augmentation and decommissioning according to applicable legal requirements and best practices, and to recycle as much as practicable.

The Company also indicated its plan to retain ownership of the Project but committed to providing appropriate transitional support in case of a transfer of ownership. The Siting Board notes that this Decision is expressly applicable to the life of the facility regardless of ownership. See Condition JJ, below. The Siting Board directs the Company, in case of any ownership transfer of the Project or Project Site, to notify the Siting Board, and to provide appropriate transitional support to the new owner to ensure effective community relations and outreach, proper emergency response and reporting, proper decommissioning, as well as awareness of the

permits, approvals, and operational conditions required of the new owner. The Company shall also update the ERP and on-site location(s) with updated contact information, including who to contact in the event of an emergency.

b. Traffic

i. Company Description

Moraga stated the Project would have minimal impacts on traffic once it is operational (Exh. MS-1, at 30). According to the Company, the Project would be remotely monitored and traffic to the Project Site would be limited mostly to periodic site inspections and quarterly maintenance visits, a significant reduction in traffic compared to its prior use (Exhs. MS-1, at 30; EFSB-T-10; RR-EFSB-6). The Company indicated that traffic associated with the Project's construction would be temporary and limited, with heavy-vehicle activity concentrated during discrete delivery periods (Exh. EFSB-T-10). The Company stated that the construction traffic would not result in delays to local traffic, except where delivery vehicles, including occasional oversized vehicles, may need to travel on narrow roadways (Exh. MS-1, at 30). The Company initially stated that it could not provide details on expected traffic volume since the engineering, procurement, and construction contractor had not yet been selected for the Project; however, at the urging of Siting Board staff, the Company produced such estimates (Exhs. EFSB-T-1; EFSB-T-7).¹⁷ The Company estimated that, at peak construction when multiple phases of construction overlap, the Project Site would generate approximately 75 to 95 daily round trips—of these, approximately 40 trips would be passenger vehicles associated with up to 50 workers on-site, and about 35 to 55 trips would be heavy vehicles (RR-EFSB-5; Tr. 6, at 1160-1161; Exh. EFSB-

¹⁷ The Company did not provide an assessment of the existing traffic volumes on Coldbrook Road or Old Turnpike Road. In response of the Company's information request, the Town found no records of current or historic traffic volumes on these roads (Exh. MS-OAK-G-1). However, the Oakham Planning Board noted in its Notice of Decision for a recently approved special permit for the site, "Current traffic on Coldbrook Road between the site and Old Turnpike Road is relatively light, there being only three residences between the site and Old Turnpike Road..." (Exh. MS-OAK-G-2(1) at 2).

NO-5). Construction workers would park either at a designated parking area within the Project Site or at a remote location where the Company would provide a shuttle (Exh. MS-1, at 30).

The Company maintained that the level of anticipated construction traffic and traffic impacts for the Project would be comparable to, if not less than, that of the historic auto salvage and recycling facility, and of a recently approved special permit allowing a similar use (Exh. EFSB-T-10; RR-EFSB-5). For comparison, the Company recounted that the special permit allowed approximately 35 or more daily round trips, including tractor-trailers and other large vehicles, equating to more than 10,000 annual round trips that the Town determined could be accommodated by the local roadway network (Exh. EFSB-T-10).

The Company would, in collaboration with the Oakham Public Schools, Fire Department, Police Department, and Department of Public Works, develop a site-specific logistics plan to minimize impacts on local traffic patterns and flow, school bus routes, student drop-off/pick-up at Oakham Center School, and nearby municipal facilities (Exhs. EFSB-T-5; EFSB-T-8). To avoid traffic impacts on Oakham's town center and the Oakham Center School, the Company expected to route construction traffic from the north via Route 32/122 and Coldbrook Road to keep these impacts to a minimal and manageable level (Exh. EFSB-T-8).

While the Company did not expect Project construction activities to cause adverse impacts to local roadways, including those lacking reinforced subgrades, the Company would coordinate with the Town and MassDOT, as applicable, to route construction and delivery vehicles over roadways capable of accommodating heavy loads to the maximum extent practicable and, as necessary, implement reasonable construction management measures (Exh. EFSB-T-10). Moreover, the Company expressed willingness to consider reimbursement to the Town for documented roadway damage caused by the Company or its subcontractors (Exh. OAK-183).¹⁸

¹⁸ The Company recognized the Town's plans to repave part of Coldbrook Road and Old Turnpike Road in the coming years, which aligned with the expected construction vehicle route, as an opportunity for coordinated road restoration (Company Reply Brief at 16, citing Exh. EFSB-OAK-1, part c).

The Company conducted two rounds of swept path analyses¹⁹ to demonstrate that the Project Site access road, including its access point on Coldbrook Road, would accommodate the equipment and vehicles anticipated for Project construction, including the 67-foot-long WB-67—the largest tractor-trailer the Company identified for the delivery of BESS components (Exhs. OAK-157; OAK-157(1); RR-EFSB-4; Tr. 3, at 585-594). The second swept path analysis showed that both the largest Oakham fire truck (E-ONE HP100 Aerial) and WB-67—the largest tractor-trailer that the Company anticipated—would be able to navigate the access road coming from the north, the Company’s preferred approach (RR-EFSB-4(1); Tr. 6, at 1153-1154). The same analysis showed the Oakham Fire Truck would also be able to navigate the access road coming from the south, whereas the WB-67 would not (RR-EFSB-4(1)). The Company’s traffic expert testified that the swept path analysis for vehicles entering the property also confirmed the ability of construction trucks to exit the property (Tr. 7, at 1232). Moreover, the Company stated this swept analysis accounted for the elevated road embankments, stone walls, and trees along Coldbrook Road near the entrance to the Project Site, concluding that no alterations to the existing site entrance would be required to accommodate the turning of construction vehicles (Tr. 6, at 1156-1157).²⁰

ii. Positions of the Parties

(A) Town of Oakham

The Town contends Coldbrook Road via Old Turnpike Road would be the sole access to the Project Site and that high traffic volume associated with Project construction would, besides

¹⁹ A swept path analysis is a computer-modeled analysis that identifies the travel path of a vehicle by modeling the wheel locations and vehicle body overhangs that would be expected as it maneuvers along a path (Tr. 3, at 588-590).

²⁰ The Company recognized that an “exceedingly small portion” of the existing access road within the Project Site encroaches on the property of James and Danielle Stevens but the Company stated the Project would not worsen the encroachment and the swept path analyses showed the WB-67 turning movements would not require the use of this encroaching portion of the road (Tr. 6, at 1158-1160; see RR-EFSB-4(1); Exh. OAK-157(1)).

impeding traffic flow, damage roadways and accelerate road wear (Town Brief at 17-20; see Exh. EFSB-OAK-1). The Town highlights multiple factors constraining the ability of its roadway infrastructure to support the heavy-vehicle traffic associated with Project construction and delivery of BESS equipment, including narrow road widths, narrow intersection spans, poor road conditions,²¹ lack of reinforced subgrades, culvert crossings vulnerable to heavy traffic, and lack of turn around locations for over-sized vehicles (Town Brief at 17-21; see Exh. EFSB-OAK-1). According to the Town, Project construction traffic would impede local traffic, cause road damage or accelerated deterioration or failure, and collapse culverts and cause drainage disruption or failures—all leading to unsafe road conditions that Oakham would struggle to address with its limited manpower and funding resources (Town Brief at 17-21; see Exh. EFSB-OAK-1).

(B) Represented Party Intervenors

The RPIs claim Moraga did not establish an adequate record on addressing traffic impacts and that the Project’s impact on traffic during construction and operations would be severe—alleging that heavy-vehicle traffic would interfere with residents’ access to local roads and adversely impact property values, drinking water wells, noise, dust, and enjoyment of private property in a rural town (RPI Brief at 46). The RPIs also contend the Company’s conclusions on its swept path analyses were insufficient because it did not conduct a swept-path analysis for vehicles turning out of the Project Site, verify the swept-path analysis results through a live simulation of the modeled turns, or account for “major obstructions” immediately off the access road entrance, including earthen walls on the east and west sides of Coldbrook Road and trees nearly opposite the entranceway on the east side which they provided photos of in Exhs. INT-P through INT-S (RPI Brief at 45-46, citing Tr. 6, at 1181; Tr. 7, at 1233).

²¹ The Town had presented that both Coldbrook Road north of the entrance to the Oakham Center Elementary School and Old Turnpike Road are in poor conditions (Exh. EFSB-OAK-1).

(C) Limited Participants – the Piuccis

The Piuccis assert the Company has not resolved the existing access road encroachment onto the property of James and Danielle Stevens and furthermore has refused to provide any commitment to cure the condition, beyond expressing willingness to meet with the Stevenses and discuss the issue outside of this proceeding (Piucci Brief at 6-7). The Piuccis argue this unresolved trespass precludes a lawful access to the Project Site and thus disqualifies the Project from Siting Board approval, raises serious doubts about both the Company's level of care, transparency, and public responsibility in pursuing this Petition, and weighs against a finding that the Project would serve the public convenience or welfare (Piucci Brief at 6-7). The Piuccis also reiterate the Town's argument that Oakham's roadway infrastructure would be insufficient to support the heavy and oversized vehicles from Project construction and the RPIs' argument that Moraga failed to include critical turning movements in its swept path analysis (Piucci Reply Brief at 6).

(D) Company Response

(1) Response to Town of Oakham

The Company rebuts the Town's allegation about tractor-trailers' inability to turn onto Coldbrook Road or into the Project Site (Company Reply Brief at 16, citing RR-EFSB-4(1)). The Company also notes the Town had previously approved the site for another use that involved tractor-trailer traffic (Company Reply Brief at 16, citing Exh. EFSB-T-10). The Company asserts that the Town roads handled the heavy vehicle traffic for the construction of the Oakham Center School, as well as that from the auto salvage and recycling facility on the Project Site (Company Reply Brief at 16, citing Exh. EFSB-T-10).²² Degraded roads could be repaired, the Company argues, and the Town expressed plans to repave the roads at issue in the coming years (Company Reply Brief at 16, citing Exh. EFSB-OAK-1, part c). The Company maintains such repaving efforts could easily be coordinated with Project construction to ensure any road damage would be promptly repaired with minimal or no additional effort or cost (Company Reply Brief

²² There is no discussion about the construction of the Oakham Center School and associated traffic impacts in the record.

at 16). The Company attributes the Town's alleged lack of "reasonable solutions" to the Town's refusal to coordinate with the Company (Company Reply Brief at 16-17).

The Company reiterates that the facility would not be staffed during normal operations and that, even using the Town's traffic estimates, traffic associated with the Project operations would amount to less than one trip every other day (Company Reply Brief at 17). Furthermore, the Company argues that any traffic generated by the Project would be significantly less than the approximately 12,000 round trips of tractor-trailer traffic associated with the Town's previous approval of another use for the Project Site (Company Reply Brief at 17, citing Company Brief at 42-45).

(2) Response to Limited Participants

The Company notes its swept path analysis demonstrated that any vehicle accessing the Project Site can navigate within the Project Site without trespassing on the Stevens' property (Company Reply Brief at 34, citing RR-EFSB-4(1)). Moreover, the Company asserts that it would be premature to attempt to reach an agreement with the Stevens as the Company does not yet own the land (Company Reply Brief at 35). The Company asserts that because the Company is willing to discuss a resolution with the Stevens and it is not the role of the Siting Board to consider civil land disputes, this issue is not relevant to this proceeding (Company Reply Brief at 35).

iii. Analysis and Findings

The record shows Project operations would generate minimal traffic, whereas Project construction would generate considerable traffic, including heavy and large vehicles, over the construction duration, which the Company anticipated to be between 12 to 18 months. Nevertheless, the record also shows past use of the Project Site as an auto salvage and recycling facility had generated certain levels of traffic, if not comparable to that of Project construction, that involved heavy and large vehicles transporting auto chassis and parts. Moreover, the record shows regular heavy and large vehicles associated with the past usage had navigated to and from the Project Site via routes similar to the ones suggested by the Company. Thus, the Siting Board

finds the scale of heavy-and-large vehicle traffic associated with Project construction would be manageable through appropriate traffic management and mitigation conditions..

Concerning potential damage to and accelerated deterioration on Town roads from construction vehicles, while the record reflects that Oakham's roads do not have reinforced subgrades, rendering them more susceptible to damage and accelerated deterioration from heavy vehicle traffic, the record also shows the Town's roads have served heavy vehicle traffic in the past. The Siting Board recognizes the risk that such traffic could cause road damage and deterioration. The record documents poor conditions of both Coldbrook Road north of the entrance to the Oakham Center Elementary School and Old Turnpike Road but also notes that the Town is planning to repave both roads in the next few years. Therefore, the Siting Board sees an opportunity for the Company and the Town to coordinate the repaving effort, including its timing and financial contribution by the Company to compensate for any road damage or accelerated deterioration sustained from Project construction traffic.

The Siting Board directs the Company to develop, in collaboration with the Town, a traffic logistics plan, and to submit the plan to the Siting Board at least 60 days before the start of Project construction. The traffic logistics plan shall address the following: (1) construction traffic routing and potential traffic disruption; (2) locations of limited road widths and intersection spans requiring special traffic arrangements; and (3) road conditions and susceptibility to damage and accelerated deterioration. As part of the traffic logistics plan development, the Company shall ascertain the road's ability to support heavy vehicles (including determination of maximum weight limits) and propose any necessary mitigation to prevent road damage and accelerated deterioration. The plan should also address routing restrictions, travel hour restrictions, engine braking restrictions, on-street parking restrictions, anti-idling restrictions, convoy arrangements, and flagpersons. Additionally, the Siting Board directs the Company to (1) conduct pre- and post-construction visual inspections of the Town roadways and culverts along the travel route of Project construction vehicles, equipment, and deliveries; (2) maintain or improve the condition of such roadways and culverts as established prior to beginning construction; (3) provide funds for repaving projects or road repairs to adequately compensate the Town for any road damage or accelerated deterioration caused by construction

traffic; and (4) should any dispute arise from any request by the Town for reimbursement from the Company of the cost of repairing road damage caused by the Company or its contractors, the Company must first seek resolution from the Oakham Highway Superintendent. If the Company is not satisfied with the Superintendent's decision, the Company may seek a public hearing from the Oakham Selectboard. The Siting Board directs the Company to submit a report to the Siting Board and to the Town documenting the results of the pre-construction survey, which shall be submitted 60 days prior to the start of construction, and the post-construction surveys, which shall be submitted no later than 60 days after the completion of construction. The post-construction survey report shall include a description of any documented road damage or accelerated deterioration arising from Project construction, along with a plan for providing appropriate compensation to the Town.

The record reflects that the largest vehicle the Company anticipates during Project construction, a WB-67 tractor-trailer, could turn onto the Project Site access road going southbound on Coldbrook Road and, once on-site, could navigate to the proposed BESS facility location without encroachment on neighboring properties. The Siting Board accepts the testimony of the Company's traffic expert stating that vehicles going in the opposite direction and turning onto Coldbrook Road from the access road would have the same result. The RPIs allege that the Company's swept path analysis failed to account for the presence of off-road obstructions along Coldbrook Road, and they provided pictures of those obstructions. However, the record supports that construction vehicles would stay within the boundaries of the roadways and, therefore, away from any alleged off-road obstructions. Due to the angle of the turn from Coldbrook Road onto the Project Site, the Company plans to route construction traffic from the north rather than through Oakham Town Center from the south. The Company's swept path analyses demonstrate that the largest expected construction vehicle, when routing from the north, would be able to navigate the turn into and out of the Project Site without encroaching on neighboring properties, to which RPIs provided no countering evidence. The Siting Board directs the Company to require all construction traffic, except passenger vehicles including pickup trucks, to access the Project Site via Old Turnpike Road and Coldbrook Road and to avoid Coldbrook Road south of the Project Site entrance, including Oakham Town Center. In

addition, the Siting Board encourages the Company to impose this same requirement on all construction-related passenger vehicles.

Regarding the Piuccis' concern about the access road pavement encroachment, the record reflects that the encroachment is minor and preexisting. The Company has demonstrated that the encroachment would not affect the access to and within the Project Site. Nevertheless, the Siting Board directs the Company to update the Siting Board in writing on discussions towards a resolution of this issue at least 60 days before the start of Project construction.

c. Land-Based Resources and Land Use

i. Company Description

(A) Land Use

The Project Site was previously an auto salvage and recycling facility for approximately 50 years through 2017 and became vacant after salvage cars were removed in 2018 (Exhs. EFSB-LU-1; EFSB-H-6(1) at 10). According to the Company, the Project Site now contains an abandoned garage/office building, concrete truck scale, associated gravel/dirt parking areas, and other site debris (Exhs. EFSB-LU-1; MS-1, at 2, 4 (Fig. 2-2)). Beyond the former auto salvage and recycling facilities lie existing wetland resource areas, forested areas with certain locations containing overgrown access roads, tire ruts, and abandoned cars, and an existing electric transmission ROW (Exh. MS-1, at 1-2). According to the Company, the entire Town of Oakham, including the Project Site, is within the agricultural and rural zoning district (Exh. MS-1, at 2). The Company described the surrounding land uses as follows:

- Residential homes on all sides of the Project Site, with the closest residences being approximately 1,400 feet to the south of the BESS facility;
- Mixed agricultural and undeveloped forested areas to the south;
- Undeveloped forested areas owned and managed by the DCR Division of Water Supply Protection to the north and east; and
- A high voltage overhead electric transmission corridor cutting through the northeast corner of the Project Site.

Source: Exh. MS-1, at 3; Tr. 1, 152-153.

To minimize impacts on abutting residences and also accommodate interconnection access, the Company located the BESS facilities as proposed, to the maximum extent practicable away from the residences (Exh. EFSB-Z-3; Tr. 2, at 288). The Company asserted that the Project design is fully compatible with and minimizes Project impacts on the surrounding land uses in terms of noise, environmental impacts, stormwater management, water quality, and safety, among other things (Company Brief at 18). The Company did not anticipate Project construction to require widespread removal of topsoil from the Project Site, as the Company would temporarily stockpile any topsoil removed onsite within the Project construction envelope and reuse it for final grading, stabilization, and site restoration following construction (Exh. EFSB-CM-11). The Company stated that it does not have plans to expand the Project after construction or to develop the remaining part of the Project Site, noting that the Project would take up most of the land suitable for development (Exhs. EFSB-Z-1; OAK-22(S1); Tr. 6, at 1150-1152).

(B) Historic and Archeological Resources

The Company conducted a cultural resources due diligence review and archaeological sensitivity assessment for the Project Site and identified no listed historic properties, historic districts, historic archaeological sites, or pre-contact archaeological sites on or within a quarter mile of the Project Site (Exh. MS-1, at 29). According to the Company, it assessed the entire Project Site as having low likelihood for cultural resources (Exh. MS-1, at 29). Nevertheless, the Company filed a Project Notification Form (“PNF”) with the Massachusetts Historical Commission on March 26, 2025, and received a response on July 16, 2025, requiring no additional studies (Company Brief at 38, citing Exh. EFSB-G-2; see Exh. MS-D).

(C) Tree Removal

The Company estimated the Project would require clearing of approximately 5.9 acres of existing forest within the southeast corner of the Project Site (Exh. EFSB-LU-4; see EFSB-W-1(1)). The Company determined that, based on review of aerial photographs publicly

available through MassGIS data layers, this entire area was clear cut in 2001 (Exh. EFSB-LU-4). The Company described the existing forest as a mixed deciduous early-stage successional forest with trees that are up to approximately 25 years old, which does not constitute mature forest, core forest, rare habitat, or other high-value forest resource (Exhs. EFSB-LU-4; OAK-50). The Company stated that it did not have plans to mitigate for tree removal because of the limited extent of removal, the site's history of disturbance, and the remaining vegetated buffer to the closest residences (Exh. OAK-50). The Company stated that the tree removal would not adversely affect wildlife species due to the expansive, undisturbed habitat area adjacent to the Project (Exh. OAK-55).

(D) Rare Species and Habitats

Based on the Massachusetts NHESP Atlas (August 1, 2021, 15th Edition), the Company determined the Project Site is not located within areas of Estimated Habitats of Rare Wildlife or of Priority Habitats of Rare Species (Exh. MS-1, at 30). The Company recognized that other parties identified, and NHESP certified, three vernal pools during the course of this proceeding (Exhs. EFSB-W-1; EFSB-W-3). The Company subsequently revised the Project design and anticipated the Project would have no impacts on these vernal pools (Exhs. EFSB-W-2; EFSB-W-3; EFSB-W-4).²³ Nevertheless, the Company proposed to conduct the appropriate wildlife habitat evaluation and submit the findings with the Notice of Intent for Order of Conditions to the Oakham Conservation Commission (Tr. 3, at 527-533).

The Company did not expect the Project to adversely affect other wildlife species living on the Project Site, explaining that, due to the long history of an auto salvage and recycling facility on the Project Site, such wildlife species are expected to be generalist species that do not

²³ Arthur Allen, the Town's wetland expert, verified that Oakham Conservation Commission member Shawn Seeley, who collected the data for the vernal pool certification, did not find any state-listed rare species during his field assessment of the vernal pools but found enough biological evidence to certify the vernal pools, meaning that the vernal pools have the characteristics to support State-listed rare species (Tr. 5, at 837-840; Exhs. EFSB-OAK-18; EFSB-OAK-18(1); EFSB-OAK-18(2); EFSB-OAK-18(3)).

rely on specialized or unique habitat conditions and are adaptable to fragmented or human-influenced environments, as well as changes in environmental conditions (Exh. EFSB-NO-7; RR-OAK-3). Although Project construction would disturb and displace some wildlife from active work areas due to noise and human activity, the Company maintained that affected individuals would utilize adjacent and expansive undisturbed habitat areas available (Exh. EFSB-NO-7). The Company expected certain affected wildlife to return once the Project is operational, while others may be permanently displaced to the adjacent habitat area (Exhs. EFSB-NO-7; OAK-55; see RR-OAK-3).

ii. Positions of the Parties

(A) Town of Oakham

The Town does not raise specific concerns about the Project's impacts on land-based resources or land use in its brief but contends that, generally, the Project is "a large-scale industrial use which is incompatible in and unnecessarily destructive to the rural-residential district where it is located." (Town Brief at 1).²⁴ The Town alleges the Project's various impacts, from exposure of hazardous materials, noise, health and safety, and traffic would harm the abutting quiet, privately owned, occupied rural-residential properties and the undeveloped wooded land owned by the DCR, as well as the Oakham Center Elementary School (Town Brief at 1, 15, citing Exh. OAK-MB at 9-11).

(B) Represented Party Intervenors

The RPIs claim the Project would cause significant adverse environmental damage to Oakham, its residents, and its protected resources (RPI Brief at 43). The RPIs argue these impacts—including traffic and noise; destruction of Town character; impacts on property values;

²⁴ As noted, the entire Town of Oakham, including the Project Site, is within agricultural and rural zoning district (Exh. MS-1, at 1-2). Moreover, the Town of Oakham Zoning Bylaw does not permit industrial land use in Town (Exh. MS-H at 22, § 4.3). In the Notice of Decision of a recently approved special permit for the Project Site, the Oakham Planning Board described the former auto salvage business as "a pre-existing non-conforming use" (Exh. MS-OAK-G-2(1), at 2).

destruction of forest, wildlife habitat, wetlands, and vernal pools; potential contamination of waterbodies and watersheds that connect to the Quabbin Reservoir—would constitute a major public and private nuisance and would threaten public health, safety, and the environment (RPI Brief at 2-3). The RPIs reiterate that, after Moraga filed its Petition, the Town’s departments, including the Oakham Board of Selectmen, Health, Environment, Conservation Commission, fire chief, police chief, as well as hundreds of Oakham residents, a State Legislator, State Senator, and officials and residents from adjacent towns, commented orally and in writing to attest to the aforementioned impacts and risks (RPI Brief at 5). The RPIs suggest Moraga may potentially remove mature forest adjacent to the Coldbrook Road residences, including the residences of the majority of RPIs, to allow over-sized trucks to access the Project Site, which would, according to the RPIs, destroy the residents’ view, tranquility, and reasonable use of their properties, as well as causing flooding that might reach the abutters’ residences and yards (RPI Brief at 44, citing Tr. 5, at 902-911; Tr. 4, at 681).

(C) Limited Participants – the Piuccis

The Piuccis raised concern about the property encroachment issue that is addressed in the traffic section above (Section II.D.4.b). The Piuccis did not contest any other evidence or conclusions presented by the Company regarding land-based resources or land use in their briefs.

(D) Company Response

The Company did not respond to the Intervenor’s concerns about land-based resources and land use.

iii. Analysis and Findings

The record shows that the Project Site was an auto salvage and recycling facility for over 50 years and was not in a pristine, undeveloped state, nor were the neighbors unaccustomed to the non-residential auto salvage business and associated environmental impacts. Although the auto salvage business ceased operation and the salvage cars have been removed for several years now, as discussed in the solid waste and hazardous materials section (Section II.D.4.f), solid

waste and other debris related to the former auto salvage business remain littered across the Project Site.

