THE COMMONWEALTH OF MASSACHUSETTS

ENERGY FACILITIES SITING BOARD

Petition of Moraga Storage, LLC Pursuant to G.L. c. 40A, § 3 for an Exemption from the Zoning By-Law of the Town of Oakham, MA	)	EFSB-25-07

INITIAL BRIEF OF

MORAGA STORAGE, LLC

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I. INTRODUCTION

The evidentiary record in this proceeding demonstrates that Moraga Storage, LLC (the "Company" or "Moraga") has satisfied all the requirements for the Energy Facilities Siting ("EFSB" or "Siting Board") to approve the Company's petition submitted on March 31, 2025, pursuant to G. L. c. 40A, § 3 (the "Petition") for comprehensive and individual exemptions from the Zoning Bylaw of the Town of Oakham, Massachusetts ("Oakham" or the "Town").

The Company has accurately and completely described the proposed 180 megawatt, four-hour battery energy storage system ("BESS") and related infrastructure (the "Project), has demonstrated that the environmental and other impacts of the proposed facility will be minimal and will be appropriately mitigated in accordance with all applicable rules and regulations, has demonstrated that the selected site is reasonably necessary for the public convenience and welfare and that the Company appropriately considered alternative sites, and has shown that the other standards for the granting of a zoning exemption are met. Moreover, the record demonstrates that the Project will support the Commonwealth in meeting its clean energy goals, including but not limited to its storage targets, the objectives of the Clean Peak Standard, its GHG emissions reduction goals, and the Siting Board's longstanding policy of facilitating infrastructure that enhances reliability while minimizing environmental impacts.

For the reasons outlined herein, the Company therefore respectfully requests that the Siting Board grant individual and comprehensive exemptions from the Oakham Zoning Bylaw pursuant to G.L. c. 40A, § 3.

A. Description of the Project

The Project will consist of a four-hour 180 MW BESS and related infrastructure located on a 42.9-acre parcel at 358 Coldbrook Rood in the Town of Oakham, otherwise identified on the Oakham Assessor's map as Parcel 406-106 (the "Project Site"). The Project is located within an

approximately 18-acre limit of work within of the Project Site.[1] The entire Town of Oakham, including the Project Site, is designated as an agricultural and rural zoning district ("A&R district").[2]

The Project Site is a flag lot (*i.e.,* a parcel of land set back from the road and connected to it by a relatively long strip) located to the east of Coldbrook Road, with an existing paved driveway that runs from Coldbrook Road to a contiguous/buildable portion of the lot located to the east.[3] Previously used as an auto salvage and recycling facility,[4] the property now contains an abandoned garage/office building and concrete truck scale that were associated with the auto salvage and recycling facility.[5] There are no existing engineered stormwater management features that meet current Massachusetts Stormwater Standards on the Project Site.[6]

The Project Site contains a mix of bordering and isolated vegetated wetland areas on the western half of the site near the access driveway.[7] Another bordering vegetated wetland is located in the southeastern corner of the Project Site.[8] The western half of the Project Site is within areas mapped as a Surface Water Protection Area (Zones A and C) for the Ware River Watershed.[9] In September 2025, the Commonwealth's Natural Heritage and Endangered Species Program certified three vernal pools on the Project Site.[10] Exhibit EFSB-W-1(1) contains a figure

[1] Exh. MS-A(S1) at 1 (depicting limit of work area in black dashed line).

[2] Oakham General and Zoning Bylaws, ch. 14, § 2.1.

[3] Exh. MS-A(S1) at 1 (containing a map of the Project Site); *see also* Exh. MS-B(S1) at 4.

[4] Exh. EFSB-LU-1.

[5] Exhs. MS-1 at 2, 4 (Figure 2-2 containing an aerial view of the Project Site); EFSB-LU-1; *see also* Exh. MS-E at 40 (containing a simulated previous condition of the Project Site).

[6] Exhs. MS-1 at 2; MS-B(S1) at 7.

[7] Exhs. MS-B(S1) at 177-180; EFSB-W-1(1).

[8] Exhs. MS-B(S1) at 177-180; EFSB-W-1(1).

[9] Exh. EFSB-W-1(1).

[10] Exh. EFSB-W-3(1).

depicting the locations of all wetlands, surface water protection areas and certified vernal pools on the Project Site in relation to the location of the Project.[11]

There are no Massachusetts Department of Environmental Protection ("MassDEP") Interim, Zone I, or Zone II Wellhead Protection Areas on the Project Site.[12] In addition, the Project Site does not contain any mapped floodplains, estimated or priority habitat for state-listed rare species, areas identified as Areas of Critical Environmental Concern ("ACEC"), or protected open space.[13]

Land uses immediately surrounding the Project Site include residential homes along Coldbrook Road to the west, mixed agricultural and undeveloped forested areas to the south, and undeveloped forested areas owned and managed by the Massachusetts Department of Conservation and Recreation to the north and east.[14] A corridor for an overhead electric transmission line (115 kV Line A127-4) owned by Massachusetts Electric Company d/b/a National Grid ("National Grid") crosses the northeast corner of the Project Site, where the Project will interconnect.[15]

1. The BESS Units

The Project will include approximately 184 Tesla Megapack 2 XL lithium iron phosphate ("LFP") battery enclosures that are approximately 28.8 feet long, 5.5 feet wide, 9.1 feet tall. Each unit will arrive at the site pre-assembled.[16] The BESS units will be arranged in a back-to-back orientation with all setbacks and clearances between units compliant with the

[11] Exh. EFSB-W-1(1).

[12] Exh. MS-1 at 3, 21.

[13] *Id.* at 3.

[14] Exhs. MS-1 at 3; MS-A(S1).

[15] Exhs. MS-1 at 9-11; MS-A(S1) at 2.

[16] Exhs. MS-1 at 9; Tr. 3 at 592:6-9.

manufacturer's installation requirements and National Fire Protection Association ("NFPA") standard NFPA 855.[17] Each BESS unit will be set on concrete surrounded by crushed stone and/or gravel.[18] The Project will also include medium-voltage transformers, a project substation, air-insulated switching equipment, and other electric infrastructure.[19]

Each Megapack 2XL unit consists of a containerized system that houses integrated lithium-ion batteries and a bi-directional inverter.[20] The battery units are UL 9540-listed at the system level, demonstrating that the equipment has been independently evaluated for electrical, mechanical, and fire safety and meets applicable code requirements.[21] The units include a battery management system ("BMS") that continuously monitors cell- and module-level parameters such as voltage, temperature, and state of charge, and which will detect abnormal conditions and electrically isolate affected components.[22] Each unit also possesses a thermal management system ("TMS") that regulates battery temperatures during normal operation and provides passive thermal resistance at the unit level during an abnormal event.[23]

The steel enclosures of each container are IP66 and NEMA 3R rated to protect against any dust or moisture intrusion from severe weather events.[24] The Tesla Megapack 2 XL units for the Project incorporate manufacturer-designed deflagration control features intended to manage flammable gas generation and pressure rise during an abnormal event.[25] These features include

[17] Exhs. MS-A(S1); MS-1 at 9.

[18] Exhs. MS-1 at 9; MS-A(S1).

[19] Exhs. MS-1 at 9; MS-A(S1).

[20] Exh. OAK-38(1) at 4; Tr. 7 at 1259:2-1263:9.

[21] Exh. EFSB-S-1.

[22] Exh. EFSB-S-6.

[23] *Id.*; Exh. EFSB-S-8.

[24] Exh. OAK-147.

[25] Exh. EFSB-S-2.

controlled gas venting pathways, pressure relief mechanisms, and an internal controlled ignition system designed to prevent uncontrolled overpressure and enclosure rupture.[26]

Construction of the Project will occur within an approximately 18-acre portion of the property, identified as the "Limit of Work" in the Project plans submitted as Exhibit MS-A(S1). Activities necessary within this 18-acre area will include site work and grading, installation of the BESS facility and associated features, installation of the proposed substation and transmission interconnection, equipment and materials storage and staging, and construction laydown areas.[27] The BESS units and Project substation are situated along the eastern boundary of the Project Site, minimizing impacts on abutters, with the nearest residence to the battery units Project being more than 1,400 feet away.[28] Moreover, no part of the Project is located in wetland resource areas or certified vernal pools.[29]

2. Interconnection

The Project will interconnect to National Grid's 115 kV A127-4 transmission line by means of a line tap on the Project site.[30] The Project substation will take the routed power output from the BESS units and step it up to a transmission voltage of 115 kV to allow the power from the Project to interconnect with the existing transmission line.[31] The Project substation will also take the routed energy from the transmission line and step it down to allow the Project to store the energy.[32] The Project substation will include a main power transformer, switchgear, circuit

[26] *Id*.

[27] Exhs. MS-1 at 6; MS-B(S1) at 4; EFSB-CM-10.

[28] Exhs. EFSB-Z-6; MS-A(S1); Tr. 1 at 152:2-153:14; OAK-38(1) at 26.

[29] Exh. EFSB-W-1(1).

[30] Exhs. MS-1 at 11; MS-A(S1); EFSB-D-9; Tr. 6 at 1162:3-13.

[31] Exh. MS-1 at 9.

[32] *Id.*

breakers, disconnect switches, low- and high-voltage buses and an interconnection gantry, as shown on the cross-section provided as Figure 3-4 of Exhibit MS-1.[33]

B. Procedural History

On March 31, 2025, the Company filed its Petition requesting individual and comprehensive zoning exemptions from the Town of Oakham's Zoning Bylaw for the Project. On September 24, 2025, the Siting Board filed a Notice of Adjudication and Public Comment Hearing, and a Public Comment Hearing was held on October 16, 2025. The Siting Board also received written comments from interested parties.

