

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

	)	
Initial Petition and Application of	)	
Hillman Energy Center, LLC	)	EFSB 26-02
Pursuant to Section 118 of Chapter 239 of	)	
the Acts of 2024 for a Certificate of Environmental	)	
Impact and Public Interest	)	
	)	

**INITIAL PETITION OF HILLMAN ENERGY CENTER, LLC
PURSUANT TO SECTION 118 OF CHAPTER 239 OF THE ACTS OF 2024 FOR A
CERTIFICATE OF ENVIRONMENTAL IMPACT AND PUBLIC INTEREST**

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I. INTRODUCTION

Hillman Energy Center, LLC (“Hillman” or the “Company”), hereby files this Initial Petition seeking a Certificate of Environmental Impact and Public Interest (“Certificate”) from the Energy Facilities Siting Board (the “Siting Board” or “EFSB”), pursuant to Section 118 of An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers,” St. 2024, c. 239 (the “2024 Climate Act”) and 980 CMR 6.00 *et seq.* Hillman seeks a Certificate that represents a composite of all state and local permits, approvals, licenses, certificates, and other forms of authorization that are otherwise necessary to construct a 125 megawatt (“MW”) battery energy storage system (“BESS”) and related infrastructure with a four hour duration (the “Project”) located in the Town of Tewksbury, Massachusetts (the “Town” or “Tewksbury”). This Initial Petition demonstrates that the Company has met the criteria to request a Certificate.

On June 30, 2026, the Siting Board voted to approve, subject to conditions, a comprehensive exemption from the Town of Tewksbury zoning bylaw, pursuant to G.L. c. 40A, § 3. *Hillman Energy Center, LLC*, EFSB 25-08, Tentative Decision (June 19, 2026) (“*Tentative Decision*”).^{1, 2} The Siting Board found that the Project will offer numerous environmental and energy benefits as a result of its participation in the ISO New England wholesale markets and Clean Peak Energy Standard program. *Tentative Decision* at 19-21. Beyond energy and environmental benefits, the EFSB determined the Project would yield a variety of economic benefits to the Town of Tewksbury, its residents, and Massachusetts more broadly. *Id.* at 21. The

¹ The Company requests that official notice be taken of the evidentiary record in the underlying proceeding. *See* 980 C.M.R. 1.06(7). All citations to an “Exh.”, unless specifically indicated otherwise, are to exhibits in EFSB 25-08. *See* the Company’s Motion to Incorporate the Record from EFSB.

² The Final Decision with the Siting Board’s vote was not available in time for the statutory deadline by which to submit this Petition and Application for a Certificate. The Company reserves its right to make a supplemental filing with reference to the Final Decision, as opposed to the Tentative Decision.

Project is time sensitive, and it is essential that construction and operation of the Facility proceed without delay in order to avoid public harm.

Section 118 of the 2024 Climate Act provides a mechanism for BESS developers to request a Certificate from the Siting Board if the developer receives a comprehensive zoning exemption from the Siting Board within a defined window of time, prior to the implementation of the Consolidated Permit provisions of the 2024 Climate Act, which go into effect July 1, 2026.

Pursuant to Section 118, the Siting Board shall consider a petition for a Certificate if any of six grounds are present that prevent building the BESS.³ Here, the Company requests that the Siting Board grant this Initial Petition given the Board of Health's unequivocal determination that it maintains jurisdiction over this Project and seeks to implement conditions inconsistent with the Siting Board's decision.

Specifically, the Tewksbury Board of Health ("BOH") has repeatedly alleged jurisdiction over the construction and authorization of the Project pursuant to G.L. c. 111. The BOH initially commenced a site assignment proceeding against the Project on October 16, 2025, only to later withdraw the proceeding without prejudice. At the conclusion of the zoning exemption proceeding, the BOH now claims that the Project is "incompatible with Board-of-Health public

³ In pertinent part, pursuant to Section 118 of the 2024 Climate Act, the Energy Facilities Siting Board shall consider a petition for a Certificate if the applicant is prevented from building the energy storage system because: (i) the applicant is unable to meet standards imposed by a state or local agency with reasonable and commercially available equipment; (ii) the processing or granting by a state or local agency of any approval, consent, permit or certificate has been unduly delayed for any reason; (iii) the applicant believes there are inconsistencies among resource use permits issued by such state or local agencies; (iv) the applicant believes that a nonregulatory issue or condition has been raised or imposed by such state or local agencies, including, but not limited to, aesthetics and recreation; (v) the generating facility cannot be constructed due to any disapprovals, conditions or denials by a state or local agency or body, except with respect to any lands or interests therein, excluding public ways, owned or managed by any state agency or local government; or (vi) the facility cannot be constructed because of delays caused by the appeal of any approval, consent, permit or certificate.

health protection duties.”⁴ Although the Company disagrees with the assertion of jurisdiction, the lingering threat that the BOH will initiate a proceeding under its perceived authority delays or prevents the construction of the Project. Furthermore, the BOH has proposed numerous, burdensome conditions and standards for the Project, some of which are plainly unachievable. This will prevent the timely construction of the Project.