In light of the history of the Project Site, the Project would not, after the initial construction, significantly alter Town character or affect adjacent land uses. Moreover, as it would be set back a significant distance from the closest roadway, obscured from view by trees, and the noise level would be minimized, the Project would have minimal impact surrounding land uses once operational. The record shows the Project would have no expected impacts on significant historic, archeological, or cultural resources. Though the RPIs make claims regarding the Project's impact on property values in the Town, there was no information submitted into the record demonstrating an impact on property values.

The approximately 5.9-acre forest the Company would clear for the Project consists of previously-cleared mixed deciduous early-stage successional forest that does not constitute mature forest, core forest, rare habitat, or other high-value forest resources. Any flooding risks associated with the tree removal would be addressed by the proposed stormwater management measures outlined in the Project's Stormwater Management Report, which is discussed in the stormwater section (Section II.D.4.d.i(C)). Nonetheless, the existing growth provides ecological services that would be lost and, accordingly, the Siting Board directs the Company to identify, on a one-to-one basis for trees being cleared, an equal wooded area on the Project Site to be preserved in perpetuity, and to submit an updated map of the Project Site indicating the selected area not less than 60 days before beginning construction, and to preserve the wooded area within one year after the Project's commercial operation.

Concerning wildlife habitat, the record reflects that the Project Site is not located within an area of Estimated Habitats of Rare Wildlife or an area of Priority Habitats of Rare Species, nor were any rare species identified on the Project Site. Furthermore, as further discussed in the wetland section (Section II.D.4.d.i(B)), the Company modified the site plan to avoid impacts to the newly certified vernal pools and committed to conduct the appropriate wildlife habitat evaluation to be submitted with the Notice of Intent to the Oakham Conservation Commission. The record establishes the Project would not adversely affect wildlife species living on the Project Site except for temporary disturbance and, for most species, temporary displacement

during Project construction, which are ameliorated by expansive undisturbed habitat areas adjacent to the Project Site.

The Siting Board considers the Project construction impacts to be typical of the construction of an industrial facility and recognizes the Company would implement construction BMPs to mitigate associated impacts to both people and wildlife. The Siting Board directs the Company to implement construction BMPs.

d. Water Resources and Wetlands

i. Company Description

(A) Water Resources

Moraga stated that the Project would not generate any operations-related wastewater or require any sanitary sewer connection (Exh. MS-1, at 21). The Company stated that there are no areas on the Project Site within a MassDEP Approved Zone I or Zone II Wellhead Protection Area, and the closest public, non-community groundwater well is approximately 1,600 feet away from the Project Site (Exh. MS-1, at 21).²⁵ According to the Company, the entire 42.9-acre Project Site is located within the Chicopee River Watershed, where 17.0 acres resides in the Ware River sub-watershed and 25.9 acres in the Quaboag River sub-watershed (Exh. MS-1, at 21). Moraga added that the western portion of the Project Site within the Ware River sub-watershed is completely located within an SWPA for the Ware River sub-watershed, either in Zone A (land area within 400 feet of the bank for a Class A surface water source) or in Zone C (land area not within Zone A but within mapped watershed of a Class A surface water source) (Exh. MS-1, at 21). The Company identified the intermittent streams on the Project Sites as tributaries to the Ware River and, in turn, as a Class A Water for public water supply per the Massachusetts Drinking Water Regulations (310 CMR 22.00) (Exh. MS-1, at 21). The Company noted that the eastern portion of the Project Site within the Quaboag sub-watershed is not within any SWPAs (Exh. MS-1, at 21-22).

²⁵ According to the Company, the Town has no public water department but has a limited number of public, non-community groundwater wells (Exh. MS-1, at 21).

The Company stated that, to the maximum extent practicable, it located Project infrastructure outside of the Ware River SWPA such that only part of the Project construction envelope, including the existing access road and a portion of the access road extension, would be within the SWPA (Exhs. EFSB-W-1(1); MS-1, at 22). The Company would design the new gravel access road with vegetated and/or stone-lined swales, which would have a drainage system independent from the BESS facility stormwater basins (Exh. MS-B(S1), at 9-10). The Company stated the minimum distance between Project electrical equipment and the Ware River sub-watershed boundary on the Project parcel would be 430 feet (Exh. EFSB-W-14; see Exh. EFSB-W-1(1)).

As noted in the stormwater section below (Section II.D.4.d.i(C)), the Company would implement and maintain sediment and erosion control measures to ensure that no runoff from the construction of the access road enters the SWPA Zone C (Exh. EFSB-W-13). Moreover, the Company would develop and implement construction phase pollution prevention plans, erosion and sediment control plans, and a post-construction Stormwater O&M Plan, as well as identifying post-construction drainage system owners and parties responsible for O&M prior to the Project's commercial operations date (Exh. MS-1, at 22).

The Company asserted the Project would not impact water supply or resources (Company Brief at 27, citing Exh. MS-1, at 21). Because the access road is within the Ware River sub-watershed, the Company would consult with and file a Request for Watershed Determination of Applicability to DCR pursuant to the Massachusetts Watershed Protection Act and its associated regulations (310 CMR 11.00) (Exh. MS-1, at 22-23). The Company expected that, given the proposed Project design and mitigation measures, DCR will issue an Applicability Decision confirming the Project as proposed, which may include imposed conditions, resulting in no water quality degradation or harm to the public good (Exh. MS-1, at 23).

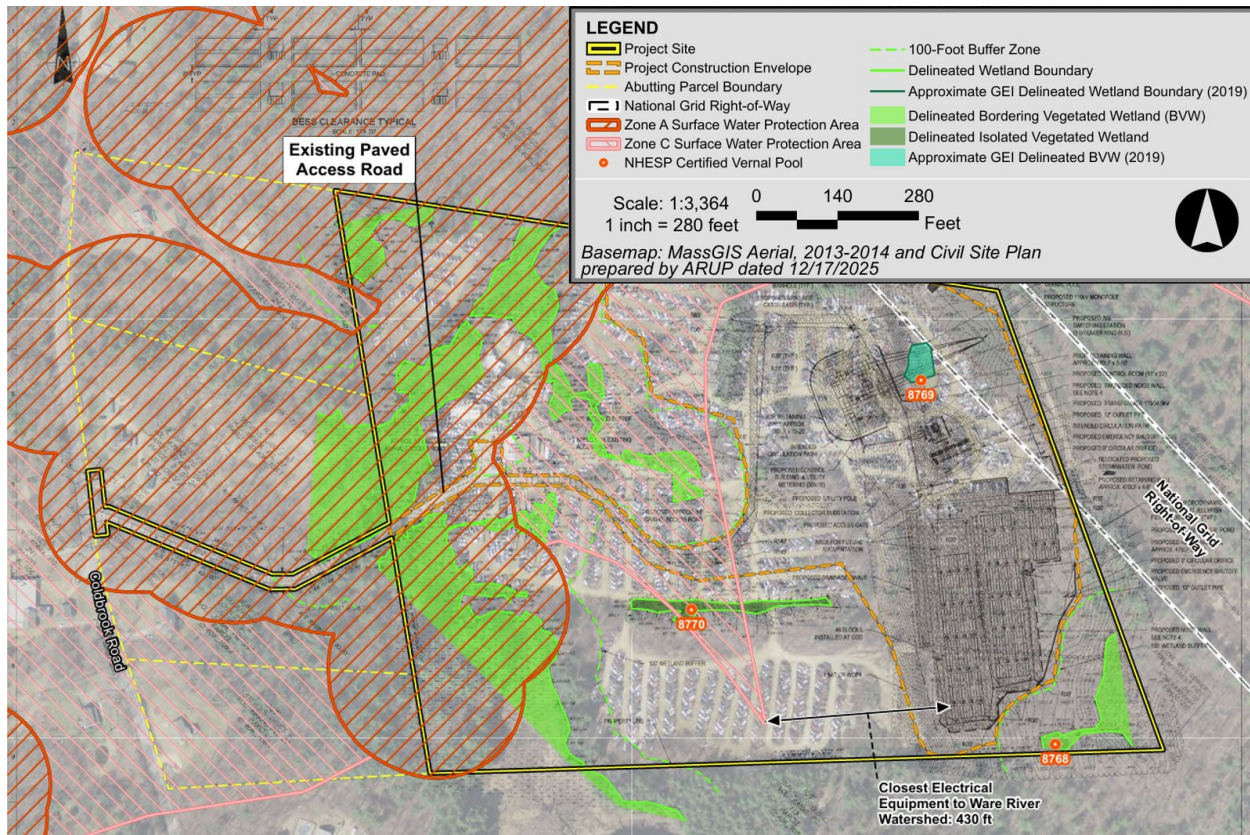
(B) Wetlands

The Company stated that it filed an Abbreviated Notice of Resource Area Delineation ("ANRAD") to ascertain the wetland resource area boundaries on the Project Site, which was in turn verified and approved by the Oakham Conservation Commission through an Order of

Resource Area Delineation (“ORAD”) issued in December 2024 (Exh. MS-1, at 23). The Company’s wetlands delineation includes bordering vegetated wetlands (“BVWs”) throughout the western portion and in the southeast corner of the Project Site and isolated vegetated wetland areas that do not qualify for state jurisdictional status (Exhs. MS-1, at 24; EFSB-W-1(1)). While the Company did not initially find any certified or potential vernal pools located on or near the Project Site, the Company subsequently recognized three vernal pools certified by NHESP, which are shown in Figure 5, alongside delineated wetland resource areas and associated buffer areas (Exhs. EFSB-W-1; EFSB-W-3; MS-1, at 3).

To avoid affecting the newly certified vernal pools, in December 2025 the Company revised the Project design—moving the new switching station and the layout of the new paved access road outside the BVW and areas with the vernal pools, which also eliminated 385 square feet of permanent impact and 800 square feet of temporary impacts to the BVW (Exhs. EFSB-CM-9; EFSB-W-6; EFSB-W-4). Moreover, the Company redesigned the BESS facility layout so that all proposed equipment would fall outside the 100-foot Buffer Zone of the BVW in the southeast corner of the Project Site (Exh. EFSB-W-7). The Company and the Town disputed the presence of BVW near the vernal pool located in the northeastern corner of the parcel adjacent to the transmission ROW, but the Company asserted that the Project would not overlap the BVW nor violate wetlands regulations either way (see Figure 5 below) (Tr. 3, at 445-455, 494-500; Exh. EFSB-OAK-8).²⁶ Nevertheless, due to other Project components and construction activities falling within the 100-foot wetland buffer, the Company proposed and committed to filing a Notice of Intent to the Oakham Conservation Commission (Exhs. MS-1, at 23; EFSB-G-2; Tr. 2, at 235-238).

²⁶ The Oakham Conservation Commission had previously determined that this area was a BVW in a separate ORAD issued to another developer proposing a ground-mounted solar facility on the Project Site in May 2019 (Exh. EFSB-OAK-8, part a; see RR-EFSB-10).

Figure 5. Project Plan with Environmental Resource Area Overlay

Source: Exh. EFSB-W-1(1).

Note: This revised plan captures both the wetland delineation approved through the ORAD, plus the newly certified vernal pools and the disputed BVW (labeled as “Approximate GEI Delineated BVW (2019)”). The plan also shows the latest Project layout.

For mitigation, Moraga would design the Project to comply with all applicable state and federal regulatory performance standards related to wetland resource areas, noting that the Town of Oakham does not have a local wetland bylaw (Exh. MS-1, at 24-25). The Company would also implement the following mitigation measures: (1) implement BMPs such as erosion control barriers to establish limits of work; (2) develop a SWPPP ²⁷; (3) develop a construction phase

²⁷ The Company submitted a draft SWPPP for this proceeding (see Exh. MS-B(S1)) and would update and finalize the SWPPP prior to Project construction (Exh. EFSB-W-8).

Soil Erosion and Sediment Control Plan; (4) locate all stockpiles outside of the 100-foot Buffer Zone; and (5) avoid refueling or storage of equipment within the 100-foot Buffer Zone except for equipment that cannot be moved due to safety or operational requirements (Exh. MS-1, at 25). The Company asserted that these measures would ensure minimal Project impact on wetlands (Company Brief at 28).

(C) Stormwater

Moraga described the Project Site as mostly an unmaintained developed area with no existing engineered stormwater management features that meet current Massachusetts Stormwater Standards (Exh. MS-1, at 25). The Company stated the Project would result in a total of 117,065 square feet (approximately 2.7 acres) of impervious area—an increase over existing conditions (Exh. MS-1, at 25). The new impervious area would be split among the substation, switch station, and BESS facility, mainly consisting of the concrete equipment pads in these facilities, whereas the access road would be designed as pervious (Exh. MS-B, at , 7, 9-10). As presented in the Project’s Stormwater Management Report, the Company designed a conventional drainage system for the Project, which would function as follows to maintain existing natural drainage patterns throughout the site to the maximum extent practicable:

- Stormwater runoff from existing and new impervious surfaces would be directed to a series of catch basins and manholes
- The collected runoff would be conveyed via an underground pipe system to two proprietary pre-treatment devices
- The pre-treated runoff would go through additional treatment filters to meet required water quality standards
- The filtered runoff would be discharged into two dry detention basins with impermeable liners for capturing and attenuating peak flows prior to final discharge
- Runoff attenuated in the detention basins would be discharged through a 12-inch outlet pipe with an emergency shutoff valve. One detention basin would drain into the Ware

The Company would also submit a copy of the SWPPP in a later filing with the USEPA, as discussed below (Exh. EFSB-W-8).

River sub-watershed and the other would drain toward the Quaboag River sub-watershed. The outfalls of the outlet pipes would be located outside the 100-foot buffer zone of any wetland resource areas or waterbody, as well as the SWPA.

Source: Exhs. MS-1, at 25-26; MS-B(S1) at 6, 8-9; Tr. 3, at 440-444; see Exh. EFSB-W-1(1).

According to the Company, stormwater runoff from the impervious surface associated with the substation and switching station would drain into the Ware River sub-watershed after treatment and detention, whereas stormwater runoff from the impervious surface associated with the BESS facility would drain into the Quaboag River sub-watershed after treatment and detention (Exh. MS-B(S1) at 8-9, 39).²⁸ The Company stated the runoff from the Project Site would not discharge directly to a stream, wetland, or open waterbody (Exh. OAK-52).

The Company checked the ResilientMass Action Team's ("RMAT") Climate and Hazard Viewer and identified no high-risk vulnerabilities for the Project (Exh. EFSB-G-11). Incorporating RMAT outputs, the Company designed the proposed storm drainage collection system to convey at minimum the 25-year design storm event and the dry detention basins to store and safely discharge stormwater up to a 100-year storm event (Exhs. MS-B(S1) at 7; EFSB-W-11). The Company stated that proposed development discharge rates would be below the existing rates, in accordance with the Massachusetts Stormwater Handbook (Exh. MS-B(S1) at 10). The Company explained that it designed the dry detention basins with an impermeable liner and without an infiltration component due to the presence of high groundwater and low permeability soils (Exh. MS-1, at 26). According to Moraga, the impermeable liner of the dry detention basins, alongside the emergency shut-off valve on each of the two outlet pipes, would allow containment of runoff within the Project Site as part of emergency response activities (Exh. OAK-127). See the safety section (Section II.D.5) for a discussion of planning and

²⁸ The proposed subcatchment map in Exh. MS-B(S1) at 39 shows an earlier version of the Project layout. Although the layout is outdated, the map illustrates the subcatchment delineation. The Company confirmed that the supplemented Stormwater Report, Exh. MS-B(S1) reflects the updated Project design that avoids all work within wetland resource areas and vernal pools (Company cover letter for exhibit supplemental filing dated December 22, 2025).

response to emergency events. Moreover, to address any emergency involving spill of dielectric fluid²⁹ from the Project's electrical equipment in accordance with the United States Environmental Protection Agency ("USEPA") rules, the Company would provide a secondary containment sized to 110 percent of the volume of dielectric fluid used in the equipment and would develop a spill prevention, control, and countermeasure ("SPCC") plan (Tr. 3, at 461-465, 520).

The Company asserted that the Project's stormwater management system meets all applicable standards and the Project would not result in any adverse conditions to the surrounding areas and properties (Company Brief at 26). The Company stated the proposed stormwater management system would comply with the Massachusetts Stormwater Handbook and Stormwater Management Standards pursuant to the Wetland Protection Act, G.L. c. 131, § 40, and the Massachusetts Clean Water Act, G.L. c. 21, §§ 26-53, to promote increased stormwater recharge, the treatment of more runoff from polluting land use, low impact development techniques, pollution prevention, the removal of illicit discharges to stormwater management systems, and improved O&M of stormwater BMPs (Exh. MS-1, at 25). Because the Project would disturb more than one acre of land, the Company would file a Notice of Intent to USEPA for coverage under the National Pollution Discharge Elimination System Construction General Permit prior to the start of construction (Exh. MS-B(S1), at 11-12).³⁰

For winter snow and ice removal, the Company would keep deicing agents away from wetlands and vernal pools by combining source control, physical separation, and stormwater best practices consistent with MassDEP guidance, including preference for mechanical removal and

²⁹ The Company stated that the Project would include the use of dielectric fluid, which is typically mineral oil and is common in all transformers like the ones proposed for the Project (Tr. 3, at 461). The Company referenced the representative safety data sheet for dielectric fluid, which states that dielectric fluid is not hazardous or listed as hazardous materials or waste under federal or Massachusetts regulations (RR-INT-2).

³⁰ The Company anticipates filing for the National Pollution Discharge Elimination System Construction General Permit Notice of Intent approximately 45 days before the start of Project construction and receiving a USEPA decision 14 days after submittal (Exh. EFSB-G-2). The filing would include a copy of the finalized SWPPP (Exh. EFSB-W-8).

requirement of lower-toxicity chemical deicers, and by storing snow in upland areas away from wetlands and vernal pools so that snowmelt would drain to on-site stormwater treatment features (Exh. EFSB-T-6).

ii. Positions of the Parties

(A) Town of Oakham

The Town contends that the Project would be located in the immediate vicinity of SWPA Zone A and Zone C under DCR jurisdiction and alleges some of the water that infiltrates into the ground on the site recharges the public drinking water supply of the Quabbin and Wachusett Reservoirs, as well as the groundwater of local residents' private wells (Town Brief at 1-2). The Town notes that, according to MassDEP maps, the Project Site is hydraulically connected to the reservoirs' headwaters (Town Brief at 1-2). The Town maintains any disturbance of soils on the Project Site, which it alleges have received decades of automotive fluid absorption from junk yard use, would risk accelerated movement of toxic pollutants into the local ground water and surface run-off and present an immediate and serious risk to said water resources and SWPA (Town Brief at 14-15, citing Exh. OAK-MB at 8).

(B) Represented Party Intervenors

The RPIs allege the Project may destroy or alter protected wetlands and vernal pools and that the clearing of five or more acres of trees could cause flooding that might reach the abutting properties following a major rain or snowstorm (RPI Brief at 44-45, citing Tr. 4, at 681). More specifically, RPIs contend the Company ignored or tried to conceal the presence of protected wetlands and vernal pool habitat in its initial ANRAD submission to the Oakham Conservation Commission (RPI Brief at 45). The RPIs allege, despite the Company admitting the missing protected wetlands and vernal pools were an "oversight" under cross-examination in this proceeding, by refusing to present this revised assessment as part of a Notice of Intent to the

Conservation Commission until after the close of hearing and submission of brief in this proceeding, the Company deprived the Siting Board of that information (RPI Brief at 45-46).³¹

(C) Limited Participants –the Piuccis

The Piuccis maintain that Project construction and operations, predominately through disturbance of contaminated soil and debris during Project construction, would adversely affect the site's wetlands and related resource areas (Piucci Brief at 5-6).

(D) Company Response

In response to the Piuccis' claims the Project would impact wetlands, the Company reiterates that it demonstrated that Project construction and operations would have minimal impacts on wetland, water supply, or water resources, as discussed in the Company description of this section (Company Reply Brief at 30-31; citing Piuccis Brief at 5-6; Company Brief at 25-29).

iii. Analysis and Findings

All three intervening parties argue that the Project, close to the SWPA Zone A and Zone C, would jeopardize water resources the SWPAs protect, including the Quabbin Reservoir. A significant portion of the Project Site, including part of the existing access road, part of the proposed access road extension, and part of the Project construction envelope, would be within the SWPA zones, but that the major Project components (namely the BESS facility, switch station, and substation) would fall outside of the SWPA zones; thus, the Project is not subject to regulations of the SWPA, including use prohibitions. The record also reflects that the Company would file a Request for Watershed Determination of Applicability with DCR. The Siting Board directs the Company to submit to the Town of Oakham and the Siting Board a copy of the

³¹ The Siting Board notes that the Company submitted an updated map showing the certified vernal pools and disputed BVW, as Exh. EFSB-W-1(1) and shown as Figure 5 above, in response to the Siting Board's information request.

Request for Watershed Determination of Applicability when the Company submits the Request to DCR, and a copy of the DCR Applicability Decision when it becomes available.

The record reflects that the Project's stormwater management system would capture and attenuate stormwater runoff from all components of the Project and maintain natural drainage patterns throughout the site to the maximum extent practicable. Additionally, Moraga developed and commits to finalizing its Stormwater Pollution Prevention Plan that would include documentation of this stormwater management system and ensure the Project would meet the current Massachusetts Stormwater Standards. The Siting Board directs the Company to so finalize the SWPPP and to ensure the SWPPP addresses winter deicing activities to prevent impacts on water resources and wetlands. The Siting Board directs the Company to submit the SWPPP to the Board at least 60 days before the start of Project construction.

The record also shows that the Company would implement a Soil Erosion and Sediment Control Plan and post-construction Stormwater O&M Plan. The Siting Board directs the Company to submit to the Siting Board the Soil Erosion and Sediment Control Plan and post-construction Stormwater O&M Plan at least 60 days before the start of Project construction.

The Siting Board notes the release point of the attenuated stormwater from the dry detention basin collecting runoff from the access road, switching station, and substation would be within the Ware River sub-watershed but outside of the SWPA zones. The record reflects the Company would, pursuant to USEPA regulations, prepare a SPCC to address the risk of a dielectric fluid spill and provide a secondary containment sized to 110 percent of the amount of stored dielectric fluid. Furthermore, the dry detention basins would be lined with impermeable liners and connected to outfall pipes equipped with emergency shutoffs; thus, the dry detention basins can also function as a tertiary containment of dielectric fluid. The Siting Board directs the Company to submit to the Siting Board the Spill Prevention, Control, and Countermeasures ("SPCC") plan at least 60 days before the start of Project construction. The Company shall notify the Director of the Siting Board and the service list for the proceeding of any incident at the Project that (1) consists of a reportable release, or (2) requires a response from the Oakham Fire Department. The Company shall provide this notification by email within 24 hours of the incident.

The Siting Board directs the Company to endeavor to identify and test all private water supply wells within one mile of the Project Site before construction, after construction, and after an incident involving reportable quantities regarding the discharge of firefighting water effluent or any hazardous materials to surface water or groundwater resources. If any detectable water contamination is attributable to the Project's effluent discharge that makes the well unusable, the Company shall remediate the water quality deficiency and provide an alternative source of potable water until the water quality issue is resolved.

With the imposed conditions requiring the four stormwater management-related plans, the Siting Board finds that the Project would not directly threaten the protected water resources. The record also shows that, in response to three vernal pools that NHESP certified during the proceeding, as well as the ongoing dispute about a BVW in the northeastern part of the Project Site, the Company revised the Project design and site plan to avoid any new impacts on wetlands and vernal pools by relocating or modifying the access road, switching station, substation, BESS facility, and the two dry detention basins. As such, the Siting Board finds that the Company has avoided any significant Project impacts on wetlands.

e. Noise

i. Company Description

(A) Noise from Project Construction

The Company stated sound levels from construction activities, which would take place between 7:00 a.m. and 5:00 p.m. on weekdays, would be dominated by the loudest piece of equipment operating at the time and, therefore, the loudest piece of equipment would be the most representative of the expected sound levels at any given point across the work area (Exhs. EFSB-NO-5; EFSB-CM-1). The Company provided the maximum sound levels at 50 feet from the sound source from typical equipment the Company would use during Project construction, shown in Table 2.

Table 2. Maximum Sound Level of Typical Equipment for Project Construction

Equipment	Sound Levels at 50 feet (A-weighted decibels “dBA”)
Grader (175 horsepower (“hp”))	85
Rubber Tired Loader (164 hp)	85
Generator Set	81
Excavator (168 hp)	85
Crane (399 hp)	83
Forklift (145 hp)	85
Pickup Truck/All-Terrain Vehicle	55

Source: Exh. EFSB-NO-5.

Using the Federal Highway Construction Noise Model, the Company determined the loudest Project construction noise would decrease with distance from 79 dBA at 100 feet from the sound source to 59 dBA at 1,000 feet from the sound source (Exh. INT-1-16). According to Moraga, Project construction noise would continue to diminish beyond those distances, such that at the Oakham Center Elementary School approximately 2,000 feet away, the loudest Project construction noise would fall to 49 dBA outdoors, 39 dBA inside the school with windows open, and 29 dBA inside the school with windows closed (RR-EFSB-3). According to the Company, a typical library has a sound level of 35 to 40 dBA and, therefore, the Company did not anticipate a noise impact inside the school building (Tr. 2, at 205-206; RR-EFSB-3). For reference, as mentioned in the land use section (Section II.D.4.c.i.A), the closest residences are approximately 1,400 feet to the south of the BESS facility (Exh. MS-1, at 3).