By Order dated December 3, 2025, the Presiding Officer granted Petitions to Intervene from the Town of Oakham (the "Town"), Michelle and James Bertrand, Sharon and Scott Corey, Clayton Rice, and James and Danielle Stevens (collectively the "Represented Party Intervenors"), and Thomas and Lynda Saupe. The Presiding Officer also granted limited participant status to seven Oakham residents.[34] The parties thereafter exchanged extensive discovery, with the Company responding to more than 400 information requests from the Siting Board, the Town, and the Represented Party Intervenors. The Town also responded to information requests issued by the EFSB and the Company.

On December 22, 2025, the Company submitted a supplemental filing. The supplemental filing included an update to the project design to minimize direct impacts to wetland resources, which did not significantly change the impact analyses in the original Petition.[35]

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[33] *See also* Exh. MS-A(S1).

[34] Erik Baldwin, Kathleen Dunn, Aaron Langlois, Sarah Petersen, Barabara Piucci, Vincent Piucci, and Susanne Shays.

[35] Please see Exhs. MS-A(S1) (updated site plans) and MS-B(S1) (Updated Stormwater Management Report). The Company later submitted Exhibit OAK-38(1), which included an updated Sound Level Assessment Report.

The Town filed testimony on January 23, 2025, which it supplemented on January 30, 2025. On January 23, 2026, the Represented Party Intervenors filed testimony.

Evidentiary hearings were held between March 2 and March 20, 2026. During and following the evidentiary hearings, the Company submitted responses to record requests issued during the hearings.

C. Legal Framework and the 2024 Climate Act

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.[36] Among other things, the 2024 Climate Act set a target of 5,000 MW of long-term contracts for energy storage systems by July 31, 2030. Governor Healy recently expanded the Commonwealth's commitment to energy storage through Executive Order No. 654, issued on March 16, 2026, which set an additional goal of 5,000 MW (five GW) of energy storage online or under development within Massachusetts by the end of 2035 "to facilitate the integration of additional electricity supply, alleviate grid constraints, and reduce peak energy demand."[37]

As discussed in more detail below, the 2024 Climate Act aimed to expedite and improve local zoning exemption authority for energy storage projects in multiple respects. For instance, it codified the definition of "public service corporation" to expressly include developers of energy storage projects.[38] In addition, it explicitly authorized developers of large energy storage systems that have received a comprehensive exemption from local zoning bylaws to petition the Siting Board for

[36] An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239 (the "2024 Climate Act").

[37] Executive Order No. 654.

[38] St. 2024, c. 239, § 36.

a certificate of environmental impact and public interest.[39] These and other changes evince the Commonwealth's strong policy of facilitating the development of significant battery energy storage capacity to advance the Commonwealth's critical climate and emissions goals.

II. THE PROJECT MEETS THE REQUIREMENTS FOR A COMPREHENSIVE ZONING EXEMPTION

The record demonstrates that the Project meets all applicable requirements for an exemption from the Town of Oakham's zoning bylaws to permit the Project to be developed. The Siting Board should grant the Company's request as it will advance the Commonwealth's energy storage goals, as discussed in more detail herein.

A. Standard of Review

G.L. c. 40A, § 3, para. 2, provides, in relevant part:

> Lands 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 department of telecommunications and cable or the energy facilities 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…[40]

In numerous longstanding decisions interpreting the foregoing requirement, the Department of Public Utilities (the "Department"), the Siting Board, and courts have determined that a petitioner seeking exemption from a local zoning bylaw under G.L. c. 40A, § 3 must meet three criteria. First, the petitioner must qualify as a public service corporation.[41] Second, the

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[39] *Id.* § 118(a).

[40] As amended by St. 2024, c. 239, § 37 (effective Feb. 18, 2025).

[41] *Vineyard Wind, LLC*, D.P.U. 21-08, at 5 (2021) ("*Vineyard Wind*"); *NSTAR Electric Company d/b/a Eversource Energy*, D.P.U. 18-21, at 4 (2019) ("*Westfield*"); *NSTAR Electric Company d/b/a Eversource Energy*, D.P.U. 17-147, at 6 (2019) ("*K Street*"); *Save the Bay, Inc. v. Department of Public Utilities*, 366 Mass. 667 (1975) ("*Save the Bay*").

petitioner must demonstrate that its present or proposed use of the land or structure is reasonably necessary for the public convenience or welfare.[42] Third, the petitioner must establish that it requires exemption from the zoning ordinance or bylaw.[43] These standards are met here.

B. Moraga Storage, LLC Qualifies as a Public Service Corporation

Section 36 of the 2024 Climate Act codified the definition of "public service corporation" to explicitly include developers of energy storage projects like the Company, as follows:

> 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 . . . .[44]

In decisions preceding this statutory definition, the Department had already found that non-utility developers of BESS facilities qualify as public service corporations due in part to the important energy services and benefits BESS facilities provide to the public by advancing the Commonwealth's energy goals and climate objectives.[45] By codifying a definition of "public service corporation" that includes entities owning or developing BESS facilities, the 2024 Climate Act removes any ambiguity that the owners of such facilities qualify as "public service corporations" for purposes of a zoning exemption.

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[42] *Vineyard Wind* at 6; *Westfield* at 5-6; *K Street* at 7-8; *Boston Gas Company*, D.T.E. 00-24, at 3 (2001) ("*Boston Gas*").

[43] *Vineyard Wind* at 6; *Westfield* at 6-7; *K Street* at 8-9; *Tennessee Gas Pipeline Company*, D.T.E. 01-57, at 4 (2002) ("*Tennessee Gas*").

[44] G.L. c. 40A, § 1A (emphasis added); St. 2024, c. 239, § 36.

[45] *See Cranberry Point Energy Storage, LLC*, D.P.U. 22-59, at 38 (May 11, 2023) ("*Cranberry Point*"); *Medway Grid, LLC*, D.P.U. 22-18/22-19, at 32 (2023) ("*Medway Grid*").

Moraga Storage, LLC is an entity duly qualified to do business in the Commonwealth and proposes to own and operate a 180 MW electric storage facility.[46] Therefore, the Company qualifies as a public service corporation pursuant to G.L. c. 40A, § 1A.

C. The Project is Reasonably Necessary for the Public Convenience and Welfare

1. Standard of Review

In determining whether a petitioner's present or proposed use is reasonably necessary for the public convenience or welfare, the Siting Board makes "a broad and balanced consideration of all aspects of the general public interest and welfare and not merely [an] examination of the local and individual interests which might be affected."[47] "When reviewing a petition for a zoning exemption under G.L. c. 40A, § 3, the Department is empowered and required to consider the public effects of the requested exemption in the state as a whole and upon the territory served by the applicant."[48]

Pursuant to this standard, 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.[49] These requirements are met here.

2. There is a Strong Need For, and Public Benefit of, The Proposed BESS

The Company has demonstrated the need for the battery energy storage the Project will provide and the public benefits that will result from meeting that need. Approval of the Project

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[46] Exh. OAK-84(1) (containing a copy of Moraga Storage, LLC's registration as a foreign limited liability company with the Secretary of the Commonwealth of Massachusetts).

[47] *New York Central Railroad v. Department of Public Utilities*, 347 Mass. 586, 592 (1964) ("*New York Central Railroad*").

[48] *Cranberry Point*, at 39 (citing *Save the Bay*, 366 Mass. at 685; *New York Central Railroad*, 347 Mass. at 592).

[49] *Cranberry Point*, at 40 (citing *Boston Gas Company*, D.T.E. 00-24, at 2-6 (2001); *Tennessee Gas Pipeline Company*, D.T.E. 01-57, at 5-6 (2002)); *Medway Grid*, at 34 (citing, *e.g., NSTAR Electric Company d/b/a Eversource Energy*, D.P.U. 17-147, at 8 (2019)).

will contribute to the Commonwealth's achievement of important energy and environmental policies, such as the Commonwealth's net zero emissions target for 2050. In this way, the Project will protect the health, economy, people, and natural resources of the Commonwealth.[50]

By providing 180 MW of fast-responding energy storage capacity with a four-hour duration, the Project will:

- facilitate the integration of intermittent renewable generation by storing energy at times of low demand and high renewable generation and discharging that energy during periods of high demand, when energy costs are typically high and there is greater reliance on fossil-fuel-based generation sources (*e.g.*, oil peaker plants);[51]

- reduce emissions and reliance on fossil fuels by charging during off-peak periods when renewable generation is typically highest and discharging during peak demand periods;[52]

- reduce system peaks, lowering reliance on older, higher-emitting peaking plants and thereby reducing criteria pollutants and greenhouse gas emissions;[53]

- provide ancillary services (frequency response, voltage support, reactive power, black start capability, etc.) and enhancing grid resiliency by adding a locally sited, dispatchable resource that can respond immediately to unexpected outages or extreme weather events without reliance on fuel delivery;[54] and

- support achievement of statutory emissions limits by enabling deeper decarbonization of the resource mix.[55]

Furthermore, the Project is consistent with Massachusetts' energy storage goals, including a 5,000 MW energy storage procurement target for 2030 pursuant to the recently

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[50] EEA Determination Of Statewide Greenhouse Gas Emissions Limit And Sector-Specific Sublimits For 2050 (Dec. 2022) *available at* https://www.mass.gov/doc/determination-letter-for-the-2050-cecp/download (last accessed Mar. 31, 2026); *see also* Exhs. EFSB-A-2; EFSB-G-8; EFSB-G-13; EFSB-G-19.

[51] Exh. EFSB-G-19(d) ("renewable generation (i.e., solar and wind) generally does not line up with the typical load profile throughout the day. Energy storage can solve this problem by storing energy at times of low demand and high renewable generation and discharging that energy during periods of high demand periods when energy costs are typically high and there is greater reliance on fossil-based fuel sources (*e.g.*, peaker plants)").