Pursuant to 980 CMR 6.02(4), upon the receipt of an initial petition, the Siting Board must either (i) hold a separate hearing on the grounds asserted in the petition; or (ii) accept an application and defer decision on the merits of the grounds asserted in the initial petition until the hearing on the application. In this case, Section 118 is clear that a large BESS project that seeks a Certificate must do so by June 30, 2026. And, as noted above, the Climate Act requires the developer to seek a Certificate after having received a comprehensive zoning exemption from the EFSB. The Siting Board voted to approve the Comprehensive Zoning Exemption on June 30, 2026. Accordingly, there was no time to submit an Initial Petition and an Application sequentially.

Given the timing of the final approval for the zoning exemption and the statutory deadline of June 30, 2026, the Siting Board is respectfully requested to accept the Company’s Application and defer decision on the Initial Petition until the hearing on the Application, which was filed in the instant docket simultaneously.

II. Background

A. The Siting Board has Granted the Company a Comprehensive Exemption from Town of Tewksbury Zoning Bylaws.

On April 1, 2025, the Company filed its initial petition in Docket EFSB 25-08 requesting that the Siting Board grant individual and comprehensive exemptions from the Tewksbury Zoning Bylaw

⁴ See Attachment A - Hillman Energy Center, LLC, EFSB 25-08, Initial Brief of Intervenor Tewksbury Board of Health dated March 19, 2026 at 3 (“BOH Initial Brief”).

pursuant to G. L. c. 40A, § 3 (the “Zoning Petition”). The Company filed its Zoning Petition a full 15 months prior to the end of June 2026 to ensure there was ample time for the EFSB to deliberate and issue a decision on the Zoning Petition for the Company to qualify for the interim Certificate process. On June 26, 2026, the EFSB approved the Company’s request with conditions. On June 30, 2026, the Siting Board voted to approve the Company’s request with conditions.

B. Project Description and Benefits to the Public Interest

The Project will consist of a 125 MW / 500 MWh BESS and related infrastructure located on approximately 4.3 acres of previously developed industrial land at 73-75 Hillman Street in Tewksbury, Massachusetts. The Siting Board’s Tentative Decision approving the Project discusses each of the Project components, (*Tentative Decision* at 2-5), including but not limited to, construction and operation of a BESS, a new Substation, and a transmission line connecting to the Project to the nearby interconnecting transmission utility’s substation (“Transmission Interconnection”).

The Siting Board made a number of findings as pertains to the benefits that the Project will afford to the public interest, including, but not limited to:

- assisting the Commonwealth meet legislative and policy goals to increase the use of clean and renewable energy and attain net zero carbon emissions by 2050 by enabling the interconnection of offshore wind energy generation and other renewables to the electric grid by balancing renewable energy intermittency (*Tentative Decision* at 19);
- providing electric system capacity and contributing to system resiliency by operating on a schedule that will reduce peak demand and through its participation in the ISO-NE wholesale markets (*Id.*).
- charging from the grid at periods when there is typically an excess supply of electricity and then delivering that energy back onto the grid during times of peak demand or electric system need (*Id.*).
- developing a Project to yield a variety of economic benefits to the Town, its residents through a Host Community Agreement, payments in lieu of taxes (“PILOT”), funds for community-based organizations, etc. (*Id.* at 21);
- establishing a Project Site that is industrially zoned property with a history of industrial and commercial uses, has clear advantages over other candidate sites, adequately demonstrating

that the preferred site is reasonably necessary for the convenience and welfare of the public (*Id.* at 31-32);

- imposing mitigation measures to ensure that the Project impacts are minimized and are consistent with the public convenience and welfare (*Id.* at 156).
- requiring safety compliance obligations and safeguards that effectively address identified safety concerns (*Id.*).