For mitigation of construction noise, the Company would (1) fit the construction equipment with exhaust systems and mufflers; (2) maintain mufflers on all vehicles and construction equipment; (3) minimize surface irregularities on-site to prevent unnecessary noise; and (4) limit vehicle idling to no more than five minutes with certain exceptions (Exhs. EFSB-NO-5; MS-1, at 21).

(B) Noise from Project Operation

The Company identified the primary sources of operational sound within the Project as the 184 Tesla MP2XL units, 46 medium voltage transformers, and the substation power transformer (Exh. OAK-38(1), at 19). The Company would limit the speed (*i.e.*, throttle) of the BESS cooling fans to a maximum of 40 percent of their nominal speed (Exhs. EFSB-NO-9; EFSB-NO-2). According to the Company, Tesla conducted its own safety and noise modeling, with the conclusion that the MP2XL unit would operate safely with 40 percent fan throttling up to 36.7 degrees Celsius or 98 degrees Fahrenheit,³² and it would have a noise profile as presented in Table 3 (Exhs. EFSB-NO-9; EFSB-NO-9(1); RR-OAK-4(1)). While the fan speed is the primary temperature-regulating mechanism for the BESS units, the Company suggested the BESS system would activate automatic responses such as de-rating the power output or reducing state of charge if the system exceeds specified temperatures, so that the Project would comply with applicable noise regulations during operations, including times that exceed the current maximum recorded temperature of 36.7 degrees Celsius (RR-EFSB-2).

Table 3. Reference Sound Power Level by Source of Proposed Equipment

Proposed Source	Broadband Sound Power Level per Unit	Sound Level per Unit (dB) by Octave Band (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
Tesla MP2XL @ 40%	82 ⁽¹⁾	84 ⁽²⁾	84 ⁽²⁾	81	87	78	75	73	68	58
Medium Voltage Transformer	79 ⁽³⁾	76	82	84	79	79	73	68	63	56
Power Transformer	95 ⁽⁴⁾	92	98	100	95	95	89	84	79	72

⁽¹⁾ Sound power level per Megapack, with fan speeds at 40%.

⁽²⁾ Data in these octave bands for the Megapack are based on the 125 Hz octave band.

⁽³⁾ Broadband and octave band data for medium voltage transformer calculated from *Electric Power Plant Environmental Notice Guide*, Edison Electric Institute, 2nd edition, 1984. Assumes 4.8 MVA transformer.

³² 36.7 degrees Celsius or 98 degrees Fahrenheit was the highest record temperature measured at the Worcester Regional Airport (Exh. EFSB-NO-9(1)).

⁽⁴⁾ Broadband and octave band data for power transformer calculated from *Electric Power Plant Environmental Noise Guide*, Edison Electric Institute, 2nd edition, 1984. Assumes National Electrical Manufacturers Association (NEMA) rating of 75 dBA.

Source: RR-OAK-4(1), Table 6-2

The Company calculated the sound levels of the medium voltage transformers and power transformer using standard industry guidance documents (RR-OAK-4(1), Table 6-2). The Company stated it would procure equipment with the calculated sound power values (Tr. 6, at 1026-1027, 1037-1038). Additionally, the Company would construct a sound wall to the east and south of the BESS approximately 21 feet tall and 815 feet long (Exh. OAK-74). The Company noted that these specifications are subject to modification to accommodate any changes associated with the final Project design, including final equipment selection (Tr. 2, at 197-198).

The Company completed a sound level assessment report that documented the existing sound conditions near the Project, modeled the expected sound levels from the Project, and evaluated the results for consistency with the MassDEP Noise Policy, which the Company stated limits the increase over ambient to 10 dBA or less and prohibits creation of new “pure tone” conditions (Exh. MS-1, at 28). According to the Company, the sound level assessment report shows that, through the implementation of low-noise equipment, fan throttling of equipment, and sound barriers, the Project would increase sound level at residential locations from 3 to 9 dBA above the nighttime ambient sound levels and create no new pure tone conditions³³, as shown in Tables 3 and 4 and in Figure 6 (Exh. OAK-38(1), at 4).

³³ A “pure tone” condition occurs when any octave band sound pressure level exceeds both of the two adjacent octave band sound pressure levels by 3 dB or more (Exh. OAK-38(1), at 10).

Table 4. Nighttime (10 p.m. to 7 a.m.) MassDEP Noise Policy Compliance Evaluation

Receptor ID	Land Use	Representative Long Term Sound Level Measurement Location	Measured Background Noise Level (dBA)	Modeled Facility-Only Noise Level (Proposed) (dBA)	Combined Facility + Background Noise Level (dBA)	Increase Above Background (dBA)*	Meets MassDEP Limit?
R1	Residence	1	26	33	34	7	Yes
R2	Residence	1	26	34	34	8	Yes
R3	Residence	1	26	33	34	8	Yes
R4	Residence	1	26	34	35	8	Yes
R5	Residence	1	26	33	34	8	Yes
R6	Residence	1	26	34	35	8	Yes
R10	Residence	2	25	33	34	9	Yes
R11	Residence	2	25	24	28	3	Yes
PL1	Property Line	1	26	30	32	6	Yes
PL2	Property Line	1	26	34	34	8	Yes
PL3	Property Line	1	26	33	33	7	Yes
PL4	Property Line	1	26	31	33	6	Yes
PL5	Property Line	1	26	31	32	6	Yes
PL6	Property Line	1	26	32	33	6	Yes
PL7	Property Line	2	25	30	31	6	Yes
PL8	Property Line	2	25	31	32	7	Yes
PL9	Property Line	2	25	33	34	9	Yes
PL10	Property Line	2	25	34	34	9	Yes
PL North	Property Line	2	25	45	45	20	N/A

Receptor ID	Land Use	Representative Long Term Sound Level Measurement Location	Measured Background Noise Level (dBA)	Modeled Facility-Only Noise Level (Proposed) (dBA)	Combined Facility + Background Noise Level (dBA)	Increase Above Background (dBA)*	Meets MassDEP Limit?
PL East	Property Line	2	25	57	57	32	N/A
PL South	Property Line	2	25	54	54	29	N/A

* Calculated from levels with greater precision than shown in this table and then rounded to the nearest whole decibel.

Source: Exh. OAK-38(1), at 24, Table 6-3

Table 5. Nighttime (10 p.m. to 7 a.m.) MassDEP Noise Policy Pure Tone Evaluation

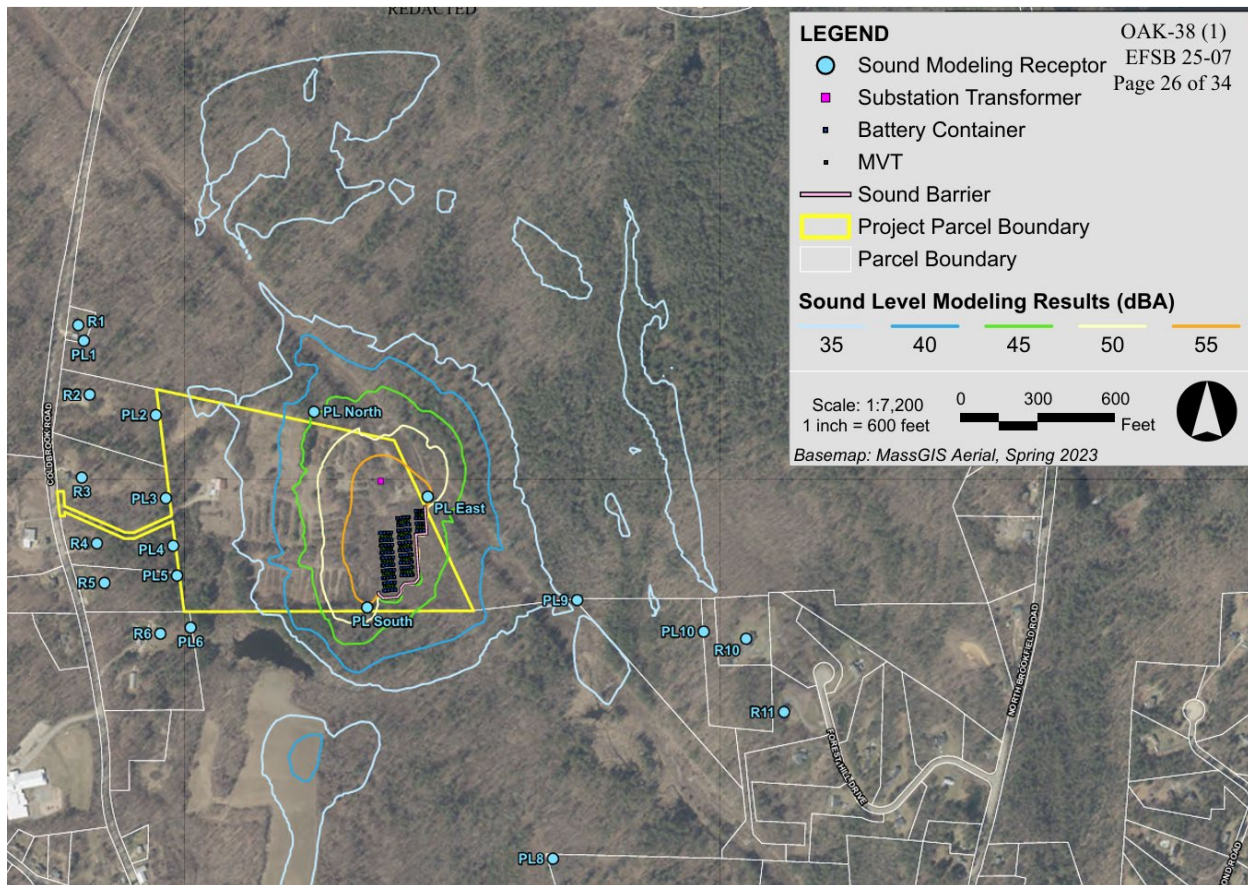
Receptor ID	Land Use	Sound Level (dB) per Octave-Band Center Frequency (Hz)*								
		31.5	63	125	250	500	1k	2k	4k	8k
R1	Residence	41	39	39	38	31	28	25	27	29
R2	Residence	41	40	40	39	32	28	25	27	29
R3	Residence	41	40	40	39	32	28	25	27	29
R4	Residence	41	40	40	39	32	28	25	27	29
R5	Residence	41	40	40	39	32	27	25	27	29
R6	Residence	42	41	40	39	32	28	25	27	29
R10	Residence	43	42	37	38	32	28	25	27	29
R11	Residence	41	37	32	31	26	23	24	27	29
PL1	Property Line	40	39	39	36	29	26	25	27	29
PL2	Property Line	42	40	40	39	32	28	25	27	29
PL3	Property Line	42	41	40	38	31	26	25	27	29
PL4	Property Line	42	40	40	37	30	26	25	27	29
PL5	Property Line	42	40	40	37	30	25	25	27	29
PL6	Property Line	42	41	40	38	30	26	25	27	29
PL7	Property Line	42	39	34	35	30	26	25	27	29
PL8	Property Line	42	40	35	36	30	26	25	27	29
PL9	Property Line	43	42	38	39	31	27	25	27	29
PL10	Property Line	43	42	37	38	32	28	25	27	29

* Calculated from levels with greater precision than shown in this table and then rounded to the nearest whole decibel.

Source: Exh. OAK-38(1), at 25, Table 6-4

The Company noted that the assessment predicted no abutting residences would have sound level increases at the corresponding parcel line greater than 10 dBA (Exhs. EFSB-NO-4; OAK-70). The Company indicated MassDEP does not necessarily consider noise levels exceeding the Noise Policy criteria at the source property line as a violation under its regulations (Exhs. EFSB-NO-4; OAK-70; OAK-38(1), at 10; see Exh. OAK-38(1) at 29-31, App. A).³⁴ Furthermore, the Company noted there are no sensitive receptors on the abutting properties where the modeled results exceed a 10 dBA sound level increase at the property line (Exhs. EFSB-NO-4; OAK-70).

³⁴ The Company referenced MassDEP's Noise Pollution Policy Interpretation, an undated two-page document interpreting the MassDEP Noise Policy for enforcement actions, which specifies that "[n]oise levels that exceed the criteria at the source's property line by themselves do not necessarily result in a violation or a condition of air pollution under MassDEP regulations" for the policy was "designed to protect affected residents and other sensitive occupants of nearby property, but not necessarily uninhabited areas in and around the source's property" (Exh. OAK-38(1) at 31).

Figure 6. Sound Level Modeling Results

Source: Exh. OAK-38(1), at 26. (Legend modified by Siting Board staff for legibility.)

The Company considered the findings in the sound level assessment report extremely conservative because they are based on the following assumptions:

- Low Ambient Background sound level: The Company measured existing-condition sound levels for eight days at two long-term and three short-term baseline monitoring locations to ensure the lowest sound level values are captured during both a daytime and nighttime period, and used the eight-day average of the lowest hourly L_{90} sound levels measured during each daytime and nighttime period to calculate average eight-day sound levels;³⁵

³⁵

According to the Company, L_{90} is the sound level exceeded 90 percent of the time during the sound measurement period and is used to establish ambient background sound level to evaluate compliance with the MassDEP Noise Policy (Exh. OAK-38(1) at 8; Tr. 6, at 970-971).

- Maximum throttle speed: The Company assumes maximum fan throttle speed of 40 percent of full capacity;
- Environmental factors: The Company assumes (i) favorable conditions for sound propagation corresponding to a calm, clear, night, or equivalent downwind propagation; (ii) meteorological conditions where the human ear is most sensitive; and (iii) no additional attenuation due to air turbulence, foliage, or wind shadow effects.

Source: Exhs. MS-1, at 28; OAK-38(1), at 21; EFSB-NO-6; Tr. 2, at 198-199; Tr. 6, at 964-979.

With the proposed mitigations of low noise equipment, reduced fan throttling of the BESS, and sound barriers, the Company concluded the Project would meet the requirements set forth in the MassDEP Noise Policy at all residential locations (Exhs. MS-1, at 29). Furthermore, the Company anticipated that the Project's noise impacts would be less than that modeled in the sound level assessment report most of the time because of the assessment's conservative assumptions (Exh. MS-1, at 29). The Company explained that the Project's incremental sound level increases would remain the same as modeled and, thus, the incremental sound level increases would constitute a proportionally smaller portion of the resulting sound levels (Exh. MS-1, at 29).

The Company expressed confidence that the Project would be consistent with the MassDEP Noise Policy but, to address concerns about noise impacts, also expressed willingness to monitor noise after Project construction and after any future augmentation (Tr. 2, at 198-201). In response to specific concerns about noise impacts of future augmentation, the Company referred to its original sound level assessment report (see Exh. MS-C) modeling 212 BESS units, which yielded sound levels that are about one decibel higher than the updated report that modeled 184 units (see Exh. OAK-38(1)) but were still under the MassDEP Noise Policy limits (Tr. 1, at 63; see Exh. EFSB-D-10). Moreover, the Company noted trends indicating future BESS models would be quieter than the proposed BESS units (Tr. 1, at 63; RR-EFSB-1).

Nevertheless, if post-construction Project sound levels were to exceed the MassDEP Noise Policy limits, the Company asserted that it could and would implement additional

mitigation measures, such as further reductions in fan throttling, other operational restrictions, additional sound barrier walls, and quieter equipment (Tr. 2, at 199-200).

ii. Positions of the Parties

(A) Town of Oakham

The Town argues that subjecting the rural-residential area surrounding the Project Site, now an extremely quiet area with no competing noise pollution, to the Project's continuous industrial noise levels would be unreasonable and adverse to the public interest (Town Brief at 15, citing Exh. OAK-MB at 9-11). The Town noted that, as reflected in submitted public comment, the Oakham Board of Health suspected the Project would "result in a public nuisance, be harmful to the inhabitants, injurious to their estates, and/or dangerous to public health" (Town Brief at 15, citing Exh. OAK-MB at 9-11).³⁶ In asserting the Project may constitute a noisome trade and, in turn, put the Project within the purview of the Board of Health, the Town faulted Moraga for not engaging the Board of Health directly (Town Brief at 15-16, citing Exh. OAK-MB at 9-11).

The Town also disputed the Company's sound level assessment methodology and rejected the Company's conclusion that the Project would comply with the MassDEP Noise Policy (Town Brief at 16, citing Tr. 6, at 961-983). Specifically, the Town alleged that the baseline sound levels used in the modeling did not include measurements made at the actual location of the sensitive receptors (i.e., the nearby residences) and, thus, made the modeling invalid (Town Brief at 16, citing Tr. 6, at 961-983). Similarly, the Town dismissed the validity of the sound source data for the two types of transformers because the Company had not selected the final equipment and only provided Company-produced estimates (Town Brief at 16, citing Tr. 6, at 961-983).

³⁶ The Town suggests that the Board of Health may view the Project as a "noisome trade," subjecting it to actions of the Board of Health (Town Brief at 16, citing Exh. OAK-MB at 9-11). While such an action is likely impermissible because of its inconsistency with the decision of the Siting Board, the Board of Health has not taken action regarding the Project, and, therefore, review of such action is premature at this time.

(B) Represented Party Intervenors

The RPIs incorporate by reference the Town's positions on noise and additionally argue the Company's noise modeling was flawed and inadequate on several bases (RPI Brief at 35). Specifically, the RPIs claim Moraga neglected to measure and model the noise at the abutting residents' property lines (RPI Brief at 38-39, citing Tr. 6, at 1036, 1048). The RPIs question Moraga's understanding of the mechanics of the BESS equipment, alleging the Company failed to consider how the supposed increased internal heat resulting from the degradation of the BESS would alter its sound outputs over time (RPI Brief at 35-38, citing Tr. 6, at 1029, 1058-1061, 1063).³⁷ The RPIs expressed concern that Moraga would increase the size of the Project beyond 180 MW or increase the fan speed of the Tesla MP2XL units, which they allege would result in additional noise and violations of the MassDEP Noise Policy (RPI Brief at 40-42, citing Tr. 1, at 42; Tr. 6, at 1044).

The RPIs contend, without citing evidence, the 10 dBA threshold set by the MassDEP Noise Policy applies only to commercial and industrial areas and not to residential areas (RPI Brief at 19, 35-36, 41-42). Additionally, the RPIs claim that for sound generated by construction, the MassDEP threshold applies at the property boundary, not just at the residential sensitive receptors; thus, the RPIs assert that the estimated 59 dBA resulting from Project construction noise at the abutter's property line would violate the MassDEP Noise Policy (RPI Brief at 38-39, citing Tr. 6, at 1048). Moreover, the RPIs note the BESS facility would be operating at its greatest capacity during peak hours when discharging in the late afternoon and evening, and recharging during off-peak hours from 11 pm to 6 am, which would coincide with and affect residents' family time and sleep, respectively (RPI Brief at 39-40, citing Tr. 6, at 1031, 1039, 1040, 1057).

³⁷ With respect to their arguments on degradation impacts to BESS noise levels, the RPIs refer to information introduced by their counsel during the evidentiary hearings but not supported by other evidence (see Tr. 6, at 1057-1065).

(C) Limited Participants – the Piuccis

The Piuccis echo the RPIs' argument that the Company's noise modeling is flawed and inadequate (Piuccis Reply Brief at 6-8).

(D) Company Response

(1) Response to the Town of Oakham

In response to the Town's argument that "[the Project Site] is a rural-residential area where it is not reasonable to impose commercial-operation type noise levels," Moraga counters that the Town repeatedly approved the use of the Project Site as a busy auto salvage yard with up to 35 daily vehicle trips involving large vehicles, which would entail commercial operations noise levels and much greater environmental impacts than the Project (Company Reply Brief at 12). The Company adds that if the Project as constructed generates sound levels exceeding the MassDEP Noise Policy limits, which the Company suggests would be highly unlikely given the multiple layers of conservative assumptions built into the sound modeling, then the Company would address the noise exceedance through post-construction sound assessment and additional mitigation if needed (Company Reply Brief at 12, citing Tr. 2, at 200-201).

Moraga contends the record contradicts the Town's assertion its sound level assessment was flawed (Company Reply Brief at 13, citing Town Brief at 16; Tr. 6, at 961-983). The Company points to its sound expert's elaboration on the reasons the Company chose certain monitoring locations and why these baseline monitoring locations appropriately capture the existing ambient background sound levels (Company Reply Brief at 13, citing Tr. 6, at 961-983).³⁸ The Company concludes the Town's concerns regarding the sound assessment and

³⁸ The Company's sound expert explained that in measuring ambient sound levels near the Project: (1) one chosen monitoring location was at a similar setback from Coldbrook Road as that of the closest residences and the other location was set back far from any roadway to be representative of a true quietest area accessible to the expert; (2) choosing locations closer to the parcel boundaries to the west of the Project Site would not have made a difference in determining ambient noise levels; and (3) occasional traffic noise from Coldbrook Road did not affect long-term monitoring at the monitoring location closer to the road because the L₉₀ sound level metric essentially filtered out such noise (Company Reply Brief at 13-14, citing Tr. 6, at 966-697, 968-969, 970-971).

Project sound levels were purely theoretical and contrary to the Project's science-based noise modeling (Company Reply Brief at 12).

(2) Response to the RPIs

The Company likewise argues that the RPIs' arguments are without merit, noting they, like the Town, avoid any discussion of the Company's willingness to conduct a post-construction noise assessment and ignore the multiple layers of conservative assumptions built into the Company's sound level assessment (Company Reply Brief at 25, citing RPI Brief at 43; Exhs. OAK-38(1) at 21; EFSB-NO-6). Moreover, the Company contends that RPIs' concerns with the Tesla MP2XL 40 percent fan throttling were misguided, as the Company had presented evidence that the units would be able to maintain compliance with the applicable noise regulations at this fan speed even when temperatures exceed the historic record for the area (Company Reply Brief at 26, citing RPI Brief at 36; Exhs. EFSB-NO-2; EFSB-NO-9(1); Tr. 1, at 43-44; RR-EFSB-2).

The Company rebuts the RPIs' concerns regarding possible future augmentation strategies and degradation of the BESS, noting that it presented evidence that: (1) BESS units used in the future would likely follow the current trend of becoming quieter; (2) the Company's inherently conservative sound level assessment as set forth above; (3) the RPIs presented no evidence that BESS would become louder over time; and (4) the Project would continue to be subject to the applicable limits set forth in the MassDEP Noise Policy and precluded from operation if the Project exceeds such limits in the future (Company Reply Brief at 26-27, citing RPI Brief at 37-41; RR-EFSB-1).

The Company also rebuts the RPIs' complaint about potential construction noise, arguing that temporary construction noise is not noise pollution so long as reasonable efforts are taken to mitigate its impact, such as the ones proposed by the Company (Company Reply Brief at 27, citing RPI Brief at 38-39). In addition, the Company notes that noise impacts at the Oakham Center Elementary School during construction would be negligible, as reflected in the record (Company Reply Brief at 27, citing RR-EFSB-3).

iii. Analysis and Findings

Regarding construction noise, while the loudest sound levels close to the construction equipment would be considerable, they are comparable to construction equipment typically used in other energy facility projects reviewed and approved by the Siting Board. SouthCoast Wind Energy LLC, EFSB 22-04/D.P.U. 22-67/22-68, at 120-121, 134 (2024) (“SouthCoast Wind”); Park City Wind at 113-116; Mid Cape Reliability Project at 64-67. The Siting Board also recognizes that the sound level decreases with distance from the sound sources, so that the noise generated by the Project construction equipment would fall to moderate levels at the closest residents and even lower levels at the Oakham Center School. The record reflects that the Company would implement noise suppression technology on its construction equipment and vehicles, minimize surface irregularities on-site that could cause unexpectedly high sound levels, and comply with the state anti-idling law to further mitigate construction noise. The Company’s proposed regular construction hours comport with the Town of Oakham Bylaw and are more limited than the Bylaw by excluding the otherwise allowable work hours on Saturday.

For operational noise impacts, the Siting Board has required sound modeling that can predict whether a project would be consistent with the parameters set forth in the MassDEP Noise Policy. The record shows the Company conducted a sound level assessment and thoroughly explained its methodology in submitted documentation and testimony from the Company’s sound expert witness. The Company’s sound level assessment: (1) established baseline sound levels based on methodology comparable to the Siting Board’s prior cases,³⁹ including using multiple long-duration and short-duration ambient background sound monitoring stations and establishing the baseline sound levels from the average of the lowest hourly L₉₀ sound levels measured; (2) established equipment sound profiles based on data either provided by the BESS equipment manufacturer or calculated using industry guidance documents published by Edison Electric Institute; (3) incorporated conservative assumptions; and (4) modeled the sound levels at locations appropriate to correctly evaluate the Project’s consistency with the limits set forth in the MassDEP Noise Policy, including at the residences

³⁹ Trimount ESS LLC at 37-44; Cranberry Point, at 59-61; Park City Wind at 136-141.

and lot lines of abutting and nearby residential properties that are most susceptible to being affected by noise from the Project. Although the Company did not monitor background sound levels at every affected property line, it monitored sound levels at points reasonably expected to represent or exceed sound levels at the remaining property lines. The record shows all modeled sound levels on property lines shared with residential parcels are below the MassDEP Noise Policy limits.