[52] Exhs. EFSB-G-10; EFSB-A-2; EFSB-A-4.

[53] Exhs. EFSB-G-19; EFSB-A-2; EFSB-A-4.

[54] Exhs. EFSB-N-4; EFSB-G-8.

[55] Exhs. EFSB-G-19; EFSB-A-2; EFSB-A-4.

enacted 2024 Climate Act[56] and an additional goal of 5,000 MW of energy storage online or under development within Massachusetts by the end of 2035 pursuant to Executive Order No. 654 issued by Governor Healey on March 16, 2026.[57] These targets evince the Commonwealth's strong commitment to energy storage and its goal of supporting intermittent renewable generation resources such as solar and wind with energy storage.

The Project is also consistent with the Commonwealth's Energy Storage Initiative, which the Commonwealth 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 to value storage benefits from clean energy integration, grid reliability, system-wide efficiency, and peak demand reduction; and (4) recommend policies, regulations and programs that help achieve those objectives.[58]

As part of the 2015 Energy Storage Initiative, the Department of Energy Resources ("DOER") and Massachusetts Clean Energy Center ("MassCEC") partnered to conduct various storage studies including *State of Charge: A Comprehensive Study of Energy Storage* in 2016 (the "State of Charge Report") and *Charging Forward: Energy Storage in a Net Zero Commonwealth* in 2024 (the "Charging Forward Report").[59] These studies reviewed the storage industry, economic development, and market opportunities for energy storage and evaluated potential policies and programs to support energy storage development in Massachusetts.

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[56] St. 2024, c. 239, § 98

[57] Executive Order No. 654.

[58] *See* ESI Goals & Targets, Mass.gov, *available at* https://www.mass.gov/info-details/esi-goals-storage-target (last accessed Mar. 31, 2026).

[59] State of Charge: A Comprehensive Study of Energy Storage in Massachusetts, Emerging Technology Division *available at* https://www.mass.gov/media/6441/download (last accessed Mar. 31, 2026); and Charging Forward: Energy Storage In a Net Zero Commonwealth (dated Dec. 31, 2023), *available at* https://www.mass.gov/doc/charging-forward-energy-storage-in-a-net-zero-commonwealth-report/download (last accessed Mar. 31, 2026).

The State of Charge report identified ratepayer cost benefits of energy storage associated with "reduced peak demand, deferred transmission and distribution investments, reduced GHG emissions, reduced cost of renewables integration, deferred new capacity investments, and increased grid flexibility, reliability and resiliency."[6] The report also identified near and long term economic and workforce benefits to Massachusetts by implementing energy storage. The DOER has implemented many of the State of Charge report's recommendations to promote energy storage in the state. Likewise, the Commonwealth discussed the importance of flexibility in a deeply decarbonized grid in its Clean Energy and Climate Plan for 2050 ("2050 CECP").[60]

Recognizing the changing energy storage landscape, Section 80(a) of *An Act Driving Clean Energy and Offshore Wind* (St. 2022, c. 179, § 80) authorized the DOER and the MassCEC to produce the Charging Forward Report, a follow-up to the State of Charge Report. The Charging Forward Report re-affirmed many of the findings in the State of Charge Report and found that the "deployment and use of energy storage systems is a critical and cost-effective strategy for the Commonwealth to encourage in meeting its goals under the 2050 CECP."[61]

The Project intends to advance the Commonwealth's energy goals in part by participating in the Massachusetts Clean Peak Standard ("CPS").[62] The CPS is designed to provide incentives to clean energy technologies that can supply electricity or reduce demand during seasonal peak demand periods established by DOER.[63] According to DOER, Clean Peak Resources contribute to the Commonwealth's environmental protection goals concerning air emissions, including those required by the Global Warming Solutions Act (G.L. c. 21N, §§ 1-9) by displacing non-

[60] Massachusetts Clean Energy and Climate Plan for 2050 at p. 73 (Dec. 2022) *available at* https://www.mass.gov/doc/2050-clean-energy-and-climate-plan/download (last accessed Mar. 31, 2026).

[61] Charging Forward Report at 14.

[62] Exh. EFSB-G-10.

[63] *See* 225 CMR 21.01 (Purpose).

renewable generating resources while reducing peak demand and system losses and increasing grid reliability.[64]

The Project is well-positioned to support the CPS. One of the many benefits of this Project is that it is fully dispatchable, or capable of providing an energy source directly to the transmission system during peak load and storing electricity during off-peak periods.[65] Fully dispatchable BESS installations like the Project perform additional grid services such as frequency regulation, voltage support, and black start capability to restart after an outage.[66] Standalone BESS, like the Project, are ideal clean facilities to achieve the objectives of the CPS because they displace non-renewable generating sources, thereby reducing air emissions, reducing peak demand, and increasing reliability.[67]

For these reasons, approval of the Project will advance the Commonwealth's ambitious storage targets, contribute to the Commonwealth's achievement of the important energy and environmental policies set forth above, and provide additional benefits in terms of grid flexibility and reliability. Accordingly, the Siting Board should find there is a public need for, and public benefit from, the Project.

3. The Company Adequately Considered Alternative Sites Before Selecting the Preferred Site

The Company has conducted a reasonable analysis of alternative sites and appropriately selected the Project Site. The Company evaluated potential sites for the Project based on the following criteria:

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[64] *Id.*

[65] Exh. EFSB-G-19.

[66] Exh. EFSB-N-4.

[67] Exhs. EFSB-G-10; EFSB-G-19; EFSB-A-2; EFSB-A-4.

- proximity to existing transmission lines and their associated rights-of-way;
- distance to the nearest residential abutters;
- existing access from a public roadway;
- compatibility with surrounding land uses; and
- avoidance or minimization of environmental and ecological impacts.[68]

Using the above criteria, the Company identified four potential sites for the Project and performed a more detailed evaluation of these sites using the same criteria.[69]

The Company considered an approximately 31-acre parcel on the southwestern side of Crawford Road in Oakham identified as Parcel ID 405-145.2 in the Town's Assessor's Map ("Candidate Site 1").[70] The Company initially identified that this site has access from a public roadway (Crawford Road) with immediate access to a transmission corridor.[71] There is an existing forested wetland that borders on Lake Dean, which bisects the site close to Crawford Road. The immediately available upland area from Crawford Road is only 3.0 acres in size, which is not sufficient for a 180 MW BESS facility.[72] While there is a substantial amount of upland on the southern portion of this candidate site, accessing it would require an approximately 100-foot long crossing of the forested wetland, resulting in permanent wetland impacts.[73] Moreover, the Company determined that this site is entirely undeveloped and undisturbed forested land with the exception of an existing electric transmission corridor that bisects the parcel.[74] Furthermore, Candidate Site 1 has existing frontage on Lake Dean and is situated across

[68] Exh. MS-1 at 15.

[69] *Id.* at 15-20.

[70] *Id.* at 16.

[71] *Id.* at 16-17.

[72] *Id.* at 17.

[73] *Id.*

[74] *Id.*

the water from Lake Dean Campground (a seasonal RV park and campground) with other surrounding land uses primarily residential in nature.[75] The closest residence is 160 feet from this candidate site's property line.[76]

After consideration, Candidate Site 1 was eliminated because of: (1) its proximity to the recreational campground; (2) the lack of previously developed areas other than an electric transmission corridor; (3) the lack of available sufficient upland area from the public roadway access point; and (4) the potential permanent impacts to forested wetlands to gain access to additional available upland areas.[77]

The Company considered a second candidate site located southeast of Moose Brook Wildlife Management Area on the southern side of Wauwinet Road in Barre ("Candidate Site 2). Candidate Site 2 is an approximately 36-acre parcel identified as Parcel ID E-59 on the Town of Barre's Assessor's Map.[78] The site contains an existing electric transmission corridor that bisects the parcel and has access from a public roadway (Wauwinet Road).[79]

Besides the existing electric transmission corridor, Candidate Site 2 consists of a combination of active agricultural and undeveloped forested areas.[80] Though the site initially appeared to contain enough accessible upland area for a 180 MW BESS Project, all but six acres of Candidate Site 2 are covered by prime farmland soils and/or wetlands[81] and large portions of Candidate Site 2 are identified as Farmland of Statewide Importance.[82] Moreover, the closest

[75] *Id.* at 16-17.

[76] *Id.* at 17.

[77] *Id.*

[78] *Id.*

[79] *Id.*

[80] *Id.* at 18.

[81] *Id.* at 18; Exh. EFSB-SS-1(1).

[82] Exhs. EFSB-SS-1; EFSB-SS-1(1).

residence is 110 feet from this candidate site's property line.[83] After consideration, the Company decided not to move forward with Candidate Site 2 because the forested portions of the site had not been previously developed, and locating the Project there would result in a loss of Farmland of Statewide Importance.[84]

The Company also considered an approximately 21-acre parcel located on the southern side of Main Street (Route 9) in Leicester, MA, designated as Parcel ID 18-A7-0 ("Candidate Site 3").[85] Based upon a review of existing mapping resources, this site contains features associated with a drive-in theater business and undeveloped forested areas. This candidate site has access from a public roadway (Main Street).[86] The closest existing electric transmission corridor is approximately 8,000 feet from the property boundaries. This candidate site is surrounded by a number of multi-family residential developments and commercial properties, and the closest residence is approximately 50 feet from this candidate site's property line.[87] There is an existing mapped Zone I wellhead protection area associated with a Transient Non-Community well associated with the drive-in facility.[88] The Company determined that the site appears to contain enough accessible upland area for a 180 MW BESS Project.[89] After consideration, however, the Company eliminated Candidate Site 3 due to its excessive distance to existing transmission corridors and close proximity to existing multi-family residential units.[90]

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[83] *Id.* at 17.