C. Tewksbury Board of Health Site Assignment

Since the Company filed its proposal, the Tewksbury Board of Health has asserted jurisdiction over the Project. The BOH claims independent nuisance authority under two provisions of G.L. c. 111: Section 112, authorizing the BOH to identify and order abatement of any "nuisance, source of filth, or cause of sickness"; and Section 143, authorizing the BOH, following notice and public hearing, to regulate or prohibit trades or employments that may be a nuisance, harmful to inhabitants, or dangerous to public health. (*See* Attachment B - BOH Position Statement dated January 27, 2026 at 4; *Tentative Decision* at 164).

Following the Siting Board's October 9, 2025, public comment hearing, the BOH unanimously voted on October 16, 2025 to commence a site assignment proceeding under G.L. c. 111, § 143. (Attachment C - Tewksbury BOH Meeting Minutes from October 16, 2025). At a special emergency meeting on October 29, 2025, the BOH unanimously withdrew that action. (Attachment D - Tewksbury BOH Special Emergency Meeting Minutes from October 29, 2025). At the same meeting, the BOH voted to petition to intervene in the Siting Board proceeding. (*Id.*) The BOH neither opposed nor supported the Project at the time of withdrawal, but expressly considered whether withdrawing would preserve its authority to act "should it become necessary." (*Id.*)

In its Initial Brief filed March 19, 2026, in Docket EFSB 25-08, the BOH confirmed that its "withdrawal was strategic and without prejudice," was "not a surrender of statutory authority," and that its "full authority under G.L. c. 111 remains intact." (BOH Initial Brief at 5).

The BOH did not formally oppose the Project until the briefing stage of the zoning exemption proceedings, where it requested numerous conditions prior to the Project’s energization—including additional fire safety combustion modeling data and partial Project redesigns. (BOH Initial Brief at 15–16). Among the requested conditions, the BOH sought:

Explicit recognition in the certificate that the Tewksbury Board of Health retains its full and independent statutory authority under G.L. c. 111 §§ 31, 122, 123, 134, and 150A; that no provision of the certificate, conditions, or Host Community Agreement shall be construed to limit or displace that authority; and that the Board’s site assignment authority under § 150A remains unimpaired. (BOH Initial Brief at 16).

The BOH further stated that it would be obligated to consider exercising its site assignment authority under its nuisance jurisdiction. (*Id.* at 15).

D. Summary of Permits and Approvals Requested for Inclusion in a Composite Certificate

The Company has been working diligently and in good faith to secure the state and local permits needed to construct the Project. At this time, the Company anticipates being prevented or delayed by Board of Health. As discussed herein, it is not a matter of if, but when the BOH asserts its purported jurisdiction over this project given the BOH’s opposition. Thus, consistent with Section 118 of the 2024 Climate and to consolidate review, approval, and potential appeals, the Company requests a Certificate “in the form of a composite of all individual permits, approvals or authorizations which would otherwise be necessary for construction and operation of the energy storage system,” to include those outstanding permits required by the Company to construct and operate the Project.⁵

The Table below contains a list of permits that are likely required to construct the Project, as well as the status of Hillman’s applications, as applicable:

Table 1: Other Licenses, Permits, and Approvals

⁵ A draft Certificate is contained in Attachment E to this Initial Petition and Application.

Regulatory Authority	Permit/Review/Approval	Application Date	Status
Federal			
Environmental Protection Agency	NPDES Construction General Permit for Stormwater Discharges	Not yet filed.	Anticipate filing the Notice of Intent (NOI) approximately 45 days prior to the start of construction. Coverage begins 14 days after NOI filing.
Army Corps of Engineers	Self-Verification Notification Filing under Massachusetts General Permit of Section 404 Federal Clean Water Act	Not yet filed.	Anticipate filing at least 3 months prior to the start of construction. Anticipate approval within 60 days of filing.
State			
Massachusetts Energy Facilities Siting Board	Petition of Hillman Energy Center, LLC Pursuant to G.L. c 40A § 3	April 1, 2025	Siting Board Voted to Approve June 30, 2026
Massachusetts Historic Commission (“MHC”)	Project Notification Form	March 2025	By email, the MHC confirmed that it did not have comments on the Project, indicating that the MHC did not require any additional studies related to historic or cultural resources. ⁶
Tewksbury Conservation Commission	Massachusetts Wetlands Protection Act Order of Conditions	Filed May 7, 2026.	Under review. Expect a 90-day approval process.
Tewksbury Conservation Commission	Massachusetts Wetlands Protection Act Order of Conditions for Transmission Interconnection	Not yet filed.	May be needed depending on path of Transmission Interconnection.

