

**COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD**

Petition of Hillman Energy Center, LLC	)	
Pursuant to G.L. c. 40A, Section 3 for an	)	
Exemption From the Zoning Bylaws of the	)	EFSB-25-08
Town of Tewksbury, MA	)	

**COMMENT OF INTERVENOR TEWKSBURY BOARD OF HEALTH
REGARDING SUPPLEMENTAL RESPONSES TO RR-EFSB-21(S1),
RR-EFSB-22, AND RR-EFSB-23(S1)**

May 22, 2026

Donna C. Sharkey, Esq.
Presiding Officer
Energy Facilities Siting Board
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: EFSB-25-08, Petition of Hillman Energy Center, LLC -- Board of Health Comment
Regarding Hillman Supplemental Responses to RR-EFSB-21(S1), RR-EFSB-22, and RR-EFSB-
23(S1)

Dear Presiding Officer Sharkey:

The Tewksbury Board of Health submits this comment regarding the Company's supplemental responses and related filings concerning stormwater design, groundwater separation, and local public health protections. This comment is submitted as a related objection and comment on the content of the Company's recent supplemental filings, consistent with the schedule reflected in the Presiding Officer's May 15, 2026 email extending the deadline for objections to the content of those filings to May 22, 2026 at noon.

The Board of Health has reviewed the Company's supplemental responses to RR-EFSB-21(S1) and RR-EFSB-23(S1), the Notice of Intent materials submitted to the Tewksbury Conservation Commission and incorporated into the EFSB record through those responses, the Town of Tewksbury's Supplemental Record Response EFSB-16, and the further testimony and affidavit of Scott Horsley submitted on behalf of Intervenors DiPalma and Sheehan in response to the Company's revised stormwater design.

The Board of Health's concern is narrow and practical. The Project is proposed in a Zone II wellhead protection setting and within the Town's Groundwater Protection District, and the EFSB record now reflects a materially revised stormwater design that depends on updated groundwater assumptions and revised recharge and detention configurations. In that setting, the Board of Health's interest is whether the final stormwater system has been shown in this record to protect drinking water, groundwater quality, and adjacent wetlands with a sufficient level of certainty before zoning relief is granted.

First, the Company's own supplemental response to RR-EFSB-21(S1) confirms that MassDEP stormwater standards require two feet of separation between the bottom of the stone infiltration base and seasonal high groundwater, measured from the bottom of the stone base rather than the bottom of the chambers. The same response states that the Company's May 7, 2026 Notice of Intent filing documents that two-foot separation. At the same time, the Board of Health understands from the further testimony of Scott Horsley that the Town's Groundwater Protection Overlay provisions, Section 5.6.3(C)(3)(d) of the Tewksbury Zoning Bylaw, require a three-foot separation from the bottom of infiltration structures to maximum groundwater and contemplate use of natural drainage patterns and vegetated stormwater systems in the overlay district. The revised design purports to meet only the two-foot MassDEP standard and does not meet the more protective local requirement.

Second, the Company's supplemental response to RR-EFSB-23(S1) shows that the stormwater design before the Board has changed materially for the fourth time during this proceeding. The February 4, 2026 plan included three infiltration basins identified as BMP-4, BMP-5, and BMP-1A, while the May 7, 2026 NOI design includes recharge basins BMP-4A, 5A, and 1A together with lined detention basins BMP-4B, 5B, and 1B. The Company explains that the revised design limits the footprints of recharge practices, includes minor regrading to maintain at least two feet of separation from recorded groundwater, and adds closed detention systems with impermeable PVC liners and underdrains for peak-rate attenuation.

Third, the revised design raises public health questions that the Board of Health does not believe have yet been fully resolved in this docket. Mr. Horsley's further sworn testimony states that the Applicant's revised plan still does not comply with the Town Bylaw's three-foot separation requirement and does not use the vegetated stormwater approach described in the Town's overlay bylaw provisions. He also states that the revised plan relies on three recharge systems within four feet of estimated seasonal high groundwater and that no updated mounding analysis has been

provided by the Applicant for the revised configuration, even though the MassDEP Stormwater Handbook requires such analysis when recharge systems are located within four feet of estimated seasonal high groundwater. The Board further notes that Mr. Horsley conducted his own groundwater mounding analysis of the revised plan and found that groundwater mounding will inundate the proposed recharge systems and alter water levels within the bordering vegetated wetland system.

