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

REPLY BRIEF OF

MORAGA STORAGE, LLC

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Moraga Storage LLC ("Moraga" or the "Company") respectfully submits this Reply Brief in response to the Initial Briefs from the Town of Oakham ("Oakham" or the "Town"), the Represented Party Intervenors ("RPIs"), and the Limited Participants Vincent and Barbara Piucci (the "Piuccis"). As demonstrated by the extensive record in this proceeding, the Company has met its burden for the Energy Facilities Siting Board (the "EFSB" or the "Siting Board") to grant the Company's request for individual and comprehensive zoning exemptions pursuant to G.L. c. 40A, § 3.

I. RESPONSE TO INITIAL BRIEF OF THE TOWN OF OAKHAM

As discussed in more detail below, the Town's arguments against the Company's requested zoning exemptions are all without merit. Oakham fails to address the well-settled precedent and law that have been incorporated into decisions under G.L. 40A, § 3, by the Department of Public Utilities (the "Department") and/or the EFSB, all of which support granting a zoning exemption here. In addition, the Town makes a number of arguments and statements that are unrelated and/or irrelevant to the Company's request for a zoning exemption, that rely on information that is not in the extensive record in this proceeding, and/or that rely upon inaccurate statements of fact or blatant mischaracterizations. The Company will not address or respond to all such erroneous or inaccurate statements, but the Company does not agree with numerous of the Town's statements and the Town's arguments are not supported by the factual record in this proceeding.[1]

[1] Among the irrelevant, bizarre and inappropriate claims in the Town's Initial Brief are: (1) "[i]t is easy to reasonably surmise why the Company's actual expert witness did not sign off on the Company's proposal – because he knows it is absurd and illegal"; (2) that a request to sign an NDA to receive confidential information was "preposterous"; (3) that plume patterns available in the public domain (not cited or discussed in the Initial Brief) were allegedly "trivialized by the Company and its safety expert" (Town Initial Brief at 2); and (4) the Company was deceitful in its interactions with the Town (*Id.* at 23-24). The statements are not accurate, not supported by facts or law, and such blanket statements have no place in a legal brief before the Commonwealth. In this Reply Brief, the Company does not address all of these comments and/or other statements of a similar nature.

A. The Company is Explicitly a Public Service Corporation by Statute

In its Initial Brief, the Town erroneously states that the Company is not a public service corporation.[2] This is wrong, as the Company plainly meets the statutory definition of a public service corporation under St. 2024, c. 239, § 36 ("the 2024 Climate Act"). Specifically, as a result of the 2024 Climate Act, public service corporation is now expressly defined at G.L. c. 40A, § 1A as:

> 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….[3]

Consistent with the EFSB's recent decision in *Trimount*, the Company is a public service corporation because the Company is: (1) a limited liability company registered to do business in Massachusetts[4]; (2) proposing to construct a utility scale battery energy storage system ("BESS") (180 megawatts ("MWs")) and related infrastructure in the Commonwealth; and (3) providing storage resources including charging from the grid at periods when there is an excess supply of electricity and delivering that energy back onto the electrical grid during times of peak demand or other times of electric system need. Accordingly, under the recently codified definition and prior precedent including *Trimount*, the Company is a public service corporation.[5]

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[2] Town Initial Brief at 4–7.

[3] G.L. c. 40A, § 1A (emphasis added); St. 2024, c. 239, § 36; *see also Trimount ESS LLC*, EFSB 25-05/D.P.U. 24-152 at 12-13 (2026) ("*Trimount*").

[4] Exh. OAK-84(1).

[5] 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. *See*

The Town bases its claim on a misinterpretation of Department and EFSB decisions granting zoning exemptions for three battery energy storage facilities, all with similar operational parameters. Contrary to the Town's claim, among the intents of the Climate Act and the Governor's March 16, 2026, Executive Order pertaining to adding energy storage facilities to the grid is to ensure that BESS play an important role towards the Commonwealth's clean energy goals. This is a principal reason that the Legislature deemed energy storage facilities as public service corporations by statute.

The Town acknowledges the change in statutory language when it states, "electricity storage facilities were recently added to the general headings of types of facilities within the definition of public service corporations pursuant to the terms of the Climate Act."[6] Despite that acknowledgement, the Town inexplicably claims that the "sole purpose" of this Project is to "increase the use of energy from non-renewable sources."[7] This is not accurate. Consistent with the Clean Peak Standard, the Project intends to charge during periods of high renewable generation and low demand, as discussed in more detail below.[8] The Commonwealth has already found that energy storage is critical to facilitating the integration of renewable generation resources on the grid.[9]

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

[6] Town Initial Brief at 5.

[7] *Id.* at 6.

[8] Exh. EFSB-G-10.

[9] Exh. EFSB-G-19(d) (citing the *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 Apr. 19, 2026) ("*State of Charge* report")).

In a Motion to Strike, submitted on April 21, 2023 and in a reply dated April 23, 2026, the Town disputed the admission of several materials, including the *State of Charge* report, that the Company has relied upon, not as factual evidence specific to the Project, but rather to illustrate general Commonwealth policy and energy goals with respect to energy storage. As the Siting Board is well aware, it has taken administrative notice of Commonwealth policies, including, but not limited to environmental policies addressed in the Company's petition and Initial Brief. *See e.g.*, *NSTAR Electric Company d/b/a Eversource Energy and New England Power Company d/b/a National*

The Town also argues that charging in the middle of the night "bears no connection to the Commonwealth's goals of collecting renewable solar energy, which can only be collected when the sun is shining."[10] Once again, the Town's argument is wholly misguided. Among other things, charging during the night is expressly permitted under the Clean Peak Standard because it takes advantage of periods of peak wind energy generation, which generally occur at night. The Clean Peak Standard expressly defines "wind-based charging hours" as the period from 12:00 AM to 6:00 AM, and notes that charging during this time is "coincident with periods of typically high renewable energy production as a percent of the grid generation mix…"[11] Thus, the Town's argument is simply wrong, and the Project will follow Massachusetts clean energy standards and regulations intended to facilitate integration of renewable energy.

The Town also argues, among other things, that public service corporation status should not be afforded to private companies.[12] This argument has no support in the statute or prior precedent or, indeed, in the reality of energy markets.

Furthermore, the Town then makes a number of inaccurate and misleading claims regarding the Company's interactions with the Town. While the Company will not address all such assertions, a few examples illustrate the lack of merit of the Town's claims. For instance, the Town complains that the Company conducted a public information session "just days away from its initial filing with the Board and it located this meeting in another town."[13] In fact, timing

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Grid, EFSB 21-04/D.P.U. 21-149 (2026) at 123, n. 58 (2026). Moreover, the Siting Board has addressed the same and other Commonwealth environmental policies in their Orders (including providing links to those policies in its decisions). *See, e.g., Cranberry Point Energy Storage, LLC* , D.P.U.22-59 (2023); at 15-17; *Trimount ESS LLC*, EFSB 25-05/D.P.U. 24-152 (2026); *see also* 980 CMR 1.06(5).