⁶ See EFSB 25-08, Tr. 1, at 34-35 (“We have received additional communication by email from the Massachusetts Historic Commission regarding our project notification form. . . . In that email . . . they indicated that they have no concerns.”); *Tentative Decision* at 32 n. 19, 92.

			Expect a 90-day approval process.
Local			
Tewksbury Conservation Commission	Tewksbury Wetland Bylaw Order of Conditions Land Disturbance/ Stormwater Permit	Filed May 7, 2026.	Under review. Expect a 90-day approval process.
Tewksbury Conservation Commission	Tewksbury Wetland Bylaw Order of Conditions Land Disturbance/ Stormwater Permit for Transmission Interconnection	Not yet filed.	May be needed depending on path of Transmission Interconnection. Expect a 90-day approval process..
Tewksbury Inspectional Services Department	Building Permit Electrical Permit Mechanical Permit Demolition Permit Occupancy Permit Alarm System Permit	Not yet filed.	Anticipate filing Q3 2026. Expect a 60-day Approval process.
Tewksbury Department of Public Works	Trench Permit Right-of-Way Permit	Not yet filed.	Anticipate filing Q3 2026. Expect a 60-day Approval process.
Tewksbury Fire Department	Massachusetts Fire Code, 527 CMR 1.00 <i>et seq.</i> Fire Permit	Not yet filed.	Anticipate filing Q3 2026. Expect a 60-day Approval process.

The Company requests the Siting Board to include Certificates representing a composite permit for the Hillman Project with respect to

1. An approval that is the equivalent of an Order of Conditions for the BESS issued by the Tewksbury Conservation Commission pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40) and its implementing regulations (310 CMR 10.00).
2. An approval that is the equivalent of an Order of Conditions for the Transmission Interconnection issued by the Tewksbury Conservation Commission pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40) and its implementing regulations (310 CMR 10.00).

3. An approval that is the equivalent of an Order of Conditions for the BESS issued by the Tewksbury Conservation Commission pursuant to the Tewksbury Wetland Protection Bylaw, Title 18, Chapter 18.04 of the Town of Tewksbury Town Bylaws, and the Town of Tewksbury Wetland Protection Regulations.
4. An approval that is the equivalent of an Order of Conditions for the Transmission Interconnection issued by the Tewksbury Conservation Commission pursuant to the Tewksbury Wetland Protection Bylaw, Title 18, Chapter 18.04 of the Town of Tewksbury Town Bylaws, and the Town of Tewksbury Wetland Protection Regulations.
5. An approval that is the equivalent of a Building Permit issued by the Tewksbury Building Department pursuant to 780 CMR.
6. An approval that is the equivalent of an Electrical Permit issued by the Tewksbury Building Department pursuant to 527 CMR 12.00.
7. An approval that is the equivalent of a Mechanical Permit issued by the Tewksbury Building Department pursuant to 780 CMR.
8. An approval that is the equivalent of a Demolition Permit issued by the Tewksbury Building Department.
9. An approval that is the equivalent of a Fire Permit issued by the Tewksbury Fire Department pursuant to the Massachusetts Fire Code, 527 CMR 1.00 *et seq.*
10. An approval that is the equivalent of a Land Disturbance Permit for the BESS issued by the Tewksbury Conservation Commission pursuant to Title 19, Chapter 19 of the Town of Tewksbury Town Bylaws.
11. An approval that is the equivalent of a Land Disturbance Permit for the Transmission Interconnection issued by the Tewksbury Conservation Commission pursuant to Title 19, Chapter 19 of the Town of Tewksbury Town Bylaws.
12. An approval that is the equivalent of a Certificate of Occupancy issued by the Tewksbury Building Commissioner pursuant to 780 CMR.
13. An approval that is the equivalent of an Alarm System Permit in the Town of Tewksbury, pursuant to Chapter 8.04, Article I, Section 8.04.050-5.2 of the Town of Tewksbury Town Bylaws, ordinarily issued by the Tewksbury Building Department.
14. An approval that is the equivalent of a Trench Permit in the Town of Tewksbury, pursuant to G.L. c. 82A and 520 CMR 14.00, and Chapter 12.04, Article VIII, Section 12.04.90 of the Town of Tewksbury Town Bylaws, ordinarily issued by the Tewksbury Department of Public Works.

15. An approval that is the equivalent of a Right-of-Way Permit in the Town of Tewksbury, pursuant to Chapter 11.04, Section 11.04.040 of the Town of Tewksbury Town Bylaws ordinarily issued by the Tewksbury Department of Public Works.