[84] *Id.* at 17-18; Exh. EFSB-SS-1.

[85] Exh. MS-1 at 18.

[86] *Id.* at 18.

[87] *Id.*

[88] *Id.*

[89] *Id.*

[90] *Id.*

The Company also considered a No-Build Alternative. Under such a scenario, the Project would not be constructed.[91] The Company determined that a No-Build Alternative is not viable, as foregoing the Project would negatively impact the Commonwealth's ability to reach its climate goals including its emission-reduction goals and its energy storage targets.[92]

After consideration, the Company selected the Project Site due to its immediate proximity to an existing electric transmission corridor and the sufficient available upland area that has been previously developed and is not within any mapped environmental areas.[93] As discussed in more detail below, the Company has designed the Project to be fully compatible with and minimize the impacts of the Project on the surrounding land uses in terms of noise, environmental impacts, stormwater management, water quality, and safety, among other things.

The Company understands that the Town and Represented Party Intervenors would prefer that the Project not be located in Oakham and suggested the Company could have considered other towns or locations in Massachusetts. While a project opponent may always point to other locations as potential alternatives, those other sites are not before the EFSB for consideration, and it is not the EFSB's role to evaluate every possible alternative site:

> 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.[94]

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[91] Exh. MS-1 at 19.

[92] *Id.*

[93] *Id.*

[94] *Cranberry Point*, at 39 (citing *Martarano v. Department of Public Utilities*, 401 Mass. 257, 265 (1987); *New York Central Railroad*, 347 Mass. at 591).

For these reasons, the Company has demonstrated that it conducted a reasonable analysis of alternative sites and the selected site is reasonably necessary for the convenience and welfare of the public.

4. The Company Designed the Project to Avoid or Minimize Any Environmental and Other Local Impacts of the Proposed BESS

The Project has been sited and designed to avoid and/or minimize impacts to environmental resources and any other impacts of the proposed BESS, as discussed in detail in the sections that follow.[95] Moreover, the Company has conducted community outreach and attempted to coordinate with the Town to minimize local impacts.[96] Thus, the Siting Board should determine that the benefits of the Project, combined with its minimal local impacts, support a zoning exemption.

a. The Project Will Comply with the MassDEP Noise Policy

The Project will comply with the MassDEP Noise Policy in all respects.[97] To ensure compliance, the Company plans to conduct a post-construction sound level assessment to verify that the Project operates in compliance with the applicable sound limits.[98] If the sound levels were to exceed applicable limits, additional mitigation would be implemented to achieve compliance.[99]

[95] An Environmental Justice analysis is not required for this Project. An Environmental Justice Community analysis is required if a project is within 1 mile of an EJ population or within 5 miles of an EJ community if the project has air emissions. The closest Environmental Justice Community is approximately 5.8 miles south of the Project Site.

[96] Tr. 2 at 200:20-201:8.

[97] *Id.* at 199:21-200:14.

[98] Exh. EFSB-NO-3.

[99] Exh. EFSB-NO-5.

To determine compliance with applicable standards, the Company's expert noise consultant completed a Sound Level Assessment Report submitted as Exhibit OAK-38(1).[100] The report modeled all of the Project sound sources at their worst-case (*i.e.*, highest) sound levels.[101] To further ensure that the modeling is conservative, and that the actual sound levels are no more than the worst-case levels presented in the Sound Level Assessment Report, the report: (i) assumed all modeled sources to be operating simultaneously at 40% fan duty cycle corresponding to the greatest expected operational sound level impacts; (ii) assumed favorable conditions for sound propagation, corresponding to a moderate, well-developed ground-based temperature inversion such as might occur on a calm, clear night, or equivalent downwind propagation; (iii) assumed meteorological conditions where the human ear is most sensitive; and (iv) did not consider additional attenuation due to air turbulence, foliage, or wind shadow effects.[102]

The Sound Level Assessment Report includes an ambient sound level measurement program to document the existing conditions in the vicinity of the Project as well as computer modeling to predict sound levels from the Project.[103] Results from the measurement program and the modeling were used to evaluate compliance with the MassDEP Noise Policy, which limits the increase over ambient in certain locations to 10 dBA or less and prohibits creation of new 'pure tone' conditions.[104]

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[100] *See also* Exhibit RR-OAK-4(1) for an unredacted version of Table 6-2 from the Sound Level Assessment in Exhibit OAK-38(1). The Company initially submitted a Sound Level Report as Exhibit MS-C modeling the noise output of 212 BESS units, which concluded that the Project would comply with the requirements set forth in the MassDEP Noise Policy.

[101] *See* Exh. OAK-38(1) at 19-21 (discussing sound modeling methodology); Tr. 6 at 983:10-984:7.

[102] Exhs. OAK-38(1) at 21; EFSB-NO-6.

[103] Exh. OAK-38(1) at 4, 11.

[104] *Id.* at 4.

To determine ambient sound levels, long-term monitoring stations collected continuous sound level data for approximately eight days.[105] Supplemental short-term measurements were also performed at three additional locations near the site during both a daytime and nighttime period.[106] These measurement locations were selected to accurately reflect the Project layout and the land uses in the vicinity of the Project Site, including the closest residential areas to the proposed Project, to obtain a sampling of the baseline sound environment.[107] The eight-day average sound level using the lowest hourly L_{90} sound levels measured during each daytime and nighttime period of the program was used to establish representative daytime and nighttime background (ambient) sound levels at each location.[108]

Noise controls necessary to meet the requirements of the MassDEP Noise Policy were implemented and are discussed in the Sound Level Assessment Report.[109] Mitigation reflected in the acoustic model includes utilizing low noise equipment, such as a low noise power transformer, limiting BESS fan speeds to 40%, and sound attenuation barriers (*i.e.,* sound walls).[110]

At all residential receptor locations, predicted sound level increases range from 3 to 9 dBA above the nighttime ambient.[111] In addition, the Project is not predicted to create any new pure tones.[112] Therefore, with the proposed noise mitigation measures, or equivalent design

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[105] *Id.* at 4, 11.

[106] *Id.*

[107] *Id.*

[108] *Id.* at 4, 11.

[109] *Id.* at 27.

[110] *Id*. at 27; Exhs. EFSB-NO-2; EFSB-NO-3; EFSB-NO-9; *see also* Exh. EFSB-NO-9(1) (Tesla confirming BESS operation at 40% fan speeds).

[111] Exh. OAK-38(1) at 4.

[112] *Id.*

changes, the Project will meet the requirements set forth in the MassDEP Noise Policy at all applicable locations.[113] Moreover, the predicted sound level increases are based on low ambient sound levels derived from the quietest nighttime hours.[114] During the majority of time, background sound levels are expected to be higher than those assumed in the evaluation, and the resulting sound level impacts will be less.[115] For all these reasons, the Project will not create any undue impacts with respect to noise.

b. The Project Will Not Create Any Unsafe Electric or Magnetic Fields

Any electric or magnetic ("EM") fields created by the Project will be at low levels and will be safe at all locations outside the Project. All Project elements that produce EM fields are more than the 1,000 feet from the nearest residential property.[116] EM fields from Project-related facilities at these distances are expected to be low and within the range of background EM fields.[117] Moreover, at these distances, Project-related EM field levels also are projected to be significantly lower than EMF levels recommended in health-based exposure guidelines for the general public established by the International Commission on Non-ionizing Radiation Protection and the International Committee on Electromagnetic Safety (ICNIRP, 2009, 2010; ICES, 2019).[118] Accordingly, the Project will not create any unsafe electric or magnetic fields.

[113] *Id.*

[114] *Id.*

[115] *Id.*

[116] *See* Exh. MS-I at 5, 7.

[117] *Id.*

[118] *Id.*

c. The Project Will Not Produce Any On-Site Emissions or Harmful Air Pollutants

Normal operations of the BESS will not produce any on-site greenhouse gas emissions or harmful air pollutants.[119] In fact, the Commonwealth has found that BESS projects will provide important benefits to "achiev[ing] net zero carbon emissions in the Commonwealth by 2050."[120]

During construction of the Project, the Company will implement best management practices ("BMPs") to address dust control and air quality.[121] To minimize the potential for airborne dust from earth-disturbing activities, the Company will require its contractors to place water trucks with misters in or near the work areas during construction activities and utilize them as appropriate when conditions require.[122] In addition, if it is necessary to stockpile excavated soil on the site for a prolonged period of time, it will be covered with plastic sheeting or a similar barrier to minimize the potential for the release of dust and for soil migration from the work area quality.[123] The Project will also install anti-tracking pads at construction entrances and will conduct regular sweeping of the pavement of adjacent roadway surfaces during the construction period to minimize the potential for construction traffic to kick up dust and particulate matter.[124]

To minimize air emissions from construction equipment, the Company will comply with state law (G.L. c. 90, § 16A) and MassDEP regulations (310 CMR 7.11 (1)(b)), which limit vehicle idling to no more than five minutes except for vehicles being serviced, vehicles making deliveries that need to keep their engines running, and vehicles that need to run their engines to operate

[119] Exhs. OAK-120; OAK-122; Tr. 4 at 776:24-777:1.

[120] *Medway Grid*, at 40 (2023); *see also Trimount ESS, LLC,* EFSB-25-05/D.P.U. 24-152, at 20-21 (2026).

[121] Exh. MS-1 at 20.

[122] *Id*.

[123] *Id*.