[10] Town Initial Brief at 6.

[11] 225 CMR 21.05(2)(c).

[12] Town Initial Brief at 5.

[13] *Id.* at 7.

the public information session to be close in time to the Company's filing is *precisely* what should be done to ensure public awareness and participation in the proceeding. The meeting was held approximately seven months prior to the EFSB issuing its Notice in this process. Moreover, the meeting was held in a nearby town due to the Town's ability to only use the fire house for the meeting. Approximately 150 people from the Town attended the meeting.

In addition, the Town reiterates its nonsensical claims that the Company has refused to meet with the Town officials or include Town officials in meetings, which has been debunked by the Town's own responses to Information Requests[14] and the testimony of its witnesses.[15] As the record in this matter makes clear, it is the Town that has refused to meet with the Company, not *vice versa*. In this and other ways, the Town continues to make statements that have absolutely no basis in fact.

In short, there is no merit to the Town's claims, and the Company is a public service corporation pursuant to the unambiguous statutory definition. Accordingly, consistent with the Department and EFSB findings in the three most recent decisions pertaining to battery energy storage facilities, the EFSB is respectfully requested to find that Moraga is a public service corporation.

B. The Company has Met Its Burden to Demonstrate that the Project is Reasonably Necessary for the Public Convenience and Welfare

The Town claims, without any evidence, that the Project is not reasonably necessary for the public convenience or welfare because the Project allegedly "could not be more financially

[14] The Town's response to OAK-G-3 states in pertinent part: "Naturally, any Town elected official, appointed official, and/or municipal employee that willfully collaborates with any party conspiring to blatantly violate the voter and state-approved bylaw, whether actively or passively, in their official capacity, would be engaging in a clear conflict of interest within the position they hold, and a breach of the public trust, at the very least."

[15] Tr. 4 at 648:13–650:10, where Chief Howe acknowledges that the Company tried to meet with him more than once to develop the ERP and HMA however, he refused to do so. "[HOWE]: The Town has bylaws that I have to follow as fire chief. So as of right now there's no need for a plan because there's not a permitted project."

disadvantageous to the Commonwealth and the electric ratepayers."[16] There is no merit to this unfounded and wholly misguided assertion.

Specifically, the Town disagrees with one of the Commonwealth's stated benefits of energy storage—that storage will delay and/or eliminate the need for the grid expansion—and has deemed it to be "nonsense."[17] The Town is wrong. In fact, the Commonwealth's *State of Charge* report explicitly discussed that storage can reduce peak demand and defer transmission and distribution investments.[18] The Town has no expertise in this regard and no basis to contest the numerous benefits and opportunities that energy storage provides.

Similarly, the Town asserts—again, contrary to the record in this proceeding—that ratepayers will somehow pay for the costs of this Project.[19] This rests on a fundamental misunderstanding of the economics of energy storage projects and how they are funded. The Company will pay for this Project, not ratepayers. The Town requested, and the Company provided, documentation from its investor that it has the financial ability and commitment to bear the full cost of the Project through construction, operation, and even decommissioning.[20] Furthermore, the Town ignores that, by charging during periods of low demand, when electricity is generally cheapest, and discharging during periods when demand is highest and electricity prices are therefore high, storage facilities, like the one proposed here, will actually bring down

[16] Town Initial Brief at 9.

[17] Town Initial Brief at 9.

[18] Exhs. MS-1 at 41 (citing the *State of Charge* at 73); EFSB-G-8 ("the State of Charge Report identified ratepayer cost benefits from 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").

[19] Town Initial Brief at 9.

[20] Exhs. OAK-11; EFSB-G-12; EFSB-G-20(d); OAK-9(1); OAK-47.

the cost of electricity during the most expensive periods.[21] Thus, the Town's claims that the "economic burden" from the Project would fall to ratepayers are contradicted by record evidence and the reality of how storage operates in the energy markets.[22] The Town does not refute this evidence or economic reality but rather simply ignores it.

Moreover, the Town implores the Commonwealth to only exempt companies from local bylaws if the applicants "are not driven by private profit motive."[23] Such policy arguments are misguided, contrary to settled law, and irrelevant to the EFSB's decision in this proceeding. The Town's argument would undermine the Commonwealth's energy goals and needs.

In addition, the Town argues that the Project is not needed because energy storage is "unrelated" to renewable energy sources.[24] As referenced above, this argument ignores that batteries help integrate renewable energy onto the grid, shift renewable generation to peak demand periods, reduce greenhouse gas emissions, improve grid reliability, and provide a number of other benefits, as the *State of Charge* report and other studies demonstrate.[25]

Further, the Project will qualify for and intends to participate in the Clean Peak Standard.[26] The Siting Board recently found that participation in the Clean Peak Standard provides energy and environmental benefits in addition to the multiple services provided in the

[21] *See* Exhs. EFSB-G-10; EFSB-G-19 ("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). (See, e.g., *State of Charge* report at 99.)").

[22] Town Initial Brief at 9.

[23] *Id.* at 9.

[24] *Id.* at 9–10.

[25] Exhs. EFSB-G-8; EFSB-G-19.

[26] Exh. EFSB-G-10.

ISO-NE wholesale markets, noting that the "record shows that the Project serves a need, and the public would benefit from its operation."[27] The same would hold true for Moraga.

Equally important, the Project will help the Town make up the financial detriment that it claims to have suffered since 1927.[28] The Company has informed the Town that a PILOT could result in revenues to Oakham of up to $1 million.[29] And, the Project will have minimal burden on the school system and other Town services. Based on the Town's stated concern that it operates at an annual net loss of nearly $2.5M, the revenues from the Project will prove a significant benefit to the Town. For all these reasons, the Project meets the standard to be deemed reasonably necessary for the public convenience and welfare.

C. After Considering Potential Alternative Sites for This Project, the Company's Selection of the Preferred Site is Appropriate.

In its Initial Brief, the Town did not question the Company's evaluation of alternative sites or even discuss the Company's site selection process.[30] Rather, the Town recites its history of the taking of land needed for the Quabbin Reservoir. The Town's argument, in essence, is that the Town was previously subject to what it considers to be the taking of significant land without adequate compensation. Ironically, the Town ignores the fact that the Project would provide a significant revenue-producing economic development project on, by comparison, a very small privately owned parcel of land previously used as a car salvage facility.

The Town states that it is trying to "preserve what it has left – treasured character as a small, peaceful, rural-residential place to live."[31] However, this characterization ignores the

[27] *Trimount* at 21.

[28] Town Initial Brief at 10–14.

[29] Exh. OAK-67.

[30] Town Initial Brief at 10–14.

[31] *Id.* at 10–11.

subject parcel's prior use as a busy auto salvage yard, with thousands of rusting cars strewn across the site (including within wetland resource areas) and operation of heavy machinery, and which the Town previously approved for significant daily traffic of up to 35 daily round trips, including tractor-trailers and other large trucks.[32] The Project, which will have minimal visual, traffic, noise and environmental impacts, particularly once operational, is far more compatible with the surrounding character than a busy auto salvage yard. Indeed, the Project is little different in nature than other electrical infrastructure such as substations and solar facilities, which are already located in rural communities across Massachusetts—including Oakham itself. Compared to the prior use, the Project is a substantial improvement in every respect and far more compatible with the alleged rural character of the Town.