Pursuant to 980 C.M.R. 6.02(2)(b), the Company provided a notice of its intent to petition the Siting Board for a Certificate to the following agencies on May 27, 2026⁷:

- Tewksbury Conservation Commission;
- The Tewksbury BOH (care of Shannon Gillis);
- Tewksbury Fire Department
- Tewksbury Inspectional Services
- Tewksbury Planning Board

The notice informed the above agencies of Hillman's intent to file for a Certificate by June 30, 2026, and that, if granted, the Certificate would operate to override all local and state approvals required for construction, operation or maintenance of the Project, including the approval of the Conservation Commission.

III. SITING BOARD STATUTORY AUTHORITY AND STANDARD OF REVIEW FOR AN INITIAL PETITION

On November 20, 2024, Governor Maura Healey signed into law legislation – the 2024 Climate Act – that aims to accelerate the adoption of battery storage, improve grid reliability, and support the state's goal of net-zero greenhouse-gas emissions by 2050. A primary purpose of the

⁷ Notice was sent to the Town of Tewksbury by certified mail on May 27, 2026, and received by June 4, 2026. Notice was also sent to the Town of Tewksbury by FedEx on May 28, 2026, and was received by all notified agencies on May 29, 2026. Attachment F contains a copy of the letter notice provided.

2024 Climate Act was to advance the siting and permitting of large energy storage projects before the EFSB.⁸

Section 118 of the 2024 Climate Act created an interim, streamlined process for approval of large BESS projects. Under Section 118 of the 2024 Climate Act, the Siting Board has been delegated the statutory authority to issue Certificates of Environmental Impact and Public Interest for energy storage systems that are at least 100 megawatt hours in size if the developer receives a comprehensive zoning exemption from the Siting Board within a defined window of time, prior to the implementation of the Consolidated Permit provisions of the 2024 Climate Act, which go into effect July 1, 2026.

IV. ANALYSIS

Hillman is proposing to construct a Project totaling 500 MWhs and meets the Siting Board's size threshold for consideration of the Project for a Certificate. Similarly, the Company has received a comprehensive zoning exemption, meeting the second threshold for jurisdictional consideration of the Certificate by the EFSB under Section 118 of the 2024 Climate Act.

The Company has demonstrated the certainty of delay (or denial) of the Project from the Town's Board of Health based on the record evidence in the underlying zoning exemption proceeding. The BOH has demonstrated its opposition to the Project and reiterated its jurisdiction to the EFSB, most recently in its comments on the Tentative Decision submitted June 26, 2026.

A. A Certificate is Necessary Because the Board of Health Asserts Jurisdiction Over the Project While Refraining to Exercise its Authority

⁸ Along with Section 118, the 2024 Climate Act changed local zoning exemption authority in two respects: (1) it codified the definition of "public service corporation," St. 2024, c. 239, § 36; and (2) moved the authority to grant zoning exemptions to the Siting Board. St. 2024, c. 239, § 37, 91.

The Company's request for a Certificate under Section 118 should be granted because the actions of the Tewksbury BOH have frustrated Hillman's ability to proceed with the Project. Section 118(b) is triggered where "the processing or granting by a state or local agency of any approval, consent, permit or certificate has been unduly delayed for any reason" (§ 118(b(ii)) or where the "facility cannot be constructed due to any disapprovals, conditions or denials by a state or local agency or body" (§ 118(b(v))).

As discussed above, the Board of Health has asserted jurisdiction over this Project numerous times and continues to claim that it is obligated to exercise its authority to prevent nuisances under G.L. c. 111. The BOH has demonstrated that it will exercise its alleged jurisdiction, having already commenced a site assignment proceeding under G.L. c. 111 § 143 and/or §150A, only later voting to withdraw that proceeding.⁹ It is the BOH's stated position that it may institute a proceeding at any time under its jurisdiction. The BOH expressly opposes the Project and stated it is obligated to exercise that authority if its conditions are not met. As discussed below, many of those conditions are unrealistic and contradict the express finding of the underlying Siting Board proceeding. Given the inherent risk of an adverse site determination proceeding, the Company cannot reasonably proceed with construction while the threat of the BOH jurisdiction remains unresolved. Because the Project is prevented from being constructed by the "disapprovals, conditions or denials by a state or local agency or body," the Company has triggered the grounds set forth at Section 118(b) for the Siting Board to grant this Initial Petition.

