

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

*Petition of Hillman Energy Center, LLC
Pursuant to G.L. c. 40A, § 3 for
Individual and Comprehensive Exemptions
from the Zoning Bylaw of the
Town of Tewksbury, Massachusetts*

EFSB 25-08

**COMMENTS OF THE TEWKSBURY BOARD OF HEALTH
ON THE TENTATIVE DECISION**

The Tewksbury Board of Health respectfully submits these comments on the June 19, 2026 Tentative Decision in EFSB 25-08.

These comments are submitted by the Board of Health in its independent capacity as the municipal public-health authority for the Town of Tewksbury. The Board of Health does not submit these comments on behalf of the Select Board, the Town Manager, or any other municipal board, department, or official. The Board of Health submits these comments because the Tentative Decision concerns a proposed large-scale battery energy storage system with potential public-health implications for Tewksbury residents, nearby sensitive receptors, first responders, public water resources, and the surrounding community.

The Board of Health recognizes that the proceeding before the Energy Facilities Siting Board is a zoning-exemption proceeding under G.L. c. 40A, § 3. The Board of Health also recognizes that the Tentative Decision proposes approval of individual and comprehensive zoning exemptions subject to conditions. These comments are directed to the adequacy of those proposed conditions and to the need for the Final Decision to preserve direct public-health oversight by the Board of Health.

The Board of Health's comments are confined to matters addressed in the Tentative Decision. They focus on those portions of the Tentative Decision concerning Board of Health authority, public health, safety, emergency response, toxic gas exposure, sensitive receptors, groundwater and stormwater protection, firewater and contaminated runoff, incident reporting, and the need for enforceable pre-construction and pre-operation conditions.

The Board of Health respectfully submits that, if the Siting Board approves the Petition, the Final Decision must be revised to account for the fact that the Board of Health has public-health responsibilities that are independent from the Town's executive and land-use functions. Conditions that require notice only to the Town Manager, consultation only with Town officials generally, or review only through other Town channels are insufficient to protect public health where the Board of Health is the municipal body charged by statute with investigating and preventing conditions injurious to public health.

I. THE FINAL DECISION SHOULD RECOGNIZE THAT THE BOARD OF HEALTH IS NOT MERELY AN ARM OF THE TOWN'S EXECUTIVE POSITION

The Tentative Decision separately identifies the Tewksbury Board of Health as an intervenor and includes a specific discussion of Board of Health authority. That discussion is necessary and appropriate. The Board of Health has statutory duties that are not identical to the policy, fiscal, development, or executive interests of the Town Manager or Select Board.

The Board of Health's role is not to negotiate economic benefits, host community payments, or general municipal accommodations. Its role is to protect public health. In this proceeding, that role includes review of unresolved issues concerning emergency response, toxic gas exposure, fire and explosion risk, contaminated runoff, stormwater infiltration, groundwater protection, sensitive receptors, incident reporting, and public notification.

The Board of Health respectfully requests that the Final Decision expressly recognize that the Board of Health is entitled to receive directly, review, and comment on all public-health-related filings, plans, reports, and incident notices required by the Final Decision.

Requested condition:

The Company shall serve directly on the Tewksbury Board of Health all public-health-related filings, reports, plans, notices, and compliance materials required by this Decision or submitted in connection with the Project. Service on the Town Manager, Select Board, Fire Department, Conservation Commission, Planning Board, or any other Town official shall not constitute service on the Board of Health unless the Board of Health is separately and directly served.

II. THE FINAL DECISION SHOULD NOT MAKE PUBLIC-HEALTH PROTECTION DEPENDENT ON TOWN MANAGER OR SELECT BOARD SUPPORT

Several proposed conditions in the Tentative Decision rely on coordination with the Town Manager, Town officials, or Town-retained third-party reviewers. Those provisions may be useful, but they are not sufficient to protect public health unless the Board of Health is a direct participant in the receipt and review of health-related materials.

The Board of Health respectfully submits that the Final Decision should not assume that the Town Manager, Select Board, or other Town officials will represent the Board of Health's public-health concerns. The Board of Health's statutory role requires independent access to information and an opportunity to comment on matters affecting public health.

The Board of Health therefore requests that any condition requiring submission to, consultation with, or approval by the Town Manager or Town officials be revised to include direct submission to the Board of Health where the subject matter relates to public health, safety, emergency response, hazardous materials, noise, stormwater, groundwater, firewater, contaminated runoff, incident response, sensitive receptors, or public notification.