Consistent with the Siting Board standard, the Company provided its analysis of alternative sites and the reasons why the Preferred Site was selected: its immediate proximity to an existing electric transmission corridor; sufficient upland area that was previously developed; and not within any mapped environmental areas.[33] As is well-settled law, and as acknowledged by the Town in its Initial Brief, in determining the Preferred Site, the Company need not demonstrate that the Oakham location is the best possible alternative.[34] Rather, the law requires that Moraga provide information about alternative sites considered and explain the relative advantages and disadvantages of those sites. As discussed in its Initial Brief, the Company has met that burden.[35]

D. The Town Ignores Record Evidence Regarding The Environmental Condition of the Property and Requests that the Company Clean Up The

[32] Exh. EFSB-T-10.

[33] Company Initial Brief at 14–19.

[34] *Id.*

[35] *Id.*

Project Site While Simultaneously Arguing That Doing So Would Create Additional Environmental Hazards.

The Town relies upon conclusory assertions of one of its fact witnesses, who is not an expert in environmental testing or conditions, about the possibility of soil contamination at the site.[36] In fact, the site has been assessed for potential contamination associated with its prior use as an auto salvage and recycling facility, which included a Phase 1 environmental site assessment and subsurface investigation consisting of test pits, soil borings, soil sampling, and the installation of groundwater monitoring wells.[37] Laboratory analysis of soil and groundwater samples was conducted for petroleum hydrocarbons and metals. The report concluded that no recognized environmental conditions requiring further response were documented for the site.[38] Even Shawn Seeley, who testified against the Project as a member of the Oakham Conservation Commission, observed through soil sampling and field observations that there was no heavy metal contamination and that the Project Site was in "surprisingly decent condition."[39]

In addition, the Company has stated its intent to remove certain debris left behind from previous owners at the Project Site after it acquires the property.[40] Inexplicably, and with its typical unfounded rhetoric, the Town claims that the Company's plan to clean up the site is "stunning in its depravity."[41] Specifically, the Town argues, without any support in the Record Request to which it refers, that the cleanup would be made "apparently without any regulatory

[36] Town Initial Brief at 14–15.

[37] Exhs. EFSB-H-3; RR-INT-1(1) at 1, 9.

[38] Exh. RR-INT-1(1) at 31 ("Based on the results of the LSI, no evidence of RECs were documented for the subject property.").

[39] Exh. OAK-171(1)

[40] Exh. RR-EFSB-11.

[41] Town Initial Brief at 15.

filings and approvals in advance."[42] The Town did not explain its rationale for making that statement, but it certainly is not based on anything in the record or Massachusetts environmental law and practice. To the contrary, the response specifically discussed potential regulatory requirements depending on the extent of the cleanup.[43] Furthermore, the Company stated that any remedial actions "would be certainly reviewed through the Wetland Protection Act with the conservation commission and/or [Massachusetts Department of Environmental Protection]" ("MassDEP"). [44] Nothing in the record can fairly be construed to demonstrate that the Company would not follow the law in conducting a cleanup. As usual, the Town simply resorts to misstatements and mischaracterizations.

Indeed, the Town goes on to speculate, again without any support whatsoever, that the response to Record Request RR-EFSB-11 was signed by the Company witness Mr. Benito rather than outside consultant Marc Bergeron of Epsilon Associates because Mr. Bergeron supposedly "knows it is absurd and illegal."[45] This is outright false, and such unfounded and inflammatory assertions like this have no place in legal briefs. The response was signed by the Company witness for the simple reason that the Company, not Mr. Bergeron or Epsilon Associates, would ultimately be responsible for conducting any cleanup. As is included in the substantial record in this proceeding, the Company will clean up the Project footprint using contractors that are experienced cleaning up sites of this nature. The Town's willingness to repeatedly distort the facts and the record only underscores the fundamental lack of merit of its position.

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[42] *Id.*

[43] Exh. RR-EFSB-11; *see also* Tr. 6 at 1147.

[44] Tr. 6 at 1147:5–10.

[45] Town Initial Brief at 15.

E. The Company Provided a Detailed Sound Assessment Report, Explained the Efforts to Ensure that Noise From The Facility Is Mitigated, and Affirmed that it Would Conduct a Post-Construction Noise Assessment to Demonstrate that the Project Meets the MassDEP Noise Limits.

The Town raises concerns with respect to noise, asserting that it is "not reasonable to impose commercial-operation type noise levels" at this location, even though—as noted above—the Town itself repeatedly approved the use of the site as a busy auto salvage yard with significant large truck traffic including up to 35 daily large truck and tractor-trailer trips. This prior Town-approved use of the site thus entailed "commercial-operation type noise levels," and potential environmental impacts, much greater than the Project.

Furthermore, the Town avoids any discussion of the Company's willingness to conduct a post-construction noise assessment to ensure compliance with applicable noise standards:

> Q. … Would the company be open to conducting some post-construction noise study and potentially also if there are any augmentation to the project later on, to conduct another sound monitoring, I would suppose, to make sure the noise levels are within what we permitted in this proceeding?
> A. [BENITO] Yes, the company would be receptive to conducting post-construction noise monitoring to ensure compliance with the MassDEP guidance applicable at that time.[46]

A post-construction sound assessment will ensure that the Project, as actually constructed, will comply with applicable limits. Thus, the Town's concerns regarding the sound assessment and Project sound levels are purely theoretical and contrary to the Project's science-based noise modeling. If the Project as constructed exceeds the applicable limits, which is highly unlikely given the multiple layers of conservatism built into the sound modeling (as discussed below), then it would be addressed through the post-construction sound assessment and additional mitigation if needed.

[46] Tr. 2 at 200:22–201:8

Without citing any evidence, and ignoring the significant record evidence as pertains to noise, the Town asserts that the noise assessment submitted by the Company's expert noise consultant is allegedly a "sham."[47] In doing so, the Town refers to Volume 6 of the Hearing Transcript at pages 961-983.[48] In fact, those pages contradict the Town's assertion. They capture the cross-examination between Town Counsel and the Company's sound expert, in which Mr. Callahan appropriately explains the reasons why the Company chose certain monitoring locations to measure the ambient baseline and why the baseline is warranted. Mr. Callahan responds to each of Mr. Pucci's questions with full responses and demonstrates the monitoring locations appropriately capture the ambient background.