[124] *Id*. at 20-21.

accessories.[125] In addition, contractors who enter into an agreement with the Company will be contractually obligated to comply with the most current EPA emission standards for construction equipment at the time of construction.[126]

In the highly unlikely event of a thermal event, the potential release of airborne constituents associated with a battery fire would be highly localized and transient.[127] The Fisher Engineering Report, which was submitted in Exhibit MS-F(S1), evaluated worst-case release scenarios and concluded that airborne byproducts would disperse rapidly in the atmosphere and would be highly localized in spatial extent.[128] Importantly, the MassDEP, the Massachusetts Department of Fire Services, the Executive Office of Energy and Environmental Affairs, and the Massachusetts Department of Energy Resources cooperatively issued the *Battery Energy Storage Systems: Frequently Asked Questions on Fire Safety and Public Health* (the "Massachusetts BESS FAQ Report"), which reported that "air sampling from past BESS incidents across the United States found that no incident had contaminant concentrations beyond the immediate fire scene that posed a public health risk."[129] It further noted: "Studies indicate that emissions are mostly confined to the immediate vicinity of the fire because the ignited gases resulting from a BESS fire become rapidly dispersed and diluted in the air to safe levels."[130] In short, the Project will not produce any harmful emissions or air pollutants.

[125] *Id*. at 21.

[126] *Id*. at 19.

[127] Exhs. MS-F(S1) at 32-33, 47-49; EFSB-S-29.

[128] Exhs. MS-F(S1) at 32-33, 47-49; EFSB-S-29.

[129] Exh. EFSB-W-17(1) at 5.

[130] *Id*.

d. The Project Stormwater Management System Meets All Applicable Standards

The Project includes an engineered stormwater management system incorporating BMPs and utilizing Low Impact Design that complies with all applicable standards, including the stormwater management standards outlined in the Massachusetts Stormwater Handbook.[131] The Project's stormwater management system, which is described in Exhibit MS-B(S1), maintains natural drainage patterns throughout the site to the maximum extent practicable so that proposed hydrologic conditions will closely match existing conditions.[132] The stormwater management report sets forth the applicable stormwater management standards and demonstrates how each is met using the proposed design.[133]

The Project's stormwater management system will improve the existing site conditions, which consist mainly of an unmaintained developed area with no existing engineered stormwater management features that meet current Massachusetts Stormwater Standards.[134] The proposed Project will provide pollutant reduction by way of proprietary stormwater treatment devices and peak runoff attenuation by way of reducing impervious coverage, maintaining existing drainage patterns, and the implementation of dry detention basins.[135] The Project will also provide erosion and sedimentation control in accordance with the Erosion and Sedimentation Guidelines: A Guide for Planners, Designers, and Municipal Officials during the demolition and construction periods, as well as long term stabilization of the site.[136]

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[131] *See generally* Exh. MS-B(S1); Tr. 2 at 258:14-20.

[132] Exh. MS-B(S1) at 6.

[133] *Id.* at 10.

[134] Exh. MS-1 at 25.

[135] Exh. MS-B(S1) at 4.

[136] *Id.*

The stormwater management system for the Project has been designed with a conventional drainage system.[137] The site's impervious runoff is directed to a series of catch basins and manholes which capture and convey stormwater runoff via underground pipe system to two proposed proprietary treatment devices for pre-treatment.[138] Additional treatment filters will be used downstream of the pre-treatment devices to meet water quality standards.[139] The majority of the Project Site's stormwater will discharge into two dry detention basins to capture and attenuate peak flows prior to discharge.[140] These dry detention basins have been designed without an infiltration component due to the presence of high groundwater and low permeability soils and will include an impermeable liner.[141] The proposed subsurface storm drainage collection system is designed to convey at a minimum the 25-year design storm event throughout the site, and the dry detention basins are designed to store and safely discharge stormwater up to a 100-year storm event.[142]

In summary, the proposed stormwater management system design meets all applicable standards set forth in the Massachusetts Stormwater Handbook. The Project has been designed to the greatest extent feasible to maintain existing site hydrology. As a result, the proposed Project will not result in any adverse conditions to the surrounding areas and properties.

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[137] *Id.* at 6.

[138] *Id.*

[139] *Id.*

[140] *Id.*

[141] *Id.* at 7; Exh. EFSB-W-10.

[142] Exh. EFSB-W-10.

e. The Project Will Not Impact Water Supply or Resources

The Project will have no impact on water supply or resources. The Project does not generate any process-related wastewater and will not require any sanitary sewer connection.[143] There are no areas on the Project Site within a MassDEP Approved Zone I or Zone II Wellhead Protection Area.[144] Likewise, the Town of Oakham has no public water department and only a limited number of public, non-community groundwater wells.[145] The closest public, non-community groundwater well is approximately 1,600 feet away from the Project Site.[146]

The Project Site is split between the Ware and the Quaboag sub-watersheds within the larger Chicopee watershed.[147] Approximately 17.0 acres of the 42.9-acre Project Site are located within a Surface Water Protection Area (Zones A and C)[148] for the Ware River Watershed because intermittent streams on the Project Site are tributaries to the Ware River.[149] The remaining approximately 25.9 acres of the Project Site is located within the Quaboag River Watershed , but not within any areas mapped as Surface Water Protection Areas.[150]

To the maximum extent practicable, Project infrastructure is located outside of the Ware River Surface Water Protection Area. The only Project components within the Surface Water Protection Area are the existing driveway from Coldbrook Road, approximately 708 feet of proposed

[143] Exh. MS-1 at 21.

[144] *Id.*

[145] *Id.*

[146] Exh. Oak-30.

[147] Exh. MS-B(S1) at 5.

[148] Zone A represents the land area within 400 feet of the bank of a Class A surface water and Zone C represents the land area not within Zone A but within the mapped watershed of a Class A surface water source.

[149] Exhs. MS-1 at 21; MS-B(S1) at 30; MS-1 at 8, 20; EFSB-W-1(1). The intermittent streams on the Project Site are identified as Class A Water for public water supply as per 310 CMR 22.00, the Massachusetts Drinking Water Regulations. (Exh. MS-1 at 21.)

[150] Exhs. MS-B(S1) at 30; MS-1 at 8, 20; EFSB-W-1(1).

improved driveway, and 1.46 acres of the project construction envelope.[151] The improved driveway will be located predominantly along existing gravel roadways previously utilized by the auto salvage facility.[152] All stormwater and runoff from the improved driveway areas will be managed in accordance with the MassDEP Stormwater Standards, ensuring that runoff is directed to appropriate treatment and discharge locations outside of the surface water protection areas.[153]

f. The Project Will Have Minimal Impact on Wetlands

The Project has been sited and designed to take advantage of previously developed and disturbed areas on the Project Site and avoid any direct impacts to wetland resources from the construction of the Project.[154] Exhibit EFSB-W-1(1) provides a map that shows all certified vernal pools on the Project parcel, with wetland boundaries, buffer zones, and watershed boundaries overlaid onto the updated Site Plan. The wetland resource area boundaries on the Project Site were verified and approved by the Oakham Conservation Commission through an Order of Resource Area Delineation ("ORAD") issued in December 2024 in response to the Company's Abbreviated Notice of Resource Area Delineation ("ANRAD") filing.

The State wetland resource areas located on or near the Project Site include Bordering Vegetated Wetlands ("BVW") and their associated 100-foot buffer zones and Vernal Pool Habitat (where it occurs within another regulated resource area).[155] There are Isolated Vegetated Wetland ("IVW") areas on the Project Site that do not qualify for state jurisdictional status, as confirmed by

[151] Exhs. MS-1 at 22; EFSB-W-1(1) (the closest electrical equipment to the watershed surface water protection area is 430 feet away).

[152] *Id.*

[153] Exh. MS-B(S1) at 6.

[154] Exh. EFSB-CM-9; EFSB-W-16.

[155] Exh. MS-B(S1) at 178-180.

the ORAD.[156] In September 2025, the Massachusetts Natural Heritage and Endangered Species Program ("NHESP") certified three vernal on the Project Site.[157]

All proposed work within the 100-foot buffer zone will include the use of BMPs such as erosion control barriers to establish limits of work and to ensure that there are no short- or long-term impacts to adjacent wetland resource areas.[158] The Project will require the development of a Stormwater Pollution Prevention Plan ("SWPPP") that will identify controls to be implemented to mitigate the potential for erosion and sedimentation from soil disturbance during construction.[159] Similarly, the Massachusetts Stormwater Management Standards require the development of a construction phase Soil Erosion and Sediment Control Plan.[160]

g. The Project Will Meet or Exceed All Applicable Safety Standards and Protect Public Safety

The Project was designed in strict conformance with all relevant safety codes and standards to ensure it is constructed and operated in a manner that remains safe to the public.[161] This includes a series of redundant safeguards built into the hardware and management systems of the BESS that mitigate the risk of fire and thermal events, both in terms of the creation of such events and the response thereto, which include a combination of equipment design and procedural controls to prevent overcharging, overheating, internal shorts, and related failures.[162] In addition, the design, construction, installation, commissioning, operation, maintenance, and decommissioning of the BESS will conform to the 2026 edition of NFPA 855, Standard for the Installation of Stationary

[156] Exh. MS-B(S1) at 180.

[157] Exhs. EFSB-W-3; EFSB-3(1).

[158] Exhs. MS-1 at 24; MS-B(S1) at 5-6.

[159] Exh. MS-B(S1) at 12.

[160] *See also* Exh. MS-1 at 24.

[161] Exhs. MS-1 at 13; MS-F(S1), EFSB-S-10; Tr. 7 at 1361:22-1363:1.

[162] Exhs. MS-1 at 13; EFSB-S-8; EFSB-S-9.