Intervenors express concerns that the Project in construction and operation would emit sound that would disturb local residents. The Siting Board recognizes that ambient sound in the area around the Project Site is quiet. The Intervenors put forth various arguments contesting the methodology of the Company's sound level assessment but presented no supporting evidence. The record reflects that the Company would design the Project to operate the BESS units at a 40 percent fan throttling speed and would construct a sound wall to the south and east of the Project. Because transformer units are commonly customized for specific energy facility projects, energy facility developers typically design the parameters for such equipment before procurement. Trimount ESS at 40-41; SouthCoast Wind at 143-145; Park City Wind at 137, 146-147. The Siting Board imposes post-construction sound monitoring conditions to ensure the Project as-built would perform according to the earlier sound modeling and would be consistent with the limits set forth in the MassDEP Noise Policy. Trimount ESS at 53-55; SouthCoast Wind at 157-158; Park City Wind at 149-155.

With respect to future augmentation, the Siting Board recognizes that additional BESS units and BESS models different from the proposed Tesla MP2XL may affect the Project's consistency with the limits set forth in the MassDEP Noise Policy. Nevertheless, the record reflects that (1) future augmentation would not increase the Project's footprint and, as such, would be limited in scale; (2) future BESS equipment may be quieter, in line with ongoing technological trends; and (3) the augmented BESS facility, like the original, must be consistent with the limits set forth in the MassDEP Noise Policy to continue operations. The Siting Board directs the Company to impose a 40 percent fan throttling limit on all BESS units throughout the duration of Project operation. Any exceedance of this 40 percent limit shall be deemed a violation of this requirement. The Siting Board directs the Company to report any violations of

this condition to the Siting Board and the Town of Oakham within 24 hours of occurrence. The Siting Board directs the Company to conduct sound testing with all BESS units operating at maximum sound conditions (at 40 percent fan speed and maximum charge rate) during nighttime charging hours within 120 days of the Project's commercial operation and within 120 days of any augmentation to the Project, and to submit a report to the Town of Oakham and the Siting Board showing consistency with the limits set forth in the MassDEP Noise Policy.

The Company shall consult with the Town on the selection of the contractor conducting sound testing or sound modeling by proffering three prospective contractors with a request for a recommendation by the Town on a preferred contractor candidate, which shall be provided by the Town within seven days of the request. The Siting Board further directs the Company to consult with the Town on sound testing and any future sound modeling, including soliciting input on noise monitoring locations. In addition, the Siting Board directs the Company and the Town to collaborate on a sound monitoring protocol considering ongoing sound monitoring for three to five years and considering responsive action in the event of excessive noise, and to submit the protocol to the Siting Board. The Siting Board encourages the Company to reduce Project noise impacts below the MassDEP Noise Policy limits, as practicable.

f. Solid Waste and Hazardous Materials

i. Company Description

(A) General Waste Handling and Disposal

The Company committed to transporting all waste generated during the demolition, site preparation, construction, and operations of the Project to appropriate disposal facilities offsite in accordance with local, state, and federal guidelines and regulations (Exh. MS-1, at 26). Due to the historic site usage as an auto salvage and recycling facility, the Company anticipated waste consisting of metal, scrap wood, asphalt, brick, and concrete (Exh. MS-1, at 26). The Company would implement measures, including recycling, to minimize the generation of solid and other waste and would transport non-recyclable solid waste to a licensed solid waste facility (Exh. MS-1, at 26). For potentially hazardous materials, the Company has consulted and would continue to consult with a licensed site professional ("LSP") to ensure that contaminated soil, groundwater, or media within the jurisdiction of G.L. c. 21E, also known as the Massachusetts

Contingency Plan (“MCP”), and the Occupational Safety and Health Administration (“OSHA”) (and G.L. c. 21C, if applicable) would be excavated, removed, handled, or disposed of with the proper notification and coordination with the MassDEP Bureau of Waste Site Cleanup (Exh. MS-1, at 26-27). Similarly, in case of a reportable release of oil or hazardous materials at the Project Site, the Company would notify MassDEP and, if required, conduct additional assessment and cleanup activities until the risk to human health and the environment are below acceptable standards, in accordance with the MCP (Exh. MS-1, at 27).

The Company indicated that Project operations would not generate solid or hazardous waste on a regular basis (Exh. MS-1, at 27). Given that the Tesla MP2XL has an expected useful service life of up to 15 to 20 years, however, the Company assumed it would have to replace the batteries throughout Project operations (Exhs. OAK-140; OAK-141; MS-1, at 27).⁴⁰ The Company would remove, transport, and manage any used batteries in accordance with all local, state, and federal guidelines and regulations (Exh. MS-1, at 27).

(B) Waste Related to Former Auto Salvage Business

The Project Site was used in the past as an auto salvage business, and debris from that business still exists on the site (Exhs. EFSB-H-6(1) at 16; EFSB-LU-1). To ascertain and assess potential hazardous waste associated with the former auto salvage business as part of the Company’s land purchase due diligence,⁴¹ the Company reviewed and conducted the following environmental site assessments and investigations of the Project Site:

⁴⁰ The Company submitted conflicting information on the expected service life of BESS, with one exhibit stating a useful life of approximately ten years for general lithium-ion batteries (Exh. MS-1, at 27) and others stating an expected useful service life of up to 15 to 20 years for the Tesla MP2XL (Exhs. OAK-140; OAK-141). The Siting Board interprets the latter estimated useful life for the proposed BESS system to be more accurate for the Project.

⁴¹ The Company recognized that, once it acquires the Project Site, it would become responsible for addressing any contamination subject to the MCP, including investigating RECs, within the Project Site (Tr. 6, at 1140-1141). Moreover, the Company stated that it would take actions to address any violations of environmental law such as the Massachusetts Wetlands Protection Act, including violations that predated the

- A Phase I Environmental Site Assessment and Limited Subsurface Investigation conducted by SWCA Environmental Consultants for BHT Properties Group, dated May 2022, in general conformance with American Society for Testing and Materials (“ASTM”) Standard E1527-13 (“SWCA Phase I ESA”) consisting of a records review, site reconnaissance, interviews with the former operator, a regulatory database review, as well as a subsurface investigation consisting of test pits, soil borings, soil sampling, and the installation of groundwater monitoring wells for petroleum hydrocarbons and metals (Exh. EFSB-H-3; see Exh. EFSB-H-6(1));
- An environmental due diligence review conducted by GEI Consultants for Epsilon Associates, Inc. (the Company’s environmental consultant for the Project), dated August 10, 2023, consisting of a review of Environmental Database Reports, applicable local and State databases, and provided reports (RR-INT-1(1) at 1); and
- A field investigation/site visit conducted by Epsilon Associates, Inc. (representatives from GEI Consultants also participated) for the Company on September 19, 2023 to observe indications of releases or potential releases of oil or hazardous materials, with a focus on a five-acre area in the southeast corner of the Project Site that was not covered in the SWCA Phase I ESA (see RR-INT-1(2)).

Source: Exh. EFSB-H-3; RR-INT-1; Tr. 3, at 538-540.

Based on these site assessments and investigations, the Company concluded the Project Site had no identified reportable releases of oil or hazardous materials and no recognized environmental conditions (“RECs”)⁴² requiring further response (Exhs. EFSB-H-3; RR-INT-1(1); RR-INT-1(2)). The site assessments and investigations made the following findings and recommendations:

- The SWCA Phase I ESA recommends the aboveground oil tanks, drums/containers containing petroleum products, and waste vehicle fluids observed near the office/garage

Company’s ownership of the Project Site and outside the Company’s foreknowledge when purchasing the Project Site (Tr. 6, at 1144-1147).

⁴² ASTM E1527-13, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* defines RECs as follows: “the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. De minimis conditions are not recognized environmental conditions.” (Exh. EFSB-H-6(1) at 5).

building, an adjacent truck scale shed, and an auto crusher formerly located in a parking area to the east of the office/garage building be removed and properly disposed of according to applicable local, state, and federal regulations (Exh. EFSB-H-6(1) at 18-19).

- The SWCA Phase I ESA also observed piles of solid waste including automobile parts, household appliances, and miscellaneous debris consisting of small pieces of plastic/metal/rubber up to larger automobile parts and pieces around the perimeter of the subject property parking areas but identified no RECs requiring further response (Exh. EFSB-H-6(1) at 22; Tr. 6, at 1143-1144).
- The field investigation conducted by Epsilon Associates, Inc. did not observe indications of releases or potential releases of oil or hazardous materials but identified remnant auto parts and chassis within wetland resource areas (RR-INT-1(2); Tr. 3, at 542).

The Company would implement the SWCA Phase I ESA recommendation—removal and proper disposal of the oil and fluid tanks and containers noted above—as part of the Project (Tr. 2, at 354; Tr. 6, at 1142-1143). The Company explained such an effort would likely involve a Phase II Environmental Site Assessment conducted by an LSP with additional sampling and lab testing of materials (Tr. 6, at 1137-1141). In accordance with the MCP, if any results yield reportable concentrations of oil or hazardous materials, the Company would comply with the reporting requirement and subsequent obligations that could involve remedial actions (Tr. 6, at 1110, 1137-1141).

Figure 7. Photo of Automobile Debris on the Project Site



Source: Exh. EFSB-OAK-19(2)

Concerning the piles of solid waste and miscellaneous debris associated with the former auto salvage business, the Company proposed the following: (1) complete removal of large debris related to the former auto salvage business such as car frames, car parts, car tires, and metal drums within the 18-acre Project construction envelope as part of site preparation for the Project; and (2) reasonable, targeted removal of large debris outside the Project construction envelope in isolated circumstances where such removal can be achieved without wetland impacts and without extending the scope of Project-related activities (RR-EFSB-11).⁴³ Nevertheless, the

⁴³ The Company indicated this approach is the most feasible and is consistent with state policy to both promote clean energy infrastructure and protect wetland resources; removing all automobile debris across the entire parcel would potentially require activities that could impact wetlands and would not be prudent compared to targeted debris removal to avoid wetlands impacts (RR-EFSB-11).

Company recognized that, assuming the auto salvage yard operator did not have a permit to push earth and put auto parts into the BVW, the remnant auto parts and chassis within the BVW are a violation of the Massachusetts Wetlands Protection Act regulations and, depending upon the size and location of the violation, potentially also of Section 401 water quality regulations and of the Watershed Protection Act (Tr. 6, at 1144-1146). The Company would comply with the law, including scheduling a site visit for the Oakham Conservation Commission to investigate this violation, and cooperate with any subsequent enforcement actions (Tr. 6, at 1146-1147, 1163-1164).

(C) DCR Complaint

The Company noted that debris related to the former auto salvage business is also present along the northern boundary of the Project Site shared with a DCR conservation area, and that DCR had made a complaint in January 2026 to the current landowner of the Project Site regarding debris being pushed onto DCR property (Tr. 2, at 355-356; see Exh. EFSB-OAK-19(2)). The Company met with DCR staff at the Project Site and discussed the complaint and debris (Tr. 3, at 554-559; Exh. OAK-17; see Exh. OAK-131(1)). The Company stated it would adhere to any regulatory action or requirement in case of an enforcement action (Tr. 2, at 359-360).

The Company did not anticipate Project construction to worsen the situation on the DCR property (Tr. 2, at 357-358). With the understanding that the Company can coordinate the timing of any potential cleanup of this debris with Project construction, the Company did not anticipate the cleanup to interfere with Project construction or operations (Tr. 2, at 358-361). Moreover, the Company suggested that Project construction equipment could be used for such a cleanup effort (Tr. 2, at 359-360).

ii. Positions of the Parties

(A) Town of Oakham

The Town alleged numerous unresolved environmental issues, including illegal and previously concealed dumping of potentially contaminated materials on the Project Site as well as the abutting DCR land, for which the Town claims it has made repeated requests for

responsible enforcement (Town Brief at 2, 14, citing Exh. OAK-MB at 8).⁴⁴ The Town reasoned that any disturbance of soils on the Project Site, including from multiple sites of unaddressed illegal landfills, which it alleges have received decades of automotive fluid absorption from junk yard use, would risk accelerated movement of toxic pollutants into the local groundwater and surface run-off, and in turn, presents an immediate and serious risk to private well water and public waterways, including the SWPA for the Ware River sub-watershed on and abutting the Project Site (Town Brief at 14, citing Exh. OAK-MB at 8).

The Town further contends disturbance of these contaminated soils would, through resulting fugitive dust, risk the health of both contractors and abutters if either allowed to remain unaddressed or mitigated in unsupervised, unregulated, or otherwise substandard fashion (Town Brief at 14-15, citing Exh. OAK-MB at 8). The Town contends the Company-suggested cleanup with “targeted” removal of illegally discarded or buried materials in the Project footprint in and around contaminated areas and jurisdictional wetland areas, and nowhere else, as well as the Company’s claim that such cleanup would be a proper balance of competing state interests, is “absurd and illegal” (Town Brief at 15, citing RR-EFSB-11). To bolster its argument, the Town notes that the Company’s recommended cleanup approach is: (1) not supported by any regulatory filings and approvals in advance; and (2) not explicitly supported during the evidentiary hearing, nor signed off by the Company’s environmental expert witness (Town Brief at 14-15; see RR-EFSB-11).

⁴⁴ The allegations of illegal dumping and landfills were made by two of the Town’s fact witness through their testimonies and reiterated in the response to a Siting Board’s information request (Exhs. OAK-MB; OAK-PW; EFSB-OAK-19). The Town also submitted a site visit visual inspection report written, alongside photos taken, by the Leicester Regional Public Health Coalition, as well as email communications with DCR staff members that include field observations of automobile debris on-site, including within the SWPAs (Exhs. EFSB-OAK-19(1); EFSB-OAK-19(3); EFSB-OAK-19(4)). Town counsel cross-examined the Company’s environmental expert about the alleged illegal landfills; both parties recognized the presence of automobile debris, but the cross-examination was inconclusive about the presence of illegal landfills (Tr. 3, at 540-553).

(B) Represented Party Intervenors

The RPIs contend that during its site selection process, the Company relied only on aerial photos and public data and did not investigate, among other issues, unsampled soil and groundwater contamination in the immediate vicinity of the planned BESS and accompanying equipment, as well as the presence of abandoned cars and car parts on the entirety of the Property (RPI Brief at 5). The RPIs also assert that construction and installation of heavy equipment and excavation of tons of soil on the Project Site might result in migration of pre-existing soil and groundwater contamination that could disturb the quality of well water of nearby residents as well as the streams and water bodies that feed the Quabbin Reservoir (RPI Brief at 45). In their reply brief, the RPIs allege that, by refusing to take environmental samples outside of the 18-acre Project construction envelope or to clean up the entire Project Site, the Company is intending to take advantage of the provisions of the MCP to avoid liability for investigating and remediating any reportable contamination of the entire Project Site (RPI Reply Brief at 10-11).

(C) Limited Participants – the Piuccis

The Piuccis argue the Project fails to satisfy the Siting Board's statutory requirement that energy infrastructure be developed with minimum environmental impact because: (1) the Project Site contains widespread automobile-related contamination; and (2) the complete remediation of the contamination on-site would likely trigger additional environmental disturbance (Piucci Brief at 5-6). On the first point, the Piuccis contend the Project Site is a contaminated landscape in which Project construction would interact with pre-existing environmental degradation (Piucci Brief at 5-6). On the second point, the Piuccis argue the Company intended to avoid a comprehensive cleanup of contamination across the entire Project Site as part of this Project, namely by designing the Project footprint to avoid the hardest environmental problems rather than solve them, and by limiting cleanup effort beyond the Project construction envelope to "reasonable, targeted removal"—essentially suggesting the safest way to avoid environmental harm is to leave hazardous debris where it sits (Piucci Brief at 6). The Piuccis claim the limitation in the Company's proposed cleanup effort for avoiding additional access through sensitive wetlands, the creation of temporary access routes and staging areas, the use of

specialized equipment, tree cutting, and additional permitting is a strategic choice rather than a virtue (Piucci Brief at 6). The Piuccis characterize the Project as “[relying] on preserving contamination in place while introducing new construction risks into a wetland-adjacent and degraded parcel” (Piucci Brief at 6).

Moreover, the Piuccis note the Company offered no assurance that construction activities within the Project construction envelope would avoid contact with debris-tainted soils, buried automobile parts, or residual fluids associated with the former salvage operations, and that the Company’s assertion to avoid and minimize wetlands impacts does not prove that such impacts would be prevented, viewing it merely as a statement of intent rather than demonstrated environmental protection (Piucci Brief at 6).

(D) Company Response

(1) Response to the Town of Oakham

In response to the Town’s brief, the Company argues the Town relies upon conclusory assertions of one of its fact witnesses, Mr. Matthew Broderick, who is not an expert in environmental testing or conditions, about the possibility of soil contamination at the Project Site, while ignoring that the site was assessed for potential contamination with the reports concluding no RECs requiring further response for the Project Site (Company Reply Brief at 10, citing Town Brief at 14-15; Exh. EFSB-H-3; RR-INT-(1) at 1, 9, 31). The Company contends the Town’s claims against its plan to clean up the site were without basis, as the Town did not explain its rationale nor do its claims appear to be based on anything in the record of Massachusetts environmental law and practice (Company Reply Brief at 10-11, citing Town Brief at 15). The Company states that it specifically discussed potential regulatory requirements depending on the extent of the cleanup and that any remedial actions “would be certainly reviewed through the Wetland Protection Act with the conservation commission and/or MassDEP” (Company Reply Brief at 11, citing RR-EFSB-11; Tr. 6, 1147). In response to the Town’s claim RR-EFSB-11 was not signed by Mr. Bergeron due to the cleanup plan’s alleged absurdity and illegality, the Company finds the claim unfounded and inflammatory, explaining

that Mr. Benito signed the record request response for the Company that would ultimately be responsible for conducting any cleanup (Company Reply Brief at 11, citing Town Brief at 15).

(2) Response to the Piuccis

In response to the Piuccis's assertion that the Company's proposal "relies on preserving contamination in place while introducing new construction risks into a wetland-adjacent and degraded parcel," the Company states it has demonstrated the Project would have minimal impacts on wetlands, water supply, or water resources (Company Reply Brief at 30-31, citing Piuccis Brief at 5-6; Company Brief at 25-29). Concerning the Piuccis' argument the Company is not undertaking a comprehensive remediation of the entire Project Site, the Company highlights that Massachusetts energy and environmental policies seek both to facilitate development of clean energy infrastructure, including BESS, and to protect sensitive environmental resources such as wetlands, whereas a requirement to remove all debris across the Project Site would be a separate and potentially more complex environmental project than what is proposed in this Petition, with potential additional permitting requirements that could jeopardize the Company's ability to construct the Project (Company Reply Brief at 31, citing Piuccis Brief at 6; RR-EFSB-11).

The Company contends its proposed balanced approach involving removal of large debris within the Project construction envelope and reasonable, targeted effort to remove large debris outside the Project construction envelope and without wetlands impacts or expanding the Project footprint, is most consistent with these policies (Company Brief at 31, citing RR-EFSB-11). The Company maintains the Project would improve the environmental condition of the Project Site and not adversely affect the environment (Company Brief at 31).

In response to the Piuccis's argument that the Company had not ensured Project construction would avoid preexisting contamination, the Company first reiterates the earlier rebuttal against the Town's claims of lacking environmental investigation of the Project Site—that the record reflects such investigation had been conducted and concluded no RECs requiring further response, and then adds that: (1) the Company anticipates limited stripping and handling of topsoil during Project construction; (2) the Company would provide erosion and sediment

control in accordance with the state guidelines; and (3) the Company would consult with an LSP (Company Reply Brief at 31-33, citing Piucci Brief at 6; Exhs. EFSB-H-3; EFSB-H-4; EFSB-CM-11; MS-B(S1) at 4; OAK-171(1); RR-INT-1(1) at 1, 9, 31).

iii. Analysis and Findings

Although the environmental assessments in the record found no evidence of hazardous materials or RECs, the Project Site contains significant remnants of its former use as an auto salvage yard, including debris consisting of metal drums, cars, and car parts. However, with mitigation measures, the development of the Project could improve the environmental condition of the Project Site and benefit the neighborhood and Town. The record reflects that Project operations would not generate solid or hazardous waste on a regular basis, and the Company would transport offsite all waste generated during demolition, site preparation, construction, and operation of the Project in accordance with federal, state, and local guidelines and regulations. The Company would also comply with federal state, and local guidelines and regulations when removing, transporting, and managing any batteries or equipment removed from the Project Site for maintenance or decommissioning. For potentially hazardous materials, the Company has consulted and would continue to consult with an LSP to ensure compliance with the MCP.

All intervenors expressed concern about potential environmental impacts from Project construction disturbing preexisting contamination on the Project Site. They questioned the presence of contaminated soil and groundwater on-site and the scale of such contamination. The Siting Board recognizes there are conflicting testimonies and evidence in the record. On one hand, the Company presented documented environmental investigations and assessments conducted and verified by at least three professional environmental consultants. These investigations and assessments concluded that, beyond several specific areas associated with vehicle fluid handling that the Company would remediate as part of this Project, there are no RECs requiring further response on the Project Site. On the other hand, the Town submitted evidence showing car parts, tires, and other automobile debris scattered across the Project Site, including within the SWPAs. The Siting Board acknowledges that the presence of certain debris could break down and release harmful chemicals to the environment even if it does not constitute

a REC. Town counsel's cross-examination of the Company's environmental experts also made clear that the Company has primarily relied on the three aforementioned environmental investigations and assessments which concluded that there are no RECs.

The Siting Board acknowledges the conclusions of the environmental investigations and assessments that there are no RECs requiring further response, including among the automobile debris. The record reflects that the Company's consultation with an LSP would ensure Project construction complies with the MCP. The Siting Board directs the Company to retain an LSP prior to the engagement of any construction activities or other site alterations to ensure the Project complies with the MCP throughout Project construction, including all associated cleanup efforts, and when appropriate or required by the MCP during Project operations, future augmentation, and decommissioning. The Company shall fund a qualified LSP for the Town to conduct peer review related to environmental assessment and remediation.

The record reflects that the Company would: (1) remove and properly dispose of the aboveground oil tanks, drums/containers containing petroleum products, and waste vehicle fluids at specific locations on the Project Site as identified and recommended for removal by the SWCA Phase I ESA; (2) adhere to any regulatory action or requirement in case of an enforcement action against the former-auto-facility-related debris along the northern boundary of the Project Site; (3) comply with the law, including scheduling a site visit for the Oakham Conservation Commission to investigate this violation, and cooperating with any subsequent enforcement actions for remnant auto parts and chassis within the BVW in the southeastern part of the Project Site; (4) remove all former-auto-facility-related large debris within the 18-acre Project construction envelope; and (5) conduct reasonable, targeted removal of former-auto-facility-related large debris outside the Project construction envelope in isolated circumstances where removal can be achieved without wetland impacts and without extending the scope of Project-related activities.

While the Company's intended scope of work to remove some existing debris on-site is perhaps legally compliant, the Siting Board views this level of effort as inconsistent with the public interest – a concern echoed by several intervenors and limited participants. Limiting the cleanup to avoid wetland impacts runs counter to the purpose of cleaning up debris that could

contaminate wetland resources. In addition, the Company's speculation that the Oakham Conservation Commission, MassDEP, and other agencies having jurisdiction would not grant necessary permits for such a cleanup effort is premature and unsubstantiated.