III. THE FINAL DECISION SHOULD PRESERVE THE BOARD OF HEALTH'S CHAPTER 111 AUTHORITY

The Tentative Decision acknowledges that questions concerning future Board of Health action are not before the Siting Board in this zoning-exemption proceeding. The Board of Health agrees that this proceeding is not the forum to adjudicate a future Chapter 111 public-health action that has not yet occurred.

For that same reason, the Final Decision should avoid any language that could be read to preclude, waive, or decide the Board of Health's independent statutory authority under G.L. c. 111. The Siting Board may decide whether to grant zoning exemptions under G.L. c. 40A, § 3. That decision should not be construed as a determination that the Board of Health is disabled from investigating or responding to actual or reasonably foreseeable public-health conditions within its jurisdiction.

Requested condition:

Nothing in this Decision shall be construed to adjudicate, waive, eliminate, or preempt the statutory authority of the Tewksbury Board of Health under G.L. c. 111, including its authority to investigate nuisances, sources of filth, causes of sickness, or conditions that may be injurious to public health, or to take evidence-based action within its statutory jurisdiction in response to actual or threatened public-health conditions.

IV. THE FINAL DECISION SHOULD REQUIRE DIRECT BOH REVIEW OF THE FINAL ERP AND HMA

The Tentative Decision relies heavily on the future completion of the Emergency Response Plan and Hazard Mitigation Analysis. Those documents are central to the public-health safety case for the Project. The Board of Health cannot meaningfully fulfill its public-health responsibilities if it receives only indirect access to those materials or if the materials are finalized without public-health review.

The ERP and HMA must address not only fire department operations and equipment-level safety, but also community health protection. The ERP and HMA must include procedures for public notification, evacuation, shelter-in-place, sensitive receptor protection, toxic gas monitoring, re-entry, post-incident health guidance, contaminated runoff, and environmental sampling.

Requested condition:

At least 90 days before any commissioning, energization, or operation, the Company shall serve the final ERP and final HMA directly on the Tewksbury Board of Health, Tewksbury Fire Department, Town Manager, and Siting Board. The Board of Health shall have not less than 45 days to submit written comments. The Company shall provide a written response to each Board of Health comment and shall file those responses with the Siting Board before commissioning, energization, or operation.

V. THE FINAL DECISION SHOULD REQUIRE A BOH-SPECIFIC PUBLIC HEALTH REVIEW PACKAGE BEFORE OPERATION

Because many core safety details remain to be completed after the Tentative Decision, the Final Decision should require a consolidated public-health package before operation. This package

should be served directly on the Board of Health and should not depend on the Town Manager or other Town officials forwarding materials.

Requested condition:

At least 90 days before commissioning, energization, or operation, the Company shall serve on the Board of Health a Pre-Operation Public Health Review Package containing:

- Final Emergency Response Plan.
- Final Hazard Mitigation Analysis.
- Final Fire Protection Basis of Design.
- Final UL 9540A cell, module, unit, and installation-level reports available for the selected battery system.
- Technical battery and electrolyte information sufficient for independent public-health review of toxic gas and firewater risks, subject to lawful confidentiality protections if necessary.
- Final toxic gas and plume assessment.
- Final sensitive receptor protection plan.
- Final public notification plan.
- Final evacuation and shelter-in-place protocols.
- Final incident reporting protocol.
- Final stormwater and groundwater protection plan.
- Final contaminated stormwater and firewater containment plan.
- Final SPCC Plan.
- Final SWPPP.
- Final noise compliance and complaint-response plan.
- Final training and emergency drill plan.
- Final battery augmentation, repowering, and replacement notice procedure.

The Company shall file with the Siting Board, prior to operation, any written comments provided by the Board of Health on the package and the Company's written responses to those comments.

VI. THE FINAL DECISION SHOULD REQUIRE INDEPENDENT TOXIC GAS AND PLUME REVIEW INCLUDING HF

The Tentative Decision reflects continuing dispute and concern regarding potential toxic gas emissions from a battery incident. The Board of Health remains concerned that public-health consequences cannot be adequately evaluated without a final, site-specific toxic gas and plume assessment that includes hydrogen fluoride, carbon monoxide, volatile organic compounds, and other reasonably foreseeable thermal runaway products.