Within this portion of the transcript, Mr. Callahan demonstrates why he selected the long-term monitoring locations utilized for determining the baseline:

> Q. And why did you pick the two locations that you did pick for long-term monitoring locations?
>
> A. [CALLAHAN]· So for LT1, that was representative of the closest residences to the west at a similar setback from Coldbrook Road as the homes are. And then for LT2, we wanted a meter that was essentially set back far from any roadway, to be representative of a true quietest area that we could possibly get to.[49]

In response to questioning by Town Counsel as to why he did not choose locations closer to the parcel boundaries to west of the Project Site, Mr. Callahan explains that it would not have made a difference for purposes of determining ambient noise levels:

> Q. First, on the four lots immediately abutting the west side of the project site, why did you not use the vicinity of your property boundary with those lot lines to place a long-term monitoring device?
>
> A. [CALLAHAN]· Well, in an area like this, there isn't a lot of variation from one location to another. So we had one location that was more representative of what

[47] Town Initial Brief at 16.

[48] *Id.* 16.

[49] Tr. 6 at 966: 18-967:2.

> those homes are experiencing, and the second location tucked further away. I think there was only a 1-decibel difference between LT1 and LT2, just for some context. So the way that we're representing ambient is essentially the same regardless of which location we chose to use.[50]

Furthermore, Mr. Callahan explained how proximity to Coldbrook Road would not impact long-term monitoring because "the L90 metric essentially filters out occasional roadway traffic. So, unless the traffic on that road was continuous for an entire hour, the L90 is going to exclude sound that is sporadic like that."[51]

Nothing in the pages cited by the Town (Transcript 6 at 961-983) provides any support for the Town's argument. Moreover, that portion of the transcript does not capture the full discussion about Mr. Callahan's sound assessment, which further demonstrates why the sound assessment was appropriate. Objectively, Mr. Callahan's determination of the acoustic baseline at and beyond the Project Site cannot be considered a 'sham.' This is just another instance where the Town relies on hyperbole, false information, and bluster, rather than the evidentiary record or reasoned argument.

In fact, the Town provided no sound expert to refute any of the record evidence. Thus, the only evidence in the record demonstrates that the Project will meet applicable sound limits, and the Company could conduct a post-construction sound assessment to ensure applicable limits are met. The Town's Initial Brief does not refute any of the record evidence. As such, the Company has demonstrated that the Project can and will operate within the MassDEP noise parameters.

F. The Company will Provide Training to The Oakham Fire Department and Ensure The Fire Department is Prepared in the Extremely Unlikely Event of a Thermal Incident at the Facility.

[50] *Id.* at 968: 23-969:13.

[51] *Id.* at 970:24-971:4. Mr. Callahan also goes on to discuss that one of the ambient monitoring locations used in the Sound Level Assessment Report is conservative because it was located in the woods and therefore would not take into account noise that is produced by the homes themselves, such as from HVAC units. *Id.* at 977-979.

In its Initial Brief, the Town falsely states that the Company assured the Oakham Fire Chief that "the Town has nothing to be concerned about."[52] That is not true. The Company takes safety very seriously, and the Company's safety expert responded to a significant number of Information Requests and testified for hours regarding the steps the Company is taking to ensure appropriate emergency response in the highly unlikely event of a thermal incident, including developing and finalizing the Hazard Mitigation Analysis ("HMA") and Emergency Response Plan ("ERP"), designing and constructing the Project in strict conformance with current safety codes and standards including NFPA 855 (2026 version), conducting training for the Oakham Fire Department, and working collaboratively to ensure that the Fire Department is well prepared for a contingency at the facility.[53] Again, the Town ignores the substantial record in this proceeding and instead relies on false statements.

During the hearing, the Oakham Fire Chief acknowledged his unfamiliarity with battery energy storage facilities, his refusal to meet more than once with the Company's safety experts, his lack of communications with other fire chiefs who have battery facilities in their jurisdictions to learn more about the safety and operations of those facilities, and his reliance on online articles that he admitted are not trustworthy documents on which to rely.[54] In light of this, the Town's argument that the Fire Chief and the Town of Oakham "has every right to be concerned about evolving high risk industrial infrastructure" obscures the fundamental fact that the Project will be developed and operated safely in accordance with national and international safety standards, and that the Company has made many attempts to ensure that the Town's concerns are

[52] Town Initial Brief at 17.

[53] *See, e.g.,* Exhs. MS-1 at 13-14; MS-F(S1); Tr. 7 at 1251-1362; EFSB-S-37; EFSB-S-37(1) (containing the draft ERP); EFSB-S-37(2) (containing the draft HMA); EFSB-S-49.

[54] Tr. 4 at 670-74.

appropriately addressed through the HMA and ERP, the use of industry-recognized experts, Fire Department training, and other such measures.

G. The Town's Concerns Regarding Traffic are Similarly Unfounded.

The Town also raises various concerns regarding traffic, including that tractor-trailers allegedly would be unable to turn onto Coldbrook Road and then into the project site. In fact, the swept-path analysis demonstrates that a tractor-trailer truck can make turns into the Project Site without issue.[55] As noted above, the Town previously approved the site for a use that involved numerous tractor-trailer roundtrips every day.

The Town also asserts that roads could be degraded by construction activity. Part of the Town's rationale in determining that the roads could not handle the construction traffic while the site is being developed is that the roads "originated as horse drawn cart paths and trails" and "upgraded with tar and chip" and later, asphalt.[56] Yet, the Town fails to acknowledge that the road was able to handle trucks with tons of steel necessary to construct a school and to handle numerous daily roundtrips to bring cars weighing several tons each to the salvage yard by the property owner previously.[57]

In the unlikely event that any of the roads were degraded as a direct result of the Company's construction vehicles, the roads could be repaired. The Town itself notes that it has plans to repave the roads at issue in the coming years,[58] and this repaving could easily be coordinated with construction of the Project to ensure that any damage to the roads is promptly repaired with minimal or no additional effort or cost. Once again, it is principally the Town's

[55] Exh. RR-EFSB-4(1).

[56] Town Initial Brief at 19.

[57] Exh. EFSB-T-10.

[58] Exh. EFSB-OAK-1(c) (noting that the portion of Coldbrook Road from the Project driveway north is tentatively planned to be repaved within 2-5 years, and the Town is seeking funds to repave portions of Old Turnpike Road).

refusal to coordinate with the Company that is preventing reasonable solutions to the Town's concerns.

The Town also claims, without any support from the evidence, that the traffic from this Project could be between 500 to 1,000 round-trips for years one and two, and "perhaps double or triple that number" for the life of the Project.[59] The Town continues to assert that the Project may entail this number of trucks traveling to the site even though the facility will not be staffed during ordinary operation. Regardless, the Town's worst case scenario of 3,000 round trips over the Project's 20-year life would amount to less than one trip every other day.[60] This would be an imperceptible change to the existing traffic on Coldbrook Road, and is a small fraction of the traffic for which the Town previously approved for this site (35 daily round-trips including tractor-trailers, amounting to over 12,000 round-trips per year).[61] In short, the Town's concerns regarding traffic are unfounded.

H. The Company has met its Burden to be Granted a Comprehensive Zoning Exemption.

The Town argues that a comprehensive zoning exemption is only required because the Company has proposed a standalone BESS facility.[62] That is not accurate, as the Company's Petition and Initial Brief demonstrate that relief is required from other provisions of the Zoning By-Law.[63]

Furthermore, the Town seems to disagree with its own position. In response to Information Request MS-OAK-G-3, which asked whether the Town would cooperate with the

[59] Town Initial Brief at 20.