The Siting Board directs the Company to complete the following actions no later than within one year of commercial operations: (1) remove and properly dispose of the aboveground oil tanks, drums/containers containing petroleum products, and waste vehicle fluids, as identified and recommended for removal by the SWCA Phase I ESA; (2) comply with any final, non-appealable requirements of regulatory action or remediation related to debris within and along all boundaries of the Project Site; (3) schedule a site visit for the Oakham Conservation Commission to investigate this violation and cooperate with any subsequent enforcement actions for remnant auto parts and chassis within the BVW in the southeastern part of the Project Site; and (4) remove all former-auto-facility-related large, discrete pieces of visible surface debris (e.g., cars, chassis, tires, car parts, metal drums, or other debris exceeding a diameter of six inches) within the entire 42.9-acre Project Site. The Siting Board further directs the Company to submit a status report to the Siting Board on these activities at least 30 days before the Project's commercial operation, and thereafter, every three months until the conclusion of these cleanup activities.

g. Visual Effects

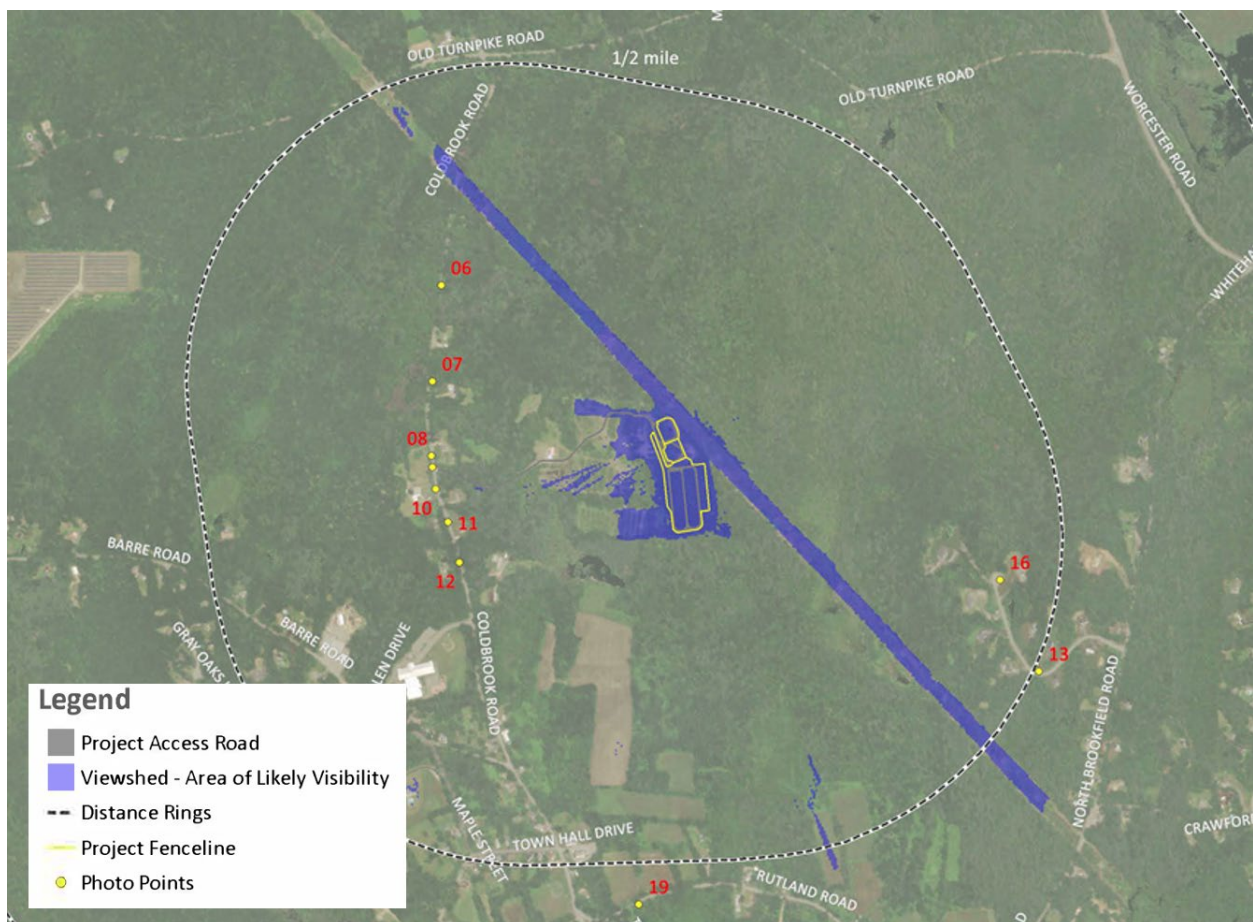
i. Company Description

According to the Company, the Project would be set back approximately 1,800 feet from Coldbrook Road and screened by dense woodland vegetation in the intervening and surrounding land (Exhs. MS-1, at 27; MS-E at 2). The Company conducted a viewshed analysis, line-of-sight profiles, and photo simulations showing that the Project would be screened from view from nearby residences and public roadways, as depicted in Figure 8, which illustrates that the highest point of the Project would be visible from the Project Site and in portions of the transmission ROW but not from any nearby residences (Exhs. MS-1, at 27; MS-E at 6, 13). As discussed previously, the Company stated that the only tree clearing activities would take place in the southeast corner of the Project Site; the Company does not propose to remove any intervening

woodland vegetation that provides screening from neighboring properties (Exhs. EFSB-LU-4; OAK-50).

Moraga specified that it would equip the BESS facility with downward-directed, low intensity security lighting that may be manually turned on as needed for maintenance visits but would otherwise remain off during Project construction and operations (Exhs. MS-1, at 28; EFSB-V-1). As construction would happen during daylight hours, the Company did not anticipate any installation of temporary construction lighting (Exh. MS-1, at 28).

Figure 8. Area of Likely Project Visibility



Source: MS-E, at 13, Fig. A2 (Legend modified by Siting Board staff for legibility.)

ii. Positions of the Parties

(A) Town of Oakham

The Town did not contest any of the Company's findings on visual impacts in its briefs.

(B) Represented Party Intervenors

The RPIs assert that the Project would bring "artificial light to dark skies" within Oakham (RPI Brief at 3).

(C) Limited Participants – the Piuccis

The Piuccis did not contest any of the Company's findings on visual impacts in their briefs.

iii. Analysis and Findings

The record establishes that the Project would be set back roughly one-third of a mile from the nearest public roadway, with dense woodland surrounding and elevated terrain masking the facility. The evidence provided in the record shows the facility would not be visible from nearby residences. The record also establishes that the Project would not normally be lit. The Project's security lighting would be downward directed, thereby limiting visual impacts to the night sky during infrequent instances where it is turned on for maintenance visits. Accordingly, visual impacts of the Project would be negligible to surrounding residents and others traveling in the vicinity of the Project.

h. Air

i. Company Description

During normal operations, the Company stated the Project would not impact air quality or generate any harmful emissions (Exh. MS-1, at 20, 43). The Company expects that the circuit breakers and transformers on site would use sulfur hexafluoride ("SF₆") as the insulating medium and would accordingly comply with the applicable 310 CMR 7.72 regulations governing allowable SF₆ leak rates (Exhs. EFSB-A-1; EFSB-A-3).

The Company committed to using BMPs during construction to control dust and minimize emissions from construction equipment (Exh. MS-1, at 20-21). Examples of dust control measures include using water trucks with misters as appropriate and installing anti-tracking pads at the access road entrance (Exh. MS-1, at 20). Additionally, the Company committed to abiding by state law and MassDEP regulations that limit idling to no more than five minutes with certain exceptions (Exh. MS-1, at 21). Moraga would require its contractors to comply with the most current USEPA emissions standards for construction equipment (Exh. MS-1, at 21).

Moraga explained that BESS facilities like the Project contribute to a reduction in greenhouse gas emissions by discharging electricity during periods of high demand when fossil fuel peaker plants would otherwise be likely to operate; as stated previously in Section II.C.2., the Project is incentivized to operate in this manner through its participation in the Clean Peak Program (Exhs. MS-1, at 42-43; EFSB-A-2). The Company estimated that in each of the first ten years of operations, the Project would supply approximately 262,800 MWh of electricity to the grid and, using assumptions from the State of Charge report, estimated that the Project would avoid approximately 114,000 metric tons of carbon dioxide equivalent emissions within that same timeframe (Exhs. EFSB-N-9; EFSB-A-4). According to the Company, the State of Charge report indicates that storage projects contribute to a reduction in greenhouse gas emissions by enabling higher integration of renewable energy resources and displacing peaker plants (Exh. EFSB-A-2).

ii. Positions of the Parties

(A) Town of Oakham

As mentioned in Section II.D.2.b.i., the Town argues that the Project has no direct connection to renewable energy and that it would instead increase the use of non-renewable energy resources (Town Brief at 6, 9-10).

(B) Represented Party Intervenors

The RPIs' positions on air impacts arising from traffic are discussed in the traffic section (Section II.D.4.b.ii) and those arising from abnormal Project operations are discussed in the safety section (Section II.D.5.c).

(C) Limited Participants—the Piuccis

The limited participants did not contest the Company's claims regarding impacts to air during normal Project construction or operations.

iii. Analysis and Findings

The record shows that the Project would have minimal air impacts during the construction phase and it would not generate air pollutants during normal operations. During construction, Moraga has committed to complying with the applicable anti-idling regulations and using BMPs for dust suppression. The Siting Board directs the Company to comply with anti-idling requirements and implement construction BMPs to (1) avoid and minimize construction noise, and (2) suppress dust. The Company plans to use equipment containing SF₆ and has committed to complying with the MassDEP regulations pertaining to the use of SF₆ in equipment.

The Project is not co-located with a renewable energy source but would charge from the electricity grid; the Siting Board notes the mix of electric supply is constantly changing but moving towards a greater percentage of renewables in the energy mix. As stated in Section II.D.2.c., the Siting Board has previously found that a BESS facility's participation in the Clean Peak Program is a relevant factor when considering the energy resources it would likely use to charge and the energy resources it would be likely to displace when discharging. See Medway Grid at 40; Cranberry Point at 45. The record establishes that the CPS is designed to incentivize BESS facilities to charge at times when electric demand is low and solar or wind production is high, and discharge during peak demand hours when the use of fossil fuel emitting resources by the grid is most likely. By operating in accordance with the CPS, the Project is likely to contribute to the reduction of greenhouse gas emissions within the Commonwealth

during the course of its expected 25-year operation due to its displacement of heavy-emitting peaker plants and its facilitation of clean energy resource integration.

i. Magnetic Fields

i. Company Description

Moraga contracted Exponent, Inc. to provide a report detailing the expected electromagnetic field (“EMF”) impacts of the Project (Exh. MS-I at 5). The Company explained that there are no federal standards that establish limits on electric fields or magnetic fields from the generation, distribution, or transmission of electricity (Exh. MS-I at 12). In the absence of federal standards, the Company referred to the recommendation of the World Health Organization to adopt guidelines established by the International Commission on Non-Ionizing Radiation Protection, which has established a magnetic field safety exposure level of 2,000 milligauss (“mG”), and the International Committee on Electromagnetic Safety, which has a guidance level of 9,040 mG (Exh. MS-I at 12).

The Company identified the battery banks, cables, power inverters, and substation equipment, including transformers, as sources of EMF from the Project, all of which would be located more than 1,000 feet from the nearest residential property (Exhs. MS-I at 14; MS-1, at 29). The Company explained that magnetic fields decrease rapidly with distance such that any EMFs generated by the Project would be negligible at the abutting residences, within the range of background EMF, and therefore significantly lower than the levels recommended in health-based exposure guidelines for the general public (Exhs. MS-1, at 14, 29; MS-I, at 5).

ii. Positions of the Parties

Neither the intervenors nor the limited participants contested any evidence or conclusions presented by the Company regarding EMF impacts.

iii. Analysis and Findings

The Project equipment capable of generating EMFs during operations would be located over 1,000 feet from the nearest residential property line and over 2,000 feet from the school. The record establishes that EMFs decrease rapidly with distance and therefore would be within

the range of naturally occurring background EMF, which is well below the generally accepted safety standards at abutting properties, and similar to existing background levels.

5. Safety

a. Introduction

As part of its review of whether the Project is reasonably necessary for the convenience and welfare of the public, the Siting Board assesses Project safety and does so through multiple lenses. The Siting Board reviews the Company's proposed processes designed to (1) prevent incidents (e.g., through testing of system components, system design and permitting, proper construction, installation and maintenance by qualified personnel); (2) ensure unusual conditions are identified and addressed (e.g., through monitoring, alarms); and (3) provide planning for emergency incidents should they happen, including cleanup in the event of an incident (e.g., emergency response plans ("ERPs"), coordination with local responders, water supply, training). Finally, the Siting Board assesses facility security to ensure no unauthorized access to a facility. See Trimount ESS at 57.

b. Company Description

i. Safety Standards and Plans

Moraga stated the Project BESS design conforms with all relevant codes and standards (Exh. MS-1, at 13). In particular, the Company stated that the BESS would adhere to the following state, national, and international safety requirements and standards:

- Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00
- National Fire Protection Association ("NFPA") 1, Fire Code, 2021 Edition
- NFPA 855, Standard for the Installation of Stationary Energy Storage Systems, 2026 Edition
- Underwriters Laboratories ("UL") 9540, Safety of Energy Storage Systems and Equipment, Edition 3
- UL 9540A, Test Method for Evaluating Thermal Runaway Fire Propagation in Battery Energy Storage Systems, Edition 4

Source: Exhs. MS-1, at 13; EFSB-S-37(2), at 6; Tr. 7, at 1361-1363.

The Company explained that NFPA 1 establishes general requirements for siting, separation distances, and emergency response, while NFPA 855 establishes performance-based requirements for spacing, exposure protection, hazard mitigation analysis, and emergency planning (Exh. EFSB-S-1). The Company specified that UL 9540 is the standard for energy storage systems and UL 9540A is the accepted test methodology used to characterize the thermal runaway behavior and fire propagation of a BESS (Exh. EFSB-S-1). Though only the 2020 edition of NFPA 855 was adopted in Massachusetts Comprehensive Fire Safety Code, Moraga committed to being compliant with the 2023 and 2026 editions of NFPA 855 to adhere to the most up-to-date industry standards on fire safety (Tr. 7, at 1361-1363). As required by NFPA 855, the Company committed to providing BESS safety training to the Oakham Fire Department, along with any additional public safety partners the department wishes to engage, on an annual basis (Exh. MS-1, at 14; Tr. 4, at 734-735, 782). Additionally, the Company stated the Project would have a fire safety alert and communication system that is compliant with NFPA 72, the National Fire Alarm and Signaling Code (Tr. 4, at 718, 725, 733-734).

Pursuant to NFPA 855, the Company worked with Energy Safety Response Group, its third-party fire and life safety consultant, to develop a draft ERP and a draft Hazard Mitigation Assessment (“HMA”) (Exhs. EFSB-S-16). According to the Company, the purpose of the ERP is to provide information and guidance for first responders in preparing for and responding to a safety incident at the Project Site, and that of the HMA is to evaluate the effectiveness of the barriers in place to mitigate the consequences of a battery-related failure (Exhs. EFSB-S-37(1), at 12; EFSB-S-37(2), at 6). The Company explained the UL9540A test data for the Tesla MP2XL, the proposed BESS model for the Project, informed the content of the HMA (Exh. EFSB-S-1). The Company stated the ERP and HMA are currently in draft form, awaiting input from the Oakham Fire Department before further revisions are made (Exh. EFSB-S-37; Tr. 7, at 1359). The Company committed to working collaboratively with the Oakham Fire Department to develop these documents; the Company stated it met with local first responders as part of the safety plan development process, but the Oakham Fire Chief indicated he was unable

to collaborate because of the Town's bylaw prohibiting large-scale standalone BESS (Exhs. MS-1, at 14; EFSB-S-37; EFSB-S-32). However, during testimony the Oakham Fire Chief stated that if the Project was permitted, he and his department would work with the Company to develop the required safety documents (Tr. 4, at 647-650). The Company explained it would finalize the ERP after construction has been completed and would review and update it annually during the life of the Project (Exhs. EFSB-S-16; EFSB-S-37; Tr. 7, at 1359). The Company specified it would finalize the HMA before Project construction begins and would update it only if the Project had site or equipment changes (Exh. EFSB-S-37; Tr. 7, at 1359-1360).

The Company committed to developing an Emergency Operations Plan for the Project prior to the start of construction, pursuant to the 2026 edition of NFPA 855 (Tr. 4, at 789; Tr. 7, at 1360-1361). The Company explained the Emergency Operations Plan would be a pared-down version of the ERP that is specific to the workers on site and provides detailed plans for emergencies that may occur during construction or commissioning (Tr. 4, at 789-791). The Company stated it would develop this plan in collaboration with the Oakham Fire Department (Tr. 7, at 1360-1362). In addition to the Emergency Operations Plan, the Company testified that Tesla, the BESS manufacturer, has specific commissioning, pre-commissioning, and quality control procedures for the MP2XL units that Moraga would follow to minimize safety risks prior to the facility's operation (Tr. 4, at 788, 793).

ii. Project Design and Monitoring

The Project would have 184 Tesla MP2XL units, which utilize LFP battery cells and each has an approximate energy capacity of 3.9 MWh (Exhs. EFSB-D-10; EFSB-S-37(1), at 4, 19). The Company explained it chose a BESS utilizing LFP cells due to the technology's commercial maturity, safety performance, overall cost, and acceptance by financing parties (Exh. EFSB-PA-2). According to the documentation provided by the Company, each Tesla MP2XL unit contains 24 battery modules with inverters, a thermal bay and associated thermal roof components, an AC circuit breaker, explosion mitigation system, and a set of customer interface terminals and internal controls circuit boards (Exhs. MS-G, at 4; EFSB-S-37(2), at 15, 17). The Company stated the Project would incorporate multiple hardware and management system

safeguards intended to reduce both the likelihood and potential consequences of fire and thermal events (Exh. EFSB-S-8).

The Company explained that each battery module is equipped with its own battery management system (“BMS”) that tracks outputs such as performance, voltage, current, temperature, and state of charge to ensure the module is within operational and safety thresholds, and additionally each MP2XL unit has a bus controller which supervises the output of all internal modules (Exhs. MS-1, at 14; EFSB-S-6; Tr 4, at 708). The Company stated the BMS can operate autonomously to issue alerts and implement corrective actions when abnormal conditions are detected, which may include electrically isolating troubled modules (Exhs. EFSB-S-37(2), at 16; MS-F at 10-11; Tr. 4, at 713-715). The thermal bay and thermal roof components of the MP2XL house the thermal management system (“TMS”), which the Company described as operating in coordination with the BMS to regulate battery temperatures during normal operations and abnormal conditions (Exhs. MS-F at 8-9; EFSB-S-6). The Company stated the TMS consists of active thermal management components within the BESS, including a closed-loop coolant system and fans (Exh. MS-F at 8-9; Tr. 4, at 708-709).

Each Tesla MP2XL unit is equipped with an explosion mitigation system, also called the deflagration control system, consisting of twelve sparkers located throughout the enclosure at various heights and 22 overpressure vents installed in the enclosure roof (Exhs. MS-F at 12-13; EFSB-S-37(2), at 15). The Company explained that the sparker system is designed to ignite any combustible gases that may be generated during a thermal event within the enclosure well before they can reach unsafe thresholds (Exh. EFSB-S-37(2), at 15; Tr. 4, at 715, 796). The Company stated the sparker system is designed to operate continuously such that even if the BESS is disconnected from the grid or has no communication functionality, the sparkers would keep working so long as the BESS still has a state of charge (Exh. EFSB-S-37(2), at 15; Tr. 4, at 726-727, 795-796). The overpressure vents are passive, pressure-sensitive vents that permit gases and flames to safely exhaust during a thermal event (Exhs. MS-F at 12-13; EFSB-S-37(2), at 15). According to the documentation provided by the Company, the overpressure vents are designed to open at a pressure of 12 kilopascals (“kPA”) – 2.5 times lower than the 30 kPA strength of the MP2XL’s enclosure doors – to reduce the risk of an explosion that could damage the structural

integrity of the enclosure (Exh. MS-F at 12-13). The Company noted the deflagration control system meets the performance requirements of NFPA 68, the Standard on Explosion Protection by Deflagration Venting (Exhs. EFSB-S-2; EFSB-S-38; MS-F, at 12-13). In lieu of prescriptive compliance with NFPA 69, the Standard on Explosion Prevention Systems, the Company explained that NFPA 855 allows engineered safety systems validated through large-scale, unit-level fire testing (Exhs. EFSB-S-2; EFSB-S-38; MS-F at 12-13). The Company reported that Tesla validated this engineered approach through the UL 9540A testing and destructive testing performed for the MP2XL units (Exh. MS-F at 13, 38). The Company stated that in addition to these deflagration measures, the BESS unit incorporates design features such as physical separation, structural materials, and enclosure geometry that act as passive barriers to heat transfer between adjacent units (Exhs. EFSB-S-4; EFSB-S-8).

The Company noted that the Tesla MP2XL does not have an internal smoke or fire detection system, and that such a system is only required by the International Fire Code, NFPA 1, and NFPA 855 standards when the BESS is installed indoors or on rooftops (Exh. EFSB-S-37(2), at 16). Nonetheless, the Company testified it would install an on-site flame detection system consisting of pole-mounted ultraviolet/infrared (“UV/IR”) thermal cameras pursuant to the 2026 edition of NFPA 855 (Tr. 4, at 711, 717-718; Tr. 7, at 1358, 1361-1362). The Company clarified that the BMS would sense any abnormal thermal or electrical conditions indicative of a failure event prior to any smoke or fire being detected by the UV/IR system and, in compliance with NFPA 72, would issue an alert to the system monitoring entities (Tr. 4, at 711-713; 719).

The Company explained the Project would be equipped with a Tesla Site Controller (“TSC”) which aggregates data from individual MP2XL units and interfaces with the other Project equipment to manage the BESS dispatch, operational states, and system level controls (Exh. EFSB-S-6). According to the Company, the TSC acts as the single point of interface for off-site supervisory control and data acquisition systems to monitor and control the BESS (Exhs. EFSB-S-37(2), at 16; MS-F at 11). The Company stated the Tesla Network Operation Center (“NOC”) would provide 24/7 monitoring of the BESS status, performance data, and alarms; in the event of an alert indicating abnormal or emergency conditions, the NOC would

provide diagnostics, troubleshooting capabilities, and emergency response guidance as described below in Section II.D.5.b.iv. (Exhs. EFSB-S-6; EFSB-S-18; EFSB-S-37(2), at 16-17). The Company indicated it would receive system status updates and reports from the NOC during normal operations in addition to receiving alerts in emergency scenarios (Exhs. EFSB-S-33; EFSB-S-40). Additionally, the Company would contract with a company (“central station company”) to monitor alarms generated by the UV/IR system and alert the local emergency services in the event of fire (Tr. 4, at 722-724, 727-729). The Company clarified that it has not yet entered into a contract with the NOC or a central station company, so the specific locations of these monitoring entities are not yet known (Tr. 4, at 724-725).

The Company stated the Project’s communications systems would comply with NFPA 72, which specifies the acceptable response time for relaying an emergency alert to the fire department (Tr. 4, at 732-734). NFPA 72 also requires redundant communication pathways for fire alarm transmissions; accordingly, the Company would have multiple channels of communication between the Project and its central monitoring station (Tr. 4, at 725).

Additionally, each BESS unit would have a wired ethernet connection to the TSC (Exh. MS-F at 11). The Company explained that the MP2XL units would draw auxiliary supply from the same AC connection that links the Project to the transmission grid; in the event of a loss of grid power, the units have internal DC energy storage that can provide two to eight hours of backup power to keep the unit’s control, protection, and communications systems operating long enough to monitor, safely shut down, and isolate the unit from the grid (Exh. EFSB-R-1). The Company noted that the deflagration control system and automated BMS corrective actions would keep functioning even if communication with the Project’s monitoring entities was lost, pursuant to the NFPA 855 requirement that critical safety systems operate automatically and independently of any communication pathway (Tr. 4, at 726-727).

The Company described the Project Site as having a single access road that would accommodate emergency vehicle maneuvering, staging, and operations (Exhs. EFSB-S-32; OAK-151; RR-EFSB-4(1) at 1-2). The Company stated the Project would have on-site signage pursuant to NFPA 855 and relevant electrical codes to indicate the presence of BESS equipment, high-voltage electrical hazards, restricted areas, and would include emergency contact

information (Exh. EFSB-S-36; Tr. 4, at 738-739). The Company stated it does not currently plan to have on-site audio or visual alarms for the BESS units since the facility would be unmanned, but it is open to discussing the use of such audiovisual alarms with the Oakham Fire Department (Exh. EFSB-S-36; Tr. 4, at 736-737). The Company also committed to working with the Oakham Fire Department to determine and address potential needs such as additional signage and reference materials located on-site (Exh. EFSB-S-21).

iii. Battery Testing

The Company explained that the Tesla MP2XL underwent UL9540A testing at the cell, module, and unit level, and that the UL9540A protocol did not require installation level testing (Exh. EFSB-S-37(2), at 13). The Company provided the UL 9540A test report prepared by TÜV Rheinland (“TÜV Report”) along with a fire protection engineering analysis of the BESS prepared by Fisher Engineering, Inc. (“Fisher Report”), which additionally discusses the destructive unit testing that was performed by Tesla beyond the requirements for UL 9540 listing (Exhs. MS-G at 1; MS-F at 31).

The Company stressed that the available scientific data show that a Tesla MP2XL BESS fire would not propagate to additional containers when installed per the manufacturer’s specifications, even in the absence of intervention, such as an internal or external fire suppression system, and even with BMS and TMS disabled (Exh. EFSB-S-37(2), at 21-22; Tr. 4, at 740-741; Tr. 7, at 1305). The Fisher Report explained that during each level of the UL 9540A testing, thermal runaway was forced in a designated number of battery cells to generate data on the thermal runaway characteristics, cell thermal runaway gas composition, fire propagation potential, products of combustion, and heat release rate for the Tesla MP2XL (Exh. MS-F at 13, 16, 19). The Fisher Report stated that the unit-level testing was conducted under “worst-case” conditions, with thermal runaway initiated in six battery cells while both the BMS and TMS were disabled and the BESS was fully charged (Exh. MS-F at 18-19). The UL 9540A unit-level test results showed that thermal runaway propagated to a single adjacent cell before ceasing, with no propagation to other battery modules or units (Exh. MS-F at 23-24). The Fisher Report concluded that a fire would not propagate to adjacent BESS units installed six inches to the side

or behind or eight feet in front of the initiating unit (Exh. MS-F at 46). Additionally, the Fisher Report noted there was no flaming outside the unit and no explosion hazards observed during the UL 9540A unit testing (Exh. MS-4, at 21).