The Supreme Judicial Court has recognized that regulatory uncertainty of indefinite duration constitutes cognizable delay justifying relief. In *Conservation Law Foundation v. Energy Facilities Siting Board*, the Court upheld the Siting Board's determination that an

⁹ Although the BOH is emphatic that it can commence a site assignment proceeding pursuant to this authority, the Company is unaware of any local approvals that can be requested from the BOH for permission to construct the facility.

applicant had suffered "undue delay" when two municipal agencies refused to act on permit applications, trapping the applicant "in an impasse of indefinite duration." 494 Mass. 594, 600 (2024). The Court emphasized that when "the regulatory process results in an applicant being trapped...in an impasse of indefinite duration," the Siting Board is within its authority to make threshold findings of undue delay. *Id.* The applicant's "diligent efforts" to satisfy agency demands could not overcome the reality that "neither agency had allowed the permit application before it to move forward." *Id.* at 601.

The same principle applies here. Hillman, too, has become "trapped...in an impasse of indefinite duration" justifying a finding of "undue delay." The Board of Health has declared that it has jurisdiction over the Project and that Hillman requires its approval to proceed with the Project and yet has taken no action to subject the Project site assignment under G.L. c. 111. In fact, the BOH initiated proceedings once before, only to withdraw without prejudice and continue to oppose the Project. Therefore, Hillman has suffered "undue delay" within the meaning of Section 118(b)(ii) of the 2024 Climate Act and 980 C.M.R. § 6.02(2)(b) and met the threshold for the Siting Board's consideration of this Application.

Furthermore, the BOH has expressly enumerated numerous conditions that the applicant is unable to meet and are inconsistent with the Tentative Decision. In its Initial Brief (Attachment B), Reply Brief,¹⁰ Comments on Test Pit and Groundwater Sampling Memorandum ("Test Pit Comments"),¹¹ Comments on the Company's Supplemental Responses to Information Requests Regarding Stormwater Design ("Stormwater Design Comments")¹² and Comments on

¹⁰ See Attachment G - Reply Brief of Intervenor Tewksbury Board of Health dated April 3, 2026 in EFSB 25-08

¹¹ See Attachment H - Intervenor Tewksbury Board of Health Comments on Test Pit and Groundwater Sampling Memorandum dated April 27, 2026 in EFSB 25-08

¹² See Attachment I - Intervenor Tewksbury Board of Health Comments Regarding Hillman Supplemental Responses to Responses RR-EFSB-21(S1), RR-EFSB-22, and RR-EFSB-23(S1) dated May 22, 2026 in EFSB 25-08.

the Tentative Decision¹³ during the zoning exemption proceeding, the BOH insisted on numerous conditions be placed on the Project or otherwise be obligated to exercise its site assignment authority (BOH Initial Brief at 15). A number of these conditions contain burdensome conditions that cannot be met by reasonable means and exceed the conditions imposed by the Siting Board in its Tentative Decision:

- *First*, the BOH requested the “[i]ndependent acquisition and verification of all raw UL 9540A calorimetry and electrolyte composition data underlying combustion modeling, followed by independent re-modeling of toxic gas generation and plume dynamics, including worst-case HF and CO dispersion at residential receptor distances, by a qualified expert retained independent of the Company, subject to review and approval by the [BOH]” (BOH Initial Brief 15, Condition 1). This requested condition is unwarranted and overly burdensome. As discussed in the Company’s Reply Brief, the current UL 9540A testing was conducted by an independent third-party company. The testing involves forcing the batteries into thermal runaway and documenting the results, which are widely relied upon to determine battery safety both nationally and internationally. Requiring a company that is not an expert in conducting fire tests to purchase batteries, containers and racks and purposely force them into thermal runaway simply so that the BOH can ‘review’ and ‘approve’ the process is plainly unwarranted and not in accordance with industry norms and standards.
- *Second*, the BOH requested the “[c]ompletion of all required subsurface test pits and submission of updated mounding analysis, dissolved-phase contaminant transport assessment, and groundwater impact analysis, reviewed and approved by the Board of Health and the Town engineer, prior to any construction involving the infiltration system” (BOH Initial Brief 15, Condition 2). As the Siting Board found in the Tentative Decision, a “mounding analysis” is not required for the Company’s proposed stormwater system under the Massachusetts Stormwater Handbook. *Tentative Decision* at 64-65. Therefore, this requested condition is unwarranted.
- *Third*, the BOH requested the “[r]edesign of the stormwater infiltration architecture to include activated shutoff capability and dissolved pollutant treatment adequate to prevent fluoride ion and other dissolved contaminant migration to groundwater, independent of any EFSB zoning exemption ruling. Compliance with local Title 19 stormwater requirements shall not be waived.” (BOH Initial Brief 15, Condition 3). The BOH also requested that the system incorporate a vegetated infiltration system required by Section 5.6 of the Tewksbury Zoning Bylaw. (BOH Reply Brief at 11, Condition (3)). Furthermore, the BOH requested the Siting Board to require the Project maintain the local three-foot separation between the bottom of subsurface infiltration systems and seasonal high groundwater. (BOH Stormwater Design Comments at 6). However, as the Siting Board found, the stormwater system will “effectively filter[] out floatable and settling pollutants,” and that although fire suppression water would not be directly