[60] The quotient of 3,000 total trips divided by 7,300 days in twenty years is 0.411 trips per day.

[61] Exh. EFSB-T-10.

[62] Town Initial Brief at 21–24.

[63] Company Initial Brief at 42–45.

Project if the Company proposed to pair the BESS with a 100 kW (or higher) solar generator per the Town's bylaw, the Town responded:

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

Thus, whether or not the Company proposed a facility that meets the zoning bylaws, the Town has determined that such a Project could not be developed in Oakham.

Further, the Town has made clear that its Conservation Commission is opposed to the Project. Although the Company will submit its Notice of Intent shortly, two members of the Conservation Commission testified against the Project. The Town has made abundantly clear on the record in this proceeding that it will attempt to delay or deny the Project from moving forward. Hence, the Company may need to seek a certificate of environmental impact and public interest ("Certificate") for the Project to move forward. To start that process in June 2026, the Company must first obtain a comprehensive zoning exemption in a timely manner.[64]

I. The Town's Claim that the Company has Misled the Town or Been Deceptive in any way is Incorrect.

The Town repeats its baseless claim that, after being advised of the BESS bylaw, the Company allegedly "went into a mode of deception" by requesting "permits for other uses of the Property, even sending hearing notices to abutters for those other uses, which were in fact never

[64] 2024 Climate Act, § 118(a) (noting that a large energy storage system that "has received a comprehensive exemption from local zoning by-laws pursuant to section 3 of chapter 40A of the General Laws" may petition for a Certificate).

initiated, and appeared after the fact to have been illusory."[65] These inflammatory accusations are false and disingenuous. The Town's own documents show the permit applications were submitted by an unaffiliated third party—BHT Oakham LLC—in coordination with the property owner, *not* by the Company.[66] The Company confirmed in discovery that it has no relationship to BHT Oakham LLC.[67] At best, the Town was simply confused and may have *assumed*, for no reason, that these permit applications had something to do with the Company, which they did not. This confusion would likely have been quickly resolved if the Town had not refused to communicate and cooperate with the Company. It is unfortunate the Town continues to make such inflammatory accusations it now knows to be inaccurate.

In fact, the Company has been clear from its very first communications with the Town that it is a developer of standalone battery storage projects and that it intends to develop and construct a 180 MW battery energy storage facility. Neither Moraga nor any of its affiliates have ever sought or received a permit to use the Project Site. Any assertion to the contrary is not accurate, and the Company has never been "deceptive" to the Town.

J. Contrary to the Town's Claim, the Company's Request for a Zoning Exemption is not Legislative; it is Statutory and Within the Jurisdiction of the EFSB.

The Town's argument that a zoning exemption from the Town's bylaws would effectively create an industrial zone in Oakham is patently meritless.[68] For the Company to develop and construct a BESS facility in Oakham, Moraga requires an exemption from the Town's zoning bylaws in part because the Town does not permit a standalone BESS facility

[65] Town Initial Brief at 23.

[66] Exhs. MS-OAK-G-2(3), (4), and (5).

[67] Exh. OAK-7

[68] Town Initial Brief at 24–25.

under its current zoning bylaws. The Company is not seeking a use variance or to create a new zone, it is seeking a zoning exemption. It has met the standard to be granted an exemption from Oakham's zoning bylaws. That is all that is required.

II. RESPONSE TO REPRESENTED PARTY INTERVENORS

Like the Town, the RPIs' objections to the Project rest on fundamental misconceptions and misrepresentations regarding the nature of the Project, its impacts to the environment and local community, and this proceeding. None of the RPI's arguments have any merit.

A. The Company has Sufficiently Demonstrated Site Control.

The RPIs repeatedly question "the timing of and nature of [the Company's] control over the Oakham site."[69] The RPIs appear to misunderstand the nature and meaning of site control. As the Company has made very clear, it has an option to purchase the subject property and has submitted the Memorandum of Option that was recorded in the registry of deeds as public notice of its purchase option.[70] This is sufficient evidence that the Company has site control to develop the Project at the subject property. Nothing more is required.

Similar to the Town, the RPIs point to statements made by third parties associated with the current property owner—but unaffiliated with the Company—at a planning board meeting in 2024 regarding unrelated permit applications.[71] First, the RPIs are relying on factual information regarding a planning board meeting that is not in the record, and the RPIs made no effort to put this information into the record. Therefore, the EFSB should not consider it in making a decision in this matter.

[69] RPI Brief at 6.

[70] Exh. OAK-20(1).

[71] RPI Initial Brief at 6.

Second, even if such information were in the record, an option to purchase does not, as a general matter, prevent or preclude a property owner from using their property or filing for permit applications prior to the option being exercised. There is nothing unusual or suspect about this—an option does not guarantee that the property will be purchased and it is therefore understandable that a landowner may consider other potential uses of the land.

Furthermore, this has nothing to do with the Company. As the Company made clear in discovery, the Company is unaffiliated with the permit applicant (BHT Properties) and its only relationship with the landowner (ZOVL Properties) is the option agreement.[72] The Company is not somehow responsible for statements made by unrelated third parties such as ZOVL or BHT Properties. Indeed, the RPIs ask why the Company did not "exercise its control to prevent the owner from making" statements to the Planning Board.[73] The answer is simple. While unaware that these statements were even being made by the unaffiliated parties, the fact that the Company has an option to purchase the property does not somehow grant the right to control the speech or actions of the property owner or unaffiliated third parties.

Rather, the Company has, at all relevant times, been very clear to the Town that it is a developer of standalone BESS systems. Indeed, the RPIs themselves note that "in the same time period," the Company "filed a request for wetlands delineation with the Oakham Conservation Commission … publicly disclosing its intent to develop the site for a BESS[.]"[74] Any confusion on the part of the Town is not the fault of the Company and likely could have been clarified if the Town had agreed to have any meaningful dialogue with the Company about the Project, as noted above.

[72] Exh. OAK-7.

[73] RPI Initial Brief at 7.

[74] *Id.* at 8.

B. The RPIs Mischaracterize the Justification for the Project and the Applicable Law and Precedent Regarding Site Selection

The RPIs erroneously assert that "Moraga/Rhynland stated that it is proposing this project for one reason -- to satisfy and further the Commonwealth's ongoing selection of 5000 MW of BESS serving the Commonwealth."[75] This is not accurate. The 5,000 MW storage procurement target pursuant to the 2024 Climate Act is evidence of the Commonwealth's commitment to expanding storage capacity, but the Company never stated it is the sole justification for the Project. The Company noted:

> The 2024 Climate Act also sets an ambitious 5,000 MW energy storage procurement target for 2030 pursuant to section 83E (St. 2024, c. 239, § 98). The Act indicates a particular preference for mid-duration energy storage by requiring that at least 3,500 MW of the energy storage systems procured be capable of discharging for four to eight hours in duration. Addressing this need, the Project is a mid-duration energy storage system and, upon receiving a zoning exemption and necessary approvals, the Company intends to submit the Project in future state Section 83E storage procurements.[76]

The Company also noted that the "project intends to participate in the wholesale energy market, ancillary services market, capacity market, and Clean Peak incentive program," all of which will support energy needs of the Commonwealth and region.[77]

The RPIs then confuse the submission requirements for the Section 83E Round 1 Request for Proposals ("RFP")[78] with legal requirements for the siting of a BESS.[79] The RPIs assert that the RFP submission requirements are "BESS site criteria developed by the Massachusetts Department of Energy Resources.[80] This is incorrect. What the RPIs cite to are submission

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[75] *Id.*

[76] Exh. EFSB-G-13.