The Fisher Report documented Tesla's voluntary destructive testing, which demonstrated the ability of the Tesla MP2XL unit to fail in a safe manner during a catastrophic failure event (Exh. MS-F at 49). The Company explained that, in this testing, 48 battery cells within the Tesla MP2XL were forced into thermal runaway to assess the risk of a large-scale fire propagating to adjacent BESS containers (Exh. EFSB-S-37(2), at 22-23). The Fisher Report provided details on the destructive testing setup and results, which validated that the deflagration system and overpressure vents functioned as designed during the modeled extreme failure event (Exh. MS-F at 38). The Company added that Tesla conducted fire propagation and heat flux modeling for a more severe event than was observed for the destructive testing; the simulation assumed the entire BESS enclosure was at the maximum temperature observed during testing with a "worst-case" wind condition causing maximum heat flux to the adjacent unit (Exhs. EFSB-S-37(2), at 23-24; MS-F at 39-42, 46). The results of that modeling affirmed it is unlikely that a BESS fire would propagate to additional containers (Exh. EFSB-S-37(2), at 23-24).

The UL 9540A testing procedure included gas sampling at the cell and module levels, and Tesla additionally collected air samples during its destructive unit-level testing (Exh. MS-F at 3). At the cell and module level, no hydrogen cyanide, hydrogen chloride, or hydrogen fluoride ("HF") were detected in the vented cell gases for either test (Exh. MS-F at 3). The Fisher Report noted that gas samples collected during UL 9540A unit-level testing showed HF concentrations of 0.10 and 0.12 parts per million ("ppm"), two orders of magnitude below the immediately dangerous to life or health ("IDLH") level of 30 ppm set by the National Institute for Occupational Safety and Health; additionally, this gas sampling found no traces of 27 different metals of concern (Exh. MS-F at 32-33). To clarify how HF was detected at the unit level but not the cell or module level in UL9540A testing, the Company explained that HF may be emitted as a trace gas from the burning of refrigerants, fluorinated plastic, and wire insulation, which are present in the BESS container but not in the cell or module (Tr. 7, at 1296-1297). The Company indicated that gases emitted during thermal runaway would disperse rapidly to safe

levels within 20 feet of the source due to air movement and dilution and would, therefore, not pose a health risk (Exhs. EFSB-S-29; OAK-170; MS-1, at 14)).

iv. Emergency Response and Impacts

The Company stated that in the event of an abnormal condition, the Project would transmit alarms to local first responders through multiple pathways (Exhs. EFSB-S-17; Tr. 4, at 723-724). If the BMS detected abnormal conditions signifying a thermal event may be underway, it would send a signal to the Tesla NOC which would transmit alarm notifications to the Company and, if certain thresholds are reached, would notify first responders directly (Exh. EFSB-S-37(1), at 24-25; Tr. 4, at 729). If the UV/IR camera system detected a fire, the fire alarm control panel would issue an alarm to the central monitoring station, which would dispatch first responders as necessary (Tr. 4, at 722-724, 729). The Company indicated that the Oakham Fire Department may opt to receive these Project alarms directly, pending future collaboration on the ERP development (Tr. 4, at 724, 727-728, 732-733).

The Company explained that the Oakham Fire Department would have access to the site through the use of a lock box located at the facility gate and that this access may be extended to other responding agencies in coordination with the Oakham Fire Department (Exhs. EFSB-S-34; EFSB-S-37(1), at 16). Additionally, the Company stated that it would maintain the Project access road to guarantee accessibility to the site for emergency personnel even during inclement weather (Exhs. EFSB-S-37(1), at 19; EFSB-T-6). The Company stressed that unless an emergency at the BESS facility poses a risk to life safety, fire department personnel should remain outside of the fenced areas and establish a staging area at least 100 feet from any powered equipment (Exhs. EFSB-S-37(1), at 16, 28; EFSB-S-34; Tr. 4, at 758).

In the event of a thermal event at the Project, the Company proposed that the Oakham Fire Department would establish incident command in accordance with standard practice and manage scene control, isolation, and public safety in accordance with the ERP (Exhs. EFSB-S-17; EFSB-S-18). The Company stated that the incident commander – the ranking officer in the Oakham Fire Department’s incident management system – would be responsible for the overall management of the emergency situation (Exh. EFSB-S-37(1), at 8; Tr. 4, at 731). To obtain

information on the site conditions and the location and status of impacted BESS units, first responders would contact the subject matter expert (“SME”), a person contracted by the Company to respond to fire department technical questions during an emergency event (Exh. EFSB-S-37(1), at 8, Tr. 4, at 729-730). The Company testified that its representatives would be available by phone within 15 minutes, and it committed to adopting the BESS industry’s most robust response time standards, set by New York State, for having its representatives arrive on site during an emergency (Tr. 4, at 730-731). The Company representatives would be supported by the Tesla NOC, which would relay data from the BESS management systems to indicate the risk of fire or thermal runaway propagating to additional modules or units (Exhs. EFSB-S-37(1), at 30, 33; EFSB-S-18). The Company stated that emergency contact numbers for the SME, Company personnel, and Tesla NOC would be provided in the ERP and may additionally be located on site at the Oakham Fire Department’s discretion (Exh. EFSB-S-37(1), at 3; Tr. 4, at 739).

The BMS would automatically isolate affected BESS modules or units when a major fault or thermal runaway is detected, and the NOC could manually isolate additional units or the full system as the situation warrants (Exhs. EFSB-S-37(1), at 23; EFSB-S-24; Tr. 4, at 797-799). The Company stated that shutdown actions would prioritize the safety of first responders, prevent energy from being input to affected areas, and isolate unaffected equipment (Exh. EFSB-S-24). Though the Tesla MP2XL is equipped with manual emergency shutoff features, the Company explained that these should not be operated by fire department personnel unless initiated in coordination with the Company and SME (Exh. EFSB-S-37(1), at 23-24).

As stated previously, the Company noted that the Tesla MP2XL testing results show that a BESS fire would not propagate between units even absent any intervention (Exh. EFSB-S-37(2), at 9, 24; Tr. 4, at 740-741). The Company explained that the Project is not designed to require offensive firefighting operations and emphasized that it does not recommend the use of firefighting water, since such application would not stop thermal runaway and may delay the affected BESS unit’s combustion (Exhs. EFSB-S-19; EFSB-S-20; EFSB-S-37(1), at 31). Therefore, the Company advised that the Oakham Fire Department should maintain a defensive posture when addressing a BESS fire at the Project, allowing the fire to consume the BESS in a

controlled burn without the application of water to the affected or adjacent units while monitoring for signs of potential propagation at a safe distance away (Exhs. EFSB-S-37(1), at 32; EFSB-S-21; Tr. 4, at 740-741, 745). The Company explained that a defensive firefighting tactic does not focus on the extinguishment of the BESS fire, but rather prioritizes scene isolation, standoff, and protection of exposures, if present (Exh. EFSB-S-49). The Company provided evidence that real-world fires involving other Tesla batteries, such as the Bouldercombe Battery Project and Victorian Big Battery installations in Australia, burned in a controlled manner without engulfing adjacent units; a post-incident report for the Victorian Big Battery project showed when water was applied to adjacent equipment for exposure protection, it provided limited effectiveness compared to the innate thermal insulation of the enclosure (RR-EFSB-9(1); RR-EFSB-12(1), at 8; RR-EFSB-12(2), at 6-7; RR-EFSB-12(3), at 1).⁴⁵ Additionally, the Company noted that a recent BESS fire involving a different battery manufacturer in Warwick, New York, also safely resolved without water intervention (Tr. 4, at 746-747).

The Company acknowledged the Town has expressed concern regarding its water delivery capability (Tr. 4, at 744-745).⁴⁶ The Company noted that Oakham does not have a municipal water supply and stated that in the unlikely case that water is used for defensive exposure protection, the water capacity required and Oakham Fire Department's reliance on mutual aid resources would be similar to that for other fires within its municipality (Exhs. EFSB-S-20; EFSB-S-37(1), at 4; EFSB-S-19; Tr. 4, at 744-746, 762). The Company explained that, as designed, the Project BESS would not be located adjacent to any flammable exposures such as buildings or vegetation that would require water cooling (Tr. 4, at 741-745, 751-752). Notwithstanding its recommendation not to apply water during a BESS fire, the Company

⁴⁵ The Company reported that the only known incidence of a fire involving Tesla Megapack units utilizing LFP chemistry started on the AC side of the BESS and not within a battery module (Tr. 4, at 748, 801).

⁴⁶ According to the Town, the Oakham Fire Department is reliant on mobile, truck-supplied water resources to fight fires; Oakham has three such engines, with the primary one having a capacity of 2,800 gallons and the two others having a capacity of 1,000 gallons each (Exh. EFSB-OAK-3; Tr. 4, at 637-639).

committed to working with the Oakham Fire Department to discuss its water delivery system and identify any additional water supply provisions that may be beneficial not only to the Project Site but also to the broader Oakham community (Exhs. EFSB-S-20; EFSB-S-37(1), at 4; Tr. 4, at 744-745, 774-776).

The Company stated that during a thermal incident, first responders would monitor real-time conditions affecting safety such as wind speed and direction, fire and radiant heat, surface temperatures of affected and adjacent units, smoke movement, and signs of off-gassing (Exh. EFSB-S-25). The Company explained that smoke released from a BESS fire would be similar in composition to the smoke produced from the burning of other parts of the built environment – though toxic, the smoke does not pose a unique risk to the surroundings (Tr. 4, at 756; Tr. 7; at 1291). Furthermore, the Company explained that any smoke or gas produced during a thermal incident would rapidly dissipate to safe levels and would not pose a health risk to first responders or nearby residents (Exhs. EFSB-S-45; EFSB-S-49). According to the Company, a BESS incident does not require specialized fire protection equipment and the on-scene monitoring performed by the fire department would use standard fire service tools owned by the Oakham Fire Department, such as thermal imaging cameras and gas monitors (Exhs. EFSB-S-21; EFSB-S-25; Tr. 4, at 624, 763). The Company stated that, during the collaborative development of the ERP with the Town of Oakham, it would explore whether additional tools or resources would be appropriate to address any identified gaps in capabilities (Exh. EFSB-S-21; EFSB-S-49; Tr. 4, at 763-764).

The Company stated that a Project BESS fire would be unlikely to impact property beyond the Project Site and, therefore, automatic evacuation or shelter-in-place orders are not appropriate or necessary emergency response measures for the Project (Exh. EFSB-S-23). However, the Company stated it would work with the Oakham Fire Department to ensure the ERP clearly defines evacuation decision-making, communication protocols, and coordination with Town officials (Exh. EFSB-S-23). The Company also stated it supports the authority of the incident commander and local officials to make such decisions during the initial stages of an incident as necessary (Exh. EFSB-S-23). The Company acknowledged the importance of communicating information to the public during an emergency event, even if no action is

warranted, and would work with the Oakham Fire Department and Police Department to specify how such information would be shared (Tr. 4, at 731-732).

After Company representatives arrive on site and the incident commander determines that active combustion or thermal escalation has ceased, the first responders would, according to the Company, hand the situation to Company representatives to begin the emergency decommissioning process (Exhs. EFSB-S-37(1), at 37; EFSB-S-24; Tr. 4, at 765-766). The Company noted that so long as the BESS still has a state of charge, a potential risk of reignition would remain for hours or days after the fire appears to have been extinguished (Exh. EFSB-S-37(1), at 26-27; Tr. 4, at 765-766). Moraga stated it would assume the burden of time and resources to monitor for potential reignition, which would include monitoring of thermal outputs, voltage measurement, and TMS data (Tr. 4, at 765-767). The Company testified that it would bring in specialists for the emergency decommissioning process, which would consist of assessing the risk and damage to the BESS in order to deenergize them in a safe manner and subsequently package, strip, and send any affected units to recycling facilities per the U.S. Department of Transportation regulations (Exh. EFSB-S-24; Tr. 4, at 766-768; Tr. 7, at 1280). The Company stated it would comply with the standard industry practice to permanently remove and recycle any modules inside of a BESS unit that have experienced a thermal event (Tr. 4, at 768).

The Company testified that investigations and sampling after real-world BESS fire incidents found no signs of air, water, or soil contamination that would pose a public health concern (Exh. EFSB-W-17(1), at 5-6; Tr. 4, at 751). The Company stated that should water be used for thermal exposure protection, it would flow to the Project's stormwater basins and the Company committed to testing it for contamination upon request by regulators (Exh. EFSB-W-17(1), at 5; Tr. 4, at 751). Furthermore, the Company stated that in addition to comprehensive liability insurance, it would maintain an emergency reserve account to ensure that the Project has adequate financial resources in the unlikely event of an emergency resulting in environmental, personal, or property damages (Exh. EFSB-G-14). The Company committed to cooperating with the Town of Oakham in the aftermath of an emergency event to investigate and report on the root cause of the incident, including a summary of the incident and response actions, a description of

the affected equipment and conditions, findings from any root cause analysis or technical investigation, and identification of corrective or preventative measures implemented to reduce the likelihood of recurrence (Exh. EFSB-S-27; Tr. 4, at 751).

v. Facility Security

The Company stated security fencing at least eight feet tall would surround the BESS, Project Substation, and switching station and would include multiple locked security gates restricting access to the site (Exhs. MS-1, at 9-10; MS-A(S1)). The Company would maintain the Project Site access road year-round, including comprehensive snow and ice removal to ensure reliable emergency vehicle and O&M access (Exh. EFSB-T-6). The Project would be equipped with security lighting which would remain off unless needed for maintenance visits (Exh. MS-1, at 28).

The Company committed to meeting the North American Reliability Council (“NERC”) Critical Infrastructure Protection reliability standards for the Project (Exh. OAK-169). The Company explained that it would use widely recognized, industry-accepted frameworks and utility-sector best practices for cybersecurity, but that, at this stage of Project development, it had not yet determined the specific approach (Exh. EFSB-S-35). The Company stated that potential applicable safety standards or certifications include the following: National Institute of Standards and Technology Cybersecurity Framework, NERC standards, International Electrotechnical Commission 62443, and International Organization for Standardization 27001 (Exh. EFSB-S-35). To ensure cybersecurity protections remain current throughout the life of the Project, the Company committed to requiring vendors to provide ongoing security updates, patches, and firmware support; incorporate cybersecurity obligations into O&M agreements; and maintain internal policies governing access control, credential management, and incident response (Exh. EFSB-S-35).

c. Positions of the Parties

i. Town of Oakham

In its brief, the Town argues the Project is not appropriate for a rural area with limited emergency response capabilities (Town Brief at 2, 17). The Town claims that in the event of an

emergency, Oakham's firefighting response would be impeded by a lack of water, lack of manpower, and a long response time (Town Brief at 2). The Town also expressed concerns regarding its lack of infrastructure and resources to stage a safe and effective evacuation of school children, Town employees, and nearby residents (Town Brief at 2). The Town claims that deadly toxic gases, such as HF or carbon monoxide, may be released during a major thermal runaway or fire event, and the Project's proximity to residences and the nearby school is too close to allow safe dispersion of gases (Town Brief at 2). The Town claims this risk has been established by air dispersion models of plume patterns available in the public domain (Town Brief at 2).⁴⁷

Additionally, the Town asserts that the Company failed to address the Oakham fire chief's concerns regarding fire, emergency response, and smoke control (Town Brief at 16, citing Exh. OAK-TH). The Town's brief stated that any longstanding release of smoke and particulate matter from the burning of batteries would create a large-scale contamination risk including the spread of toxic heavy metal dust for miles around (Town Brief at 17, citing Exh. OAK-TH). The Town claims that the Company's proposed tactic of misting a smoke plume to minimize the spread of smoke and fumes would consume a substantial amount of water and manpower and would be unlikely to effectively contain a smoke plume under many possible circumstances (Town Brief at 16-17, citing Exh. OAK-TH). According to the Town, the Oakham Board of Health believes the Project would be a public nuisance and dangerous to public health due to the risk of uncontrollable fires from industrial accidents and furthermore asserts the Board of Health should have been involved in the BESS permitting process (Town Brief at 15-16, citing Exh. OAK-MB at 9-11).

ii. Represented Party Intervenors

The RPIs argue that Moraga has ignored or decided not to investigate substantial environmental risks related to a fire incident on site, including the potential for a fire, explosion or other accident to damage nearby environmental resources or emit toxic gases requiring an

⁴⁷ No documents on air dispersion modeling were submitted to the record in this proceeding.

evacuation of residents (RPI Brief at 44-45, citing RR-EFSB-8(1); RR-EFSB-9(1)). The RPIs contend that Oakham lacks the public safety resources, such as a municipal water supply or fire hydrants, needed to address an emergency at the Project Site (RPI Brief at 32). Furthermore, the RPIs allege that the Company would be absent in the event of a safety or fire issue at the Project Site, asserting it would be useless for the Company to be in contact by phone or email rather than present on site (RPI Reply Brief at 5, 12). The RPIs claim, without citing evidence, that Moraga's insurance coverage would be insufficient to cover a BESS accident or compensate any damage that may occur to other properties in Oakham (RPI Reply Brief at 6). The RPIs ask the Siting Board to condition any approval of the Project on the Company's providing an irrevocable letter of credit for \$100,000,000 dedicated only to cover third party claims for any losses incurred from such a BESS facility during operations and a reasonable time after it completes required decommissioning and cleanup (RPI Reply Brief at 6).

iii. Limited Participants – the Piuccis

The Piuccis state that Oakham has a volunteer fire department and the Town does not have a municipal water system or fire hydrants (Piucci Reply Brief at 6). The Piuccis assert that a BESS fire may result in large volumes of toxic smoke and particulates containing heavy metals, and they reiterate the Oakham Board of Health's position that the Project is likely to constitute a public nuisance (Piucci Reply Brief at 6).

iv. Company Response

In its reply brief, Moraga asserts it takes safety very seriously and reiterates its commitment to work collaboratively with the Oakham Fire Department to ensure that it is well prepared for a contingency at the facility (Company Reply Brief at 15). The Company reiterates that the Project would be developed and operated safely in accordance with national and international safety standards and that it has made attempts to ensure the Town's concerns are appropriately addressed through the HMA and ERP, the use of industry-recognized experts, Fire Department training, and other measures (Company Reply Brief at 15-16).

d. Analysis and Findings

The Company has committed to complying with the relevant safety regulations and standards for the Project. Though the 2020 edition of NFPA 855 has been adopted by the Commonwealth, the Company has committed to complying with the 2023 and 2026 editions of NFPA 855, which contain more recent industry requirements. To ensure that the Project meets the specified safety standards, the Siting Board directs the Company to design and operate the Project consistent with the 2026 edition of NFPA 855. In accordance with these standards, the Company would collaborate with the Oakham Fire Department to develop an ERP, HMA, and Emergency Operations Plan and it would provide annual BESS safety training to the Oakham Fire Department along with other municipal fire departments that may be identified as potential first responders to a Project fire incident.

The Siting Board directs the Company to provide the final HMA and Emergency Operations Plan to the Town of Oakham and the Siting Board at least 60 days before the start of Project construction. Since the Oakham Fire Department is reliant on mutual aid resources in the region, the Siting Board directs the Company to work with the Oakham Fire Department and other fire departments that may reasonably be expected to respond to an emergency at the Project Site to determine whether to develop a joint action plan as part of the ERP. Further, the Siting Board directs the Company to provide the final Emergency Response Plan (“ERP”) at least 60 days before the Project’s commercial operation. The Company shall include in its final ERP, at minimum, the following:

- The facility’s equipment types and layouts, without compromising critical energy or electric infrastructure information;
- Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries;
- Procedures for safe start-up following cessation of emergency conditions;
- Procedures for inspection and testing of associated alarms, interlocks, and controls;
- Procedures to be followed in response to notifications from the BESS management system, when provided, that could signify potentially dangerous conditions, such

procedures to include shutting down equipment, summoning service and repair personnel, and providing agreed-upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure;

- Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures may include sounding the alarm, notifying the Town of Oakham's Fire Department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire;
- Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility;
- Training for local first responders on the contents of the ERP, in consultation with the Massachusetts DOER, and protocols and schedules for conducting drills of the above procedures;
- A communications plan for nearby residents who may be impacted by an emergency event that shall outline the parties responsible for contacting nearby residents;
- Evacuation and shelter-in-place protocols for residents near the Project;
- The names and phone numbers of local, state, and federal agencies and officials to be contacted in the event of an emergency.

The Company's draft ERP and HMA detail the layered control, monitoring, and safety systems of the Project. The record demonstrates that the Tesla MP2XL is configured with an explosion control system that operates continuously, as well as BMS and TMS networks that work autonomously to keep the BESS unit within prescribed operational parameters. The record shows that the Project would be monitored 24/7 by the remote Tesla NOC and a central station monitoring company; additionally, the Company would receive status and alert updates from the NOC and would also be available on a 24/7 basis in the event of an emergency. In the event of thermal runaway or a BESS fire, both the NOC and the central station would have the ability to dispatch the local fire departments. The Oakham Fire Department may also receive alerts directly from the facility, depending on further development of the ERP. The Siting Board directs the Company to collaborate with the Oakham Fire Department and Oakham Police

Department to identify their preferred modes of alarm notification. The Siting Board directs the Company to work with the Oakham Fire Department and Oakham Police Department to determine whether any onsite signage in addition to those required by code would be desirable. Additionally, the Siting Board directs the Company to remove the existing sign for the former auto recycling facility.

The ERP states that upon arrival at the facility, the fire department would reach out to the designated SME to obtain information on the location and status of the affected BESS unit. The contact information for the SME as well as Company personnel and the NOC would be included in the ERP, and the Company is open to having the contact numbers available on-site as well. The Siting Board directs the Company to provide and maintain the accuracy of the contact information for the designated Company personnel, SME, and NOC available on site for first responders. The Company has committed to adhering to industry best practices for the response time of its representatives. The RPIs expressed concern that Company representatives would not be immediately available on site in the event of a Project emergency. The Siting Board notes the purpose of the HMA, ERP, and annual training for the fire department personnel is to ensure that local first responders are adequately prepared to address an emergency on site by being familiar with the Project's design, safety risks, and protocols for addressing different failure scenarios. The Company endorses the use of a defensive posture when addressing a BESS fire, recommending that the fire department stages at least 100 feet from electrical equipment and monitors the situation without approaching any troubled units. The record shows that once Company representatives arrive on site and the fire department has deemed the situation safe, the Company would be responsible for continued site monitoring and the subsequent emergency decommissioning process.

The evidence submitted into the record shows that any gases emitted by the BESS units during thermal runaway would disperse rapidly in air to safe levels within 20 feet from the source and thus would not pose a health threat to abutting residences. Although HF was found as a biproduct of an enclosure fire during the destructive unit-level testing, its concentration was well below the IDLH threshold. Furthermore, the submitted reports from BESS fires showed no harmful contamination in the air, water, or soil samples taken post-incident. There is no

evidence in the record to support the intervenors' and limited participants' claims that a BESS fire would result in widespread contamination and toxic gas throughout Oakham that would endanger residents or the environment, nor is there any evidence to suggest that a BESS fire may require a townwide evacuation. However, during the ERP development, the Company has committed to working with the Oakham Fire Department to develop evacuation and communication protocols.

The record demonstrates that the UL 9540A testing, destructive unit-level testing, and fire propagation and heat flux modeling conducted for the Tesla MP2XL conclude that a BESS fire would not propagate to adjacent units when spaced according to the manufacturer's specifications. These results demonstrate that firefighting water is not necessary for a BESS container to burn itself out in a controlled manner, and the Company presented several examples of BESS real-world fire incidents that safely resolved without water. Though the Company maintains that water application would not be required when addressing a BESS fire, the Company has committed to working with the Oakham Fire Department to identify additional water supply options that would be beneficial to the Town. The intervenors and limited participants expressed concern about the ability of the Oakham Fire Department to respond to a BESS fire given the department's limited water supply.

The Siting Board notes that a defensive posture without water intervention is the standard industry practice for addressing a BESS fire, consistent with ERP protocols established for similar projects approved by the Board, and that water may be used strategically for exposure protection. See Cranberry Point at 74; Medway Grid at 75. The Siting Board directs the Company to identify potential solutions to supplement the Oakham Fire Department's water supply (e.g., onsite water storage) in consultation with the Oakham Fire Department and to submit a report on the result of these discussions to the Siting Board. The Siting Board directs the Company to implement any identified solutions for supplementing the Oakham Fire Department's water supply prior to the commercial operation of the Project as practicable. The Siting Board further directs the Company to work with the Oakham Fire Department to identify any additional tools or resources that would be necessary to address a BESS fire, and to provide adequate funding to the Town to address these items as agreed. In the event that water is used

for firefighting or exposure protection, the Siting Board directs the Company to contain the firewater effluent in the stormwater basins, test the effluent for contaminants, share the results with the Town of Oakham and the Siting Board, and, if contamination is found, the Company must take steps to ensure the contaminated firefighting water is not discharged outside the basin.