Energy Storage Systems, even though Massachusetts only requires compliance with the 2020 version.[163]

The BESS will adhere to the following international, national, and state safety requirements and standards:

- "Massachusetts Comprehensive Fire Safety Code," 527 CMR 1.00, Massachusetts Board of Fire Prevention Regulations, Code, 12/9/2022, Chapter 52, Stationary Storage Battery Systems.
- "NFPA 1, Fire Code," National Fire Protection Association, Quincy MA
- "NFPA 855, Standard for the Installation of Stationary Energy Storage Systems," National Fire Protection Association, Quincy MA
- "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.[164]

The Tesla Megapack 2 XL underwent vigorous worst-case scenario testing that demonstrated no fire propagation occurred to adjacent units, the results of which were submitted in Exhibits MS-F(S1) (the Fisher Report) and MS-G (the TUV Rheinland UL 9540A Test Report).[165] As detailed in those reports, an induced thermal runaway did not propagate thermal runaway throughout the battery module.[166] Moreover, no flaming was observed outside of the unit during testing.[167] And, importantly, the testing demonstrated that any gases released during the induced thermal runaway would not pose a health risk.[168]

[163] Tr. 7 at 1361:22-1363:1.

[164] Exhs. MS-1 at 13; EFSB-S-1.

[165] Exhs. MS-F(S1) at 46-47; MS-G.

[166] Exhs. MS-F(S1) at 46-47; MS-G; EFSB-S-4

[167] Exhs. MS-F(S1) at 24; MS-G at 28.

[168] Exhs. MS-F(S1) at 33; EFSB-S-29

The Megapack 2 XL has built-in safety features including a battery management ("BMS") that tracks the performance, voltage, current and state of charge, among other data points.[169] Each battery module has its own BMS, and the Megapack 2 XL itself has a bus controller supervising the output of all battery modules including over-temperature, loss of communication, and over-voltage.[170] The Project incorporates multiple engineered systems and design features intended to prevent overcharging, overheating, internal shorts, or any other failure that could lead to a thermal incident or other type of abnormal event.[171] Additionally, remote monitoring provides continuous visibility into system status and alarms, supporting early detection and coordinated response, while operational procedures and emergency response protocols address abnormal conditions and post-incident stabilization.[172] If battery monitoring systems detect abnormal operating conditions, the energy supply and discharge are stopped, and individual system components are automatically shut down.[173] The operator can also remotely control operation of the facility.[174]

The Company has provided draft versions of an Emergency Response Plan ("ERP") and Hazardous Materials Assessment ("HMA") as Exhibits EFSB-S-37(1) and EFSB-S-37(2), respectively. The ERP outlines procedures for incident detection, notification, and coordination between the Project operator, Tesla's monitoring personnel, and local emergency responders.[175] The ERP also includes site information, communication protocols, and post-incident stabilization

[169] Exhs. EFSB-S-6; EFSB-S-8; EFSB-S-9.

[170] Exhs. MS-1 at 14; MS-F(S1) at 10.

[171] Exhs. MS-1 at 14; MS-F(S1); EFSB-S-9.

[172] Exhs. EFSB-S-6; EFSB-S-8; EFSB-S-9.

[173] Exhs. EFSB-S-9; EFSB-S-10.

[174] Exh. EFSB-S-33.

[175] Exhs. EFSB-S-16; EFSB-S-17.

considerations to support effective emergency management.[176] The HMA evaluates credible failure scenarios and identifies design, operational, and response measures to limit potential consequences.[177] The Company will work collaboratively with the Oakham Fire Department to finalize these documents, including providing annual training for firefighters.[178] The HMA and ERP will be finalized as "as-built" documents after verification of the installed configuration, receipt of any comments from the Oakham Fire Department or other authority having jurisdiction ("AHJ"), and completion of testing.[179] The Company will update the HMA and ERP periodically.[180]

The Company will also ensure that the Project cybersecurity safety features meet industry-recognized frameworks and standards.[181] The Project will meet all required cybersecurity standards and intends to obtain applicable certifications proscribed by the National Institute of Standards and Technology ("NIST"), North American Electric Reliability Corporation ("NERC"), International Electrotechnical Commission, and International Organization for Standards.[182] These standards collectively ensure the integrity, availability, and confidentiality of systems and data throughout the lifecycle of the Project.[183] The Company anticipates that cybersecurity measures would be updated over time as technologies, threats, and applicable standards evolve, consistent with industry practice for utility-scale energy infrastructure.[184]

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[176] Exhs. EFSB-S-16; EFSB-S-17.

[177] Exh. EFSB-S-1.

[178] Exh. MS-1 at 14.

[179] Exh. EFSB-S-37.

[180] Tr. 7, at 1359:2-1360:5.

[181] Exh. EFSB-S-35.

[182] Exh. EFSB-S-35.

[183] *Id*.

[184] Exh. EFSB-S-35.

h. The Project Will Generate No Hazardous Waste and the Company Will Remove Existing Debris Within the Limit of Work

All waste generated during demolition, site preparation, construction, and operation of the Project will be transported offsite in accordance with local, state, and federal guidelines and regulations.[185] The Project will implement measures to minimize the generation of solid and other waste.[186] Any non-recyclable solid waste will be transported to a licensed solid waste facility.[187]

SWCA Environmental Consultants conducted a Phase I Environmental Site Assessment and Limited Subsurface Investigation in May 2022 in general conformance with ASTM Standard E1527-13.[188] The site has been assessed for potential contamination associated with its prior use as an auto salvage and recycling facility. Based on the results of the subsurface investigation, no reportable releases of oil or hazardous materials were identified.[189] SWCA concluded that no recognized environmental conditions requiring further response were documented for the site.[190]

There is scattered debris on the Project Site from its historic use as an auto salvage business.[191] In preparing the Project Site for construction, the Company intends to (1) remove large debris within the Project's limit of work; and (2) conduct reasonable, targeted removal of large debris outside the limit of work in isolated circumstances where such removal can be

[185] Exh. MS-1 at 26.

[186] *Id.* at 26.

[187] *Id.*

[188] Exhs. EFSB-H-3; EFSB-H-6(1) at 5.

[189] Exhs. EFSB-H-3; EFSB-H-6(1) at 22-23.

[190] Exhs. EFSB-H-3; EFSB-H-6(1) at 23. Additionally, Shawn Seeley of the Oakham Conservation Commission observed through soil sampling and field observations that there were no heavy metal contamination and that the Project Site was in "surprisingly decent condition." Exh. OAK-171(1).

[191] Exh. EFSB-OAK-19(2).

achieved without wetland impacts and without extending the scope of Project-related activities.[192]

During normal operation of the BESS, no solid or hazardous waste stream will be generated.[193] If any BESS units are replaced throughout project operation, any used batteries will be removed from the site, transported, and managed in accordance with all local, state, and federal guidelines and regulations.[194]

i. The Company Will Develop an Appropriate Decommissioning Plan and Maintain Adequate Insurance Coverages

The Company will take proper steps in decommissioning the Project. To ensure that the Project is decommissioned in an appropriate fashion, the Company can submit a decommissioning plan to the Siting Board alongside an update on a decommissioning bond or other suitable mechanism ninety (90) days before construction.[195] The decommissioning plan will include steps to achieve full site restoration substantially similar to pre-Project Conditions, including (i) permanent cessation of operations; (ii) 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; (iii) offsite transport, recycling, or disposal of Project materials at licensed facilities; and (iv) revegetation or other site stabilization consistent with pre-Project conditions.[196] The BESS would be electrically isolated, safely discharged, and

[192] Exh. RR-EFSB-11.

[193] Exh. MS-1 at 27.

[194] *Id.*

[195] Tr. 2, at 211:6-14.

[196] Exh. EFSB-G-20.

removed by qualified contractors, with batteries and associated materials managed through approved recycling or disposal pathways.[197]

The Company intends to collaborate with the Town if possible in developing the plan.[198] Decommissioning activities would be coordinated with the AHJ to ensure that fire safety, spill prevention, and environmental protection measures remain in place until all equipment is safely removed, and the site is restored.[199] Any used batteries or equipment that is removed from the site for maintenance or decommissioning will be transported and managed in accordance with all local, state, and federal guidelines and regulations.[200] Furthermore, the Company intends to provide evidence of a decommissioning bond or other suitable financial mechanism within 90 days of operations.[201]

The Company will also obtain adequate insurance coverage for the Project that is consistent with insurance practices in the BESS industry.[202] In addition to comprehensive liability insurance coverage, the Company will maintain an emergency reserve account to ensure the Project has adequate financial resources in the highly unlikely event of an emergency resulting in environmental, personal, or property damage.[203]

j. The Project Will Have Minimal Traffic Impacts

Traffic impacts due to construction of the Project and occasional on-site maintenance visits during operations will be minimal.[204] No delays to local traffic should be experienced except on rare

[197] Exh. EFSB-S-11.

[198] Exh. EFSB-G-12; EFSB-G-20.

[199] *Id.*

[200] Exh. OAK-178.

[201] Tr. 2 at 322:11-20.

[202] Exh. EFSB-G-15.

[203] Exh. EFSB-G-14.

[204] MS-1 at 30.

occasions such as when there is an occasional oversized vehicle.[205] At peak construction, the Company estimates that there will be a maximum of approximately 75 to 95 daily round trips to the Project site (i.e., one trip including both arrival and departure).[206] Of these, approximately 40 trips are expected to be passenger vehicles associated with up to 50 workers on site, and about 35 to 55 trips are expected to be heavy vehicles.[207] A site-specific logistics plan will be developed, in collaboration with the Oakham Fire and Police Department and Department of Public Works, to minimize impacts on local traffic patterns and flow.[208] Construction personnel parking is anticipated to be established either in a designated area on the site or at a remote location where workers can be shuttled to the Project Site.[209]

Once operational, the Project will be remotely monitored, and any traffic to the Project Site will be limited to periodic site inspections and maintenance visits.[210] This will result in a significant reduction in traffic compared to the Project Site's previous use as auto salvage business, which was previously authorized by the Town for up to 35 daily round trips including tractor-trailers and other large vehicles, equating to more than 10,000 annual round trips.[211]

k. The Company Will Minimize Local Impacts During Construction

The record demonstrates that the Company will ensure minimal disruption to abutters and neighboring properties during construction. The Company intends to obtain all necessary permits and

[205] *Id.*

[206] Exh. RR-EFSB-5.