Fourth, the Board of Health is concerned by the testimony regarding the basis for estimated seasonal high groundwater. Mr. Horsley states that March and April 2026 field measurements were at or above redox levels in several locations and compared those measurements to the USGS index well in Andover (USGS-423641071102501). That comparison indicates that groundwater levels at the index well during the March 24 to April 9, 2026 period were approximately 2.0 feet lower than levels recorded on April 17, 2024, suggesting that the estimated seasonal high groundwater at the project site may be as much as 2.0 feet higher than the Applicant has assumed for design. According to Mr. Horsley, the Applicant has not performed this USGS comparison as the MassDEP Stormwater Handbook recommends, and the record therefore does not demonstrate that the groundwater assumptions underlying the revised design are adequately conservative for a Zone II setting.

Fifth, the revised design's use of large subsurface detention systems wrapped in impermeable PVC liner warrants fuller review from a water quality perspective. Mr. Horsley's further testimony describes a PVC liner measuring more than 12,000 square feet, the equivalent of two NBA basketball courts, through which stormwater will flow in contact with the liner prior to discharge to wetlands and groundwater. Mr. Horsley states that PVC contains a broad range of pollutants that will leach from the liner and be introduced into the wetlands and groundwater. The DiPalma and Sheehan brief likewise emphasizes that through all four iterations of the stormwater plan, the record shows that approximately 80% of stormwater runoff will not reach the infiltration and detention basins but will infiltrate untreated into the ground (*Tr. 1421-1422*), and that no firefighting water containment has been provided in any version of the plan (*Tr. 120*).

Sixth, the Board of Health notes that the requirement for full containment of rainwater and firefighting runoff at a BESS facility is not a new or contested standard. In *Cranberry Point Energy Storage, LLC*, D.P.U. 22-59 (2023), the Department of Public Utilities required as a condition of approval a plan to ensure that any firefighting water effluent would be fully contained and not be discharged outside the basin or otherwise infiltrate into the ground. That precedent is highly relevant here, where a large lithium-ion BESS is proposed in a Zone II wellhead protection area and Groundwater Protection District. The record in this docket contains no evidence that any of the four versions of the Company's stormwater plan provides such containment, and the Company's own expert confirmed that the current design does not prevent stormwater from infiltrating through crushed stone between the BESS containers before reaching treatment structures (*Tr. 1355*).

The Board of Health recognizes that the Town's Supplemental Record Response EFSB-16 addresses many project impacts through a negotiated agreement. However, the Board of Health does not read that agreement to resolve the separate question of whether the current revised stormwater design has been demonstrated in this EFSB record to satisfy the groundwater protection functions that are especially important in a Zone II setting.

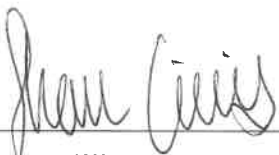
Accordingly, the Board of Health respectfully requests that, before relying on the revised NOI-level stormwater design as support for zoning relief, the EFSB require a single, final, stamped stormwater design package in this docket that: (1) identifies the final recharge and detention basin configuration; (2) demonstrates the applicable bottom-of-stone separation to seasonal high groundwater and maximum groundwater for each recharge structure, including compliance with the Town Bylaw's three-foot separation requirement; (3) provides the required updated groundwater mounding analysis for the revised design; (4) demonstrates compliance with the vegetated stormwater requirements of Tewksbury Zoning Bylaw Section 5.6.3(C)(3)(b); and (5) addresses the water quality implications of the proposed PVC-lined detention system and provides a full containment plan for firefighting runoff and contaminated stormwater consistent with the standard established in *Cranberry Point Energy Storage, LLC*, D.P.U. 22-59 (2023).

To the extent the Board determines that the current record already resolves these issues, the Board of Health respectfully requests that the final decision identify with specificity where in the evidentiary record those protections have been demonstrated.

The Board of Health submits this comment out of concern for drinking water protection, groundwater quality, and the health of Tewksbury residents, and not to delay the proceeding unnecessarily.

Respectfully submitted,

Tewksbury Board of Health

By: 

Shannon Gillis, REHS, Certified Soil Evaluator

Director of Public Health

Appearing as an unrepresented intervenor on behalf of the Tewksbury Board of Health