The Project is located near residences, businesses, and sensitive receptors. Emergency planning cannot be adequate unless protective action distances, public notification triggers, and shelter-in-place or evacuation criteria are based on the final battery system and final site design.

Requested condition:

Before operation, the Company shall provide an independent toxic gas and plume assessment prepared or peer-reviewed by a qualified expert independent of the Company and acceptable to the Town's independent reviewer or, if no Town reviewer is available for this purpose, filed directly with the Siting Board for review. The assessment shall use the final battery model, final enclosure configuration, final ventilation and exhaust design, final site layout, and final operating assumptions. The assessment shall evaluate hydrogen fluoride, carbon monoxide, volatile organic compounds, and other reasonably anticipated thermal runaway products. It shall include receptors at Emerald Court, nearby assisted living or senior housing, nearby residences, nearby businesses, and any daycare or similarly sensitive use within 1,000 feet.

The final ERP and HMA shall incorporate the results of this assessment.

VII. THE FINAL DECISION SHOULD REQUIRE RAW TESTING AND BATTERY CHEMISTRY INFORMATION NECESSARY FOR INDEPENDENT REVIEW

The Tentative Decision includes conditions requiring UL 9540A information and notice of changes in battery type. The Board of Health requests that those conditions be strengthened to

ensure that the Town's reviewers can verify the safety case, rather than merely receive summary reports.

The Board of Health is not asking the Siting Board to make proprietary information public if lawful confidentiality protections apply. The Board is asking that the Town's independent reviewers and appropriate Town officials have access to sufficient technical information to verify combustion assumptions, plume modeling, emergency planning, and public-health protections.

Requested revision:

Before installation of any battery enclosure, the Company shall provide to the Town's independent reviewer, Tewksbury Fire Department, Board of Health, and Siting Board the full UL 9540A cell, module, unit, and installation-level test reports available for the selected battery system; electrolyte composition information sufficient to evaluate toxic gas generation and firewater/runoff risks; calorimetry data sufficient to support or verify thermal runaway modeling; and all manufacturer installation, spacing, ventilation, exhaust, fire detection, gas detection, and emergency response guidance.

If the Company asserts confidentiality, the Company shall provide the information under an appropriate protective agreement or other lawful mechanism that allows independent technical review by Town-retained experts.

VIII. THE FINAL DECISION SHOULD REQUIRE A SENSITIVE RECEPTOR ANNEX

The Board of Health is particularly concerned with populations that may not be able to self-evacuate quickly or interpret emergency instructions without assistance. These include elderly residents, assisted living residents, medically vulnerable individuals, children, and non-ambulatory persons.

Requested condition:

The final ERP shall include a Sensitive Receptor Annex. The annex shall address, at minimum, Emerald Court, assisted living or senior housing residents, daycare facilities within 1,000 feet, nearby single-family and multi-family residences, nearby businesses, and persons with mobility, respiratory, cognitive, age-related, or medical vulnerabilities. The annex shall include contact protocols, public warning methods, shelter-in-place instructions, evacuation decision points,

transportation coordination, EMS coordination, non-ambulatory evacuation procedures, re-entry criteria, and post-incident health guidance.

IX. THE FINAL DECISION SHOULD REQUIRE DIRECT INCIDENT NOTICE TO THE BOARD OF HEALTH

The Tentative Decision includes incident reporting requirements. Those should be strengthened by requiring direct notice to the Board of Health for any event with potential public-health implications. The Board of Health should not have to rely on after-the-fact information through other Town officials.

Requested condition:

The Company shall immediately notify the Tewksbury Board of Health, Tewksbury Fire Department, Police Department, Town Manager, Conservation Commission, and Siting Board of any fire, smoke condition, thermal runaway, explosion, off-gassing, gas detection alarm, BMS alarm requiring response, hazardous material release or suspected release, transformer oil release, contaminated runoff event, public notification event, shelter-in-place advisory, evacuation advisory, or emergency response at the Project.

Within 24 hours, the Company shall provide a written preliminary incident report to the Board of Health and Siting Board. Within 30 days, the Company shall provide a root-cause and corrective-action report, including environmental sampling results where applicable.

X. THE FINAL DECISION SHOULD STRENGTHEN GROUNDWATER, STORMWATER, AND FIREWATER CONDITIONS

The Tentative Decision recognizes that the Project Site is located in a Zone II Wellhead Protection Area and that groundwater and stormwater protection are significant issues. The Board of Health remains concerned that the proposed approval relies on future stormwater and compliance filings and does not adequately require pre-construction and pre-operation review of contaminated runoff and firewater risks.