[77] Exh. EFSB-N-4.

[78] *See* https://macleanenergy.com/83e-documents/ (last visited Apr. 21, 2026).

[79] *See* RPI Initial Brief at 11–13.

[80] *Id.* at 20.

requirements for responding to the Section 83E Round I procurement.[81] They merely describe the information that must be contained in a response to the Round I RFP, they are *not* requirements for siting a BESS in Massachusetts.

If and when the Company submits a bid for a long-term contract through a subsequent Section 83E procurement round, it will comply with the submission requirements applicable to that particular RFP. Such submission requirements are not applicable to or in any way relevant to the Company's request for a zoning exemption pursuant to G.L. c. 40A, § 3.

C. The RPIs Argument that Other Sites are Available is Irrelevant

The RPIs contend there are other sites on which the Company could develop a Project. In particular, the RPIs assert that there are potentially thousands of miles of transmission lines in Massachusetts, and therefore simplistically assert that there are many sites upon which a storage project could be developed.[82] This overly simplistic assertion is not relevant to the applicable legal standard. As set forth in the Company's Initial Brief, it is not the Company's obligation to consider every possible alternative site throughout the Commonwealth, nor is it the Siting Board's role "to consider and reject every possible alternative site presented" by opponents of the project at issue.[83] Were it otherwise, no Project could ever be developed, and no zoning exemption would ever be granted, because opponents could simply point to "thousands" of unspecified alleged alternative sites to defeat the project at issue. The applicable standard only requires a reasonable consideration of alternatives, which is amply satisfied here.[84]

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[81] *Id.* at 11–13.

[82] RPI Initial Brief at 23–24.

[83] *Cranberry Point*, at 39 (citing *Martarano v. Department of Public Utilities*, 401 Mass. 257, 265 (1987); *New York Central Railroad v. Department of Public Utilities,* 347 Mass. 586, 591 (1964))

[84] *See* Company Initial Brief at 14–19.

The RPIs also ask why the Company chose this site in light of the Town's BESS bylaw, calling it the "central question in this proceeding."[85] The Company chose this site because it is a well-suited and appropriate site that is commercially available, with proximity to an existing transmission corridor, sufficient available upland area that has been previously developed, and it is not within any mapped environmental areas, among other reasons.[86]

The RPIs also reference another project being developed by the Company.[87] The RPIs note that a portion of the capacity of this project was awarded a contract pursuant to the Section 83E solicitation, but then erroneously assert that this other project "has sufficient uncommitted BESS capacity to host the 180 MW proposed for the Oakham site."[88] To be clear, the Company intends to develop the full 500 MW capacity of this other project *in addition to* the Project. They are separate projects and both projects will provide important benefits to the Commonwealth. There is no ability to somehow "host" this Project within another project.

Furthermore, the fact that the first round of Section 83E solicitations awarded approximately one-quarter of the Commonwealth's 5,000 MW procurement target does not somehow indicate that no more energy storage is needed. For one, the 5,000 MW target is for procurement of long-term contracts for storage facilities. It is not a cap on the overall amount of storage that should be built within the Commonwealth.[89] In addition, there is no guarantee that the remaining three-quarters will be procured in subsequent rounds of the Section 83E procurements.

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[85] RPI Initial Brief at 1.

[86] Exh. MS-1 at 19.

[87] RPI Initial Brief at 29.

[88] *Id.* at 30.

[89] *See* 2024 Climate Act, § 98 (established Section 83E) (requiring that the Massachusetts EDCs "shall enter into cost-effective long-term contracts equal to, in the aggregate, approximately 5,000 megawatts of energy storage systems not later than July 31, 2030…").

Put another way, there is no basis to deny a zoning exemption for the Project where, as noted above, the Company "intends to submit the Project in future state Section 83E storage procurements."[90] The Commonwealth is only approximately one-quarter of the way to its storage procurement target. Thus, there is no basis to conclude that the Project will not contribute to the Commonwealth's storage targets.

D. The Project will Comply with Applicable Noise Limits

The RPIs raise various concerns regarding noise and the sound level assessment performed by the Company's consultant, Ryan Callahan of Epsilon Associates.[91] None of these concerns have any merit.

Like the Town, the RPIs avoid any discussion of the Company's willingness to conduct a post-construction noise assessment, as discussed above. A post-construction sound assessment would ensure that the Project, as constructed, complies with applicable limits.

In addition, the RPIs ignore the multiple layers of conservatism built into the Epsilon sound level assessment. These include that the report: (i) assumed all modeled sources to be operating simultaneously at 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.[92]

[90] Exh. EFSB-G-13.

[91] RPI Initial Brief at 43.

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

The RPIs' concerns with the 40% fan throttle are misguided.[93] The Company presented evidence that the Tesla Megapack 2 XL units can safely operate with their fans throttled to 40% of their nominal speeds up to the hottest ambient temperature record in the area.[94] The Company noted that if the temperatures exceeded that level, it would not result in unsafe operation of the batteries, but rather the batteries would activate automatic responses such as de-rating the power output or reducing the state of charge.[95] The Company further noted that it will comply with applicable noise regulations during operations, including any times that may exceed the current maximum recorded ambient temperature of 36.7 degrees C.[96]

Furthermore, the RPIs' concerns regarding possible future augmentation strategies and future degradation of the batteries are entirely speculative.[97] For one, the Company presented evidence that battery equipment and technology has generally become quieter over time.[98] Thus, any battery units used in the future will likely be quieter than those used today. In addition, the Company's modeling was inherently conservative in a number of respects, as set forth above, and the RPIs presented *no* evidence that batteries get louder over time.[99] The applicable noise limits in effect at the time of any possible future augmentation may also be different than the limits in place today.[100] Finally, the Project will continue to be subject to the applicable limits

[93] RPI Brief at 36.

[94] Exhs. EFSB-NO-2; EFSB-NO-9(1); Tr. 1 at 43:10–44:24.

[95] Exh. RR-EFSB-2.

[96] *Id.*

[97] *Id.* at 37–41.

[98] Exh. RR-EFSB-1.

[99] RPI Initial Brief at 37.