[207] Exh. RR-EFSB-5.

[208] Exh. OAK-182.

[209] Exh. MS-1 at 30; Tr. 2 at 351:10-353:13.

[210] Tr. 2 at 347:19-349:10; RR-EFSB-6 (the Company expects quarterly maintenance visits).

[211] Exhs. EFSB-T-10; EFSB-T-10(1).

to commence construction in early 2027.[212] Construction will take approximately 12 to 18 months.[213] The Company has proposed to limit construction activities to Monday through Friday between the hours of 7:00 A.M. to 5:00 P.M., which is consistent with the Town Zoning Bylaw.[214] Moreover, the record demonstrates the Company has actively responded to concerns raised by the Town, including concerns surrounding disturbances at the Oakham Center School and other municipal facilities.[215]

The Company intends to collaborate with Town officials to minimize construction impacts on occupants near the Project.[216] Prior to construction, the Company will develop a Construction Community Outreach Plan ("CCOP") to keep Town officials, emergency personnel, property owners, and businesses informed of construction activities.[217] The CCOP will provide clear, timely, and consistent information to affected stakeholders regarding construction timing, activities, and anticipated short-term impacts.[218]

l. The Project Will Have Little Visual Impact and Will Not Be Visible from Vantage Points

The Company has considered the potential visual impact of the Project to abutting land uses in the vicinity of the property.[219] The Company has provided a detailed visual assessment that includes a viewshed analysis, photographic simulations, and line-of-sight profiles that identify the degree and character of potential visibility of the Project from off-site vantage points.[220] The results

[212] Exh. EFSB-G-16.

[213] Exhs. EFSB-G-1; EFSB-G-16; EFSB-NO-5.

[214] Tr. 2 at 203:17-203:4; Zoning Bylaw § 6.3.4.

[215] Exhs. RR-EFSB-3 (demonstrating minimal noise impacts during construction on the school), OAK-182 (routing construction related traffic to avoid school bus routes and other municipal facilities).

[216] Exh. OAK-6.

[217] Exh. EFSB-CM-7.

[218] Exh. EFSB-CM-7.

[219] Exh. MS-E.

[220] *Id.* at 2.

of the visual assessment indicate that due to dense intervening woodland vegetation to remain, the proposed Project will be screened from view from all nearby residential properties and public roadways.[221] Thus, the Project will have little to no visual impact on the visual character of the surrounding landscape.[222]

m. The Project Will Not Impact Cultural Resources or Environmental Justice Communities

The Company has completed a cultural resources due diligence review and archaeological sensitivity assessment for the property.[223] There are no listed historic properties, historic districts, historic archaeological sites, and/or pre-contact archaeological sites on or within ¼ mile of the property.[224] The Company conducted a search of the Massachusetts Historical Commission's ("MHC") Inventory of the Historic and Archaeological Assets of the Commonwealth.[225] In addition, the Project Site was assessed for archaeological sensitivity through field visits by a Principal Archaeologist.[226] The assessment concluded that the property has a low sensitivity for cultural resources.[227] The Company initiated a formal consultation with the MHC through the submission of a Project Notification Form ("PNF") in March of 2025.[228] By email, the MHC confirmed that it did not have comments on the Project's PNF, indicating that the MHC did not require any additional studies related to historic or cultural resources.[229]

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[221] *Id.* at 10.

[222] *Id.* at 2.

[223] *Id.* at 29; Exh. MS-D.

[224] Exh. MS-1 at 29.

[225] Exh. MS-D.

[226] Exhs. MS-1 at 29; MS-D.

[227] Exhs. MS-1 at 29; MS-D.

[228] Exh. MS-D.

[229] *See* Exh. EFSB-G-2.

The Company sited the Project to have no impacts on Environmental Justice ("EJ") populations. Based on the EEA "EJ Mapping Tool," the closest mapped EJ population is approximately 5.8 miles from the Project Site in the Town of North Brookfield.[230] Moreover, the Company intends to use union labor for construction personnel to ensure just compensation for those workers, supporting labor interests and addressing economic justice in the Commonwealth.[231]

n. The Project Will Not Impact Any Protected Species

According to Massachusetts Natural Heritage and Endangered Species Program ("NHESP") Atlas (August 1, 2021, 15th Edition), the site is not located within an area of Estimated Habitats of Rare Wildlife or an area of Priority Habitats of Rare Species.[232]

There are three certified vernal pools on the Project Site.[233] The Project's site plan avoids all work within wetland resource areas and resource areas containing a vernal pool or Vernal Pool Habitat and therefore complies with applicable Wetlands Protection Act performance standards.[234]

o. Community Outreach

The Company conducted outreach with the public in order to share information regarding battery storage and the Project.[235] Further, the Company has attempted to establish and maintain a constructive working relationship with Town officials and public safety agencies since 2022.[236] As set forth in the Petition and established on the record, the Company has reached out numerous times to Town officials[237] but those efforts have been rebuffed based on the Town's adoption of

[230] Exh. MS-1 at 38.

[231] Tr. 4 at 789:22-790:4.

[232] Exhs. MS-1 at 25; EFSB-CM-3.

[233] Exh. EFSB-W-1(1).

[234] Exhs. MS-A(S1); EFSB-W-2; EFSB-W-3; EFSB-W-4.

[235] *See* Exh. MS-1 at 45-46.

[236] Exh. EFSB-G-6.

[237] Exhs. MS-1 at 45-46; EFSB-G-6.

a bylaw addressing battery energy storage systems.[238] Despite this, the Company seeks to engage with Town boards and officials and intends to continue outreach and coordination throughout construction and operations.[239]

With respect to outreach to the public, the Company has provided educational initiatives, including presentations and materials describing battery energy storage technology, project safety features, and emergency response planning and training.[240] On March 27, 2025, the Company held an Open House inviting business owners and residents within one-half mile of the Project Site to meet with representatives from Moraga and learn more about the Project.[241] Approximately 150 people attended the three-hour Open House.[242]

In addition to the outreach described above, the Company created opportunities for members of the public to learn about the project and to contact Company representatives with any concerns.[243] The Company established a Project website to provide basic Project information, answers to frequently asked questions, and contact resources.[244] There is also a dedicated e-mail address where property owners and/or other stakeholders can contact Project representatives. This email address is listed in all Project outreach materials, including on the website and in mailings.[245] Moreover, the Company provided an interview to a local radio station where the Project was discussed.[246]

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[238] Exh. MS-OAK-G-3 (the Town stating that "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").

[239] Exh. EFSB-G-6.

[240] *Id.*

[241] Exh. MS-1 at 45.

[242] *Id.*

[243] *Id.* at 44-46.

[244] *Id.* at 47

[245] *Id.*; Exh. EFSB-G-6.

[246] Exh. EFSB-G-5.

D. Moraga Storage Requires Zoning Exemptions from Specific Sections of the Town of Oakham Zoning Bylaws

1. Standard of Review

In determining whether an exemption from a provision of a zoning ordinance is "required," the Department and the Siting Board look to whether the exemption is necessary to allow construction or operation of the petitioner's project as proposed.[247] The petitioner must identify the individual zoning provisions applicable to its project and establish that an exemption from each of the provisions is required.[248] These zoning provisions are discussed below.

In certain cases, exemptions are requested for sections of the Oakham Zoning Bylaw that either require special permits or are eligible for a variance under G.L. c. 40A, § 10.[249] Both special permits and variances are a discretionary type of zoning relief that are subject to appeal. Both pose legal uncertainty and have the potential for adverse interpretations, delay, burden and undue expenses. Similarly, a project subject to a special permit or variance appeal cannot obtain construction financing until the appeal is fully resolved. Accordingly, the Department has found that requiring a public service company to obtain special permits could result in Project delay and has therefore granted exemptions from the special permit requirement under G.L. c. 40A, § 3.[250]

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[247] *NSTAR Electric Company d/b/a Eversource Energy*, EFSB 14-02/D.P.U. 14-73/14-74, at 93 (2017) ("*Eversource Walpole-Holbrook*"); *NSTAR Electric Company d/b/a Eversource Energy*, EFSB 15-03/D.P.U. 15-64/15-65, at 80 (2017) ("*Eversource Mystic-Woburn*"); *NSTAR Electric Company d/b/a Eversource Energy*, D.P.U. 15-85, at 6 (2016) ("*Eversource Woburn*").

[248] *Eversource Walpole-Holbrook* at 94; *Eversource Mystic-Woburn* at 81 n. 71; *Eversource Woburn* at 6.

[249] In all cases, it is difficult to demonstrate the existence of unique conditions for the grant of a variance.

[250] *See, e.g., NSTAR Electric Company*, D.P.U. 18-155 at 65 (2020); *Hopkinton LNG Corporation*, D.P.U. 17-114 at 70 (2018).