¹³ Attachment J - Intervenor Tewksbury Board of Health Comments on the Tentative Decision dated June 26, 2026.

applied to any BESS fire, the Company will be required to monitor collected water during and immediately after firefighting activities. *Tentative Decision* at 65-66. Additionally, the Siting Board found that neither MassDEP nor Section 5.6 of the Town's Zoning Bylaw prescribe a vegetated infiltrated system. *Id.* Likewise, the Company specifically sought exemption of three-foot separation requirement. Granting the request, the Siting Board found the proposed system design would satisfy the MassDEP Stormwater Standard requirement of a two foot minimum vertical separation requirement. (*Id.* at 64). This request for additional conditions is yet another attempt at delaying and impeding the Project.

- *Fourth*, the BOH requested the “[f]inalization and submission of the Emergency Response Plan [“ERP”] and Hazard Mitigation Analysis [“HMA”], incorporating site-specific detection and evacuation protocols for a 67-second HF plume arrival scenario, directly addressing Bayberry at Emerald Court and the day care facility within 1,000 feet, developed in coordination with the Tewksbury Fire Department and the [BOH], prior to energization. The ERP and HMA shall be prepared under the assumption that a large-scale thermal runaway event can and may occur.” (BOH Initial Brief 15, Condition 4). The BOH also requested that a “full HF plume dispersion analysis” and finalized ERP and HMA be “submitted to and reviewed by the [BOH]” before any construction permits are issued. (BOH Reply Brief at 11, Conditions (1)-(2)). However, as the Siting Board found, the Company has “committed to meeting or exceeding all relevant regulatory, design, and safety requirements” including “the 2026 edition of NFPA 855,” which effectively address and mitigate Project risks. *Tentative Decision* at 148. This request is, therefore, excessive and burdensome.
- *Fifth*, the BOH requested the “[d]ocumentation of completion by the Tewksbury Fire Department of specialized lithium-ion battery incident training covering thermal runaway risks, toxic gas hazards, and emergency response procedures with training plan reviewed and approved by the [BOH] and the Fire Chief prior to energization.” (BOH Initial Brief 16, Condition 5). As the Siting Board found, the Emergency Response Procedures will be subject to review and approval by the Tewksbury Fire Department, and the Fire Department will establish protocols consistent with NFPA 1710 guidance. *Tentative Decision* at 149. This request by the BOH to also review the ERP, when the BOH has less expertise than the Fire Department, is unreasonable and an attempt to further delay the Project.
- *Sixth*, the BOH requested the “[e]stablishment of enforceable, health-protective noise limits at the property boundary and at the nearest identified residential receptors, with monitoring obligations and enforcement authority expressly vested in the Board of Health, separately from and in addition to any host agreement obligations.” (BOH Initial Brief 16, Condition 6). The BOH also demanded a “supplemental noise analysis evaluating sound pressure levels at the commercial and office buildings on Hillman Street and Rockland Street as sensitive receptors under 310 CMR 7.10, with any required mitigation implemented before commercial operation.” (BOH Reply Brief at 11, Condition (5)). As the Siting Board found, “sensitive receptors typically include childcare facilities, schools, places of worship, health care facilities, town halls, and police and fire stations,” but not commercial and office buildings. *Tentative Decision* at 86 n.40. Furthermore, Hillman determined that all 17 identified sensitive receptor locations would

experience noise impacts consistent with MassDEP's Noise Policy limit. *Id.* at 86-87. The Siting Board also directed the Company to implement conditions to ensure consistency with the MassDEP Noise Policy and Town Bylaw. *Id.* at 88-91. The Siting Board and the Town Manager will be responsible for reviewing the post-construction sound monitoring protocol, not the Board of Health. *Id.* at 90-91.