[100] Indeed, the MassDEP recently released a Noise Policy Discussion Document, which notes that MassDEP "plans to revise its 1990 Noise Policy" and may, among other things, establish a 40 dBA baseline threshold (approximately equivalent to a library) below which the 10-dBA-over-ambient limit would not apply. *See* https://www.mass.gov/doc/noise-policy-discussion-document-march-2026/download. Thus, at the time of any future augmentation, the applicable limits may be different.

under the MassDEP noise policy. If those limits are exceeded in the future, the Project could not operate without implementing additional mitigation at that time. Thus, the RPIs speculative concerns regarding potential augmentation or exceedance of applicable limits in the future are without merit and do not provide a basis to deny a zoning exemption.

The RPIs also complain about the potential construction noise.[101] Temporary construction noise is not noise pollution so long as reasonable efforts are taken to mitigate its impact, such as ensuring construction is during reasonable hours, equipment is properly muffled, and other such reasonable actions are taken. If such temporary noise impacts from construction were deemed to violate the MassDEP noise policy, then virtually nothing could be built anywhere. The Company also noted that noise impacts at the Oakham Center School during construction would be negligible, as sound levels inside the school would be akin to a library even with windows open.[102] In short, the RPIs' concerns regarding noise levels from the Project are without merit.

E. Answers to Discovery Requests

The RPIs continue to complain that Moraga did not produce the underlying agreements pursuant to which the Company has site control over the project site.[103] As noted above, the Company has submitted a Memorandum of Option evidencing its option to purchase the subject property, which sufficiently demonstrates the Company's control over the site for purposes of developing the Project. As noted by the RPIs, the Presiding Officer has already denied the RPIs' request for the underlying agreements in any event, and therefore this issue is now moot.[104]

[101] RPI Initial Brief at 38–39.

[102] Exh. RR-EFSB-3.

[103] RPI Initial Brief at 33–34.

[104] *Id.* at 34.

III. LIMITED PARTICIPANTS

The claims and arguments in the Initial Brief of Limited Participants Vincent Piucci and Barbara Piucci similarly lack merit. The Piuccis argue that:

- Moraga is not a public service corporation within the meaning of G.L. c. 40A, § 3;
- Moraga failed to comply with the mandatory notice requirements of G.L. c. 40A, § 11;
- The Project will not avoid environmental impacts; and
- The Siting Board cannot render a decision until it resolves a minor disputed encroachment issue.

None of the Piuccis' arguments are supported by either fact or law.

A. The Company is a Public Service Company.

As discussed above, Moraga Storage LLC is indisputably a public service company for purposes of G.L. c. 40A, § 3, because it is duly registered to do business in the Commonwealth and proposes to construct an energy storage facility. In arguing that the Company is not a public service company, the Piuccis rely on the prior standard of review that is no longer applicable in the Commonwealth.[105] As a result of the 2024 Climate Act, "public service corporation" is now explicitly defined by statute to include entities owning or operating storage facilities.[106] As discussed above, the Siting Board acknowledged this change recently in its decision in *Trimount*, where it expressly found that a company proposing a BESS in the Commonwealth was a public service corporation under this new definition.[107]

[105] Piucci Initial Brief at 1–2.

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

[107] *Trimount ESS LLC,* EFSB 25-05/D.P.U. 24-152, at 12–13 (2026).

As in *Trimount*, Moraga Storage, LLC is an entity duly qualified to do business in the Commonwealth and proposes to own and operate a 180 MW BESS in the Commonwealth.[108] The Project will charge during periods when there is excess supply of electricity and discharge during times of peak demand.[109] Further, 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, which is discussed at length in its Initial Brief.[110] For all these reasons and those discussed above, the Company qualifies as a public service corporation.

B. The Company Provided Ample Notice to the Town of Oakham, Abutters, and Other Residents, Meeting and Exceeding the Requirements of G.L. c. 40A, § 11.

The Piuccis claim that the Company cannot meet the requirements of G.L. c. 40A, § 11 because the Company did not attach the "actual notice document" to the Affidavit of Andrew O. Kaplan submitted on October 14, 2025.[111] They argue that, without the "actual notice document," the Company failed to meet its burden to prove compliance with the mandatory notice conditions in G.L. c. 40A, §§ 3 and 11.[112] This argument, too, is without merit and ignores that the Notice of Adjudication and Public Comment Hearing ("Notice") that the Piuccis claim is "conspicuously" missing is a part of the record is this proceeding.

On September 24, 2025, the Presiding Officer issued an order directing the publication, posting and service requirements of the Petition and Notice (the "September 24, 2025, Notice Order"). Attached to the September 24, 2025, Notice Order was the Notice that the Piuccis claim is not available. As attested to by the Company's counsel in his affidavit dated October 14, 2025,

[108] Exh. OAK-84(1).

[109] Exh. EFSB-G-10.

[110] Company Initial Brief at 10–14.

[111] Piucci Initial Brief at 4–5.

[112] *Id.* at 5.

the Company met all the requirements enumerated in the Notice Order pertaining to publication, posting and service requirements of the Petition and the Notice, satisfying the requirements of G.L. c. 40A, § 11 (the "Notice Confirmation Filing").

G.L. c. 40A,§ 11 requires the following:

> In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid.

As acknowledged by the Piuccis in their Initial Brief, the Notice Confirmation Filing confirms that:

- the Notice was published on October 2, 2025, and October 9, 2025, in the Worcester Telegram and Gazette and The Barre Gazette;
- the Notice was sent to the Town Clerk's office, Planning Board, Select Board, Conservation Commission, and the Planning Boards of the following Towns that abut Oakham: New Braintree, Spencer, North Brookfield, Paxton, Rutland and Barre;
- the Notice was sent by first class mail to the list of abutters and abutters to the abutters as determined by the Town's Assessor; and
- the Notice and a copy of the Petition and all attachments are available on the Company's website.

Further, the Piuccis also fail to show that any parties in interest lacked sufficient knowledge of the proceedings. The public hearing conducted by the EFSB had significant attendance with many individuals choosing to speak about the Project. For all these reasons, the Piuccis' concerns regarding compliance with the notice requirements are without merit.

C. The Project Appropriately Mitigates any Environmental Concerns and will Improve the Quality and Character of the Project of the Project Site.

The Piuccis assert that the "[t]he Board should not accept a proposal that relies on preserving contamination in place while introducing new construction risks into a wetland-

adjacent and degraded parcel."[113] The Company has demonstrated that the construction and operation of the Project will have minimal impacts on wetland, water supply or water resources, as discussed in the Company's Initial Brief.[114]

The Piuccis next take issue that the Company is not undertaking a comprehensive remediation of the entire 43 acre site.[115] Massachusetts energy and environmental policy seek both to facilitate development of clean-energy infrastructure, including battery energy storage, and to protect sensitive environmental resources such as wetlands.[116] A requirement to remove all debris across the entire site would be a separate and potentially more complex environmental project than the BESS construction itself, with potential additional permitting requirements, and may jeopardize the Company's ability to construct the Project.[117]

Instead, a balanced approach involving removal of large debris within the area of work and reasonable, targeted efforts to remove large debris outside of the limit of work, where it can be conducted without wetlands impacts or expanding the Project footprint, is most consistent with these policies.[118] As noted above, the Project will improve the environmental condition of the existing site, and construction of the Project will not adversely impact the environment. Apparently, the Piuccis seek to maintain an existing condition that is worse from an environmental perspective than allowing the Project to proceed.