2. Exemptions Required From The Town Zoning Bylaw

Zoning exemptions from the Town Zoning Bylaw[251] that are required for this Project include the following. The entire Town of Oakham is designated as an agricultural and rural residential district, including the Project Site.[252] Within the Town of Oakham, no building, structure or land may be used outside of the uses permitted in Sections 3 and 4 of the Zoning Bylaw.[253] A BESS is not a permitted use in Sections 3 or 4 of the Zoning Bylaw.[254]

In fact, standalone energy storage systems like the Project are expressly prohibited by the Zoning Bylaw. The Zoning Bylaw goes on to specifically prohibit BESS not located on the site of a large scale solar installation at section 4.4.4, prohibiting the following:

> Battery Energy Storage System (BESS) not located on the site of, and specifically appurtenant to, a permitted Large Scale Solar Installation (LSSI). For the purposes of this section, Battery Energy Storage System (BESS) is defined as an non-generating energy storage system that utilizes batteries and other commercially available technology capable of drawing electric power from existing electrical infrastructure, storing it for a period of time, and thereafter discharging electric power into the existing electrical infrastructure.[255]

The Project qualifies as a BESS under the Zoning Bylaw, and the Company is not proposing to collocate the Project with a large-scale solar installation.[256] Therefore, the Company requires an exemption from the use regulations (Section 3 and 4) of the Town Zoning Bylaw, including the prohibition on standalone BESS at Section 4.4.4.

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[251] The Zoning Bylaw is contained at Chapter XIV of the Oakham General and Zoning Bylaws.

[252] Zoning Bylaw § 2.2.

[253] *Id.* §§ 3.1, 4.1

[254] *Id.* §§ 3, 4.

[255] Oakham adopted the prohibition on BESS at a Town Meeting on June 27, 2022, which was subsequently approved by Attorney General Maura Healey, January 4, 2023.

[256] Exh. EFSB-Z-1.

Section 5 of the Zoning Bylaw contains dimensional requirements for structures throughout Oakham, some of which will preclude the development of the Project. Section 5.2 of the Zoning Bylaw limits the height of all structures to 35 feet. Some components of the Project and the Project Substation are considered "structures" and will exceed this height limit. For instance, and without limitation, the incoming gantry and disconnect switch included in the substation, including the attached cables, will exceed 35 feet in height.[257] Requiring strict compliance with the height limitation in Section 5.2 would compromise safety and violate NERC conductor-to-ground clearance requirements.[258] Therefore, an exemption from the operation of this section is required.

Section 5.3 of the Zoning Bylaw prohibits structures from being erected within 50 feet of any side lot line. The proposed noise walls and some battery containers will encroach on the 50-foot setback along the southerly and easterly lot lines. Fully satisfying Section 5.3 on all property lines would require 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. For those reasons, strict compliance was not achievable without undermining the Project's viability.[259] Furthermore, the encroachment is in part at the area of the site abutting the existing transmission line. Therefore, because the Project and its components, including the substation and interconnection structures, must be built within the 50-foot setback area, an exemption from the operation of this section is required.

Section 5.5 of the Zoning Bylaw prohibits a building inspector from issuing building permits for lots shown on approval not required ("ANR") plans and Definitive Subdivision plans

[257] Exhs. MS-1 at 34; EFSB-Z-2.

[258] Exh. EFSB-Z-2.

[259] Exh. EFSB-Z-6.

if said plans do not meet the requirements of Section 5.5.1. 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.[260] The Company cannot determine with certainty whether the lot was created in conformance with the requirements of Section 5.5.1.[261] Therefore, an exemption from the operation of Section 5.5 is requested.

The Project Site does not meet the lot proportion requirements in Section 5.6 of the Zoning Bylaw. Section 5.6.1 prohibits construction on "[l]ots with long, narrow ribbon shapes, including 'ribbon lots', rat-tail lots, flag lots, hourglass lots, pork-chop lots, hammerhead lots." 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.[262] The Project Site's depth perpendicular to its frontage is only 30 feet at points, in violation of Section 5.6.2 of the Zoning Bylaw, which requires that "[l]ot depth perpendicular to the frontage at any point along the frontage shall not be less than fifty feet."[263] The Project Site also does not meet the "proportion factor" requirement set forth in Section 5.6.5 of the Zoning Bylaw.

The Project may require the removal of more than 500 cubic yards of soil resulting in violations of Section 4.2.11 and Section 6.3 of Zoning Bylaw. Section 4.2.11 of the Zoning Bylaw, which applies to any commercial establishments in the Town of Oakham, requires a special permit from the planning board for the removal of more than 500 cubic yards of soil. Similarly, Section 6.3 of the Zoning Bylaw, which applies to any use in the Town, requires a special permit from the planning board prior to the removal of more than 500 cubic yards of soil

[260] Exh. EFSB-Z-4.

[261] *Id.*

[262] *See* Exhs. MS-A(S1); EFSB-Z-3.

[263] Exh. MS-A(S1).

and also provides a number of additional restrictions on soil removal, including (i) a prohibition on excavation below existing grade within 200-feet of any abutting property line without a super-majority 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 a required approval by the Conservation Commission prior to any excavation within 100 feet of a water course or wetland resource, among others.

The Project may involve the removal of more than 500 cubic yards of soil removal as part of site preparation. The limit of disturbance of the Project will extend into the 100-foot setback area on several boundaries of the Project Site.[264] 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.[265] Other aspects of the Project are designed within the 200-foot setback from abutting properties.[266] Accordingly, the Company requires exemptions from Sections 4.2.11 and 6.3 of the Zoning Bylaw from the Siting Board for the Project to proceed.[267]

III. SITING BOARD APPROVAL OF A COMPREHENSIVE ZONING EXEMPTION IS APPROPRIATE FOR THE PROJECT

The Siting Board and the Department have recognized that comprehensive zoning relief is necessary in circumstances where, as here, numerous individual exemptions are required, and

[264] *Id*.

[265] Exh. MS-A(S1).

[266] *Id.*

[267] In addition, subsection 6.6.16 of the Zoning Bylaw provides permissible sound levels at 250 feet from abutting residential property lines of 30 dBA when all components operate under full normal load. Based on the Sound Level Assessment Report, the Project would not meet a strict 30 dBA limit in most locations. Section 6.6 of the Zoning Bylaw, including the sound requirements at Subsection 6.16.16, is only applicable to Large Scale Ground-mounted Solar Photovoltaic Installations, and is therefore inapplicable to the Project. Despite this apparent inapplicability, the Company requests an exemption from the strict application of Sub-section 6.6.16 to the extent it applies.

the issuance of a blanket exemption could avoid substantial public harm by serving to prevent delay in the construction and operation of the proposed use.[268]

To make a determination regarding substantial public harm, the Department and the Siting Board have 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.[269] This list is not exhaustive and is applied on a case-by-case basis.[270]

In accordance with the applicable standard, and as detailed above, there is an existing need for this Project, and numerous individual exemptions are required. Without comprehensive zoning relief, there is currently no pathway for the Project to be reviewed and approved in a manner so as to enable its timely construction and completion. The record demonstrates that denial of a comprehensive zoning exemption would result in substantial public harm.

The Company has demonstrated that the Project will contribute as a reliable energy source that will transact in the ISO-NE energy, capacity, and ancillary services markets, will participate as a Clean Peak resource, and will help achieve the Commonwealth's goal of net-zero emissions.[271]

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[268] *New England Power Company d/b/a National Grid*, D.P.U. 09-136/09-137, at 49 (2011); *Boston Edison Company d/b/a NSTAR Electric*, EFSB 04-1/D.T.E. 04-5/04-7, at 147 (2005) ("*Boston Edison 2005*").

[269] *Cranberry Point*, at 124.

[270] *Id.*

[271] Exhs. EFSB-G-2, EFSB-N-4.

Furthermore, the Project is time sensitive. In *Trimount*, the Siting Board found that there is a need for energy storage projects, like the Project, and "the need is immediate."[272] Thus, 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.[273]

In addition, any potential future zoning changes "could have an impact on the construction and operation of the Project, introducing further delay and uncertainty."[274] 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.

The Company 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 Board of Selectmen, Conservation Committee members, and Fire and Police Chiefs.[275] However, the Town's officials have refused to further collaborate with the Company.[276]

In addition, the Project requires a comprehensive zoning exemption to obtain a certificate of environmental impact and public interest ("Certificate") pursuant to section 118(a) of the 2024 Climate Act. The primary purpose of the 2024 Climate Act was to streamline the siting and permitting of large energy storage projects before the EFSB. Importantly, Section 118(a) of the 2024 Climate Act creates an interim, streamlined process for approval of large battery storage

[272] *Trimount ESS, LLC,* EFSB-25-05/D.P.U. 24-152, at 92.

[273] *See id.*

[274] *Cranberry Point*, at 126.

[275] Exhs. MS-1 at 44-46; EFSB-G-5; EFSB-S-32; EFSB-N-10.

[276] Exh. MS-OAK-G-3; Tr. 4 at 648:13-649:4.

projects prior to the consolidated permit process under G.L. c. 164, § 69T becoming effective. The Company diligently filed its Petition a full 15 months prior to the end of June 2026 to ensure it would have time to seek a Certificate.

For all these reasons, a comprehensive zoning exemption is appropriate. The Company respectfully requests that the EFSB issue its decision by June 2026 to allow the Company the opportunity to seek a Certificate pursuant to Section 118(a) of the 2024 Climate Act.

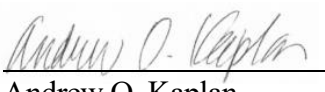
IV. CONCLUSION

For all the foregoing reasons, the Project meets all applicable standards for comprehensive and individual zoning exemptions. The Project is in the public interest and will further improve energy policies and energy storage targets of the Commonwealth. Accordingly, the Siting Board should grant the Company the comprehensive and individual zoning exemptions from the Oakham Zoning Bylaw as set forth above.

Respectfully submitted,

Moraga Storage, LLC

By its attorneys



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