The Board of Health respectfully submits that a BESS located in a Zone II area should not rely solely on ordinary stormwater controls. The Final Decision should require affirmative protection

against contaminated runoff entering recharge systems, wetlands, groundwater, or off-site drainage.

Requested condition:

Before construction, the Company shall serve on the Board of Health, Conservation Commission, Planning Board, Town Manager, and Siting Board final stormwater, groundwater, recharge, detention, and containment plans. Those plans shall include:

- Final test pit and ESHGW data for the final recharge and infiltration locations.
- A conservative groundwater mounding analysis.
- Demonstration that the stormwater system will not degrade groundwater quality in the Zone II area.
- A contaminated stormwater and firewater isolation plan.
- Shutoff, isolation, diversion, or containment features to prevent suspected contaminated runoff from entering recharge basins, wetlands, groundwater, or off-site drainage until evaluated.
- A post-incident sampling protocol for groundwater, stormwater, soil, surface deposition, and wetlands.
- Procedures for removal and lawful disposal of contaminated water, soil, debris, or fire residues.
- Identification of the entity responsible for implementing sampling, removal, disposal, and public notification.

No construction shall begin until these plans are complete and served on the Board of Health.

XI. THE FINAL DECISION SHOULD REQUIRE PUBLIC-HEALTH TRAINING AND DRILLS

The Board of Health requests that training and drills include not only fire suppression and incident command, but also public-health response. That includes toxic gas exposure, public notification, shelter-in-place, evacuation, sensitive receptor coordination, environmental sampling, medical follow-up, and re-entry.

Requested condition:

Before operation, and annually thereafter, the Company shall fund and participate in an emergency drill that includes the Tewksbury Fire Department, Police Department, EMS, Board of Health, emergency management personnel, and sensitive receptor representatives as appropriate. The drill shall include a thermal runaway or off-gassing scenario, toxic gas plume assumptions, shelter-in-place and evacuation decision-making, public notification, air monitoring limitations, contaminated runoff response, environmental sampling, and re-entry criteria. The Company shall provide the Board of Health and Siting Board with an after-action report and corrective-action plan.

XII. THE FINAL DECISION SHOULD REQUIRE COMPLAINT LOGS DIRECTLY TO THE BOARD OF HEALTH

The Board of Health must be able to identify patterns of public-health complaints during construction and operation. Complaint records should not be controlled solely by the Company or routed only through other Town officials.

Requested condition:

The Company shall maintain a publicly available telephone number and email address for complaints regarding noise, odor, smoke, dust, vibration, glare, traffic, stormwater, runoff, alarms, emergency events, and other health or safety concerns. During construction, complaint logs shall be provided to the Board of Health monthly. During operation, complaint logs shall be provided quarterly and within five business days upon request by the Board of Health. Each log shall include the date, time, location, nature of complaint, response, corrective action, and closeout status.

If the Board of Health determines that a pattern of complaints indicates a potential public-health nuisance or health concern, the Company shall meet with the Board of Health within 10 business days and shall submit a corrective-action plan if requested.

XIII. THE FINAL DECISION SHOULD REQUIRE NOTICE OF AUGMENTATION, REPOWERING, BATTERY REPLACEMENT, OR MATERIAL OPERATIONAL CHANGE TO THE BOARD OF HEALTH

The Tentative Decision describes battery augmentation over the life of the Project. Augmentation, repowering, replacement, firmware changes, changes in enclosure loading, or changes in ventilation or fire protection may alter the risk profile of the facility even if the overall footprint remains unchanged.

Requested condition:

The Company shall provide at least 90 days advance written notice to the Board of Health, Fire Department, Town Manager, and Siting Board before any augmentation, repowering, battery replacement, change in battery supplier, change in battery model, change in battery chemistry, material change in electrolyte, change in enclosure loading, change in ventilation or exhaust design, change in fire or gas detection, change in fire protection, material change in firmware or operating controls, or other modification that could affect public health, fire safety, plume modeling, emergency response, noise, stormwater, or firewater assumptions.

The notice shall explain whether the change affects the ERP, HMA, UL 9540A testing basis, toxic gas assessment, fire protection basis of design, stormwater/firewater plan, or sensitive receptor plan. The Company shall not implement the change until the Board of Health has had a reasonable opportunity to review and comment on the public-health implications.