The Piuccis go on to claim that the Company has not ensured that "excavation, grading, drainage work, or construction traffic within the 18-acre area will avoid contact with debris-

[113] *Id.* at 5–6.

[114] Company Initial Brief at 25–29.

[115] *Id.* at 6.

[116] Exh. RR-EFSB-11.

[117] *Id.*

[118] *Id.*

tainted soils, buried automobile parts, or residual fluids associated with the former salvage operation."[119] In fact, the Company has demonstrated that it has taken appropriate measures to investigate the current site condition and will implement measures to ensure that construction will result in the least amount of environmental impact.

As noted above, the site has been assessed for potential contamination associated with its prior use as an auto salvage and recycling facility, which included an ESA Phase 1 and subsurface investigation consisting of test pits, soil borings, soil sampling, and the installation of groundwater monitoring wells.[120] Laboratory analysis of soil and groundwater samples was conducted for petroleum hydrocarbons and metals.[121] The report concluded that no recognized environmental conditions requiring further response were documented for the site.[122] Even 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." [123]

With respect to potential impacts, the Company only anticipates limited stripping and handling of topsoil in localized areas where grading is required for installation of access roads, equipment foundations, stormwater infrastructure, or utility features.[124] To further mitigate issues, the Project will also provide erosion and sedimentation control in accordance with the Erosion and Sedimentation Guidelines: A Guide for Planners, Designers, and Municipal

[119] Piucci Initial Brief at 6.

[120] Exh. EFSB-H-3; RR-INT-1(1) at 1, 9.

[121] Exh. EFSB-H-3.

[122] Exh. RR-INT-1 at 31 ("Based on the results of the LSI, no evidence of RECs were documented for the subject property.").

[123] Exh. OAK-171(1)

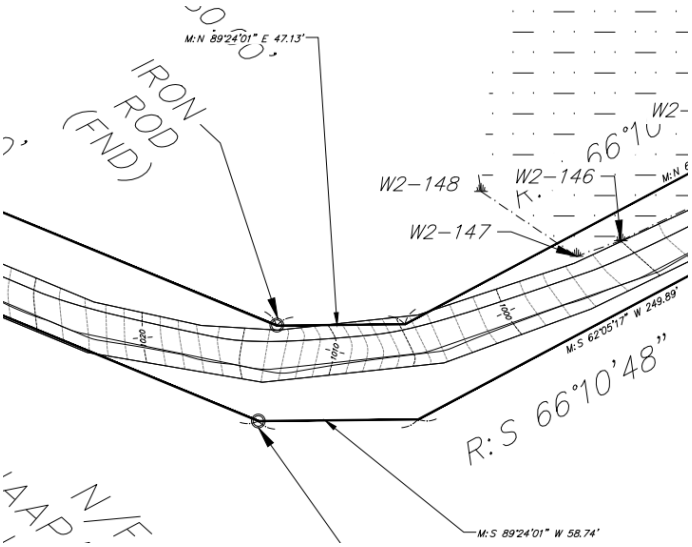
[124] Exh. EFSB-CM-11.

Officials during the demolition and construction periods.[125] The Company also anticipates that, through consultation with a licensed site professional, a soil and groundwater sampling and analysis program will be implemented.[126] Any disposal of soil or groundwater offsite will be conducted in consultation with a licensed site professional.[127]

In short, the Piuccis' concerns regarding environmental impacts are not supported by the record in this matter.

D. The Company is not Proposing to Trespass on Neighboring Lots and the Siting Board is not the Proper Jurisdiction to Adjudicate Potential Land Disputes.

During proceedings, it came to light that an exceedingly small portion of the existing paved driveway (a few feet) that connects Coldbrook Road to the larger portion of the Project Site encroach on the abutting property, as shown in the picture below from Exh. RR-EFSB-4(1):



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

[126] Exh. EFSB-H-4.

[127] *Id*.

Without more, the Piuccis assert that this existing portion of driveway constituted a trespass on the abutters property.[128] The Piuccis also question whether the Company would meet with the abutter and discuss the issue.[129] The Piuccis claims that the Company should be required to secure a solution before the Siting Board provides a decision.[130] This minor potential encroachment is, at most, a preexisting issue that has nothing to do with zoning or a zoning exemption and provides no basis to deny the Company's requested zoning exemption. In fact, during the course of this proceeding, it was also revealed that the abutting property's side driveway encroaches in a much more significant fashion on the Project Site, and the Company stated it is perfectly willing to discuss a resolution of these issues with the abutting property owner.[131] These issues have no bearing on the request for a zoning exemption.

As demonstrated by the swept-path analysis, any vehicles accessing the Project Site from the north (which is the preferred direction to minimize traffic impacts) can remain within the property lines of the parcel.[132] Similarly, once on the driveway, vehicles can navigate the driveway without trespassing on the Stevens' property.[133] The Company's expert civil engineering consultant further testified that, based on his substantial experience in conducting and interpreting swept-path analyses, a vehicle exiting the site would be able to do so making the same or substantially similar movements as entering the site, staying within the paved area and not encroaching on any abutting property.[134]

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[128] Piucci Initial Brief at 7.

[129] *id.*

[130] *Id.*

[131] Tr. 5 at 913:22-914:8.

[132] Exh. RR-EFSB-4(1).

[133] *Id.*

[134] Tr. 7 at 1232:11–1233:6.

There is thus no basis for the Siting Board to deny a comprehensive zoning exemption for the Project. It would be premature for the Company to attempt to reach an agreement with the neighboring landowner in any event as the Company does not yet own the land. As stated at the hearing, the Company is willing to discuss a resolution of any encroachment issues with the neighboring landowner. Simply put, such issues are easily addressed and are not relevant to a proceeding for a zoning exemption in any event.[135]

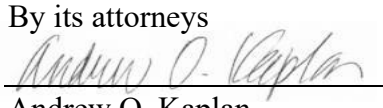
IV. CONCLUSION

For all the foregoing reasons and those set forth in its Initial Brief, the Company has demonstrated that the Project meets all applicable standards for comprehensive and individual zoning exemptions. As set forth above, the arguments in the Initial Briefs of the Town of Oakham, the Represented Party Intervenors, and the Limited Participant are without merit and do not provide a basis to deny a zoning exemption. Accordingly, the Company respectfully requests that the Siting Board grant the comprehensive and individual zoning exemptions from the Town of Oakham Zoning Bylaws as requested in the Petition.

Respectfully submitted,

Moraga Storage LLC

By its attorneys



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Dated: April 24, 2026

[135] Indeed, it is not the role of the Siting Board to consider civil land dispute matters. If necessary, such issues would be resolved by the Land Court or the Superior Court Departments of the Trial Court.