The Siting Board finds that the Project design and safety features appropriately limit the risk of a BESS fire propagating to additional units or beyond the Project footprint. The record supports that environmental impacts from a BESS fire or thermal runaway would be localized to the immediate vicinity of the incident unit and would be unlikely to result in contamination requiring remediation. The RPIs argue that a potential Project BESS fire could cause widespread damages and losses to the Oakham community and accordingly request the Siting Board to require the Company to provide an irrevocable letter of credit for \$100,000,000 to cover third party damages as a condition of approval. The Siting Board notes that the RPIs did not provide any evidence in the record to substantiate the claim that a Project incident would result in damage beyond the Project Site, nor did they provide evidence to discredit the sufficiency of Moraga's proposed insurance coverage or to justify the value of the proposed letter of credit. Additionally, the Siting Board acknowledges the Company has committed to maintaining an emergency reserve account to supplement its comprehensive liability insurance.

In the event of a fire incident on site, the Company has committed to providing an incident report to the Town of Oakham containing an analysis of the root cause and response to the emergency event. Within 30 days of an incident that requires the response of first responders, the Siting Board directs the Company to provide the Town of Oakham with a report of the incident that includes: (1) a time-stamped summary of the incident and response actions; (2) a description of the affected equipment and conditions observed; (3) findings from any root cause analysis or technical investigation; and (4) identification of corrective or preventative measures implemented to reduce the likelihood of recurrence. Further, the Siting Board directs the Company to provide the Town of Oakham with an annual report by November 1 of each year detailing: (1) a summary of any safety incidents that required the response of local first responders along with any changes the Company made in response to each such incident; and (2) an itemized log and a narrative summary of Project complaints received by the Company,

including the nature and source of the complaint, the Company's response to the complaint, the dates of the complaint receipt and response, and the Company's resolution of the complaint. Additionally, for the first five years of operation, the Siting Board directs the Company to file such a safety incident summary report on a quarterly basis.

6. Conclusion on Public Convenience and Welfare

Based on the Company's proposed Project design, mitigation measures, and Board-imposed conditions, as described above, impacts of the Project are limited and are consistent with the public convenience and welfare. Additionally, based on the: (1) need for or public benefit of the use; (2) alternatives explored; and (3) impacts of the proposed use, the Siting Board finds, the Project is necessary for the purpose alleged; the benefits of the Project to the general public exceed the local impacts; and the Project is reasonably necessary for the convenience or welfare of the public and consistent with the public interest.

E. Zoning Exemptions Required

1. Standard of Review

In determining whether exemption from a particular provision of a zoning ordinance is "required" for purposes of G.L. c. 40A, § 3, the Siting Board determines whether the exemption is necessary to allow construction or operation of the petitioner's project. Trimount ESS at 80; New England Power Company d/b/a National Grid, EFSB 19-04/D.P.U. 19-77/19-78, at 120-121 (2021) ("Beverly-Salem"); Sudbury-Hudson at 196. It is a petitioner's burden to identify the zoning provisions applicable to the project and then to establish on the record that exemption from those provisions is required:

The Company is both in a better position to identify its needs, and has the responsibility to fully plead its own case . . . The [Siting Board] fully expects that, henceforth, all public service corporations seeking exemptions under [G.L.] c. 40A, § 3 will identify fully and in a timely manner all exemptions that are necessary for the corporation to proceed with its proposed activities, so that the [Siting Board] is provided ample opportunity to investigate the need for the required exemptions.

Trimount ESS at 80; Park City Wind at 177-178; Mid Cape Reliability Project at 102-103.

Regarding comprehensive zoning exemptions, the Siting Board grants such requests “on a case-by-case basis where the applicant demonstrates that issuance of a comprehensive exemption could avoid substantial public harm by serving to prevent a delay in the construction and operation of the proposed use.” Trimount ESS at 80; Park City Wind at 208; Beverly-Salem at 126. In order to make a determination regarding substantial public harm, the Siting Board has articulated relevant factors, including, but not limited to, whether: (1) the proposed project contributes to a reliable energy supply for the Commonwealth; (2) the project is time-sensitive; (3) the project involves multiple municipalities that could have conflicting zoning provisions that might hinder the uniform development of a large project spanning these communities; (4) the proponent of the project has actively engaged the communities and responsible officials to discuss the applicability of local zoning provisions to the project and any local concerns; and (5) the affected communities do not oppose the issuance of the comprehensive exemption. Trimount ESS at 81; Park City Wind at 208; Mid Cape Reliability Project at 109-110.

2. Company Description

a. Exemptions from Specific Sections of Zoning Bylaw

The Company identifies several provisions of the Town’s Zoning Bylaw⁴⁸ that apply to structures throughout Oakham and would or could, it contends, preclude development of the Project (Company Brief at 42-45):

Table 6. Description and Explanation of Zoning Bylaw Sections Prohibiting the Project

Section	Available Relief	Explanation
Section 2.2 (designation of the entire Town of Oakham as an agricultural and rural residential district).	None available	All parties agree the Project would constitute an industrial use (Town Brief at 1; RPI Brief at 18, 31-32).

⁴⁸ The Zoning Bylaw is contained at Chapter XIV of the Oakham General and Zoning Bylaws (Exh. MS-H, at 18 (of 62) through 53 (of 62)).

Section	Available Relief	Explanation
Section 3.1.4.1 (prohibiting uses outside of those specifically permitted in Sections 3 and 4 of the Zoning Bylaw).	None available	Nowhere does Section 3 or 4 provide a BESS as a permitted use (Company Brief at 42).
Section 4.4.4 (prohibiting a “Battery Energy Storage System (BESS) not located on the site of, and specifically appurtenant to, a permitted Large Scale Solar Installation (LSSI”).	None available	The Company concedes the Project qualifies as a BESS under the Zoning Bylaw (Company Brief at 42). Explaining it is not a solar developer, the Company does not propose to co-locate the Project with a large-scale solar installation (Exh. EFSB-Z-1).
Section 5.2 (limiting the height of structures to 35 feet).	Variance	The incoming gantry and disconnect switch included in the substation, including the attached cables, will exceed 35 feet in height to comply with NERC conductor-to-ground clearance requirements (Exh. MS-1 at 3; Exh. EFSB-Z-2).
Section 5.3 (prohibiting structures from being erected within 50 feet of any side lot line).	Variance	The proposed noise walls and some battery containers would encroach on the 50-foot setback along the southerly and easterly lot lines to avoid either a substantial reduction in the Project’s capacity or relocation of equipment into areas with greater environmental constraints or increased impact to residential abutters (Exh. EFSB-Z-6). The substation and interconnection structures would encroach on the 50-foot setback to abut the existing transmission line and, therefore, must be built within the 50-foot setback area (Company Brief at 43).
Section 5.5 (prohibiting a building inspector from issuing building permits for lots shown on approval not required (“ANR”) plans and Definitive Subdivision plans if said plans do not meet the requirements of Section 5.5.1).	Variance	The lot on which the Project Site is located (i.e., Parcel 406-106) was established prior to the Company’s interest in the site, and the Company cannot determine whether the lot was created in conformance with the requirements of Section 5.5.1 (Exhs. EFSB-Z-4).

Section	Available Relief	Explanation
Section 5.6.1 (prohibiting construction on “[l]ots with long, narrow ribbon shapes, including ‘ribbon lots’, rat-tail lots, flag lots, hourglass lots, pork-chop lots, hammerhead lots”).	Variance	The Project Site may constitute a “hammerhead lot” or “flag lot” due to its particular shape where all but the long access driveway is separated from Coldbrook Road (Exhs. MS-A(S1); EFSB-Z-3).
Section 5.6.2 of the Zoning Bylaw (requiring that “[l]ot depth perpendicular to the frontage at any point along the frontage shall not be less than fifty feet”).	Variance	The Project Site’s depth perpendicular to its frontage is only 30 feet at points (Exh. MS-A(S1)).
Section 5.6.5 (requiring a “Proportion Factor” for the property of at least 0.4).	Variance	The Proportion Factor is calculated by multiplying the land area by 16 and then dividing that number by the land perimeter in feet, squared. The Company did not provide a calculation for the Proportion Factor. Staff estimates the Proportion Factor to exceed 0.5, well in excess of the required 0.4 threshold (Exh. MS-A(S1)).
Sections 4.2.11 and 6.3 (requiring special permits from the planning board for the removal of more than 500 cubic yards of soil; prohibiting excavation below existing grade within 200-feet of any abutting property line without a supermajority vote of the planning board and written permission of an abutter, unless an applicant constructs a visual barrier, in which case the setback may be 100 feet; and requiring approval by the Conservation Commission prior to any excavation within 100 feet of a water course or	Special permit from Planning Board	The Project may involve the removal of more than 500 cubic yards of soil removal as part of site preparation (Company Brief at 45). The limit of disturbance of the Project would extend into the 100-foot setback area on several boundaries of the Project Site (Exh. MS-A(S1)). Additionally, the proposed access road, and portions of the proposed sound wall, battery storage containers and related drainage infrastructure, which may require some excavation, may fall within the 100-foot water course or wetland setback area (Exh. MS-A(S1)). Other aspects of the Project are designed within the 200-foot setback from abutting properties (Exh. MS-A(S1)).

Section	Available Relief	Explanation
wetland resource, among other requirements).		
Potentially Subsection 6.6.16 of the Zoning Bylaw (limiting permissible sound levels from the Project at 250 feet from abutting residential property lines to 30 dBA when all components operate under full normal load).	Not applicable	The Project would not meet a strict 30 dBA limit in most locations. The Company argues Section 6.6 and Subsection 6.6.16 apply only to Large Scale Ground-mounted Solar Photovoltaic Installations and, therefore, do not apply to the Project. The Company requests an exemption from the strict application of Sub-section 6.6.16 to the extent it applies (Company Brief at 45 n.267).

b. Comprehensive Exemption from Zoning Bylaw

The Company asserts that without comprehensive zoning relief, it has no pathway for the Project to be reviewed and approved in a manner to enable its timely construction and completion (Company Brief at 46). The Company asserts the record demonstrates denial of a comprehensive zoning exemption would result in substantial public harm (Company Brief at 46). The Company points to the Project's public benefits associated with its participation in the ISO-NE energy, capacity, and ancillary services markets, its participation in the Clean Peak program, and its contributions to achieving the Commonwealth's goal of net-zero carbon emissions (Company Brief at 46; Exh. EFSB-N-4). The Company asserts the Project is time-sensitive, and it relies for that conclusion upon Trimount ESS, where the Siting Board found an "immediate" need for energy storage projects (Company Brief at 47, citing Trimount ESS at 92). Relying on Trimount ESS, the Company explains that any delay could result in substantial public harm in failing to fulfill the Commonwealth's policies relating to energy storage goals, which have definitive deadlines (Company Brief at 47, citing Trimount ESS at 92). The Company advises that any potential future zoning changes "could have an impact on the construction and operation of the Project, introducing further delay and uncertainty" (Company Brief at 47, citing Cranberry Point, at 126; Exh. MS-1, at 44). The Company asserts the grant of a comprehensive exemption with respect to all existing and future zoning bylaws that could negatively impact the

Project would avert the need to litigate any changes in local zoning bylaws and permit the Company to move forward with the Project in a timely fashion (Company Brief at 47).

Table 1 in Section I.C. lists the Company's outreach activities. The Company states that it has attempted on multiple occasions to coordinate with Town personnel to discuss the Project and address local concerns, including meeting with the Town's Planning Board, members of the Selectboard, Conservation Committee members, and the Town's fire and police chiefs (Exhs. MS-1, at 44-46; EFSB-G-5; EFSB-S-32; EFSB-N-10). The Company asserts the Town's officials have refused to further collaborate with the Company (Exh. MS-OAK-G-3; Tr. 4, at 648-649). The Company adds that, pursuant to Section 118(a) of the 2024 Climate Act, the Project requires a comprehensive zoning exemption to obtain a Certificate of Environmental Impact and Public Interest ("Certificate") (Company Brief at 47). The Company explains, "The primary purpose of the 2024 Climate Act was to streamline the siting and permitting of large energy storage projects before the EFSB" and explains that Section 118(a) of the 2024 Climate Act creates an interim, streamlined process for approval of large battery storage projects prior to the consolidated permit process under G.L. c. 164, § 69T becoming effective (Company Brief at 47-48). The Company states it filed its Petition 15 months before the end of June 2026 to ensure it would have time to seek a Certificate (Company Brief at 48). The Company seeks a decision by June 2026 to allow it to seek a Certificate pursuant to Section 118(a) of the 2024 Climate Act (Company Brief at 48).

3. Positions of the Parties

a. Town of Oakham

The Town notes that Oakham's BESS bylaw specifically allows for a combined BESS/large-scale solar facility, and that only the Company's failure to consider the potential for such a combined facility prohibits the Project under the Town's Zoning Bylaw (Town Brief at 21-22). The Town further argues the Company's determination that a standalone facility would generate the greatest rate of financial return does not mean that a zoning exemption is "required" to proceed with a BESS facility at the Property (Town Brief at 22). The Town asserts the Board does not have jurisdiction to create a zoning district allowing industrial uses where

none otherwise exists, nor does it have jurisdiction to grant what would essentially be a use variance (Town Brief at 25).

In the context of the “substantial public harm” considerations favoring the issuance of a comprehensive permit, the Town asserts the Project is not “time sensitive”; the Project does not involve “multiple municipalities that might hinder development of a large project spanning these communities”; the only affected community, the Town, opposes the Project; and the Project proponent has not made a legitimate effort to engage the local community and discuss local concerns (Town Brief at 23). In expanding on the last point, the Town contends the Company, after having been advised three times by a Town official of the Town’s standalone BESS zoning prohibition, engaged in deception by requesting permits for and sending hearing notices to abutters about illusory uses of the Property (Town Brief at 23)⁴⁹ The Town further contends the Company submitted an ANRAD filing with the Conservation Commission without disclosing that the purpose of the delineation was for a BESS facility (Town Brief at 23). The Town contends the ANRAD failed to accurately depict the extent of wetland-related jurisdictional areas on the site (Town Brief at 23). The Town contends the Town limited communication with the Company because it “learned very quickly to be cautious when communicating with Company representatives” (Town Brief at 24). The Town argues that Moraga failed to prove that comprehensive zoning exemptions are required for this Project and urges the denial of this petition (Town Brief at 3-4).

b. Represented Party Intervenors

The RPIs assert, “The hearing record evidences that there is no proper zoning at this proposed Oakham site for a BESS facility” (RPI Brief at 13). The RPIs explain, “[T]he town and state Attorney General do not allow [in Oakham] BESS not co-located with renewable

⁴⁹ The Town misstates the evidence; it was not the Company who pursued permits regarding other uses of the Property but rather BHT Oakham LLC, an unrelated company related to the owner of the property, ZOVL Properties LLC (Exh. MS-OAK-G-2(5); Tr. 3, at 373-76, 381-83). No evidence reasonably connects the Company to BHT Oakham LLC’s actions in this regard, and the Company denied any such connection (Tr. 3, at 381-83).

energy projects” (RPI Brief at 31). The RPIs argue that the Company failed “to exhaust all local administrative options under existing law before asking a state body to preempt localities’ zoning laws” (RPI Brief at 33).

The RPIs assert an affiliate of ZOVL Properties, LLC filed an application for a permit for non-BESS uses of the site (RPI Brief at 6). The RPIs assert further that a representative of the affiliate of ZOVL told the Chair of the Planning Board he did not think any BESS plans for the property were going to move forward, especially in light of the BESS zoning ban: “Obviously if it’s prohibited, not going to happen. We only do what is allowed”⁵⁰ (RPI Brief at 6). The RPIs assert “this series of actions misled the town and its official about Rhyndland’s intentions to site a BESS facility at the site” (RPI Brief at 7). The brief does not specify the detrimental actions, if any, the Town took in reliance upon ZOVL Properties, LLC’s affiliate’s actions (RPI Brief at 6-8).

c. Limited Participants – the Piuccis

The Piuccis echo the Town’s argument that the Company deliberately chose for business reasons to not comply with the bylaw by pairing the BESS with solar (Piucci Reply Brief at 7). The Piuccis do not contest the Company’s assertion that specified provisions of the Town’s Zoning Bylaw prohibit the Project (Piucci Brief at 1-8). The Piuccis argue that Moraga has not met the statutory requirements to receive a comprehensive zoning exemption and urge the denial of this petition (Piucci Reply Brief at 7).

d. Company Response

In its Reply Brief, the Company highlights the Town’s response to the Company’s information request Exh. MS-OAK-G-3, which asks whether the Town would cooperate with the Project if the Company proposed to pair the BESS with a 100 kilowatt (or higher) solar generator per the Town’s bylaw:

⁵⁰ This statement is not part of the record. The RPIs cite to a YouTube recording of the hearing, but that recording is not part of the record of this proceeding (RPI Brief at 6 n.1).

No, that is not the position of the Town. The position of the Town is and has always been that: on June 27, 2022 the Oakham Annual Town Meeting, the municipality's legislative body, passed Article 18 amending the Town's zoning bylaws. On January 4, 2023, that bylaw change was approved by Attorney General Maura Healey and became an enacted and enforceable bylaw of the Town of Oakham. From that date forward, Grid Scale BESS facilities are illegal in the Town. Given that legal reality, the Company's activities with respect to planning to develop the land parcel at 358 Coldbrook Road for a BESS project were and are now conspiratorial of violating the law to engage in an illegal use of the property.

Company Reply Brief at 17-18, citing Exh. MS-OAK-G-3.

The Company also asserts the Town's Conservation Commission, two of whose members testified against the Project, opposes the Project (Company Reply Brief at 18). The Company states it may need a Certificate for the Project to move forward and that, to start that process in June 2026, the Company must first obtain a comprehensive zoning exemption (Company Reply Brief at 18).

4. Analysis and Findings

a. Consultation with Municipal Officials and Community Outreach

The Company consulted with Town officials before filing its Petition, including by meeting on February 25, 2025. It is undisputed that the Town considered the proposed Project illegal and that, for that reason, the Town ultimately declined to speak with the Company about the Project. Under these circumstances, the Board finds that any further consultation by the Company with the Town before filing its Petition would have been fruitless and that the Company, therefore, satisfied its obligation to endeavor to consult with local officials regarding the Project before seeking zoning exemptions pursuant to G.L. c. 40A, § 3.

b. Exemptions from Specific Sections of Zoning Bylaw

G.L. c. 40A, § 3 authorizes the Siting Board to grant exemptions from local zoning requirements for certain types of uses. The statute reflects the Legislature's intent that certain uses should be protected from local restrictions as a matter of public policy. Included in these protected uses is the use of land or structures by a public service corporation, and Section 3

allows a public service corporation to petition the Siting Board for an exemption from local zoning ordinances. G.L. c. 40A, § 3. The purpose of this exemption is to ensure that local restrictions do not prohibit needed services. See Trimount ESS at 90; Berkshire Power at 30; see also Save the Bay, 366 Mass. at 685-686; Town of Truro, 365 Mass. at 411; NY Central Railroad, 347 Mass. at 592. Without the ability of the Siting Board to balance the state's need for electricity with local interests, local restrictions could effectively veto facilities serving the state, and the wider public convenience and welfare.

In the absence of zoning exemptions, several provisions of Oakham's Zoning Bylaw would prohibit the Project:

- Oakham's Zoning Bylaw prohibits any BESS "not located on the site of, and specifically appurtenant to, a permitted Large Scale Solar Installation (LSSI)" (Chapter XIV/Section 4.4 Prohibited Uses). Because the Project is not both on the Project Site and appurtenant to an LSSI, the BESS bylaw prohibits the Project.⁵¹
- The Zoning Bylaw prohibits industrial uses. All parties agree the Project constitutes an industrial use. Therefore, the prohibition against industrial uses also prohibits the Project.
- Similarly, with the exception of the Proportion Factor requirement, which is apparently met, all the uncontested provisions of the Zoning Bylaw cited by the Company prohibit or may prohibit the Project. These provisions consist of:
 - Section 2.2 (agricultural and rural residential district);
 - Section 3.1.4.1 (only permitted uses allowed);
 - Section 5.2 (limiting the height of all structures to 35 feet);
 - Section 5.3 (prohibiting structures from being erected within 50 feet of any side lot line);
 - Section 5.5 (indirectly requiring compliance with Section 5.5.1);
 - Section 5.6.1 (prohibiting "flag lots" and "hammerhead lots");
 - Section 5.6.2 of the Zoning Bylaw (requiring that "[l]ot depth perpendicular to the frontage at any point along the frontage shall not be less than fifty feet");
 - Section 4.2.11 and 6.3 (requiring special permits from the planning board for the removal of more than 500 cubic yards of soil and imposing other restrictions on soil removal); and

⁵¹ For the exemption requirement analysis, the Company is not obligated to show that a combined facility is not feasible but merely that the Project as *designed* is prohibited.

- Potentially Section 6.6.16 (limiting permissible sound levels from the Project at 250 feet from abutting residential property lines to 30 dBA when all components operate under full normal load).

The Siting Board finds that all the provisions cited above would or may prohibit the Project and that the Project, therefore, requires exemptions from such provisions for the Project to be constructed and operated.

The parties allege that the Company misled Oakham on the nature of its project, but the allegations are not supported with record evidence. The record shows that allegations the Company misled the Town by filing for illusory permits pertain to a non-related entity, BHT Oakham LLC, not to the Company. Any inference BHT Oakham LLC or ZOVL Properties, LLC, the then-and-current owner of the Project Site, was acting at the behest of the Company is not grounded in the record. The Company approached the Town about its Project and expressed a willingness to discuss it with the Town. The Town, however, considered the Project prohibited by the BESS bylaw and had a policy of not communicating with the Company. In the face of the Town's refusal to communicate, the Company announced its continued willingness to meet and collaborate with the Town. Further overtures would have been unavailing, and the Company acted reasonably in pursuing a zoning exemption from the Siting Board under the circumstances.

The record does not support that the Company filed any permits or hosted any meetings about proposed uses of the Project Site other than for a BESS. Furthermore, the record does not support that other companies that did so filed the earlier applications or the ANRAD at the Company's request. Finally, the record does not support that the actions of the other companies harmed the Town. The Town suggests it would not have issued the ORAD based on the ANRAD if it had known the delineation would be used to support a BESS development. But the appropriateness of wetlands delineations on a property should depend entirely upon the current condition of the land and not with the use that may be made of that land in the future. The Company has redesigned the Project specifically to avoid the wetland resource areas, including the contested wetland in the northeast corner of the property. The Siting Board finds the Company took reasonable steps to attempt to engage with the Town in pursuing the Project.

c. Comprehensive Zoning Exemption

The Siting Board has previously held the grant of a comprehensive exemption is based on the specifics of each case. Compared to the grant of individual zoning exemptions, the grant of a comprehensive exemption serves to nullify a municipality's zoning code in its entirety with respect to the project under review. Thus, compared to the grant of individual zoning exemptions, a comprehensive zoning exemption constitutes a broader incursion upon municipal home rule authority. Trimount ESS at 91. In the absence of a showing that substantial public harm may be avoided by granting a comprehensive exemption, the granting of such extraordinary relief is not justified. Trimount ESS at 91-92; SouthCoast Wind at 243; Vineyard Wind at 17.

The Siting Board has considered multiple factors in its review of comprehensive zoning requests, but has not required that an applicant establish all factors are present in its request. Two of the several factors identified in the standard of review support a finding of substantial harm in the absence of the Project, namely, contribution to a reliable energy supply and time-sensitivity of the Project. Commonwealth policies promote a reliable energy supply and especially a reliable supply of *renewable* energy, including battery storage projects. The Commonwealth has identified renewable energy in combination with battery energy storage projects as critical to fulfillment of its net zero greenhouse gas emissions targets, and has imposed deadlines on progress towards that goal, including an energy storage procurement target of 5,000 MW by 2030 and an additional goal, through Executive Order No. 654, of 5,000 MW of energy storage either online or under development by 2035. Though the Project is a BESS that is not combined with on-site renewable energy, the Siting Board found above that the participation in CPS is sufficient to demonstrate that the Project is likely to charge during times when the grid has high performance of renewable energy resources and discharge during peak times to displace higher emitting energy resources. As of December 22, 2025, approximately 3,700 MW of energy storage was still needed to meet the 2030 goal (Exh. EFSB-N-2). Under these circumstances, the Project is eligible to contribute towards fulfillment of the 2030 goal, assuming Project completion by then, and otherwise to the 2035 goal. Without a comprehensive

exemption, the Project would potentially be delayed by uncertainty as to whether the specific exemptions address all possible prohibitions of the Zoning Bylaw.

Furthermore, the 2024 Climate Act included a provision that allows BESS developers to request a certificate of environmental impact and public interest from the Siting Board if the project receives a comprehensive exemption before July 1, 2026. Because the relief in Section 118 is time-limited, denial of the comprehensive exemption could prevent the Company from obtaining a Certificate in this matter because Section 118(a) of the 2024 Climate Act requires an applicant to have a comprehensive exemption before it can petition for a Certificate.⁵²

The Siting Board recognizes that not all the factors mentioned in the standard of review support a finding of substantial harm. The Project does not involve multiple municipalities with conflicting zoning provisions; that factor, therefore, does not apply. Neither does the factor concerning the Company's attempt to engage the local community. The Company engaged the community, albeit with only limited success, largely because the Town took the position that engaging with the Company regarding the Project amounted to condoning the Project.