XIV. THE FINAL DECISION SHOULD NOT TREAT THE HOST COMMUNITY AGREEMENT AS A SUBSTITUTE FOR PUBLIC-HEALTH CONDITIONS

The Tentative Decision discusses the Host Community Agreement and explains that the Siting Board is not the proper forum for enforcement of the HCA. The Board of Health agrees that private contractual commitments between the Company and Town should not be treated as substitutes for enforceable public-health conditions in the Final Decision.

If the Siting Board relies on any HCA-related public-health or safety commitment, that commitment should be separately stated as a condition of the Final Decision. Otherwise, the Board of Health may have no practical ability to enforce or even access the information necessary to assess compliance.

Requested condition:

Any public-health, emergency-response, fire-safety, stormwater, groundwater, incident-reporting, training, monitoring, or complaint-response commitment relied upon by the Siting Board shall be expressly incorporated as an enforceable condition of the Final Decision and shall require direct notice to the Board of Health.

XV. SUMMARY OF REQUESTED ACTIONS AND ADDITIONAL PROVISIONS

The Tewksbury Board of Health respectfully requests that the Siting Board revise the Tentative Decision and include the following additional provisions in any Final Decision approving the Petition:

- Direct service on BOH. Require the Company to serve all public-health-related filings, reports, notices, and plans directly on the Board of Health.
- No reliance on Town Manager as BOH proxy. Clarify that service on or consultation with the Town Manager, Select Board, or other Town officials does not substitute for service on or consultation with the Board of Health on public-health issues.
- Preservation of Chapter 111 authority. State that the zoning exemption does not adjudicate, waive, eliminate, or preempt the Board of Health's independent statutory authority under G.L. c. 111.
- BOH review of ERP and HMA. Require the final ERP and HMA to be served on the Board of Health at least 90 days before commissioning, energization, or operation, with a written response to BOH comments.
- Pre-Operation Public Health Review Package. Require a complete package of final safety, emergency response, toxic gas, stormwater, groundwater, incident reporting, and sensitive receptor materials before operation.
- Independent toxic gas and plume assessment. Require final modeling and independent review of HF, CO, VOCs, and other foreseeable thermal runaway products using final Project design.
- Require raw safety data sufficient for independent review. Require full UL 9540A reports and technical data necessary to verify the safety case, subject to confidentiality protections if required.

- Sensitive Receptor Annex. Require a specific ERP annex for Emerald Court, assisted living, senior residents, daycare, nearby residences, nearby businesses, and non-ambulatory or medically vulnerable persons.
- Direct incident notice to BOH. Require immediate notice to the Board of Health of fires, smoke, off-gassing, thermal runaway, gas alarms, hazardous material releases, contaminated runoff, public notifications, shelter-in-place, evacuation, or emergency response events.
- Groundwater, stormwater, and firewater protection. Require final pre-construction plans demonstrating protection of the Zone II area, including isolation and containment of suspected contaminated runoff.
- Post-incident sampling. Require groundwater, stormwater, soil, surface-deposition, and wetlands sampling protocols after any fire, off-gassing, explosion, contaminated runoff, or hazardous material release.
- Annual public-health emergency drills. Require drills involving the Board of Health, Fire, Police, EMS, emergency management, and sensitive receptor representatives as appropriate.
- Complaint logs to BOH. Require regular complaint logs to be provided directly to the Board of Health during construction and operation.
- BOH notice of augmentation or battery changes. Require advance notice to the Board of Health before augmentation, repowering, battery replacement, supplier changes, chemistry changes, enclosure loading changes, ventilation changes, or material operating changes.
- HCA not a substitute for enforceable conditions. Require any HCA-related public-health or safety commitment relied upon by EFSB to be separately incorporated as an enforceable condition.

The Board of Health respectfully submits that these revisions are necessary because the public-health responsibilities of the Board of Health are independent from the Town's executive and contractual posture. If the Project is approved, the Final Decision should ensure that the Board of Health receives direct information, has a meaningful opportunity to comment, and can protect the

public health of Tewksbury residents, first responders, sensitive receptors, nearby businesses, and public water resources.

Respectfully submitted,

TEWKSBURY BOARD OF HEALTH

By: Shannon Gillis

Name: Shannon Gillis

Title: Health Director

Date: June 26, 2026