- *Seventh*, the BOH requested “[i]nstallation of groundwater monitoring wells as determined by an independent third-party hydrologist, to establish baseline water quality prior to construction and provide ongoing monitoring for the operational life of the facility, with results reported annually to the Board of Health.” (BOH Initial Brief 16, Condition 7). The BOH also requested a groundwater monitoring plan to be approved by the BOH prior to construction. (BOH Reply Brief at 11, Condition (4)). However, the Company and the Town have already agreed on test pit monitoring protocols, the results of which were previously submitted to the EFSB. RR-D/S-11(1). - . The Siting Board found that the Project will have minimal, if any, impacts on groundwater. *Tentative Decision* at 64. In the event of the release of reportable quantities of contaminants, the Company will be obligated to hire experts to take remedial actions. *Tentative Decision* at 194, Condition 53. Requiring annual monitoring with BOH oversight is unduly burdensome and not warranted given the impacts of the Project.
- *Eighth*, the BOH requested “[e]xplicit recognition in the certificate that the [BOH] retains its full and independent statutory authority under G.L. c. 111 sections 31, 122, 123, 134 and 150A; that no provision of the certificate, conditions, or HCA shall be construed to limit or displace that authority; and that the BOH’s site assignment authority under section 150A remains unimpaired,” (BOH Initial Brief 16, Condition 8), as well as the BOH’s “site assignment and nuisance jurisdiction, notwithstanding the grant of any zoning exemption.” (BOH Reply Brief at 11, Condition (6)). The *Tentative Decision* did not make such a recognition. As the Siting Board noted, however, the Town of Tewksbury took the position that the Siting Board’s authority would “likely be deemed to pre-empt the oversight by the local BOH to act with respect to a public service corporation.” *Tentative Decision* at 165. While the Siting Board ultimately determined that the BOH oversight authority was not an issue pending in EFSB 25-08, the Siting Board admitted the “possibility of a conflict between the Siting Board’s authority under G.L. c. 40A and the BOH’s asserted authority.” *Id.*

Despite this repeated threat of asserting jurisdiction, the BOH has refused, to date, to actually assert jurisdiction under G.L. c. 111, §§ 112 and 143. If the BOH waits until after the window has closed for the Company to seek a Certificate pursuant to Section 118 of the 2024 Climate Act, and *then* asserts jurisdiction, the Company will be forced to incur even more legal costs—and potentially years of delay—to proceed with the Project. Such an outcome would be anathema to the Siting Board’s mandate. Therefore, the BOH’s threat of asserting jurisdiction alone requires that the Siting Board consider Hillman’s Petition for a Certificate.

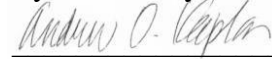
V. CONCLUSION

For all the foregoing reasons, Hillman respectfully requests that the Siting Board approve this Initial Petition for a Certificate pursuant to Section 118 of the Climate Act and accept Hillman's contemporaneous filing of the Application in furtherance thereof.

Respectfully submitted

Hillman Energy Center, LLC

By its attorneys



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Dated: June 30, 2026

List of Attachments¹⁴

INITIAL PETITION	
ATTACHMENT IDENTIFIER	CONTENTS OF ATTACHMENT
Attachment A	Initial Brief of Intervenor Tewksbury Board of Health dated March 19, 2026 in EFSB 25-08
Attachment B	Position Statement of Tewksbury Board of Health, dated January 27, 2026 submitted in EFSB 25-08
Attachment C	Tewksbury BOH Meeting Minutes from October 16, 2025
Attachment D	Tewksbury BOH Special Emergency Meeting Minutes from October 29, 2025
Attachment E	Draft of Company's proposed Certificate of Environmental Impact and Public Interest
Attachment F	Company's Letter providing notice pursuant to 980 CMR 6.02(2)(b).
Attachment G	Reply Brief of Intervenor Tewksbury Board of Health dated April 3, 2026 in EFSB 25-08
Attachment H	Intervenor Tewksbury Board of Health Comments on Test Pit and Groundwater Sampling Memorandum dated April 27, 2026 in EFSB 25-08
Attachment I	Intervenor Tewksbury Board of Health Comments Regarding Hillman Supplemental Responses to Responses RR-EFSB-21(S1), RR-EFSB-22, and RR-EFSB-23(S1) dated May 22, 2026 in EFSB 25-08.
Attachment J	Intervenor Tewksbury Board of Health Comments on the Tentative Decision dated June 26, 2026.
APPLICATION	
Attachment K	A 1:24,000 scale United States Geologic Survey (USGS) topographical map with transparent overlays showing the boundaries of the site and the precise location of the subject facility.
Attachment L	Aerial Locus Map
Attachment M	Existing Conditions Map
Attachment N	Photographs of the Project Site

¹⁴ This is a complete list of the attachments to both the Initial Petition and the Application.