The Siting Board finds that the Project requires a comprehensive exemption to avoid substantial public harm from delay in construction and operation of the Project. In doing so, the Board does not purport to create a new zoning district or grant a variance. Instead, acting pursuant to its clear statutory authority under G.L. c. 40A, § 3, it exempts the Project from prohibitions in the existing and future Zoning Bylaw that would otherwise prohibit the Project.

F. Conclusion on Request for Zoning Exemptions

Siting Board finds (1) the Company is a public service corporation; (2) the proposed use is reasonably necessary for the public convenience and welfare; and (3) zoning exemptions are

⁵² The Company could seek relief similar to that afforded by the Certificate by pursuing a consolidated permit pursuant to G.L. c. 164, § 69T beginning on July 1, 2026. St. 2024, c. 239, § 132, (establishing effective date of July 1, 2026). But whereas the Certificate process contemplates a six-month proceeding, the consolidated permit process contemplates a 15-month proceeding, thus potentially delaying the Project. See G.L. c. 164, § 69O; 980 CMR 13.02(4)(a)(1).

required for purposes of G.L. c. 40A, § 3. As part of this analysis, the Siting Board finds the Company endeavored to engage in good faith discussions with the Town of Oakham. The Siting Board finds the Company has identified and provided reasons that it cannot comply with the Zoning Bylaw and that exemptions from the Zoning Bylaw are, therefore, required. The Siting Board finds that a grant of a comprehensive zoning exemption would avoid the substantial public harm of delayed construction or operations. Therefore, the Siting Board grants the Company's request for individual and comprehensive zoning exemptions.

III. SECTION 61 FINDINGS AND MEPA

A. Standard of Review

The Massachusetts Environmental Policy Act ("MEPA") provides, "Any determination made by an agency of the commonwealth shall include a finding describing the environmental impact, if any, of the Project and a finding that all feasible measures have been taken to avoid or minimize said impact" ("Section 61 Findings"). G.L. c. 30, § 61. Section 61 Findings are necessary, however, only when an EIR is submitted to the Secretary of EEA or review thresholds are met. 301 CMR 11.01(2)(b)(1) ("Except when the Secretary requires fail-safe review, the review thresholds determine whether MEPA review is required.")

B. Company Description

The Company does not address MEPA review in its petition or its initial brief. In a response to a record request, however, its wetlands scientist reviewed potentially applicable thresholds and asserts reasons the Project would not meet any threshold (RR-OAK-5, at 1-3). In an email, dated October 13, 2025, from the Company's legal counsel to the Deputy Director of the MEPA Office and the Assistant Secretary of the EEA, the Company disclosed that it does not consider MEPA review as necessary and also confirms that it had previously discussed the matter with the Assistant Secretary (RR-OAK-5(3) at 3). No evidence has been presented in this proceeding that any representative from the MEPA Office or the EEA disagreed with that assessment or that the Secretary has required a fail-safe review.

C. Position of the Parties

1. Town of Oakham

The Town did not contest any evidence or conclusions presented by the Company regarding Section 61 findings.

2. Represented Party Intervenors

The RPIs assert in their reply brief that the Project meets specific thresholds requiring MEPA review: (1) direct alteration of 25 or more acres of land; (2) creation of 5 or more acres of impervious area; (3) disposition or change in use of land subject to Article 97 of the Massachusetts Constitution; (4) conversion of land held for conservation, agricultural, or protected watershed purposes; (5) affecting state listed species habitat; (6) wetlands and waterway disturbance; (7) alteration of bordering or isolated vegetative wetlands; (8) dredging of 10,000 or more cubic yards of material; and (9) transportation impacts, including generation of 3,000 or more new auto trips per day and development of new or modified roadways (RPI Reply Brief at 9-10). The RPIs cite no evidence in the record in support of such assertions.

The RPIs also assert that the Company was required to have notified EEA of the Project no more than ten days after filing its Petition and to have requested a determination of whether the Project required an environmental impact report but that the Company did not do so. (RPI Reply Brief at 8, citing G.L. c. 30, § 62A).

3. Piuccis

The Piuccis did not contest any evidence or conclusions presented by the Company regarding Section 61 findings.

D. Analysis and Findings

The Project did not require an EIR because, as explained by the Company's wetlands scientist, the Project did not meet the relevant thresholds established by 301 CMR 11.03. The Project is primarily an energy project, and 301 CMR 11.03(7) does not list BESS among the energy projects subject to MEPA review but instead only generating facilities, gas pipelines, and certain transmission lines.

The RPIs do not cite record evidence in support of any of the thresholds they allege the Project meets, the record does not support that the Project would exceed any of these MEPA review thresholds, and in many cases, the record supports the opposite conclusion. The limit of work is approximately 18 acres (as opposed to 25) (Exh. MS-1, at 6). The Company states in its initial brief, “The Project will result in a total of 117,065 square feet of impervious area, which is an increase over existing conditions” (Exh. MS-1, at 25). That amounts to about 2.7 acres (as opposed to 5 acres).

The RPIs provide no support for their assertion that the Property Site is land subject to Article 97 of the Massachusetts Constitution. Regarding the conversion of land threshold, 301 CMR 11.03(1)(b)(5) contemplates a deed restriction on land “for conservation, preservation or agricultural or watershed preservation purposes” and a release of that restriction. The RPIs cite no support for their contention that the land is subject to such a deed restriction, and, in any case, the Company has not proposed a release of any restriction.

Regarding state-listed species habitat, the regulation contemplates “Alteration of designated significant habitat” or “Greater than two acres of disturbance of designated priority habitat, as defined in 321 CMR 10.02, that results in a take of a state-listed endangered or threatened species or species of special concern.” 301 CMR 11.03(2)(b)(2). The RPIs do not mention “significant habitat,” and they point to no “state-listed endangered or threatened species or species of special concern” that the Project’s land disturbance could affect. They, therefore, fail to establish that this threshold is met by the Project.

The RPIs point to no record evidence that the Project entails excavation of large amounts of soil in BVWs. Indeed, the Company’s Project redesign avoids impacts to BVWs (Exhs. EFSB-CM-9; EFSB-W-6; EFSB-W-4). The record does not support the dredging of 10,000 or more cubic yards of material. The Company alleges it might have to remove more than 500 cubic yards of soil for site preparation, and the record does not support a greater amount (Company Brief at 45). The Company estimates that, at peak construction when multiple phases of construction overlap, the Project Site would generate approximately 75 to 95 daily round trips, many less than the 3,000 alleged by the RPIs (RR-EFSB-5; Tr. 6, at 1160-1161).

Because the Project meets none of the review thresholds, Section 61 findings are not required.

IV. DECISION

In Section II, above, the Siting Board finds that: (1) the Company is a public service corporation; (2) the proposed use is reasonably necessary for the public convenience or welfare; and (3) the Company requires exemptions from the Town of Oakham Zoning Bylaw to construct and operate the Project. The Siting Board finds that a grant of both individual and comprehensive zoning exemptions for the Project is necessary and appropriate, and consistent with G.L. c. 40A, § 3.

Accordingly, the Siting Board Approves the Company's Petition, as described herein, subject to the following Conditions A through SS:

- A. The Siting Board directs the Company to comply with all applicable federal, state, and local laws, including regulations and ordinances, except those from which the Company has received an exemption. The Company shall be responsible for ensuring such compliance by its contractors, subcontractors, and other agents.
- B. To help ensure the Project's asserted renewable energy benefits and air emission benefits are realized and ratepayers receive the benefits of the Project operating as proposed, the Siting Board directs the Company to submit an application to register the Project as an eligible resource with the Clean Peak Program within 120 days of Project's commercial operation and to submit confirmation of acceptance into the program to the Siting Board once received.
- C. The Siting Board directs the Company to locate any staging or laydown areas (including for equipment maneuvering, temporary vehicle access, and materials handling) outside of wetlands, vernal pools, other resources areas, and corresponding buffers on the Project Site. In addition, the Siting Board directs the Company to not use construction methods that utilize blasting except by prior written agreement with the Town of Oakham, or other entity having such jurisdiction.
- D. The Siting Board directs the Company to limit construction to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday. Should the Company need to extend construction work beyond the above-noted hours and days, with the exception of emergency circumstance on a given day

necessitating extended hours, the Siting Board directs the Company to seek written permission from the Oakham Selectboard or designee before the commencement of such work, and to provide the Siting Board with a copy of such permission. If the Company and municipal officials are not able to agree on whether such extended construction hours should occur, the Company may request prior authorization from the Siting Board and shall provide the relevant municipality with a copy of any such request and authorization, if granted.

- E. The Siting Board directs the Company to develop the Project's Construction Community Outreach Plan ("CCOP") in consultation with the Town of Oakham and to submit the plan to the Siting Board at least 60 days before the start of Project construction. The CCOP shall include, at minimum, the following:
- The Company's goals of engagement;
 - A list of stakeholders to be informed of construction activities, including Town officials and abutters;
 - A mechanism for collecting and incorporating input and feedback;
 - Detailed outreach strategies including the use of multiple communication methods to disseminate information;
 - Project timelines and milestones, and a method for providing updates during construction;
 - Language access and accessibility considerations; and
 - Resources allocated for community participation, including transportation for any public meetings held outside of the Town of Oakham, if applicable.
- F. The Siting Board directs the Company to submit any augmentation plans to the Town of Oakham and the Siting Board for review whenever they become available, including any updates. The augmentation plans shall address anticipated impacts of the augmentation process, such as impacts on local traffic and noise impacts, include an updated sound study showing consistency with the MassDEP Noise Policy, and describe corresponding mitigation.
- G. The Siting Board directs the Company, in consultation with the Town, to develop the Project's decommissioning plan and submit it to the Siting Board at least 30 days before the Project's commercial operation. The decommissioning plan shall include, at minimum, the following:
- A description and evidence of a decommissioning bond or other suitable financial mechanism that is 125 percent of a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and labor rates outlined by the Massachusetts Department of Labor Standard's Prevailing

Wage Program and shall account for increased costs due to inflation at a rate of 2.5 percent per year;

- Procedures for the permanent cessation of operations and securing of the site;
- Procedures for the removal of all above-ground Project equipment and structures;
- Procedures for the removal of foundations and subsurface infrastructure to a depth sufficient to allow future non-industrial use;
- Procedures for the offsite transport, recycling, or disposal of Project materials at licensed facilities; and
- Procedures for revegetation or other site stabilization consistent with pre-Project conditions. Revegetation shall utilize native plant species and restore like-for-like habitats.

- H. The Siting Board further directs the Company to submit any decommissioning plan updates, including any updates to the financial surety for decommissioning, to the Siting Board as such updates become available. At all times, the Siting Board directs the Company to maintain the decommissioning bond or other suitable financial mechanism for the full operational life of the Project.
- I. The Siting Board directs the Company to provide an updated estimate of the decommissioning costs after ten years of Project operation and subsequent updates in five-year intervals after that date, for the remainder of the Project's lifetime. If the updated estimate exceeds the balance of the surety the Company shall provide additional surety in the amount of 125 percent of the most recent estimated cost of decommissioning.
- J. The Siting Board directs the Company to dispose of any dismantled BESS units and components during future augmentation and decommissioning according to applicable legal requirements and best practices, and to recycle as much as practicable.
- K. The Siting Board directs the Company, in case of any ownership transfer of the Project or Project Site, to notify the Board and to provide appropriate transitional support to the new owner to ensure effective community relations and outreach, proper emergency response and reporting, and proper decommissioning, as well as awareness of the permits, approvals, and operational conditions required of the new owner. The Company shall also update the ERP and on-site location(s) with updated contact information, including who to contact in the event of an emergency.
- L. The Siting Board directs the Company to develop, in collaboration with the Town, a traffic logistics plan, and to submit the plan to the Siting

Board at least 60 days before the start of Project construction. The traffic logistics plan shall address the following: (1) construction traffic routing and potential traffic disruption; (2) locations of limited road widths and intersection spans requiring special traffic arrangements; and (3) road conditions and susceptibility to damage and accelerated deterioration. As part of the traffic logistics plan development, the Company shall ascertain the road's ability to support heavy vehicles (including determination of maximum weight limits) and propose any necessary mitigation to prevent road damage and accelerated deterioration. The plan should also address routing restrictions, travel hour restrictions, engine braking restrictions, on-street parking restrictions, anti-idling restrictions, convoy arrangements, and flagpersons.

- M. The Siting Board directs the Company to (1) conduct pre- and post-construction visual inspections of the Town roadways and culverts along the travel route of Project construction vehicles, equipment, and deliveries; (2) maintain or improve the condition of such roadways and culverts as established before beginning construction; (3) provide funds for repaving projects or road repairs to compensate for any road damage or accelerated deterioration caused by construction traffic; and (4) should any dispute arise from any request by the Town for reimbursement from the Company of the cost of repairing road damage caused by the Company or its contractors, the Company must first seek resolution from the Oakham Highway Superintendent. If the Company is not satisfied with the Superintendent's decision, the Company may seek a public hearing from the Oakham Selectboard. The Siting Board directs the Company to submit a report to the Siting Board and to the Town documenting the results of the pre-construction survey, which shall be submitted 60 days prior to the start of construction, and the post-construction survey, which shall be submitted no later than 60 days after the completion of construction. The post-construction survey report shall include a description of any documented road damage or accelerated deterioration arising from Project construction, along with a plan for providing appropriate compensation to the Town.
- N. The Siting Board directs the Company to require all construction traffic, except passenger vehicles including pickup trucks, to access the Project Site via Old Turnpike Road and Coldbrook Road and to stay off Coldbrook Road south of the Project Site entrance, including Oakham Town Center. In addition, the Siting Board encourages the Company to impose this same requirement on construction-related passenger vehicles.
- O. The Siting Board directs the Company to update the Siting Board in writing on discussions towards a resolution concerning the access road

pavement encroachment at least 60 days before the start of Project construction.

- P. The Siting Board directs the Company to implement construction best management practices.
- Q. The Siting Board directs the Company to submit to the Town of Oakham and the Siting Board a copy of the Request for Watershed Determination of Applicability when the Company submits the Request to DCR, and a copy of the DCR Applicability Decision when it becomes available.
- R. The Siting Board directs the Company to finalize its Stormwater Pollution Prevention Plan ("SWPPP") and to ensure the SWPPP addresses winter deicing activities to prevent impacts on water resources and wetlands. The Siting Board directs the Company to submit the SWPPP to the Board at least 60 days before the start of Project construction.
- S. The Siting Board directs the Company to submit to the Siting Board the Soil Erosion and Sediment Control Plan and post-construction Stormwater Operation and Maintenance Plan at least 60 days before the start of Project construction.
- T. The Siting Board directs the Company to submit to the Siting Board the Spill Prevention, Control, and Countermeasures ("SPCC") plan at least 60 days before the start of Project construction.
- U. The Siting Board directs the Company to impose a 40 percent fan throttling limit on all BESS units throughout the duration of Project operation. Any exceedance of this 40 percent limit shall be deemed a violation of this requirement. The Siting Board directs the Company to report any violations of this condition to the Siting Board and the Town of Oakham within 24 hours of occurrence.
- V. The Siting Board directs the Company to conduct sound testing with all BESS units operating at maximum sound conditions (at 40 percent fan speed and maximum charge rate) during nighttime charging hours within 120 days of the Project's commercial operation and within 120 days of any augmentation to the Project, and to submit a report to the Town of Oakham and the Siting Board showing consistency with the limits set forth in the MassDEP Noise Policy. The Company shall consult with the Town on the selection of the contractor conducting sound testing or sound modeling by proffering three prospective contractors with a request for a recommendation by the Town on a preferred contractor candidate, which shall be provided by the Town within seven days of the

request. The Siting Board further directs the Company to consult with the Town on sound testing and any future sound modeling, including soliciting input on noise monitoring locations. In addition, the Siting Board directs the Company and the Town to collaborate on a sound monitoring protocol considering ongoing sound monitoring for three to five years and considering responsive action in the event of excessive noise, and to submit the protocol to the Siting Board. The Siting Board encourages the Company to reduce Project noise impacts below the MassDEP Noise Policy limits, as practicable.

- W. The Siting Board directs the Company to retain a licensed site professional (“LSP”) prior to the engagement of any construction activities or other site alterations to ensure the Project complies with the Massachusetts Contingency Plan (“MCP”) throughout Project construction, including all associated cleanup efforts, and when appropriate or required by the MCP during Project operations, future augmentation, and decommissioning. The Company shall fund a qualified LSP for the Town to conduct peer review related to environmental assessment and remediation.
- X. The Siting Board directs the Company to complete the following actions no later than within one year of commercial operations: (1) remove and properly dispose of the aboveground oil tanks, drums/containers containing petroleum products, and waste vehicle fluids, as identified and recommended for removal by the SWCA Phase I ESA; (2) comply with any final, non-appealable requirements of regulatory action or remediation related to debris within and along all boundaries of the Project Site; (3) schedule a site visit for the Oakham Conservation Commission to investigate this violation and cooperate with any subsequent enforcement actions for remnant auto parts and chassis within the BVW in the southeastern part of the Project Site; and (4) remove and properly dispose of all automobile debris, including large, discrete pieces of visible surface debris (e.g., cars, chassis, tires, car parts, metal drums, or other debris exceeding a diameter of six inches) within the entire 42.9-acre Project Site. The Siting Board further directs the Company to submit a status report to the Siting Board on these activities at least 30 days before Project’s commercial operation, and thereafter, every three months until the conclusion of these cleanup activities.
- Y. The Siting Board directs the Company to comply with anti-idling requirements and implement construction BMPs to (1) avoid and minimize construction noise, and (2) suppress dust.

- Z. The Siting Board directs the Company to design and operate the Project consistent with the 2026 edition of NFPA 855.
- AA. The Siting Board directs the Company to provide the final Hazard Mitigation Assessment and Emergency Operations Plan to the Town of Oakham and the Siting Board at least 60 days before the start of Project construction.
- BB. The Siting Board directs the Company to work with the Oakham Fire Department and other fire departments who may reasonably be expected to respond to an emergency at the Project Site to determine whether to develop a joint action plan as part of the ERP.
- CC. The Siting Board directs the Company to provide the final Emergency Response Plan (“ERP”) at least 60 days before the Project’s commercial operation. The Company shall include in its final ERP, at minimum, the following:
- The facility’s equipment types and layouts, without compromising critical energy or electric infrastructure information;
 - Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries;
 - Procedures for safe start-up following cessation of emergency conditions;
 - Procedures for inspection and testing of associated alarms, interlocks, and controls;
 - Procedures to be followed in response to notifications from the BESS management system, when provided, that could signify potentially dangerous conditions, such procedures to include shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure;
 - Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures may include sounding the alarm, notifying the Town of Oakham’s Fire Department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire;
 - Procedures for dealing with BESS equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged BESS equipment from the facility;
 - Training for local first responders on the contents of the plan, in consultation with the Massachusetts DOER, and protocols and schedules for conducting drills of the above procedures;

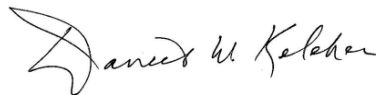
- A communications plan for nearby residents who may be impacted by an emergency event that shall outline the parties responsible for contacting nearby residents;
 - Evacuation and shelter-in-place protocols for residents near the Project;
 - The names and phone numbers of local, state, and federal agencies and officials to be contacted in the event of an emergency.
- DD. The Siting Board directs the Company to collaborate with the Oakham Fire Department and Oakham Police Department to identify their preferred modes of alarm notification.
- EE. The Siting Board directs the Company to provide and maintain the accuracy of the contact information for the designated Company personnel, subject matter expert, and Tesla Network Operations Center available on site for first responders.
- FF. The Siting Board directs the Company to identify potential solutions to supplement the Oakham Fire Department's water supply (e.g., onsite water storage) in consultation with the Oakham Fire Department and to submit a report on the result of these discussions to the Siting Board. The Siting Board directs the Company to implement any identified solutions for supplementing the Oakham Fire Department's water supply prior to the commercial operation of the Project as practicable.
- GG. In the event that water is used for firefighting or exposure protection, the Siting Board directs the Company to contain the firewater effluent in the stormwater basins, test the effluent for contaminants, share the results with the Town of Oakham and the Siting Board, and, if contamination is found, the Company must take steps to ensure the contaminated firefighting water is not discharged outside the basin.
- HH. Within 30 days of an incident that requires the response of first responders, the Siting Board directs the Company to provide the Town of Oakham with a report of the incident that includes: (1) a time-stamped summary of the incident and response actions; (2) a description of the affected equipment and conditions observed; (3) findings from any root cause analysis or technical investigation; and (4) identification of corrective or preventative measures implemented to reduce the likelihood of recurrence.
- II. The Siting Board directs the Company to provide the Town of Oakham with an annual report by November 1 of each year detailing (1) a summary of any safety incidents that required the response of local first responders along with any changes the Company made in response to

each such incident, and (2) an itemized log and a narrative summary of Project complaints received by the Company, including the nature and source of the complaint, the Company's response to the complaint, the dates of the complaint receipt and response, and the Company's resolution of the complaint. Additionally, for the first five years of operation, the Siting Board directs the Company to file such a safety incident summary report on a quarterly basis.

- JJ. The Siting Board notes that the findings in this Decision are based upon the record in this case. A project proponent has an obligation to construct and operate its facility in conformance with all aspects of its proposal as presented to the Siting Board, including the commitments it has undertaken. Therefore, the Siting Board directs the Company, and its successors in interest, to notify the Siting Board of any changes other than minor variations to the proposal so that the Siting Board may decide whether to inquire further into a particular issue. The Company or its successors in interest are obligated to provide the Siting Board with sufficient information on changes to the proposed Project to enable the Siting Board to accurately make these determinations.
- KK. Because issues addressed in this Decision relative to this facility are subject to change over time, construction of the proposed Project must commence within three years of the date of the Decision.
- LL. The Siting Board directs the Company, within 90 days of Project completion, to submit a report to the Siting Board documenting for all conditions contained in this Decision the extent of compliance, noting any outstanding conditions yet to be satisfied and the expected date and status of compliance.
- MM. The Siting Board directs the Company to identify, on a one-to-one basis of trees being cleared, an equal wooded area on the Project Site to be preserved in perpetuity, and to submit an updated map of the Project Site indicating the selected area not less than 60 days before beginning construction, and to preserve the wooded area within one year after the Project's commercial operation.
- NN. The Company shall notify the Director of the Siting Board and the service list for the proceeding of any incident at the Project that (1) consists of a reportable release, or (2) requires a response from the Oakham Fire Department. The Company shall provide this notification by email within 24 hours of the incident.
- OO. The Siting Board directs the Company to work with the Oakham Fire Department and Oakham Police Department to determine whether any

onsite signage in addition to those required by code would be desirable. Additionally, the Siting Board directs the Company to remove the existing sign for the former auto recycling facility.

- PP. The Siting Board directs the Company to work with the Oakham Fire Department to identify any additional tools or resources that would be necessary to address a BESS fire, and to provide adequate funding to the Town to address these items as agreed.
- QQ. The Siting Board directs the Company to provide Project updates at the completion of 60 percent and 90 percent design stages to the Town and the Siting Board.
- RR. The Siting Board directs the Company to endeavor to test all proximate private water supply wells within one mile of the Project Site before construction, after construction, and after an incident involving reportable quantities regarding the discharge of firefighting water effluent or any hazardous materials to surface water or groundwater resources. If any detectable water contamination is attributable to the Project's effluent discharge that makes the well unusable, the Company shall remediate the water quality deficiency and provide an alternative source of potable water until the water quality issue is resolved.
- SS. The Siting Board directs the Company and the Town to work in good faith to implement the conditions in this Decision.



Daniel Keleher
Presiding Officer

Dated this 26th day of June 2026

APPROVED by a unanimous vote of the Energy Facilities Siting Board at its meeting on June 25, 2026, by the members present and voting. Voting for the Tentative Decision as amended: Rebecca L. Tepper, Secretary of Energy and Environmental Affairs and Chair, Energy Facilities Siting Board; Jeremy McDiarmid, Chair, Department of Public Utilities; Elizabeth Mahony, Commissioner, Department of Energy Resources; Bonnie Heiple, Commissioner, Department of Environmental Protection; Thomas O'Shea, Commissioner of the Department of Fish and Game; Douglas Gutro, Director of the Permit Regulatory Office and designee for Eric Paley, Secretary, Executive Office of Economic Development; Kris Callahan, Policy and Regulatory Affairs Manager, and designee for Dr. Robert Goldstein, Commissioner, Department of Public Health; Michael P. Cahill, Mayor of Beverly, Massachusetts, Public Member; and Joseph C. Bonfiglio, Public Member.

A handwritten signature in black ink, appearing to read 'R. Tepper', with a long horizontal stroke extending to the right.

Rebecca L. Tepper, Chair
Energy Facilities Siting Board

Dated this 26th day of June 2026

Appeal as to matters of law from any final decision, order or ruling of the Siting Board may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the order of the Siting Board be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Siting Board within twenty days after the date of service of the decision, order or ruling of the Siting Board, or within such further time as the Siting Board may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the clerk of said court. Massachusetts G.L., Chapter 25, Sec. 5; G.L. Chapter 164, Sec. 69P.